

Ministry of Tribal Affairs, Government of India

# Regional Consultation on FRA Implementation in LWE Affected Areas

Ranchi, Jharkhand

30<sup>th</sup> – 31<sup>st</sup> July, 2013

**Organised by:**

**Ministry of Tribal Affairs**

*in collaboration with*

**United Nations Development Programme**

Hosted by: Welfare Department, Government of Jharkhand

## **REGIONAL CONSULTATION ON FRA IMPLEMENTATION IN LWE AFFECTED AREAS.**

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**RANCHI, JHARKHAND**

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### **Background**

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was enacted to undo the historical injustice committed against the forest dwelling Scheduled Tribes and other traditional forest dwellers as a result of the denial of and non-recognition of their rights over forestlands.

The Act, while laying down a framework for recognition and vesting of forest rights, empowers the forest rights holders, the Gram Sabhas and local level institutions to protect, regenerate, conserve and manage any community forest resource. This marks a decisive step forward in resource governance itself. Hailed rightly as a milestone in the history of tribal people and forest dwellers movements, the Act endeavoured to facilitate their political empowerment to govern the forests for sustainable use and conservation.

The injustice that the law was meant to address is particularly present in states that are now classified as being Left Wing Extremism (LWE) affected: Andhra Pradesh, Odisha, Jharkhand, Chattisgarh, Madhya Pradesh, Maharashtra and West Bengal. In spite of some demonstrative actions in these States, the impeding factors such as lack of common understanding and conceptual clarity among different actors, field level operational challenges and lack of adequate implementation mechanisms pose serious limits in accomplishing the task at hand. Affirmative steps such as amending the Forest Rights Rules have created better scope and brought in greater clarity to expedite the implementation of the Act on ground.

The report of the Planning Commission's Expert Group on Development Challenges in Extremism Affected Areas identified denial of forest rights and resulting harassment, eviction and impoverishment of forest dwellers as one key part of the overall development and governance failure in these areas. The implementation of the Forest Rights Act (FRA) is therefore a critical priority for empowerment of these communities and an improvement in their standard of living.

However, the implementation process of FRA, both in general and in LWE affected states in particular, has suffered from a number of lacunae. A robust implementation according to letter and spirit of the Act is critical to empower community resource governance and the resulting benefits to the vulnerable forest dwellers.

## **Purpose And Objective Of The Regional Consultation**

The Regional consultation on implementation of FRA aimed at focussing attention on how the tribal and rural communities, with tenurial rights on forests and other common lands, face increasing deprivation of their livelihood resources despite the constitutional and legal guarantees such as under FRA. A set of forward looking policy options and challenges in the implementation were discussed and evolved that could help in transforming the life and livelihoods of the forest dwellers, finally undoing the now acknowledged *historic injustice* which in turn contributes to the resolution of conflicts.

This Consultation brought together officials of the Ministry of Tribal Affairs, senior officials from Tribal Welfare/Development Department, Forest Department, representatives of civil societies and experts to discuss on this issue and pave a way forward.

### **Objectives**

- Review of implementation of FRA in the States in general and since Decmeber 2012 when the State Action Plans were shared
- Review of the status of implementation of FRA in the LWE affected areas with a focus on recognition of community rights (LWE districts as compared with other districts) including claims determined/rejected by the Gram Sabha, and approved/rejected by the DLC
- Identify the issues and challenges that the State, District and Block level functionaries are facing in implementaing all the provisions of the Act, elicit their views and collectively identify the way forward to implement the Act
- Create an opportunity, especially for the district authorities, to share their experiences and give suggestions on better implementation of FRA in the sensitive districts of the State

### **Expected Outputs**

- States to share the status of implementation of Action Plans since December 2012 and share State specific Action Plans specifying and integrating the additional plan for these sensitive districts with time line for implementation so that the Act is realised in letter and spirit and FRA implementation is expedited in LWE affected areas
- States are able to identify clearly the bottlenecks that are impeding the implementation of the Act in the districts which are affected by LWE activities and the possible steps required to ensure full-fledged implementation of FRA
- Identify areas of support required at various levels by the State Governments from Ministry of Tribal Affairs, and any other Central Ministries of Government of India to ensure effective implementation of FRA in the LWE affected areas.

## **Participating States:**

Andhra Pradesh, Chhattisgarh, Odisha, Maharashtra, Madhya Pradesh, Jharkhand, Bihar and Uttar Pradesh .West Bengal did not attend as the Panchayat elections were on at the time of the consultation

## **Inaugural Session**

Shri Hemant Soren, Hon'ble Chief Minister of Jharkhand graced the inaugural session as the Chief Guest along with Smt Vibha Puri Das, Secretary MoTA, Govt. of India, Shri R.S Sharma, Chief Secretary, Government of Jharkhand, Dr. (Smt.) Sadhana Rout, Joint Secretary, MoTA, Shri Ramesh Arun Ekka, Secretary, Welfare Department, Jharkhand and Dr. N.C Saxena, Member, National Advisory Council.

The lamp lighting ceremony was followed by welcome address by Shri Rajiv Arun Ekka, Secretary, Welfare Department, Jharkhand. Setting the context, Shri Ekka stated that the 8 LWE States participating in the Consultation, faced similar issues and challenges in FRA implementation. These States have forests and forest dependent population whose rights need to be recognised under the Forest Rights Act. The States are to ensure the effective implementation of FRA so that the forest dwellers, particularly the scheduled tribes, are not left out in the developmental process and move ahead in the development path with their secured rights. He expressed that this Regional Consultation would provide an opportunity for elaborate discussion on this sensitive and important issue, give scope to learn from each other's experiences and pave way for better implementation of FRA in LWE affected areas.

Dr. N.C Saxena in this overview presentation highlighted the fact that in the development process, somehow the tribal population have been left behind and they are still backward; what is even worse is that the gap is widening. This is primarily because their livelihoods, primarily forest dependent have not been given due importance in the development process. The National Forest Policy 1988 mentioned clearly that tribals will have first charge of the forest, but this was not implemented properly and the rights of the people continued to be deprived and alienated. Hence FRA was enacted which not only aims at undoing the *historic injustice* but also has the following:

- Building 'Rights Based' approach to development
- Ensuring people's participation in the forest management and governance which can only happen when their rights are recognised and secured
- Livelihood security of the tribals

He expressed concern over the slow progress of FRA implementation in Jharkhand. Two years ago the Government of India had formed a National Committee on FRA that studied the state-wide progress of FRA implementation found that in different districts of Jharkhand viz: Dumka, Khunti, Gumla etc., the pre-existing rights were recorded in 'Khutkatti areas' under Chottanagpur Tenancy Act, 1908 (CNTA) and Santhal Parganas Tenancy Act, 1949 (SNTA) and people from these areas were not willing to apply for their claims under FRA.

He stated that one of the reasons for the slow progress in Jharkhand has been people's fear to claim their rights under FRA as they apprehend that it would indicate that the land belongs to the Forest Department and their pre-existing rights would not be recognised. This is because of the lack of awareness amongst the communities about the provisions of FRA and the State Government has to take effective measures for awareness building and sensitization of both the communities and the government officials. Moreover, in these areas, even though people had pre-existing rights over the forest land under CNTA and SPTA, their rights have been alienated with the declaration of Protected Forests, Wildlife Sanctuaries etc. He clarified that FRA recognises the pre-existing rights and Section 3 (1) (j) clearly mentions that rights recognised under any State Act are covered under FRA. He urged the State Government to mobilise claims from these areas as it is important that the rights are recorded under FRA and people get copy of the record of their rights, either for individual land rights or community rights, which will help them in succession. Further, once this is ensured, they would be motivated to invest in the development of their land for sustainable livelihood.

Over the years the nature of forest use has drastically changed by different policies and practises. Forests were initially used for multiple purposes by the forest dwellers but slowly their use was changed to timber oriented forest policy and the rights of people over the forest and forest produces, especially minor forest produce, were curtailed. FRA secures the rights of ownership, access to collect and dispose the MFPs which have been traditionally collected by the tribals and OTFDs. While ensuring sustainable livelihood security of the forest dwellers the need of the hour is to work towards post claim management framework and aim at achieving three major objectives:

- Increasing the productivity and sustainability of the forest produces especially MFPs.
- Ensuring access of people over the MFPs
- Setting up institutional arrangement for the management and marketing of MFPs

Currently, there are two marketing models: one is nationalisation of forest produces like tendu and bamboo where government alone has the monopoly over the produces and the other is free market for de-regularised MFPs. However, both the models are not suitable for tribals. He opted for the third model as in the case of wheat and rice, where Minimum Support Price is fixed by the government and at the same time forest dweller is free to sell the MFPs in the market. The price fixed by the Government should be so high and remunerative that the MFP collector is tempted to sell his produce to the Government.

Gadchiroli, Maharashtra, has set an example in the country by recognising 5 lakh acres of community rights which is, till date, the largest area recognised under community rights in the country. This has not only benefitted the community and the Gram Sabhas but has improved the productivity of forests as well. Finally he urged that FRA provisions should be fully utilised and convergence should be made with other government programmes for optimising benefit to the tribals.

