

The State of the Forest Rights Act

Undoing of historical injustice withered



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Forest dwellers in Uttar Pradesh demanding control of their land instead of the Forest Department, courtesy <http://teakdoor.com/world-news/86577-world-news-in-pictures-492.html>

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Tel/Fax: +91 11 25503624

Email: aitpn@aitpn.org

Website: www.aitpn.org

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I. Executive summary

India has enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as the FRA) to undo the “historical injustice” committed against the forest dwelling Scheduled Tribes and other traditional forest dwellers who have been living in the forests for centuries. However, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 end up perpetuating the historical injustices.

As of 31 January 2012, a total of 31,68,478 claims have been received across the country. Of these, a total of 27,24,162 claims (85.98% of the total received) have been disposed of, out of which 12,51,490 titles (45.94%) were distributed and 14,72,672 claims (54%) were rejected.¹ In terms of rejection rate, Uttarakhand is on the top with 100% followed by Himachal Pradesh (99.62%), Bihar (98.12%), Karnataka (95.66%), Uttar Pradesh (80.48%), West Bengal (73.12%), Maharashtra (67.91%), Madhya Pradesh (63.32%), Chhattisgarh (55.86%), Jharkhand (53.13%), Assam (50.94%), Rajasthan (49.85%), Andhra Pradesh (47.76%), Gujarat (30.95%), Orissa (30.75%), Kerala (16.95%), and Tripura (15.07%). The rejection rate of as many as 11 states is above 50 per cent.

There are number of frivolous reasons for rejection of claims under the FRA. *First*, the Forest Rights Committees have not been constituted at the Gram Sabha level in several states as provided in the Act which seriously hampers verification of the claims. *Second*, the “predominance to forest officials and obstructions caused by them” hampers the process of verification and decision making at various level across India.² *Third*, the claimants are denied proper hearing of their cases which is one of the reasons for the high rate of rejections. *Fourth*, the claimants are being denied reasonable opportunity to file appeal against the rejections before the higher authorities. *Fifth*, in an overwhelming number of cases, the rejections are not being communicated to the claimants thereby denying them the right to appeal.³

Further, there are number of claims which are not being addressed by the State governments. *First*, the Community Forest Rights (CFRs) are not being recognized and in many States even the forms are not supplied.⁴ *Second*, claims under the FRA are not being recognised in the protected areas such as National Parks, Wildlife sanctuaries etc thereby putting the Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) at risk of forcible evictions. *Third*, the OTFDs are being denied rights under the FRA.⁵

The so-called success of issuing land titles must be taken with a pinch of salt. Land titles issued are vaguely worded and often without clear maps or demarcation of any boundaries, area etc. As a result, more than one person/family has been granted title over the same plot of land.⁶

The nodal Ministry i.e. Ministry of Tribal Affairs (MoTA) and nodal agencies appointed at the State and Union Territory level have been mute spectators. The

MoTA washed off its hand by maintaining that its role is limited to “*facilitating and monitoring the implementation*”⁷. The nodal departments at the State level do not understand the provisions of the FRA and have been reduced to performing a ‘post office’ job of collecting statistical information and forwarding it to the higher levels”.⁸

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 (hereinafter the Forest Rights Rules, 2007) notified on 1 January 2008 actually overrules the Act to deny rights to the beneficiaries. In clear violation of the FRA, under Rule 14(3) of the Forest Rights Rule 2007 the Sub-Divisional Level Committee has been empowered to reject the claims without any explanation.

In order to address these problems, the Ministry of Environment & Forests and the Ministry of Tribal Affairs jointly constituted National Committee on the FRA on 16 April 2010 to review the implementation of the Act and suggest remedial measures. However, both the Ministries have been undermining the National Committee. On 3 August 2010, Kanti Lal Bhuria, then Union Minister of Tribal Affairs, raised objections to the functioning of the National Committee on the FRA.”⁹ Further, in October 2010, Jairam Ramesh, then Union Minister of Environment and Forests in letter to the Chairperson of the National Committee expressed unhappiness¹⁰ following the suspension of a Divisional Forest Officer (DFO) by the Uttar Pradesh government after an investigation by senior officials vindicated the findings of irregularities as pointed out in the report of the National Committee on FRA.¹¹

The Action Taken Report on the Tenth Report, “*Implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 - Rules Made Thereunder*” of the Parliamentary Standing Committee on Social Justice and Empowerment has been placed before the Parliament on 22.12.2011. It is stated that out of the 23 recommendations, 12 Observations/Recommendations have been accepted by the Government, one Observation/Recommendation which the Committee does not desire to pursue in view of the reply of the Government, in four Observations/Recommendations the replies of the Government have not been accepted by the Committee and further recommendations have been made; and in six Observations/Recommendations the replies of the Government are interim in nature.¹²

A closer scrutiny of the Action Taken Report shows that implementation of the Parliamentary Standing Committee recommendations has come to mean that the Ministry of Tribal Affairs merely conveyed the recommendations/observations of the Committee to the States/UTs with the advise to comply with the recommendations. In 2010, the Ministry of Tribal Affairs had claimed that “*Though the Act was passed by the Central Government, the primary responsibility of implementing this Act lies with the State Governments*” and that its role is limited to only “*facilitating and monitoring the implementation*” of the Forest Rights Act.¹³

The importance of the implementation of the FRA has been reiterated by the government at the highest level including Prime Minister Dr Manmohan Singh. Union Home Minister Shri P Chidambaram and Minister for Rural Development Shri Jairam Ramesh touted implementation of the FRA as one of the key instruments to counter the Naxal menace.