Shri R.S. Sharma, Chief Secretary, Jharkhand, expressed his gratitude to the Ministry of Tribal Affairs for organising the first regional consultation in Ranchi. He said that since FRA

has not been implemented properly in the State, this consultation would encourage the officials of the state for better implementation of the Act. Unfortunately till date the development approach is not organically linked to the roots and not benefiting the people for whom the development is meant. The States are to ensure that the Adivasis of their states are participants of the development process and not mere recipients; hence in recent years there has been a shift in the development strategy to 'Rights Based Development Approach' with the enactment of various rights based and pro-poor laws as the MGNREGA, RTI, Right to Food, Right to Education and the FRA. Further, he noted that it is just not enough to enact such laws and create rights for people but their implementation and delivery of services which is possible only with a change in the attitude of the officials and frontline functionaries.

While the tenancy Act recognised the rights which have already been recorded in the 'khatiyans', it is important that the copy of the 'khatiyans' is also with the people. Now any person can have the copy of the khatiyans through the 'e-governance'. Currently the State Government is computerising land records for upgrading the maintenance of land records.

It is very essential to identify the factors responsible for slow implementation of the FRA in the state so that necessary steps could be taken to rectify them. Further, if states want to contain LWL activities, then we have to start thinking of mechanisms other than police and 'force' which over the years has proven to be a wrong strategy. There is an organic link between LWL activities and alienation of forest rights, and the only way to address this issue is to ensure that forest dwellers and Adivasis are part of the development process and their rights are secured.

Smt Vibha Puri Das, Secretary MoTA, welcoming the delegates, mentioned that this is the first regional consultation in the second generation consultation series on FRA. She expressed her heartfelt thanks to the Hon'ble Chief Minister and the Chief Secretary of Jharkhand for organising the workshop. The implementation bottlenecks and operational challenges led the Ministry to formulate amendment to FRA Rules on 19<sup>th</sup> July 2012 which were put up for public comments and later notified as the Forest Rights (Amendment) Rules on 6<sup>th</sup> September 2012. MoTA followed it up with 4 regional consultations and a National Consultation on 3<sup>rd</sup> December 2012 where Hon'ble Minister for Tribal Affairs, Shri V.K C Deo was also present and all the States presented their State Action Plans and road map for FRA implementation.

This consultation would provide an opportunity to

- Review the progress of the states against the Action Plans and what needs to be done further.
- Identify the issues and challenges faced by the states after the amendment of rules
- Provide a learning opportunity for the states to gain from each other's experiences

She informed that Chhattisgarh and Odisha have progressed extremely well in the past one year in mobilising and settling claims, particularly claims for community rights and community forest resource rights. States like Andhra Pradesh and Madhya Pradesh which were the 'early movers' have slowed down over the past one year especially in community

rights. Similarly in other states as well progress has been good in few pockets but still a lot need to be done by the States.

She emphasized the need for convergence with the FRA to reap the maximum benefit and secured livelihoods for tribals. But convergence can be effective on the ground only if local level planning is adequate in which the Collectors at the District Level play a very critical role to ensure that all the right holders are benefitted with the development programmes of the government.

She mentioned that the Hon'ble Prime Minister had announced on 15<sup>th</sup> August 2012 a new scheme of Minimum Support Price for MFP prepared by MoTA which is to be introduced very soon after approval of the Cabinet. This will be helpful to the tribal families who primarily depend upon minor forest produces for their livelihood.

This consultation is also to discuss Tribal Sub Plan (TSP) to address the specific needs of the tribals not addressed in the normal budget or planning process. The Accounts Based Planning is of no use for the tribals if the basic needs of the tribal population are not addressed in the TSP. The States can take the example from Andhra Pradesh which passed a legislation on TSP giving statutory backing to TSP to ensure that the plan is strictly implemented.

Another important objective of the consultation is to discuss Direct Benefit Transfer in its application to different schemes like Post Matric Scheme, Rajiv Gandhi National Fellowship and Top Class Education. She hoped that the sharing and learning from experiences amongst the states could lead to paving of road map for their effective implementation.

Shri Hemant Soren, the Hon'ble Chief Minister of Jharkhand, said that all the 8 LWE affected states participating in the seminar are neighbouring states of Jharkhand having similar forested and hilly landscape and tribal dominated areas with the Adivasis dependent on forest resources. He expressed his concern over the entire development process and said that the way the country is progressing is at the cost of the destruction of forest and deprivation of rights of the Adivasis which is serious issue and matter of concern for the entire country. The chaos is not only in the lives of tribals, but today wild animals are also leaving the forests and intruding into cities - the concrete jungle. These forests which are the source of life are not in good condition. Centre and States have been discussing on the issues of Scheduled Tribes and designing policies and plans for their empowerment and development but neither the State nor the Centre have been successful in achieving their development goals. The Adivasis have preserved the forests since ages, but we have selected the path of development at the cost of forest and forest dwellers.

Hoping that the discussions would help the States in identifying the gaps and devise ways and means to address the issues of the tribals, he expressed the view that tribals have been protecting nature and the natural systems but today their own existence is in danger as they are completely alienated in the entire developmental process. It is essential to understand the governance system and institutional arrangements of the tribals and take them into consideration when we plan for their development.

Shri Soren further added that restrictive policies and judicial ban order on collection of minor forest produces by the tribals and forest dwellers negatively impacted the lives and livelihoods of the tribals and the forests as well. The restriction resulted in further destruction of the forests and today one can witness the reduction in quantity of Sal, Mahua, Lac etc. trees from the forests.

He said that in his state there are 18 LWE affected areas but naxal activities have spread to all 24 districts of the state. To address this, it is essential that good governance reaches the most interior corners of the state and takes the Adivasis into the fold of development.

He expressed the view that laws framed in the past were also good but were not implemented properly resulting in historical injustice to the tribals. He cautioned the officials to learn from the past and ensure that in future the policies are effectively implemented. He feared that land recognised or allotted under FRA are in such small patches that it is meaningless for a tribal as traditionally they have been cultivating in huge areas. He emphasized that for an Adivasi, land is very essential hence it needs to be seen what is practically possible and suitable as per the arrangement of the tribals. '*Jal Jungle aur Zamin*' are very important for a tribal and any new Act or development policy should not disturb the societal arrangements of the tribal community.

Further since 30% forest area of the state is rich in mineral resources as well, this is both fortunate and unfortunate for the State. At present mining and industrialisation is leading to massive displacement of the tribals in his state. Such processes do not merely displace individuals alone but entire communities which is difficult to reverse. This is really a challenge for the state to strike a balance between allocation of mineral resources for mining purposes and protection of interests of tribals, especially the Particularly Vulnerable Tribal Groups (PVTGs), and preserve their rights and institutional arrangements.

Dr. Sadhana Rout, Joint Secretary, MoTA in her Vote of Thanks again welcomed the Hon'ble Chief Minister of Jharkhand, Chief Secretary of State Government of Jharkhand, Secretary, Ministry of Tribal Affairs, Dr N.C Saxena, all the participants, the senior officials of the representing States and the experts. She emphasised that that the two day consultation will help the States in further strengthening their Action Plans and by the end of the second day a road map identifying challenges and strategies for way forward will be worked out which the States would then proceed to implement those recommendations in a time bound manner .

## State-wise LWE Districts

### State-wise number of LWE districts

S.No	State	No of LWE Districts
1	Andhra Pradesh	8 out of 23
2	Bihar	08 out of 37
3	Madhya Pradesh	9 out of 50
4	Maharashtra	3 out of 25
5	Odisha	18 out of 30
6	Uttar Pradesh	3 out of 75
7	West Bengal	3out of 19
8	Chhattisgarh	14 out of 24
9	Jharkhand	18 out of 24
<b>Total Districts affected by LWE</b>		<b>84</b>

## TECHNICAL SESSION 1: State wise presentations

Panel members: Dr. N.C Saxena, Shri C.R Bijoy, Smt Shomona Khanna, and Smt Vibha Puri Das.