However, this report makes it clear that there has been little willingness to implement the FRA in letter and spirit. The Act has been implemented without adhering to basic provisions of Section 6 of the FRA that delineates the mechanisms for adjudication of the claims: Gram Sabha level committees are to decide the claims whose decisions in case of any grievance will be adjudicated by the Sub-Divisional Level Committees (SDLCs), which are also to review the resolution of the Gram Sabhas, while the decision of the District Level Committees (DLCs) shall be final and binding. In the actual implementation of the Act, the State Governments set up Panchayat level committees despite that Panchayat may consist of many Gram Sabhas which hinders verification and proper determination of the nature and extent of individual or community forest rights or both. The SDLCs and DLCs have further been directly deciding on the claims without determination by the Gram Sabhas which is mandatory under Section 6(1) of the FRA. The SDLs and DLCs have further been denying any opportunity of appeal.

The injustices continue to grow.

If India is to undo historical injustice against the tribals and counter the Naxal or any other extremist menace, it must ensure proper implementation of the Forest Rights Act, 2006. Given the scale of the rejection on illegal and frivolous grounds, the only solution is providing adequate human and financial resources to the National Commission for Scheduled Tribes (NCST) which shall examine the complaints pertaining to claims under the Forest Rights Act, 2006.

The time has come for the NCST to take implementation of the FRA as the priority task.

Paritosh Chakma
Director

2. High rate of rejection of claims under the FRA

I. Scale of rejection of claims

The high rate of rejection of claims submitted under the Forest Rights Act reflects the perpetuation of the historical injustices on the beneficiaries.

As per the information available with the Ministry of Tribal Affairs, as of 31 January 2012, a total of 31,68,478 claims have been received across the country. Of these, a total of 27,24,162 claims (85.98% of the total received) have been disposed of, out of which 12,51,490 titles (45.94%) were distributed and 14,72,672 claims (54%) were rejected.¹⁴ This means that, over half of the claims which have been disposed off have been rejected. The number of rejections could be even higher. The National Committee on the Forest Rights Act established by the Ministry of Tribal Affairs and the Ministry of Environment and Forest stated that the Assam government did not report most of the cases of rejection, nor were they shown as pending.¹⁵

Table 1: State-wise data showing distribution and rejection of claims under FRA as on 31.01.2012 (source: Ministry of Tribal Affairs)

State	No. of claims received	Total No. of Claims Disposed off / % in respect of claims received	No. of titles distributed	No. of claims rejected	% of claims rejected w.r.t claims disposed off
Andhra Pradesh	3,30,479 (3,23,765 individual and 6,714 community)	3,21,235 (97.20%)	1,67,797 (1,65,691 individual and 2,106 community)	1,53,438	47.76
Arunachal Pradesh	NIL (The state govt claims that land and forest are communally owned; therefore FRA has little relevance)	NIL	NIL	NIL	-
Assam	1,31,911 (1,26,718 individual and 5,193 community)	73,936(56.04%)	36,267 (35,407 individual and 860 community)	37,669	50.94
Bihar	2,343	1,173(50.06%)	22	1,151	98.12
Chhattisgarh	4,92,068 (4,87,332 individual and 4,736 community)	4,88,107(99.19%)	2,15,443 (2,14,668 individual and 775 community)	2,72,664	55.86
Goa	NIL	NIL	NIL	NIL	-
Gujarat	1,91,592 (1,82,869 individual and 8,723 community)	57,624(30.07%)	39,784 (38,176 individual and 1,608 community)	17,840	30.95

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Haryana	The State Govt. has informed that there are no forest dwelling STs and OTFDs	NIL	NIL	NIL -
Himachal Pradesh	5,635	1,876(33.30%)	7	1,869 99.62
Jharkhand	34,936	28,500(81.57%)	13,357	15,143 53.13
Karnataka	1,63,090 (1,60,305 individual and 2,785 community)	1,50,348(92.18%)	6,523 (6,522 individual and 1 community)	1,43,825 95.66
Kerala	37,509 (36,140 individual and 1,369 community)	25,073(66.84%)	20,821	4,252 16.95
Madhya Pradesh	4,49,561 (4,40,644individual and 8,917community)	4,24,102(94.33%)	1,55,542	2,68,560 63.32
Maha-rashtra	3,39,689 (3,35,701individual and 3,988community)	3,26,562(96.13%)	1,04,767 (1,04,344 individual and 423 community)	2,21,795 67.91 (2,20,523 individual and 1,272 community)
Manipur	NIL	NIL	NIL	NIL -
Meghalaya	NIL (The state govt claims that 96% of forest land is owned by clan / community / individuals; hence, FRA has limited scope.)	NIL	NIL	NIL -
Mizoram	NIL	NIL	NIL	NIL -
Nagaland	NIL (The state govt claimed that FRA does not apply since there are no forest dwelling STs or OTFDs)			
Orissa	4,93,522 (4,91,203individual and 2,319 community)	4,25,454(86.20%)	2,94,623 distributed (2,93,825 individualand 798 community)	1,30,831 30.75 (1,30,222 individual and 609 community)
Rajasthan	64,844 (64,510 individual and 334community)	60,475(93.26%)	30,325 (30,280 individual and 45community)	30,150 49.85
Sikkim	Stated that there are no forest	-	-	- -

	dwelling STs and OTFDs				
Tamil Nadu	21,781 (18,420 individual and 3,361 community)		Could not distribute titles due to a restrictive order from High Court of Madras (3,723 titles are Ready for distribution)	-	-
Tripura	1,79,639 (1,79,362 individual and 277 community) 21,384	1,41,821 (78.39%) 15.07	1,19,437 (1,19,382 individual and 55 community) 17,705 (16,891	73,001	80.48
Uttar Pradesh	92,406 (91,271 Individual and 1,135 community)	90,706 (98.16%)	individual and 814 community)		
Uttarakhand	182	1 (0.54 %)	NIL	1	100
West Bengal	1,37,278 (1,29,454 individual and 7,824 community)	1,08,169 (78.79%)	29,070 (28,962 individual and 108 community)	79,099	73.12
A & N Islands	NIL (The	NIL Administration has claimed that FRA does not apply).	NIL -	NIL	
Daman & Diu	NIL (no forest villages)	NIL	NIL	NIL	-
Dadra & Nagar Haveli	NIL	NIL	NIL	NIL	-
Lakshadweep	NIL (The Administration stated that there are no forest tribes or OTFDs)	NIL	NIL	-	NIL
Total	31,68,478	27,24,162 (85.98%)	12,51,490	14,72,672	54.05