The state wise presentations covered the following:

- Status of overall implementation of Action Plan on FRA since 3<sup>rd</sup> December 2012
- Status of implementation of FRA in LWE affected areas
- Challenges at District and Block Level in LWE areas for implementation of FRA

### **Chhattisgarh:**

Presentation by Shri Mudit Kumar Singh, Chief Conservator of Forests, Chhattisgarh

<b>Salient Features</b>	<b>Observations</b>
<ul style="list-style-type: none"><li>• Individual title deeds distributed to 2,68,005 STs and 6589 OTFDs against 7,56,062 claims received; Community rights approved in 5713 cases though the classification of cases under Sec 3(1) or 3(2) is not available.</li><li>• Out of 24 districts, 18 are LWE affected districts with 8,177 villages and Gram Sabhas of which FRCs formed in 7,727 villages. Number of claims received from LWE villages are 4,74,729, out of which 1,96,292 have been approved and 2,54,107 claims have been rejected. Number of community rights claims received are 10,039, out of which 5,039 claims are approved and 3,318 rejected.</li></ul>	<p>The State has not yet initiated the process of recognition of CFR rights. The State need to chalk out its strategy to mobilise CFR claims from the Gram Sabhas.</p> <p>Rights recognition process in Protected Areas has not yet started. Similarly State has to initiate the process of recognition of habitat rights of PVTGs.</p>

<ul style="list-style-type: none"> <li>• Till date, recognition of community forest resource rights has not been initiated in the state.</li> <li>• Causes for high rate of rejection are lack of evidences for three generations of residence in case of OTFDs, possession of forest land after the cut-off date, lack of written documents and evidences and claims applied in non- forest lands.</li> </ul> <p><b>Operational challenges faced during FRA implementation</b></p> <ul style="list-style-type: none"> <li>• No provision of member secretary in forest right committee at village level. Since members are mostly illiterate, proper proceedings, and writing and record keeping process has suffered badly.</li> <li>• In 450 villages, FRCs could not be constituted because Gram Sabha could not take place due to naxal activities</li> <li>• Most of the community rights are enjoyed traditionally and nobody takes initiative in filing CFRs; therefore progress of community rights is very slow.</li> <li>• Problem of honey combing in the forest areas</li> </ul> <p><b>Key Initiatives taken by the State</b></p> <ul style="list-style-type: none"> <li>• High rate of rejection has been taken seriously and notification has been issued with approval of Governor that all claims rejected by SDLC may be treated as petitions and re-examined for one time</li> <li>• Conversion of Forest villages into Revenue villages has been initiated</li> <li>• Withdrawal of PoR and Court cases related to encroachment on forest lands of title holders</li> <li>• Convergence of development programmes and initiation of developmental works under MNREGA in such areas for individuals and cluster basis</li> </ul>	<p>Rights under Section 3(1)(b) and (c) are not being recognised under the pretext that these rights have already been recognised under PESA. State should relook into these cases and ensure that all community rights under Sec 3 (1) are recognised under FRA</p> <p>The average area recognised under community rights in the State is around 0.2 ha which is very less in comparison to other states like Maharashtra where average area recognised is around 100 acres</p> <p>The State should amend its MFP policies in consonance with FRA and create a structure for Minimum Support Price for marketing of MFPs like Tendu leaves and Sal Seeds</p> <p>Claims in ‘Disputed Lands’ or ‘Orange Areas’ are pending which need to be considered by the State</p> <p>Setting up of deadlines is creating confusion and panic within community. State should clarify the position through circulars at the State and District Level. However, officials can set their own targets for completion of the process.</p>
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## Andhra Pradesh

Presentation by Shri Somesh Kumar, Commissioner, Department of Tribal Welfare, Andhra Pradesh

Salient Features	Observations
<ul style="list-style-type: none"> <li>• Out of 23 districts in the state, 8 districts are affected by LWE activities.</li> </ul>	<p>Despite clarifications given earlier JFM/VSS areas continue to be converted into CFR</p>

<ul style="list-style-type: none"> <li>• In the 8 LWE districts, there are 5,150 Forest Interface villages out of which FRCs have been constituted in 3,609 villages. Out of 3,29,711 individual claims received, 1,64,142 have been approved and 1,18,653 claims have been rejected. Out of 7,149 community claims received, 1,898 have been approved and 7 claims have been rejected.</li> <li>• Reasons for rejections of claims are lack of sufficient documentary evidences, fresh forest encroachments after 13.12.2005, individual claims on the lands covered under VSS, claims on the lands which are not classified as forest areas, claims of OTFDs in scheduled areas, claims from below 18 years age group and filing of multiple claims by individuals</li> </ul> <p><b>Operational Challenges faced</b></p> <ul style="list-style-type: none"> <li>• Reason for pending claims is the non-cooperation of Forest Department Officials. The DFOs are not signing the Title Deeds after approval by the DLC and causing delay for distribution of Pattas.</li> <li>• Similarly rights recognition process in Protected Areas is a non-starter in the State as the Forest Officials are not signing the claims.</li> <li>• Lack of budgetary provision for FRA implementation and need for alternate machinery in the State for the effective and timely implementation of FRA</li> </ul> <p><b>Key Initiatives taken by the state</b></p> <ul style="list-style-type: none"> <li>• Trained ‘community surveyors’ are deployed to initiate and provide support to the Gram Sabhas and their FRCs. This has helped in mobilising the claims from individual households as well as ensuring proper filing of claims with written documents and maps.</li> </ul> <p><b>Clarification sought on the following point</b></p> <ul style="list-style-type: none"> <li>• What are the implications of the Supreme Court order/s on grant of MFP rights in protected areas?</li> </ul>	<p>though the Act and Rules envisage determination of CFR by the Gram sabha Claims to JFM areas under CFR (Form C) by VSS and grant of titles to VSS are not permissible under FRA. This needs to be rectified by the State.</p> <p>Rejection of individual claims on the ground that the forest land is coming under the JFM areas is not in line with the Act. The rejection of claims of OTFD in the Scheduled areas on the ground that such claims were in Scheduled areas is not tenable since. the Act does not make any distinction between Scheduled and non-Scheduled areas and OTFD can claim rights in any areas if they fulfil the eligibility conditions prescribed in the Act</p> <p>A question was raised about raising loans from banks and financial institutions against individual Pattas, once granted, and whether this is contrary to the FRA. Steps would have to be taken, if such loans are permitted, to prevent alienation of these lands to the banks in the event of non-repayment of loans.</p> <p>As regards the implication of the Supreme Court order on grant of MFP rights in Protected Areas, it was clarified that the Act would prevail over any judicial orders passed before the FRA enactment and The Act clearly mentions that ownership of MFP is one of the rights of the Forest Dwellers and OTFDs recognised under the Act and the Act is applicable to all forest lands including lands falling in the National Parks and Sanctuaries.</p>
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## Odisha

Presentation by Dr. (Shri) A.B Ota, Additional Secretary, ST & SC Development Department, Government of Odisha.

<b>Salient Features</b>	<b>Observations</b>
<ul style="list-style-type: none"><li>• Out of 30 districts, 18 are LWE affected districts. Out of 30,835 villages in the LWE areas, FRCs have been constituted in 30,652 villages. Out of 4, 86,496 individual claims received from LWE affected areas, 3,16,873 claims have been approved and 1, 06,261 rejected. Similarly, out of 5,362 community rights claims received, 2,904 claims have been approved and 72 claims rejected.</li><li>• Recognition of rights in Protected Areas has not been initiated except for Hadgarh Sanctuary where rights over water body (Dam) had been recognised, probably the first such in the country.</li><li>• Recognition of habitat rights of PVTGs has not been initiated, though there are claims for habitat rights pending at the SDLC level.</li></ul> <p><b>Key Initiatives taken by the state:</b></p> <ul style="list-style-type: none"><li>• Sensitization to key functionaries on Forest Rights Amendment Rules, 2012 through series of trainings to officers working in LWE districts. Special attention given for organising Gram Panchayat level training programs for FRC and Panchayat Raj Institution members in all Scheduled V districts falling under LWE districts</li><li>• Special Drive for involvement of Civil Society Organisations and Peoples' Network in facilitation of FRA</li><li>• Development of training and campaign materials, Frequently Asked Questions, translated into 10 tribal dialects and wide sharing of the Reading cum Reference Materials</li><li>• Providing handholding support to the Gram Sabhas for filing of claims and adequate number of claim forms (Forms A, B and C) have been printed and circulated to all Gram Panchayats</li><li>• Withdrawal of pending forest offence cases in the name of the forest right holders</li><li>• Convergence of different government programmes and schemes; 1,78,905 right holders have benefitted from the convergence</li></ul>	<p>The deregulation of Kendu leaf in one of the districts of Odisha was not done in a proper manner. It was not appropriate for the State to de-regulate Kendu leaf in Nabrangpur district just before the harvest season without having any strategy for its marketing.</p> <p>Sufficient budgetary and handholding support should be provided to the Gram Sabhas for the marketing of the MFPs like Tendu leaves and Bamboo as done in case of Gadchiroli district, Maharashtra.</p> <p>Institutional arrangement post- CFR rights recognition needs to be focussed and integrated during the rights recognition process.</p>

<p>initiative.</p> <p><b>Operational Challenges faced</b></p> <ul style="list-style-type: none"> <li>• Remoteness of forest areas and lack of infrastructure for easy access.</li> <li>• Lack of adequate human resources and no special incentive for staff taking extra work load.</li> <li>• Security of Staff in Maoists areas.</li> <li>• Forest personnel are reluctant to provide hand holding support to Gram Sabha/ WEOs as they are mostly targeted by Maoists.</li> </ul>	
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**TECHNICAL SESSION 2: State wise presentations**

Panel members: Dr. N C Saxena, Shri C R Bijoy, Smt Shomona Khanna, and Smt Vibha Puri Das

**Jharkhand**

Presentation by Shri Rajiv Arun Ekka, Secretary, Welfare Department, Government of Jharkhand