On 4 March 2011, while replying to a question in the Lok Sabha, Minister of State in the Ministry of Tribal Affairs Shri Mahadeo Singh Khandela admitted that “Complaints have been received over a period of time concerning denial of rights and eviction of tribals from forests etc.”¹⁶ On 7 April 2011, the Ministry of Tribal Affairs in a meeting with State Secretaries/Commissioners of Tribal Welfare Departments expressed “serious concerns” over “high rate of rejection of claims and very low receipt of community claims” under the Forest Rights Act.¹⁷

As shown in Table 1, the States having impressive disposal rate also have equally

high rejection rate. As many as nine states (Andhra Pradesh, Chhattisgarh, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, and Uttar Pradesh) have above 80% disposal rate. But the rejection rate of as many as 11 states is above 50 per cent. In terms of rejection rate, Uttarakhand is on the top with 100% followed by Himachal Pradesh (99.62%), Bihar (98.12%), Karnataka (95.66%), Uttar Pradesh (80.48%), West Bengal (73.12%), Maharashtra (67.91%), Madhya Pradesh (63.32%), Chhattisgarh (55.86%), Jharkhand (53.13%), Assam (50.94%), Rajasthan (49.85%), Andhra Pradesh (47.76%), Gujarat (30.95%), Orissa (30.75%), Kerala (16.95%), and Tripura (15.07%).

II. Frivolous grounds for rejection of the claims

The claims are often rejected on frivolous grounds.

A. Violations of procedures: FRCs not formed at village/habitat level

Section 6(1) of the Forest Rights Act provides that “*The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and prepare a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.*”

Under Rule 3(1) of the Forest Rights Rules, the Gram Panchayat shall convene the Gram Sabhas and in its first meeting the Gram Sabha shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein at least one-third members shall be the Scheduled Tribes. But in practice, in several states the Forest Rights Committees (FRCs) have not been constituted at village level or habitat level, including in Panchayats (Extension to the Scheduled Areas) Act (PESA) areas, in clear violation of the Forest Rights Act.

The Joint Committee of the MoEF and MoTA (i.e. the National Committee on Forest Rights Act) found that in most states, the FRCs are being recognised at the panchayat level, rather than at the level of revenue villages or hamlets within them. The FRA specifies (Section 2g) that the Gram Sabha is “a village assembly which shall consist of all adult members of a village and in case of State having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees”, and further (Section 2p) that ‘village’ should be at any of four levels:¹⁸

- i. Villages as defined in the Panchayats (Extension to Scheduled Areas) Act (Section 4b of which says a village shall ordinarily consist of a habitation or group of habitations or a hamlet or group of hamlets comprising a community and managing its affairs in accordance with traditions and customs)

- ii. Villages defined by law relating to Panchayats (i.e. revenue villages).
- iii. Forest villages, old habitations and settlements and unsurveyed villages, whether notified or not.
- iv. Traditional village institutions, in States with no gram panchayats (e.g. in some North-eastern States).

In Vishakhapatnam district of Andhra Pradesh, the National Committee on FRA found that the FRCs have been constituted at the Panchayat level instead of village/ habitation/hamlet level. As a result, in many cases all habitations/ villages were not represented in the FRC constituted at Panchayat level. The number of habitations in some of Panchayats are as high as 55; hence, about 75% habitations were not represented in the FRC which can have only 10-15 members. The National Committee on FRA stated that “In such case it would be impossible for FRC to know and verify extent of individual claims properly. In Paderu sub-division there are only 244 Panchayats against 3884 habitations. As a result the FRCs are largely ineffective.”¹⁹

The National Committee on the FRA also found “serious illegality in formation of FRC in North Bengal region” of West Bengal that is creating problem in identifying and filing both individual and community rights claims. In North Bengal, the FRCs have been formed at Gram Sansad (Gram Panchayat) level.²⁰ The average number of villages per Gram Sansad in West Bengal is 11.7.²¹ The National Committee on the FRA stated that “Due to such formation of FRC at Gram Sansad level the FRC’s are being dominated and influenced by the political persons who are working under the influence of the vested interests. In many FRC’s the post of President and Secretary are held by the elected representative of the Gram Sansad, e.g villages like Jayanti.” These FRCs have not been constituted as per the Forest Rights Rules. They were formed without an open, free and fair process. Some names were given on paper and officials approved those FRC. More surprisingly, the FRCs formed at Gram Sabha level in the various forest villages were rejected and villagers were denied forest rights.²²

Similarly, in Jharkhand, the FRCs have not been constituted properly. The FRCs were not constituted in open meetings in most places. For example, in Dumka, FRC members and even the secretary themselves did not know that they were part of the FRC, nor what it meant. Neither the FRCs nor Gram Sabhas were found to be involved significantly at any stage in the implementation of the FRA.²³

B. Forest officials prevailing over the others

A principal reason for high rate of rejection of claims has been the obstruction caused by the forest department officials and other government officials. The National Committee on Forest Rights Act expressed concerns over the “**predominance to forest officials and obstructions caused by them**” during the process of verification and decision making at various level across India. The

National Committee pointed out that *“Though the FRA provides for multi-stakeholder verification and decision-making at various levels, in many places the opinions of forest staff/officers appear to have over-ridden all else. Examples of this include decisions often left by SDLC or DLC to forest staff/officers, reflecting a lack of confidence in the full committee decision-making process, and lack of interest and capacity in Tribal Department officers to handle matters of forest rights.”*²⁴

In Chhattisgarh, the National Committee on FRA found several “wrongful rejections”, primarily due to hasty enquiries and lack of a thorough examination of the rejected cases by senior officials. Most of these rejections have been at level of Gram Sabha, based squarely on the report of patwari (revenue staff) or forest guards which proves the predominance of the forest officials over the decisions taken by the Forest Rights Committees. These reports of the patwari or forest guards have not been verified (not even one percent) by block or district level officials. The National Committee stated that there was no document to show that the claimants were given any “reasonable opportunity”, as provided in Rule 4(c) of the Forest Rights Rules.²⁵

In Jharkhand, the tasks for initiating the claims process and for scrutiny have been given to the Rural Development department, specifically to the Block Development Officers, who actually have no role in the implementation under Section 6(1) of the FRA and the Rules. The rejections were treated as rejections at Gram Sabha level which were in fact decisions made by government officials, typically the BDO or Forester/Ranger. The verification, screening, etc. was being done directly by the Forest Department officials, rather than by the Gram Sabhas with input from these agencies.²⁶

In Udaipur district of Rajasthan, a number of cases were rejected at Gram Sabha level allegedly because of the fact that the FRC and the Gram Sabha are dominated by Van Suraksha Samitis (set up under Joint Forest Management scheme), which are not in favour of granting rights under the FRA. There were many complaints of claims not having been accepted, of unfair rejection (e.g. by local forest staff given the responsibility of verification by the Sub Divisional Magistrate), among others.²⁷

C. No proper hearing

The denial of proper hearing to the claimants is also responsible for high rate of rejections. In Thane district of Maharashtra, the Gram Sabhas in 76 villages had reportedly passed resolutions (in a standardized typed format, often without signatures, dates, etc.) rejecting all individual forest rights claims *en masse*. While most resolutions did not mention the reason, others gave the reason as “GPS measurements not taken” although this is not a requirement under the Act.²⁸

In a representation to the National Committee on the FRA, Shramik Mukti Sanghatana, Thane, Maharashtra complained that “Sub-division level committees are changing or overruling decisions of the first authority, i.e. Gram sabha either without reasons or solely depending upon opinion of the forest department. Neither

the claimant nor the Gram sabha is given an opportunity to have a “say” before rejecting or changing such decisions.”²⁹ This is contrary to the principles of natural justice. Since the SDLCs have been overruling the decisions of the Gram Sabha without providing any reasons, the claimants are denied proper hearing by the SDLC.

D. Denial of reasonable opportunity to appeal

Any person aggrieved by the resolution of the Gram Sabha can file an appeal before the Sub Divisional Level Committee (SDLCs) within 60 days from the passing of the resolution under Section 6(2) of the FRA and challenge the decisions of the SDLC, within 60 days, before the District Level Committee (DLCs) under Section 6(4) of the FRA. However, in practice this opportunity to appeal has been systematically denied to the claimants across the country.

The National Committee on the Forest Rights Act in a report (December 2010) submitted to the MoTA stated, *“In an overwhelming number of cases, the rejections are not being communicated to the claimants and their right to appeal is not being explained to them and its exercise facilitated.”*³⁰

The claimants are being denied “reasonable opportunity” to file appeal despite the fact that the Parliamentary Standing Committee on Social Justice and Empowerment and the National Committee on FRA – both governmental bodies - have highlighted massive rejections taking place across the country which are arbitrary and illegal.

The National Committee on FRA during its field visits in Southern Rajasthan from 21-24 August 2010 found that reasons for rejection of a number of claims in Udaipur district were “clearly unlawful or improper”. Some of the reasons for rejection given were “it is a wildlife sanctuary” (Mt. Abu), because the claimant is “an Isai” (Christian), because the claimant is “not a ST or SC”, because the claimant is “employed by a NGO” or is “a government servant” (chaprasi, teacher), or because there is no janglaat rasid (fine receipt from the forest dept)!³¹ The authorities also refused to accept the xeroxed claim forms since these do not have an official stamp. Sometimes claims have been rejected without giving any reasons or rejection letters were received too late to appeal.³² Further, the claimants were required to fill up not only the prescribed forms under the FRA but also an 11-page *kulak* (claim form set) circulated by the state government of Rajasthan. This forced the claimants to get endorsements from a number of officials such as the patwari, tehsildar, district authorities, forester and Range Forest Officer, and president and secretary of Gram Sabha.³³ This is nothing but harassment to the claimants.

In Chhattisgarh, the National Committee on FRA during a field visit on 24-27 May 2010 found that rejections of claims were “wrong” “primarily due to hasty enquiries and lack of a thorough examination of the rejected cases by senior officials. Most rejections have been at the level of gram sabha, based squarely on the report of patwari or forest guard. These reports have not been verified (not even one percent) by block or district level officials. There is no document to show that the claimants

were given any “reasonable opportunity”, as provided in Rule 4(c).” In one village, Kusmi of Bastar, itself there were more than 100 wrongful rejections. Decision rejecting the applications has not been communicated to the claimant in writing thereby depriving the applicant the right to appeal.³⁴

The National Committee on FRA during its visit to Assam in July 2010 found that a large number of rejections happened at the level of SDLC or the DLC. Most cases of rejection are not reported and the claimants were not given any “reasonable opportunity”, as provided in Rule 4(c) of the Forest Rights Rules.³⁵

In Jharkhand too, the rejection of claims had not been communicated to the claimants and therefore, claimants have been denied the right to appeal.³⁶