<b>Salient Features</b>	<b>Observations</b>
<ul style="list-style-type: none"> <li>• Out of 41,346 individual claims received, 15,134 claims approved and 11,876 rejected</li> <li>• Out of 24 districts, 18 are LWE affected districts. Villages identified in the LWE districts number are 8,723. Gram Sabhas and FRCs have been constituted in 12,157 habitations/villages. Out of 11,388 individual claims received from LWE affected areas, 2,943 claims have been approved and 2,840 rejected. Of 106 community rights claims received from 57 LWE affected villages, 23 have been approved and 79 claims rejected</li> <li>• Progress of community rights and community resource rights is very slow. In case of community forest resource rights, only 16 claims have been received, of which 12 have been approved</li> <li>• Recognition of rights in Protected Areas is a non- starter in the state. Similarly recognition of habitat rights of PVTGs have not been initiated due to lack of clarity amongst officials on the habitat rights of PVTGs</li> <li>• Need of Synergy and coordination between line departments for better convergence and</li> </ul>	<p>State and District officials are to take steps for awareness building of Gram Sabhas and sensitization of government functionaries on FRA provisions and procedures</p> <p>All pre-existing rights recognised under any State Laws are recognised under Section 3(I)(j) of FRA. District officials need to take proactive steps to provide all village specific records under CNTA and SPTA to the concerned villages and mobilise claims under Sec.3(1)(j) so that titles can also be issued under FRA.</p> <p>It is essential to ensure that copies of the records of rights or pattas recorded under ‘khatiyans’ be provided to the concerned Gram Sabhas and the forest dwellers should be encouraged to apply under FRA so that they could have copy of the titles which would help them in succession of the rights and even motivate them to invest in the development of their lands.</p>

<p>linkage of FRA right holders in development programmes is very poor in the state</p> <ul style="list-style-type: none"> <li>• Creation of Record of rights has not been initiated in the state</li> </ul> <p><b>Operational challenges</b></p> <ul style="list-style-type: none"> <li>• Lack of awareness amongst the Gram Sabhas on the procedures of claim filing</li> <li>• Claims on non-forest land.</li> <li>• Organizing Gram Sabhs in LWE affected areas is a major challenge and in many cases the required quorum of the Gram Sabha is not met and claims are sent to the SDLCs without being approved by 2/3<sup>rd</sup> majority of Gram Sabha.</li> <li>• Lack of availability of written documents, maps etc. at the district and field offices as most of the documents and maps are available with Government Press at Patna, Bihar</li> <li>• Lack of clarity amongst officials on evidence required for OTFDs.</li> </ul> <p><b>Clarification Sought</b></p> <ul style="list-style-type: none"> <li>• Pre-existing rights have been recognised in the '<i>Khutkatti</i>' area and hence not filing any claim because they fear that filing any claim under FRA will weaken their status vis-a-vis <i>Khutkatti</i> rights and restrict the area to 4 ha. At the government level there is confusion regarding applicability of the FRA in this context. Jharkhand Government has requested MoTA to issue clarification on this.</li> <li>• Procedure for the conversion of Forest Villages to Revenue villages</li> </ul>	<p>Convergence and dovetailing of different government programmes and schemes need to be focussed and linkage should be established with the FRA right holders with all the development programmes so that they can have secured livelihoods</p> <p>Coordination between different line departments needs to be improved for better convergence.</p> <p>Rejection of, the claims of OTFDs on grounds of lack of evidences for 75 years of occupation in the land. This is not in accordance with the law.</p>
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## Maharashtra

Presentation by Shri S. M Sarkunde, Commissioner, Department of Tribal Development, Maharashtra

<b>Salient Features</b>	<b>Observations</b>
<ul style="list-style-type: none"> <li>• Out of 3,41,020 individual claims received, 3,38,164 have been approved and out of 5,112 community claims, 4,961 have been approved.</li> <li>• 1,99,271 claims are rejected and the reasons attributed are lack of written records, non-</li> </ul>	<p>The innovative steps taken by the State, especially the District Administration Gadchiroli, in building CFR management committees at village level, providing handholding and budgetary support to the</p>

<p>possession of forestland, occupation of forestland post the cut-off date, doubtful tribal status etc.</p> <ul style="list-style-type: none"> <li>• Out of 25 districts, 3 are affected by LWE activities. 1,02,857 individual claims have been received from 3,008 LWE affected Gram Sabhas, out of which 45,362 have been approved and 67,059 claims have been rejected. Of the 2,308 community claims received, 1,944 have been approved and 364 rejected.</li> <li>• Out of the 5,513 proposals for Developmental Rights under Sec 3(2) recommended by Gram Sabhas, DLCs have approved 414 proposals, of which 383 fall in the LWE affected areas.</li> </ul> <p><b>Operational Challenges</b></p> <ul style="list-style-type: none"> <li>• <i>Dali plots</i> and <i>Eksali</i> leases were given in the districts of Raigad and Thane respectively and these are more than 4 ha. Out of the total plot, some area might not be under cultivation right now, but is in the possession of the people to whom such Pattas or leases have been granted. So the actual land given in such cases needs to be approved by the SDLCs and DLCs instead of land under cultivation only. But the SDLCs and DLCs are not doing so.</li> <li>• Lack of written records and documentary evidences with the claimants</li> <li>• Lack of clarity amongst the district officials on the evidence of 75 years of residence required for OTFDs.</li> <li>• There is a need to expand the scope of Section 3(2) of FRA to include facilities such as granaries and godowns to store foodgrains and MFPs by Gram Sabhas, so that they are not forced to make distress sales.</li> <li>• There is a need for complementarity between PESA and FRA to ensure proper convergence on the ground, which is not happening.</li> </ul> <p><b>Key Initiatives taken by the State</b></p> <ul style="list-style-type: none"> <li>• ‘Information kits’ containing the village records, revenue maps, forest maps, electoral rolls, nistarpatraks, village maps etc. are provided to Gram Sabhas in Gadchiroli district.</li> <li>• Proactive steps taken to review the rejected claims where necessary. To facilitate the filing of appeals, letter have been issued to District Collectors to get the appeals free of cost at</li> </ul>	<p>Gram Sabhas for auction of Tendu leaves and bamboo were commendable</p> <p>Local level planning and proactive steps at the district level was appreciated and such innovations should not remain single generational and should be sustainable</p> <p>State should also ensure that similar processes as Gadchiroli are taken up in other parts of the State as well.</p> <p>State should also gear up in recognition of habitat rights of the PVTGs.</p>
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Tehsil and District Level

- To facilitate speedy disposal of cases, the Additional Collectors have been given the powers to hear the cases under this Act by Government of Maharashtra vide letter dated 14<sup>th</sup> February, 2011.
- An online software is made available on which the data of all individual claims under Section 3(1)(a), community forest rights claims under Section 3(1)(b), community forest resources rights under Section 3 (1) (i), diversion of forest land for civic amenities under Section 3(2), progress of constituting the committees under Rule 4(1) (e) etc. can be filed online by the SDLCs and DLCs. The data collection becomes easier and post claim handholding support can be extended quickly.
- Post-claims budgetary support and handholding extended to holders of forest rights and Gram Sabhas. Withdrawal of all existing leases, licenses and auction rights etc with regard to the Gram Sabhas who are recipients of CFRs and assistance for e-tendering for bamboo and technical assistance and guidance to conduct Tendu leaves auction provided to Gram Sabhas by the District Administration in the case of Gadchiroli district.

**Clarifications Sought:**

- As per Section 6(2) and 6(4) of FRA read with Rule 12A(3) of the Rules, the aggrieved person can prefer an appeal before the SDLC or DLC as the case may be, within a period of 60 days from the date of passing of resolution which can be extendable to a period of 30 days at the discretion of the above said committees. Clarification is sought whether the persons whose claims have been rejected for want of written records can file an appeal before the appropriate authority after the period of 90 days has expired.

## Madhya Pradesh

Presentation by Shri Umakant Umrao Commissioner cum Director, Tribal Area Development Planning, Government of Madhya Pradesh

<b>Salient Features</b>	<b>Observations</b>
<ul style="list-style-type: none"><li>• Out of 4,63,859 individual claims received, 4,51,124 claims have been approved and out of 16,682 community claims, 11,896 claims have been approved. 2,76,820 claims in total have been rejected by the DLC.</li><li>• In National Parks and Sanctuaries, 7,527 Individual &amp; 308 Community rights have been settled.</li><li>• Causes of rejections cited are -lack of evidences of three generations in case of OTFDs, lack of written records and documentary evidences, non- possession of forest land before the cut-off date, submission of claims in non-forestland, filing more than one claims by different family members for a single piece of land.</li><li>• Out of 50 districts, 9 are affected by LWE activities where 1,514 villages have been identified. Since December 2012, 6,303 individual claims have been received from 167 LWE affected Gram Sabhas, out of which 4,343 have been approved and 169 claims rejected. Of the 1,594 community claims received from 327 Gram Sabhas, 1,227 have been approved and 148 rejected. Claims for Community Forest Resource Rights have been received from 11 Gram Sabhas of which 4 CFRs have been approved and 1 has been rejected.</li><li>• Out of the total 602 proposals for Developmental Rights under Sec 3(2) made by the concerned departments, 26 proposals are in LWE areas and all the 26 proposals have been approved by the Gram Sabhas.</li></ul> <p><b>Operational Challenges</b></p> <ul style="list-style-type: none"><li>• Lack of adequate personnel in State Tribal Welfare Department to gear up the implementation of FRA. No provision for special incentives to the president and Secretaries of FRCs to encourage them for registering claims.</li><li>• The meetings of Gram Sabhas could not be held regularly due to lack of quorum and the required number of female participation.</li><li>• No claims from pastoralist communities have been received.</li></ul> <p><b>Key Initiative taken by the State</b></p>	<p>Rejection rate is very high which needs to be reviewed by the State.</p> <p>State should amend the State policy on MFPs in line with the FRA.</p> <p>State should work towards devising alternate marketing mechanisms for MFPs, particularly Tendu leaves and Bamboo.</p> <p>Forest Department should extend its support to the Gram Sabha in the management of the CFR areas.</p> <p>Coordination between Forest, Revenue, Tribal and other line department should be strengthened to ensure better convergence of programmes for the benefit of the right holders.</p>

<ul style="list-style-type: none"> <li>• Proactive measures are being taken for the documentation of land records of the lands of Rights Holders and creation of record of rights.</li> <li>• The monitoring of the implementation of FRA is continuously being done at State, District and Block Levels.</li> <li>• Monthly monitoring by the Commissioner, Tribal Area Development Planning and also monitoring by the Chief Minister at Quarterly Review Meetings.</li> <li>• Instruction from Chief Secretary to review all the rejection cases.</li> </ul> <p><b>Clarification Sought:</b></p> <ul style="list-style-type: none"> <li>• The State has sought clear instruction from MoTA, GOI, regarding the procedure to be adopted while converting the Forest villages into Revenue villages.</li> </ul>	
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- Presentation of Bihar and Uttar Pradesh could not take place due to constraint of time , however based on the data received from the States of Bihar and Uttar Pradesh, it has been found that very little progress has been made by these States on implementation of FRA in spite of repeated letters issued from various levels including Hon'ble Minister of Tribal Affairs who had personally written to Chief Minister of Uttar Pradesh expressing his concerns over the weak implementation of FRA in the State of Uttar Pradesh

- The following observations are being made on implementation of FRA in Bihar
  - The process of constitution of Gram Sabhas and formation of Forest Rights Committees in 1012 villages is yet to be completed.
  - As regards the claims for Community Forest Rights and the Community Forest Resource Rights under Section 3(1)(1) of the Act, there has been no progress since December, 2012. The data presented by the State Government shows that not a single claim pertaining to these rights has been received by the State Government. So is the status of implementation of provisions of Section 3(2) of the FRA relating to Developmental Rights.
  - The State Government of Bihar has pointed out some of the operational challenges as that Non availability of Master Trainers, lack of coordination between Revenue officials and Forest Official at block level and absence of active NGOs in the state to facilitate assistance to members of Gram Sabhas. The State Government has not indicated whether the State Level Monitoring Committee has met and considered these problems and suggested any course of action to tackle these problems.
  - The rejection rate is very high representing 78.97% claims of the total number of claims .The reasons for high rate of rejection of claims cited by the State Government, namely, non- availability of relevant documents and non-availability of public documents as per Rule 13 are also not satisfactory. The State Government has not indicated as to why the public documents are not available and what steps have been taken by them for ensuring their availability.

The observations made on the implementation of FRA in the State of Uttar Pradesh are as follows:

- Out of the 75 districts in the State, including 3 LWE affected districts; the FRA has been implemented in 13 districts only. The reasons for non-implementation of the FRA in the remaining districts are not clear- is it because there are no forests and the forest dwelling Scheduled Tribes and other traditional forest dwellers in those districts or the State Government has not taken any steps to implement FRA in those districts.
- The percentage of rejection of the claims representing 79.42% of the total claims is on a very high side. The reasons for rejection of claims cited by the State Government, namely, non-availability of written records, non-availability of other criteria specified in Rule 13, are also not satisfactory. The State Government has not indicated as to why these public documents are not available and what steps have been taken by them for ensuring their availability.
- Out of a total number of 814 claims received for CFR rights under Section 3(1)(1) of the Act, not a single claim has been approved

### **Key Issues And Challenges**

- **Constitution of Village and Gram Sabha**

In many States Gram Sabhas are still called at Gram Panchayat level which is not in accordance with the law. Constitution of villages as per Rule 2 A of the amended Rules at the hamlet/habitation level has not progressed sufficiently. This is a basic requirement which need to be abided by all the States. Rule 2 (A) of the Amended Rules requires identification of hamlets or settlements and process of their consolidation. The potential list of Gram Sabhas have not been prepared by many States to arrive at the list of habitations where the Act is likely to be implemented

- **Claim filing process in the LWE affected areas**

Except in Andhra Pradesh, Chhattisgarh and Odisha, claims filing process is very low in the LWE affected areas. The reasons cited were lack of awareness on FRA process and claim filing procedures with the Gram Sabhas and non-availability of information to the right holders. In few states claims could not be filed since the quorum of the Gram Sabha meetings are not met in the LWE areas.

- **Setting up of deadline in some states for completion of the claim process**

Setting arbitrary deadline in some states has created confusion and panic in the community. It is important that position in this regard be clarified through circulars issued at State and District level. The government officials can however fix their own targets and deadlines for monitoring the progress of FRA implementation.

- **Rights of OTFDs**

Definition of OTFDs has not been properly understood and evidences for both residence and occupation for three generations are insisted upon in support of claims from OTFDs. In spite of clarifications given by MoTA that evidence for 3 generations is required only for residence and not occupation of land, claims of OTFDs are being rejected on the ground of lack of evidence of occupation of land for 3 generations.

- **Recognition of rights in Protected Areas**

In general, rights recognition is still a non-starter in the protected areas viz. National Parks, Wildlife Sanctuaries and Tiger Reserves in any of the States despite the fact that FRA is applicable to these areas also

- **Recognition of rights in mineral rich forests**

There is a reluctance to initiate recognition of rights in areas considered to be rich in minerals and which are earmarked or likely to be earmarked for diversion for mining. There are concerns regarding diversion of forest land without recognition of rights under FRA and without obtaining consent of the Gram Sabhas.

- **Recognition of rights in Disputed Lands**

Issues were raised over the non-recognition of rights in disputed lands, such as 'Orange areas' in Chhatisgarh, Dali plots and Eksali leases in Maharashtra, etc. Pending claims in Orange Areas need to be disposed of, which the State assured that disposal of claims has already been initiated in these areas. In case of Dali plots and Eksali leases in Maharashtra, the area recognised is more than 4 ha. SDLC and DLC are not approving the claims from these areas under the pretext that land under actual cultivation is less than the area of land over which the claimant has pre-existing rights recognised under Dali plots/Eksali leases.

- **Conversion of Forest Villages in to Revenue village**

In none of the States, conversion of forest villages in to revenue villages has taken place. Chhattisgarh has initiated the process and a guideline has been issued.

- **Recognition of rights over Community Forest Resource (CFR) and setting up of CFR management committees**

CFR recognition has been very slow in most states, with Gadchiroli district in Maharashtra being an exception. Consequently the formation of CFR management committees too has not been initiated in most States. Clarification was also sought on the process of mapping of community forest resources and customary boundaries and on whether measuring the exact area of CFR is required under FRA or only physical landmarks are enough to demarcate the CFR area.

- **Conversion of JFM areas into CFR**

Despite clarifications given earlier by the Ministry, JFM/VSS areas continue to be converted into CFR though the Act and Rules envisage determination of CFR by the Gram Sabha. Claims to JFM areas under CFR (Form C) by VSS and grant of titles to VSS are not permissible under FRA. This needs to be rectified, particularly in Andhra Pradesh. Further, there are instances from states, particularly Andhra Pradesh, where there has been rejection of individual claims over forest land coming under the JFM areas.

- **Habitat rights of Particularly Vulnerable Tribal Groups (PVTGs)**

The process for recognition of habitat rights of PVTGs, the most vulnerable amongst Scheduled Tribes, has not been initiated in most of the States.

- **FRA *vis a vis* legally recognised pre-existing rights**

A number of States have State laws recognising rights to forest land, for instance, Chotanagpur Tenancy Act, 1908 and Santhal Parganas Tenancy Act, 1949 in Jharkhand. The States like Jharkhand apprehend that there is confusion among the communities that if they file claims under FRA, their pre-existing rights would not be taken into account. However the Sec.3(1)(j) specifically provides for recognition of all pre-existing rights under FRA. The State needs to clarify the same so that communities are able to file claims without any fear of losing their existing rights.

- **High rate of rejections in LWE areas**

Most of the reasons cited for rejection of claims are lack of availability of written documents, lack of evidence of 75 years of residence and occupation in case of OTFDs, non-possession of forest land before the cut-off date, submission of claims in non-forest land, filing more than one claim by different family members for a single piece of land. Fresh encroachments in forest lands were also raised as an issue by some of the States. Further, the process for rejection was not followed. In many cases it was found that the claimant is not informed in person about the objections to his/her claim or reasons for rejection which would have enabled the claimant to appeal before the SDLC or DLC, as the case may be.