E. Other cases of rejections

During a field visit by National Committee on the FRA in Madhya Pradesh from 20-24 May 2010 the Committee found that in several cases, the grounds for rejection were either not given or were invalid, such as reason like “land being reserved for settling Bangladesh refugees” was given for rejection. In several villages, claims filed by villagers, for which they had acknowledgement, were not shown in government records at all. The Committee also found that rights of persons displaced by dams e.g. Sardar Sarovar, Tawa dam, Narmada Sagar, Omkareshwar dam, etc were not addressed. Further, the FRA process had not been initiated in and around Protected Areas and there was no attempt to address the special problems faced by some so-called primitive tribal groups (PTGs) and communities like the Mankars, Nayaks and Banjaras who are tribals but have not been included in the list of tribals in the state.³⁷

In Bokaro district of Jharkhand, one of the major grounds for rejecting claims is that the claimant already owns some private revenue land, and is therefore considered not ‘primarily dependent’ upon forest land or is living in a house which is not on forest land and hence does not meet the ‘residing in’ clause. In fact, several potential claimants were told not to apply if they already owned more than 3 acres of revenue land. This is a clear misinterpretation of the FRA, as there is no requirement of ‘primary dependence’ in the Act. The Act requires ‘forest dependence’, which is a broad concept that includes dependence for firewood, grazing, MFP collection, etc. and cannot be measured simply in terms of land area.

The term “cultivation” is being narrowly interpreted to mean plough-based cultivation, which is clearly a misinterpretation of the Act and is resulting in depriving many households of their legitimate claims. In Dumka district of Jharkhand, claims for lands being cultivated with upland corn were being rejected on the grounds that ‘this does not constitute cultivation’. The Jhum or shifting cultivation has not been recognized under the FRA.

The rights of the tribals have been denied in the name of development projects. For example, the claims (both individual and community) submitted by the tribals

cultivating lands in proposed bauxite mining lease areas in Vishakapatnam district of Andhra Pradesh have not been accepted without assigning any reason.³⁸

In view of the higher percentage of rejection of claims under the Forest Rights Act, on 15th July 2010, the Ministry of Tribal Affairs wrote to the state governments to “initiate an action immediately, on a statistically acceptable sampling basis, at the level of Gram Sabha and Sub Divisional level Committees for categorizing all rejections, with their numbers” and suggested the following categories of possible rejections:

- a) Non-availability of written records;
- b) Non-availability of other criteria specified in Rule 13;
- c) Non-possession of forest land;
- d) Non-occupation on the date relevant to the Act;
- e) Multiple claimants;
- f) Doubtful tribal status.³⁹

III. Non implementation of the FRA by certain States

As many as 10 States and UTs namely Arunachal Pradesh, Goa, Manipur, Meghalaya, Mizoram, Sikkim, Tamil Nadu (because of restrictive High Court’s order), Uttarakhand, Daman & Diu (UT) and Dadra & Nagar Haveli (UT) have not distributed any title so far. In case of Manipur, the state government has not even responded as to why no action has been initiated for implementation of the FRA including in the Review Meeting held on 11.11.2008 and also during the Conference held on 4th and 5th November 2009.⁴⁰

3. The actual implementation: Undoing of historical injustice withered

In its reply to the Parliamentary Standing Committee, the Ministry of Tribal Affairs (MoTA) boasted that till 31st January 2011 a total number of 30,39,955 claims were received against which a total number of 25,53,315 claims were disposed of with a disposal rate of 84%.⁴¹ On paper the implementation of the Forest Rights Act appears to be good, but in practice several problems remain. According to the updated data of the Ministry of Tribal Affairs as of 31 January 2012, a total of 31,68,478 claims have been received across the country. Of these, a total of 27,24,162 claims (85.98% of the total received) have been disposed of, out of which 12,51,490 titles (45.94%) were distributed and 14,72,672 claims (54%) were rejected.⁴² This means that, over half of the claims which have been disposed off have been rejected.

1. Land titles issued without proper demarcation of boundary

The most serious problem, after non recognition of rights, is the mindless manner in which the land titles are being allocated by the authorities under the FRA without proper demarcation of boundary of the lands being granted to the beneficiaries/claimants.

The National Committee on the FRA stated that in States like Tamil Nadu, Kerala, West Bengal and Tripura, the survey of the land and the demarcation of its boundaries was being done at the time of decision making by the District Level Committee. The statutory authorities viz. Gram Sabha and Forest Rights Committees were not involved in the process of demarcation and survey leading to manipulation of land areas and loss of rights.⁴³

The district administration of Dumka district of Jharkhand engaged a veterinary doctor to conduct the survey and demarcation of claimed land. In Khunti district of Jharkhand, there was severe shortage of survey staff, although there was no shortage of funds.⁴⁴

In Orissa, the National Committee on FRA found that there are cases of vaguely worded titles, without clear maps or any boundaries, area etc, which could lead to conflicts or exclusions later. For instance titles on forest land issued to Ghanshyam Majhi, Laxmidhar Majhi, Raising Majhi of village Kermeli and Parsuram Majhi, Debraj Majhi of village Pethiapali of Kermeli GP, Nuapada block of Nuapada district are not the forest lands under their occupation and claimed, but are land of others.⁴⁵

Some of the land title certificates distributed to the claimants in Buxa Division, Jalapaiguri in West Bengal did not have any date mentioned in the certificate, there was no signature, and the land mentioned had no map and boundaries demarcated.⁴⁶

In Assam too, the National Committee found that the land titles given to the OTFD claimants “are not being provided with any measurement of land and plot

identification.”⁴⁷

The lack of proper demarcation of the plots of lands allocated to the claimants under the FRA defeats the very purpose of the Forest Rights Act. This will in the coming days only increase conflicts amongst the tribals who have been distributed such controversial titles.

II. Non recognition of community forest rights

The Parliamentary Standing Committee rightly observed that though “individual rights” have been recognized in large number, the recognition of “community rights” have been minimal under the FRA.⁴⁸ There is a lack of understanding of community forest rights (CFR) ensured under the Forest Rights Act.

The National Committee on the FRA stated that in West Bengal “There is no awareness among the official about the community rights rather the village communities are more aware of these rights and aware that according to the Act they are entitled for community rights.” The Forest Department had been imposing the Forest Protection Committees (FPC) formed under Joint Forest Management of the MoEF, on the villages. Instead of formation of FRC, the Forest Department insisted the forest villages to continue working with FPC which is entirely in the control of the Forest Department.⁴⁹

In October 2010, the National Committee on FRA found that in Orissa there was lack of clarity at the local administration on the various CFR, the procedure of claiming and on how the claims should be mapped and processed. The Committee further found that barring few cases, the process of determination and claim of CFR has been carried out by the forest department and technical support team without the involvement of gram sabha and FRCs which is infringement of the authority of the Gram Sabha.⁵⁰

In Udaipur district of Rajasthan, villagers were being told they do not need to file CFRs, since they already enjoy benefits from Joint Forest Management (JFM). A senior forest official told the National Committee on FRA that about 50% of the 7 lakh ha. forest (outside protected areas) in Udaipur division is under JFM. Moreover, many of the CFR claims are being made in the name of the Van Suraksha Samiti (set up under JFM), not in the name of the village as a whole. The practice of recognizing the CFRs in the name of the Van Suraksha Samiti is faulty as it should be in the name of the village or community. Further, the Bhilwara District Collector in an order in June 2010 stated the CFRs did not extend rights to *tendu patta* and gum under FRA.⁵¹ The forest department of Jharkhand also favoured JFM over community forest rights although the JFM policies do not ensure the rights of the forest dwellers.⁵²

The CFR has also been denied in the North East. In November 2010, the National Committee visited Tripura to assess the implementation of the Forest Rights Act. It found that the Tripura government was not supplying the “Form B”, which deals

with CFR, to the people.⁵³ The Committee on FRA found that in Assam, “The lack of understanding of CFR provisions is strongly visible even amongst the senior officials whether they belonged to Forest or other Departments.”

III. Denial of rights in protected areas

Across India, the officials are reluctant to provide rights within the protected areas. There was “blanket rejection” of claims filed in National Parks in Bastar district of Chhattisgarh.⁵⁴ In Rajasthan, 13 Community Forest Rights claims within Phulwari ki Nal Sanctuary have been pending for several months. A CFR claim by Haila village inside Kumbalgarh Sanctuary was rejected on the ground that “there is no-one occupying the site at the time of verification”! The Raika community, a pastoral community, were told that they cannot make claims inside Kumbalgarh Sanctuary as their grazing had been stopped earlier.⁵⁵

The National Committee on FRA stated that the officials of the Kaziranga National Park “wrongly interpreted the provisions of the Act and indicated that the FRA does not have scope for implementation in the national parks.”⁵⁶

IV. Loss of actual land under FRA

In some cases, the Forest Rights Act instead of ensuring land rights to the tribals and OTFDs is actually taking away their lands. The Parliamentary Standing Committee in its report submitted to the parliament in October 2010 stated, “During their on-the-spot study visit to some States while interacting with the beneficiaries, the Committee have noticed that *pattas* are being given to the Scheduled Tribes and Other Traditional Forest Dwellers to a lesser extent than what is under actual cultivation, boundaries are not being fixed properly and the land being recognized are not fit for cultivation. The Committee are not happy with the above situation because in the opinion of the Committee unless the above concerns are suitably addressed and land made cultivable, the very thrust/purpose of the Act relating to rights of Schedules Tribes and Other Traditional Forest Dwellers to hold and live in forest for habitation or self-cultivation for livelihood is defeated.”⁵⁷

Under Section 4 (6) of the Forest Rights Act, the forest rights recognized to an individual or family or community “shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares”. This clause is being used to deny the beneficiaries more land than four hectares although they might be in possession of land over four hectares.

The National Committee on FRA during its field visit to Andhra Pradesh from 27-31 July 2010 found discrepancies between the area claimed and the title deed. Numerous claimants informed that they have been cultivating more land than what has been allotted in the title deed after the survey. In some cases the allotted land is reduced by 70 to 80% from the area claimed.⁵⁸ Similarly, several families have received land titles for less area of land than actually under their possession in

Orissa. In Kadapoda village of Keonjhar district of Orissa, only 11 out of 34 families have received the record of rights as per claims. One Nilamani Naik, widow of Dharpani Naik, has received title for .27 cents only against her claim of 1.50 acre in Keonjhar. Similarly, Anandita Toppo of Ludhar village in Deogarh district has received only 1.14 acres of land against the claim of 2.7 acres which is under actual occupation. Other villages in Deogarh district alleged that rights are pre-selected by revenue and forest officials at the sub-district and district level without considering the decision of the Gram Sabha.⁵⁹

The case is similar in Chhattisgarh where the National Committee on the FRA found that area mentioned in the title in many cases was less than the area of land under actual occupation by the claimants. In most applications, the claimants do not mention the area under occupation because of bad translation from English to Hindi of the Form – A, prescribed under rule 6(1). For instance, the phrase ‘extent of forest land occupied’ was translated as ‘Adhibhog ki gai bhumi kaa vistaar’, which was not correctly understood in the villages, and hence this column in many applications was left blank. In addition, the occupied area was not scientifically measured. The map given on the title deed was “very rough and sketchy” in many cases.⁶⁰

The FRA has not recognized shifting cultivation resulting in denial of rights to the tribals. The National Committee on the FRA in a report released in December 2010 stated that “There are cases from Kalahandi in Orissa and Dhalai in Tripura where shifting cultivation lands are not considered during the verification process or only that portion/plot is considered which is being cultivated by the claimants at the time of verification leaving all other plots which are seasonally/rotationally used by the community.” The restriction of maximum 4 hectare imposed by Section 4 (6) of FRA has also led to restriction in the realization of the rights by the shifting cultivators as their shifting cultivation fields are often spread over a large area.