- **Institutional support for exercising rights over MFPs (such as Tendu leaves and Bamboo)**

Till date, many States have not taken steps to withdraw the control and monopoly over Tendu Leaves and Bamboo and have not provided the necessary institutional support to the Gram Sabhas for the marketing and auction of these produces. Related issues raised on MFPs were about continuance of leases over Bamboo and other MFPs to agencies in the States and the need for cancellation of the leases to Private entities as done in Gadchiroli, Maharashtra.

- **Supreme Court Orders**

In many States, FRA right holders are not allowed to access and sell MFPs citing the Supreme Court ban order on MFP collection in protected areas. It was clarified that the provisions of FRA would prevail over any Supreme Court judgment or order on grant of MFP rights which was made prior to the enactment of the FRA. The Supreme Court too is also guided by this legal reality in the disposal of cases coming before it.

- **Amendment of State level laws contrary to FRA**

Clearly, all relevant State level laws which are contrary to the FRA need to be amended to bring them in conformity with the Forest Rights Act. For instance, State level laws on nationalisation/ state control over MFPs need to be repealed, and replaced with FRA-compliant schemes such as MSP.

- **Budgetary Provisions**

Lack of budgetary provisions impedes FRA implementation and the States have requested Ministry for allocation of additional budgets to gear up FRA implementation in their respective States.

- **Personnel**

Lack of adequate personnel in State Tribal Welfare Department is a major hindrance in gearing up the implementation process in the ground level.

- **Security of personnel**

The security of the personnel working in LWE affected areas remains a major concern for the States.

- **Forest offence cases**

There are numerous forest offence cases pending in the local courts which is a limiting factor for the FRA right holders to exercise their rights. Review of pending criminal cases (forest offences) to identify those falling within the protection and scope of FRA, and withdrawal of all such cases has not progressed in most States.

- **Monitoring and Evaluation:**

It has been pointed out by the Ministry of Tribal Affairs to the States that States are not sending in the regular monthly Progress report and the Quarterly progress report on implementation of FRA. Therefore though progress is being made at the State level, it is not being reported to the Ministry and as a result the data on the web site is not being uploaded and the States All

States should set their benchmarks to judge their progress in FRA implementation. There is a requirement for independent evaluation and quality assessment of FRA implementation by the state governments. Two indicators suggested were:

- per capita and gross CFR area:
- how this compares with areas under/ formerly under JFM.

This is because in many States the JFM areas still far outstrip areas under CFR.

### **Key Innovations/ Initiatives By The States**

- Andhra Pradesh: Trained ‘community surveyors’ are deployed to initiate and provide support to the Gram Sabhas and their FRCs;
- Odisha: Development of training and campaign materials, training and sensitization of key functionaries on FRA and special drive with the involvement of civil society members in facilitation of FRA are undertaken;
- Gadchiroli district, Maharashtra: ‘Information kits’ containing the relevant village records, revenue maps, forest maps, electoral rolls, nistarpatraks, village maps etc. provided to Gram Sabhas;
- Chhattisgarh: Notification has been issued with the approval of Governor to re-examine all the rejected claims; Chhattisgarh and Odisha: En masse withdrawal of cases including Court cases related to forest offences falling within the scope of FRA, such as POR encroachment case and waiver of fines.
- Gadchiroli district, Maharashtra: Withdrawal of leases, licenses and auction rights etc. with regard to the areas where Gram Sabhas are recipients of CFRs; assistance for e-tendering for bamboo and technical assistance and guidance to conduct Tendu leaves auction provided to Gram Sabhas by the District Administration
- Uttar Pradesh: record of Rights have been created through introducing a new column in books of records to enter the rights recognized under FRA

### **Key Recommendations and Steps of Action to be taken by the States for implementation of FRA in the States**

Shri Rajiv Arun Ekka, Principal Secretary Welfare Department, Jharkhand, summed up the recommendations from the two days consultation process

- The States and the District Collectors are to take proactive steps to mobilise maximum number of claims from the LWE affected States and issue directives and guidelines for the front line staff to address the local issues and challenges for better implementation of FRA on the ground
- Each State could consider creating mechanism or ‘special task force’ at the state or district level to monitor the progress of FRA and post FRA implementation.
- Each State should first prepare the list of habitations which are ‘right burdened’ and have forest interface and map the progress and habitations covered based on the list
- States should take special drive for the sensitization and training of the frontline government functionaries and provide necessary handholding support to the Gram Sabha for the filing of claims.
- States/Districts should take innovative steps for facilitating claim making, verification and recognition of rights; use of technology to demarcate the CFR boundaries as well as individual plots, creation of core group at the District level to facilitate the process,

organise exchange programmes between the LWE affected states, and participation of civil societies in FRA facilitation and implementation process.

- States should strengthen the monitoring system of FRA in LWE affected areas and specific District Level Plans should be developed for LWE affected districts which should be reviewed on a monthly basis by the District Collectors and the DLC
- States and District Level Committees should ensure that all relevant information is provided to the Gram Sabhas for claim making process. It is suggested to provide 'Information Kit' containing village records, revenue maps, forest maps, electoral rolls, nistarpatraks, village maps etc. to the Gram Sabhas.
- Districts should ensure the completion of the process of determination by the Gram Sabhas and approval by the District Level Committees of individual, community rights and community forest resource rights with reference to Forms A, B and C as provided in the Rules including development rights as under Sec 3 (2).
- District should ensure that habitat rights are claimed by the PVTGs in their area and provide all handholding support and mobilise the claim making process from the traditional institutions of the PVTGs or the Gram Sabhas
- State needs to arrive at a system by which permanent records of rights (RoR) are created and systems should be devised by which the rights can be transferred to the next heir in the event of death of the original right holder without hassle.
- CFR should be claimed by the Gram Sabha and titles should be issued in the name of the Gram Sabhas only. Titles shall not be issued in the name of any person or committees or institutions like VSS or SHGs. CFR claims are not to be made by the JFM committees.
- Districts should ensure the formation of CFR management committees under Rule 4 (1) (e) by all the concerned Gram Sabhas whose CFR titles are issued.
- Districts should ensure capacity building of these CFR management committees and the institutionalisation of Gram Sabha and CFR management committee structure, particularly by interfacing with other processes and institutional mechanisms of PRIs and line departments and by progressively transferring relevant funds, functionaries and functions to the Gram Sabhas and CFR management committees, where relevant and applicable.
- States should set their benchmarks and judge their progress accordingly. Each state knows how much of their area is 'right burdened' and till date what has been achieved under individual and community rights. One way of assessing the achievements under Community Forest Rights could be to compare the area recognised under CFR vis-à-vis the JFM areas in their respective States.
- Each state should review the causes for high rates of rejection of claims which is reported as a major issue in the LWE affected areas and re-examine all the rejected claims and take appropriate remedial measures, where necessary;
- States should strengthen the monitoring system of FRA in LWE affected States and develop specific District Level Plans for LWE affected districts which should be reviewed on a monthly basis by the District Collectors and the DLC.

- States should review the slow progress of FRA implementation in the Protected Areas and ensure that rights recognition in Protected Areas are taken up earnestly.
- States should begin integrating the post FRA mechanisms during the FRA recognition process itself.
- States could facilitate value addition, credit facilities, adequate storage facilities, market linkage and minimum support price for management of Minor Forest Produces.
- The State and Central Government should ensure convergence of different programmes and schemes to ensure livelihood security of the FRA right holders. States should link the Forest Right holders with other Government programmes and schemes.
- States could utilise the funds available under Article 275, IAP, and TSP for FRA implementation.
- States should amend the relevant subject laws of the States to be in consonance with FRA.
- States should make the effort to upload the data on the web site directly and send the updated information to MoTA on the progress on FRA. This is very crucial as FRA is being monitored at the cabinet and PMO. MoTA is to initiate ‘qualitative assessment’ of FRA implementation across the States. States could also initiate the process of evaluation and carry out independent studies.

### **TECHNICAL SESSION 3: *Effective Implementation of TSP***

#### **Key Issues & Challenges**

Even as many states are gradually adopting a more pro-active planning oriented approach to Tribal Sub Plan (TSP), they continue to face challenges in effective planning, implementation and monitoring of TSP.

- Lack of perspective planning and non-consideration of tribal concentrated pockets in the area development schemes -as social category data is not being prepared by States consistently and regularly.
- Lack of allocation of resources: Departments/Ministries allocate a restricted budget irrespective of the number of schemes and their relevance to tribal development.
- Non-utilization of allocated funds, issues of matching funds and diversion of funds to other welfare activities.
- Absence of monitoring of physical achievements of general schemes to STs. The physical outreach of these schemes to tribal populations is not monitored so it cannot be ascertained whether these are reaching out to STs at least in proportion to their population.
- Lack of institutional arrangement for effective monitoring of both physical and qualitative data/information and absence of social audit mechanisms for involving the STs in the monitoring exercise.