V. Non recognition of the rights of the OTFDs

The Other Traditional Forest Dwellers (OTFDs) have been discriminated in some states and denied their rights under the Forest Rights Act. The National Committee on FRA stated that “the misinterpretation of the definition of OTFDs is probably the single biggest source of wrongful rejections and omissions across all states.”⁶¹

In Assam, the state government has been reluctant to provide land rights to the OTFDs under the FRA due to prejudice against these communities. The Chief Secretary of Assam told the visiting National Committee on FRA team in July 2010 that “*if the Act is to be implemented there will be no forest coverage to be left with.*” Further, the Chief Secretary admitted that district magistrates understand the FRA variously from district to district. The state government of Assam was reluctant to process the claims of OTFDs. The Chief Secretary articulated the Government of Assam’s position by stating that “we are willing to give rights to tribals but not to non-tribals” as most of them are encroachers. The Committee on FRA stated that “There has been complete lack of allowing or entertaining the claims of OTFDs

except those areas where there are strong and vested political interests. In fact in terms of OTFDs claims, the state's attitude is strikingly apathetic." There have been cases of "outright rejection" of non-ST claimants (ORFDs) on grounds of not-belonging to ST population or not being able to provide 'written' evidence.⁶²

In Jharkhand, the vast majority of applications filed by OTFDs have been rejected on the grounds that 75 years occupancy has to be shown on the encroached land, not just 75 years of residence in the locality or village.⁶³ This is a total misinterpretation of the definition of the OTFDs. The National Committee on FRA pointed out that the MoTA in its circular of 09.06.2008 has already clarified that the interpretation of the phrase "primarily resided in and who depend on" in Section 2(o) of the FRA includes persons "who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs" or "who are working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land".⁶⁴

4. Failed Nodal Agencies

The role of the Nodal Agencies in monitoring and pushing the implementation of the Forest Rights Act is crucial. At Central level, the Ministry of Tribal Affairs is the nodal agency for the implementation of the FRA. The Ministry of Tribal Affairs had also nominated the Secretary in charge of the Tribal Welfare/ Social Welfare Departments in the various States to be the nodal agency under Section 11 of the FRA for implementation of the provisions of the Act.⁶⁵ All the states have appointed Nodal Officers except Arunachal Pradesh (which has selected Department of Social Welfare as Nodal Department but appointed no nodal officer), Manipur, Mizoram, Nagaland and Sikkim.⁶⁶

The Nodal Agencies, both at the Centre and States, have failed.

The Ministry of Tribal Affairs which is the nodal agency for implementing the FRA informed the Parliamentary Standing Committee that *“Though the Act was passed by the Central Government, the primary responsibility of implementing this Act lies with the State Governments. We have been given the role of facilitating and monitoring the implementation.”*⁶⁷

But the MoTA has failed even to monitor the implementation by the states. The Parliamentary Standing Committee has pointed out that the MoTA did not have the details of the claims rejected at various levels. The MoTA also admitted that *“When the Ministry of Tribal Affairs are asked the reasons for such high rejection by States, only generalized replies are possibly, based on the inputs received during conferences, workshops or from personal interactions. A time has, therefore, come when not only should we attempt to find out the categories/reasons for rejection by the Gram Sabha and at the Sub Divisional level, but therefrom also find out the ways of improving the quality of our otherwise considered excellent performance in the distribution of rights across the country.”*⁶⁸

The MoTA also lacked sufficient human resource to implement the FRA. In its report to the Parliament, Parliamentary Standing Committee on Social Justice and Empowerment stated, *“The Committee are also of the view that with the kind of staff the Ministry have at their disposal at present it is practically impossible to monitor the Act.”* Therefore, the MoTA should evolve a mechanism wherein they take the help of Officers from the State Governments to implement the Act.⁶⁹

The role of the nodal agencies at state level is really pathetic. The nodal department officials themselves were not aware about the provisions of the Forest Rights Act, and often misinterpreted the Act in order to deny the rights to the tribals/OTFDs.

The National Committee on FRA stated that the officials of West Bengal’s Backward Class and Welfare Department (the nodal agency) *“have not read the (Forest Rights) Act”*. The department is not at all active in the implementation process.⁷⁰

In Chhattisgarh, Tribal Development Department (nodal agency) has not been able to create awareness about the FRA. As a result, elected non-officials of the FRCs

and the Gram Sabha were entirely dependent on the lowest rung of bureaucracy. There was no translation of the Act in Adivasi languages. The National Committee on the FRA remarked that “The Tribal Development Department has been content by performing a ‘post office’ job of collecting statistical information and forwarding it to the higher levels.”⁷¹ There were several wrong rejections, primarily due to hasty enquiries and lack of a thorough examination of the rejected cases by senior officials. Most rejections have been at the level of Gram Sabha, based squarely on the report of patwari (revenue staff) or forest guard. The Tribal Development Department of the state government has neither cross-checked the work being done at the village level by the revenue and forest officials, nor did they engage any outside agency to do independent assessment.⁷²

In Assam, the Social Welfare Department’s (nodal agency) structure and presence at the field level is “very weak”. The department had not been able to provide sufficient inputs and supports, facilitating filing of form etc. The senior officials of the Social Welfare Department do not cross-check the work being done at the SDLC or at the DLC level.⁷³ Similarly the structure of Tribal Welfare department (nodal department) in Andhra Pradesh at the field level is “very weak”. In the absence of field staff from the Tribal Welfare department, most of the processing was being done by the revenue officials and supported by the frontline staff of the forest department.⁷⁴