- No special recruitment and capacity building for TSP planning and implementation with greater tribal development outreach.
- Inadequate guidelines/directives for effective TSP planning, implementation and monitoring.
- Lack of institutional arrangements for effective service delivery at the door steps of STs /tribal habitats.
- On Odisha's TSP for taking up rubber and coffee plantations in Tribal areas a concern was expressed about the destruction of bio-diversity and sustainability of such a programme. The Odisha representative explained that this has been thought through and that sustainability is not an issue

### **Recommendations**

Some of the suggestions and recommendations that emerged from the discussions are given below:

- States expressed the view that there was an urgent need to strengthen the technical and managerial capacity of State, District and ITDP level functionaries to undertake effective TSP designing and monitoring. They suggested that this capacity building and handholding support should be extended by the Planning Commission and Ministry of Tribal Affairs.
- States observed that a number of central ministries are not following TSP guidelines related to outlay and suggested that Ministry of Tribal Affairs should take this up with the concerned ministries.
- States suggested that Planning Commission should lay down guidelines for TSP specifying norms for allocation, process for formulation, transparency and accountability. They also suggested that central ministries must ensure that schemes against their TSP allocation for a State are appraised by the State nodal department for TSP.
- Ministry of Tribal Affairs, Government of India may help States on how to monitor TSP implementation.
- It was suggested that Planning Commission may not approve State plans till the TSP allocation, at least in proportion to the ST population in the State, has been set aside.
- Civil society experts called attention to the conceptual issue of compliance of the TSP strategy with the provisions of PESA, which provide that the Gram Sabhas should approve and sanction all matters pertaining to tribal society and economy. It was mentioned that while most States having Scheduled Areas have amended their Panchayat Acts endowing the Gram Sabha/Panchayat with appropriate powers to promote the interests of the tribal people, these have largely not been operationalized and that States should examine this aspect.
- JS, MoTA urged the States to see how they can move away from the purely budgeting exercise adopted earlier and undertake necessary capacity building, attitudinal change along with exerting pressure through official fiat towards this end. She emphasized that TSP must be outcome oriented and the efforts of the states must be to prioritize flow of benefits to the last mile i.e., the most disadvantaged.

- TSP should focus on increasing income generation activities to strengthen livelihood options for tribal communities and should attempt to maintain equity between different tribal groups, especially focusing Particularly Vulnerable Tribal Groups.
- All participants emphasized the need for effective monitoring of TSP programmes/schemes by strengthening the monitoring structure at all levels, viz., national, state and district and identifying measurable socio-economic indicators. In this context, Sri Lakra, emphasized that district should be the unit for planning and monitoring and if the gap between STs and the general population in the district, on any identified socio-economic indicator, increases over a period of time then, the TSP schemes related to that sector obviously lack effectiveness and should be re-examined. He further suggested that untied funds should be made available to the districts.
- In their monitoring meetings and oversight assessments District Collectors and senior departmental officers should take note of the extent to which gaps between STs and general population have been bridged.
- Social Audit to be initiated by associating elected representatives, STs and credible CSOs
- The need for improving the basic amenities for STs was emphasized. Mentioning that it is difficult to acquire land for amenities as it is largely forest land, Sri. Lakra suggested that State should consider earmarking land for all amenities in a habitat and then provide this land under the TSP.
- Norms for TSP budget allocation to be earmarked, non-divertible and non-lapsable and unspent balance to be transferred to the next year budget as additional fund. The State Finance Department may approve budget allocation under TSP separately.
- 5% of the TSP may be given to Tribal Development Department for TSP planning as per the guidelines of Planning Commission.
- Special personnel recruitment for TSP activities needs to be considered.
- In the absence of Principal Secretaries, other fairly senior level officials need to attend meetings so that requisite seriousness is accorded to follow up.
- A Bench Mark Survey to examine and assess the level of awareness, access, affordability and usability of entitled benefits under different programmes/schemes by STs may be undertaken by States.

### **Concluding Session**

Concluding remarks were made by Dr. Sadhana Rout, Joint Secretary, Ministry of Tribal Affairs, and Government of India. Dr. Sadhana Rout extended her heartfelt thanks to all the participants from various states, resource persons, civil society representatives, media, UNDP representatives for participating in the consultation whole heartedly and making it a success. She expressed that monitoring and coordinating FRA implementation in letter and spirit has been the most challenging task she has handled in the last 27 years of her career and was grateful to all the states for their cooperation and support.

Dr. Rout pointed out that since last few years, the Ministry of Tribal Affairs has made relentless efforts to ensure that Forest Rights Act is implemented in letter and spirit under the guidance and exemplary leadership of Hon'ble Minister of Tribal Affairs, Shri V. Kishore Chandra Deo. She stated that progress has been made by many States, and a humble beginning has been made by a lot of other States who were lagging behind. She hoped that these two days have given the States opportunity and clarity on a number of issues that are impeding the implementation of FRA on the ground.

The historical Forest Rights Act has generated huge sense of ownership and security amongst forest dwellers over their land and natural resources. Yet much more have to be done to translate the intended benefits to favour the rights holders. In this regard she quoted from the policy document prepared by Planning Commission on Development Challenges in Extremist Affected Areas which cautioned that '...unless dealt with imaginatively, the imaginatively drafted law may not deliver all its promises', she encouraged the young and dynamic District Collectors to work innovatively and come out with local solutions to the local specific issues. The real action lies with the States and very strong coordination between different line departments to achieve the true spirit of FRA.

Finally she hoped that all the participants are going back with renewed energy and commitment to translate the amended Rules to action, remove all barriers, real or imaginary in the process and collectively identify the way forward by revisiting Plan of Action for completing the unfinished agenda of implementation of this Act both in quantitative and qualitative terms. She also reiterated that the realization of the goals and objectives of the new framework will also depend on the young Officers / Collectors from Districts, some of them are present. The district collectors are the key to ensure the last mile delivery and District collector of Gadchiroli has showed the way which needs to be replicated in other States and Districts so that the benefit of this Welfare Legislation is realised in letter and spirit.

She thanked the Jharkhand Government for organising the consultation so effectively and leaving 'no stones unturned' to make the consultation productive.

**Annexure I** : Agenda of the Regional Consultation on "Implementation of Forest Rights Act in LWE Affected Areas: Challenges and Way Forward"

**Annexure II** : List of Participants



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**Annexure I: Agenda**

**Regional Consultation on  
“Implementation of Forest Rights Act in LWE Affected Areas: Challenges and Way Forward “**

**Organised by  
Ministry of Tribal Affairs, Government of India  
& Tribal Welfare Department, Government of Jharkhand**

**In collaboration with  
United Nations Development Programme**

**[Date: 30-31 July 2013, Venue: Hotel Holiday Home, Kanke Road, Ranchi, Jharkhand]**

**Day-I**

**Date: 30 July 2013**

<b>Time</b>	<b>Agenda</b>
0930-1000	Reception and Registration of participants
1000-1100	<p style="text-align: center;"><b>Inaugural Session</b></p> <ul style="list-style-type: none"> <li>• Welcome Address: Secretary, Ministry of Tribal Affairs, Govt. of India</li> <li>• Presiding Address: Chief Secretary, State Govt. of Jharkhand</li> <li>• Inaugural Address: Hon’ble Chief Minister, State Govt. of Jharkhand</li> <li>• Vote of Thanks: Joint Secretary, Ministry of Tribal Affairs, Govt. of India</li> <li>• Overview on implementation of FRA in LWE Affected Areas- Challenges &amp; Way Forward: Dr. N C Saxena, Member, National Advisory Council</li> </ul>
<b>1100-1115</b>	<b>Tea Break</b>
11 15-1315	<p style="text-align: center;"><b>Technical Session- I; Chair TBA</b></p> <p>Presentation from the states on the following issues:</p> <ul style="list-style-type: none"> <li>• Status of overall Implementation of Action Plan on FRA since the 3<sup>rd</sup> December 2012</li> <li>• Status of Implementation of FRA in LWE affected areas</li> <li>• Challenges at the District and Block level in LWE areas for Implementation of FRA</li> </ul>
<b>1315-1400</b>	<b>Lunch Break</b>
1400-1530	<p style="text-align: center;"><b>Technical Session- I continued; Chair: TBA</b></p> <p>Presentation from the States on the following issues:</p> <ul style="list-style-type: none"> <li>• Status of overall Implementation of Action Plan on FRA since the 3<sup>rd</sup> December 2012</li> <li>• Status of Implementation of FRA in LWE affected areas</li> </ul>

	<ul style="list-style-type: none"> <li>Challenges at the District and Block level in LWE areas for Implementation of FRA</li> </ul>
1530-1545	<b>Tea Break</b>
1545-1700	<p align="center"><b>Technical Session- II</b></p> <p>Panel Discussion followed by Question and Answers Session</p> <ul style="list-style-type: none"> <li>Possible steps required to resolve bottlenecks that are impeding the implementation of the Act in the LWE affected districts</li> <li>Areas of support required at various levels by the State Governments from Ministry of Tribal affairs, and any other Central Ministries of Government of India to ensure effective implementation of the FRA in the LWE affected areas</li> </ul> <p>(Panelists: Dr N.C Saxena, Joint Secretary- Ministry of Tribal Affairs, Legal expert, and Civil Society representative )</p>

**Day-II**

**Date: 31 July 2013**

<b>Time</b>	<b>Agenda</b>
0930-1100	<p>Session on effective implementation of TSP: State wise interventions to inform the improvements/progress since the last workshops on TSP</p> <p>(Panelists: Economic Adviser- Ministry of Tribal Affairs, Joint Secretary- Ministry of Tribal Affairs, Principal Secretary- Government of Andhra Pradesh, Dr. Wilfred Lakra (Rtd. IAS) Madhya Pradesh )</p>
<b>1100-1115</b>	<b>Tea Break</b>
1115-1300	<p align="center"><b>Concluding Session</b></p> <ul style="list-style-type: none"> <li>Summary of proceedings and consolidation of recommendations: Principal Secretary ,Tribal Welfare Department, State Govt. of Jharkhand</li> <li>Concluding Remarks: Joint Secretary, Ministry of Tribal Affairs, Government of India</li> <li>Vote of Thanks: Special Secretary, Tribal Welfare Department, State Govt. of Jharkhand</li> </ul>

<b>Annexure II: List of participants</b>			
<b>S.No</b>	<b>Name</b>	<b>Designation/Dept./Organization</b>	<b>State</b>
1	Shri Hemant Soren	Hon'ble Chief Minister, Government of Jharkhand	Jharkhand
2	Smt Vibha Puri Das	Secretary, Ministry of Tribal Affairs, Government of India	New Delhi
3	Shri R.S. Sharma	Chief Secretary, Government of Jharkhand	Jharkhand
4	Smt Sangeeta Verma	Economic Adviser, Ministry of Tribal Affairs, Government of India	New Delhi
5	Dr (Smt) Sadhana Rout	Joint Secretary, Ministry of Tribal Affairs, Government of India	New Delhi
6	Shri Gopal Sadhwani	Deputy Secretary, Ministry of Tribal Affairs, Government of India	New Delhi
7	Smt Shyla Titus	Deputy Secretary, Ministry of Tribal Affairs, Government of India	New Delhi
8	Smt Harang Thangiri	Ministry of Tribal Affairs, Government of India	New Delhi
	<b>Resource Persons</b>		
9	Dr. N.C. Saxena	Member, National Advisory Council	New Delhi
10	Shri Wilfred Lakra	Retd. IAS/Ex Advisor to Governor, Government of Jharkhand	Jharkhand
11	Smt Shomona Khanna	Legal Expert/ Advocate, Supreme Court of India	New Delhi
12	Shri C.R. Bijoy	Campaign for Survival and Dinnity	New Delhi
	<b>Participating States</b>		
13	Dr. A. Vidyasagar	Principal Secretary, Tribal Welfare Department	Andhra Pradesh
14	Shri Somesh Kumar	Commissioner of Tribal Welfare	Andhra Pradesh
15	Shri S.K. Chhotray	Chief Conservator of Forest	Andhra Pradesh

16	Smt Nagrani	PO, ITDA	Andhra Pradesh
17	Shri Sanjay Kumar	APO, ITDA	Andhra Pradesh
18	Shri R.N. Lal	Director, ST/SC Welfare Department	Bihar
19	Shri Manoj Kumar Pingua	Secretary, SC & ST Development Depatt.	Chhattisgarh
20	Shri Mudit Kumar	Chief Conservator of Forest, Forest Department	Chhattisgarh
21	Shri Ankit Anand	District Collector, Bastar	Chhattisgarh
22	Smt Sharda Verma	Additional Commissioner, SC & ST	Chhattisgarh
23	Shri Anjani Kr. Sinha	Financial Advisor, SCs/STs Development	Chhattisgarh
24	Shri Ramanjeet Gupta	Tribal Dev. Deptt. Gujarat	Gujarat
25	Shri Pawan Srivastava	Assistant Commissioner, Tribal Welfare Department	Madhya Pradesh
26	Shri M.L. Uike	Additional Director, Tribal Welfare Department	Madhya Pradesh
27	Shri J.P. Sharma	Additional Chief Conservator of Forest, Forest Department	Madhya Pradesh
28	Shri S. K. Patel	APO, ITDA	Madhya Pradesh
29	Shri S. N. Sarkunde	Commissioner, Tribal Development	Maharashtra
30	Shri Deshmukh	Deputy Secretary	Maharashtra
31	Shri Abhishek Krishna	District Collector, Gadchiroli	Maharashtra
32	Shri Govind Ram	Deputy Distt. Collector, Gondia	Maharashtra
33	Shri V. Mallikaarjun	Dy.Conservator of Forest (territorial) Gadchiroli	Maharashtra
34	Shri N M Vedi	Assistant Collector, Gondia	Maharashtra

35	Dr. A. B. Ota	Director-cum-Addl. Secretary, SCs/STs Deve. Depatt.	Odisha
36	Shri Satyanand Mishra	Addl. Director, SC/ST Development	Odisha
37	Shri B.N. Mohanty	Dy. Director	Odisha
38	Shri Bhupendra Singh Punia	Collector, Sundargarh	Odisha
39	Shri Gangadhar Nayak	PAITDA, Koranjia, Mayurbhanj	Odisha
40	Shri Sanjay Mishra	PAITDA, Rairangpur, Mayurbhanj	Odisha
41	Shri Jay Prakash Baral	DBT, Odisha	Odisha
42	Shri P.K. Jana	Special Secretary, DBT, West Bengal	West Bengal
43	Shri Anup Bakhla	IFS	Uttar Pradesh
44	Smt Priyanka Verma	ST Officer	Uttar Pradesh
<b>Hosting State (State Government of Jharkhand)</b>			
45	Dr (Shri.) Rajeev Arun Ekka	Secretary, Welfare Department, Government of Jharkhand	Jharkhand
46	Shri J.B. Tubid	Principal Secretary , Land Reforms and Revenue Deptt. GoJ	Jharkhand
47	Shri Dipak Singh	Special Secretary, Welfare Dept. Government of Jharkhand	Jharkhand
48	Shri A.K. Rastogi	Special Secretary, Revenue and Land Reformes	Jharkhand
49	Shri Rajkamal Arava	District Collector, Bokaro	Jharkhand
50	Dr. Pravin Sharkar	District Collector, Gumla	Jharkhand
51	Shri Prashant Kumar	District Collector, Dhanbad	Jharkhand
52	Dr. Amitabh Kaushal	District Collector, East Singhbhum	Jharkhand

53	Shri Hans Raj Singh	District Collector, Chatra	Jharkhand
54	Shri Sunil Kumar	District Collector, Hazaribag	Jharkhand
55	Shri Mukesh	District Collector, Khunti	Jharkhand
56	Smt Abha Kunshi	D.D.C, Koderma	Jharkhand
57	Shri S.B. Barwar	District Collector, Lohardaga	Jharkhand
58	Shri V.K. Choubey	District Collector,Ranchi	Jharkhand
59	Shri Jugal Kishore	Assistant Collector, Ramgarh	Jharkhand
60	Shri K.N. Jha	District Collector, Saraikela- Kharsawan	Jharkhand
61	Shri Prawin Toppo	District Collector,Simdega	Jharkhand
62	Shri A. Siddiqui	District Collector, Singhbhum	Jharkhand
63	Shri A.K. Malhotra	Principal Chief Conservator of Forest	Jharkhand
64	Shri D.K. Srivastava	APCCF	Jharkhand
65	Shri A.T. Mishra	C.F. Ranchi	Jharkhand
66	Shri Kulwant Singh	Conservator of Forest, Ranchi	Jharkhand
67	Shri S P Negi	DCF, Planning, Ranchi	Jharkhand
68	Shri V.S. Singh	Joint Secretary	Jharkhand
69	Dr. H.C. Gupta	Project Director, JTDS	Jharkhand
70	Shri Manoj Sinha	Dy. Project Director, JTDS	Jharkhand
71	Dr. Viney Kumar	Deputy Director, Tribal Welfare Department	Jharkhand

72	Shri A.K. Gupta	A.C.F. Forest Department, Jamshedpur	Jharkhand
73	Shri Kumar Ashutosh	District Forest Officer, Gumla	Jharkhand
74	Shri Vijay Kumar	Divisional Forest Officer, Simdega	Jharkhand
75	Shri S B Mishra	District Forest Officer, Chaibasa	Jharkhand
76	Shri Ashok Kumar Singh	District Forest Officer, Lohardaga	Jharkhand
77	Shri K K Tripathi	District Forest Officer, Khunti	Jharkhand
	<b>UNDP Personnel</b>		
78	Shri Sushil Chaudhary	Programme Associate, UNDP, India	New Delhi
79	Ms. Sreetama Bhaya Gupta	Project Manager, MoTA- UNDP Project	New Delhi
80	Ms. Manorama Dei	Project Officer, MoTA-UNDP Project	New Delhi
81	Ms. Ranjana Rawat	Project Assistant, MoTA-UNDP Project	New Delhi
	<b>Civil Society Members</b>		
82	Shri Tushar Das	Civil Society Vasundhara	Odisha
83	Shri Y. Giri Rao	Civil Society Vasundhara	Odisha
84	Smt Sweta Mishra	Consultant	Odisha