Similar is the scenario in Jharkhand, where the Welfare Department (the nodal agency) has failed to do much in terms of awareness creation or implementation of the Act. As the Welfare department staffs are not familiar with issues related to the FRA (land rights, forest rights) they ceded their tasks to be done by the Forest Department, the Revenue Department and the Rural Development department. The National Committee on FRA remarked, “The Welfare Department needs to understand that its role is that of a champion of forest dwellers who have been historically denied land and forest rights. It needs to take this role seriously, and build capacity to discharge this role, including appointing special dedicated staff with training in social work and understanding of forest rights issues in tribal and non-tribal areas, and then take up the process seriously, especially in hitherto neglected regions.”⁷⁵

5. Rules overruling the Act: Forest Rights Rules, 2007 Vs Forest Rights Act, 2006

The Central Government, as per Section 14 of the Forest Rights Act, notified the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 for implementing the provisions of the Act on 1 January 2008 and published the same in the Gazette of India, Extraordinary, Part II, Section – 3, Sub-section (i) dated 1.1.2008.

However, the said Rules are antithetical to the Act in many aspects as discussed below.

I. Illegal rejection of claims at SDLC level

In clear violation of the FRA, the Forest Rights Rules 2007 vests upon the Sub Divisional Level Committee to arbitrarily reject the resolution passed by the Gram Sabha which is the “authority to initiate the process of determining the nature and extent of individual or community forest rights or both” that may be given to the ST or OTFDs under the Forest Rights Act. Rule 14(3) of the Forest Rights Rule 2007 provides,

“The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.”

Clearly, Rule 14(3) or any clause in the entire Forest Rights Rules, does not in any way require the Sub-Divisional Level Committee (SDLC) to provide any reason for the rejection of the claims.

This is totally against the Forest Rights Act, 2006 which nowhere provides the power to the Sub Divisional Level Committee to “reject” the resolution of the Gram Sabha, least without any explanation or reason being provided to the claimants/petitioners.

Section 6(3) of the Forest Rights Act provides that *“The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.”*

Section 6 (2) of the FRA provides that if any person is aggrieved by the decision of the Gram Sabha may, within 60 days, prefer a petition to the Sub-Divisional Level Committee which *“shall consider and dispose of such petition”* provided that no such petition shall be disposed of against the aggrieved person, unless he has been given a *“reasonable opportunity to present his case.”*

The power to reject a claim is not a power or function granted to the Sub-Divisional Committee under the Forest Rights Act.

Further, Rule 6 of the Forest Rights Rule provides the functions of the SDLC as

follows:

“6. Functions of the Sub-Divisional Level Committee.- The Sub-Divisional Level Committee (SDLC) shall -

- (a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected;
- (b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- (c) collate all the resolutions of the concerned Gram Sabhas;
- (d) consolidate maps and details provided by the Gram Sabhas;
- (e) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
- (f) hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- (g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram Sabhas;
- (h) co-ordinate with other Sub-Divisional Level Committees for inter subdivisional claims ;
- (i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records;
- (j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;
- (k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules ;
- (l) ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A & B) of these rules;
- (m) ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.”

Therefore, upon reading the Forest Rights Act and the Forest Rights Rules in totality, it is clear that with regard to the resolutions of the Gram Sabha, the SDLC has the authority only to “examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims” [Rule 6(e)] and then **“forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision”** [Rule 6(j)]. It has no authority to reject any claim without giving any reason as provided in the Forest Rights Rules 2007.

An expert committee (the National Committee on the Forest Rights Act) headed by NC Saxena (constituted by the Ministry of Tribal Affairs and the Ministry of Environment and Forests) has dealt with this problem and stated **“In many areas, SDLCs have rejected claims, though they are not empowered to do so.** In a widespread violation of the FRA, rejections have taken place without giving applicants a reasonable opportunity to be heard.”⁷⁶ The National Committee on FRA further stated, “SDLCs and DLCs, even if constituted, have only partially discharged their responsibilities, with little attempt to pro-actively help people with claims and evidences, and on the contrary often issuing rejection letters without adequate grounds. *This has been one of the biggest reasons for the seriously inadequate implementation of the FRA in most parts of India.*”⁷⁷

In a representation to the National Committee on the FRA, Shramik Mukti Sanghatana, Thane, Maharashtra complained that “Sub-division level committees are changing or overruling decisions of the first authority, i.e. Gram sabha either without reasons or solely depending upon opinion of the forest department. Neither the claimant nor the Gram sabha is given an opportunity to have a “say” before rejecting or changing such decisions.”⁷⁸

The National Committee on FRA recommended, among others, to the Ministry of Tribal Affairs to issue “Instructions that rejections cannot happen at the SDLC level”.⁷⁹

II. Process of petition against decisions of Gram Sabha and SDLC

Rule 14 (1) states, “Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.”

Similarly, Rule 15 (1) states, “Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.”

Both the Rules are problematic.

Rule 14(1) and Rule 15(1) presume that the resolution of the Gram Sabha and the Sub-Divisional Level Committee respectively are communicated to the claimant on the day the resolution has been passed. But in reality this does not happen so.

The National Committee on FRA constituted by the Ministry of Tribal Affairs and the Ministry of Environment and Forests in a report of December 2010 stated, “In an overwhelming number of cases, the rejections are not being communicated to the claimants and their right to appeal is not being explained to them and its exercise facilitated.”⁸⁰

The Ministry of Tribal Affairs in a letter dated 20 July 2010 to the state Chief Secretaries expressed concerns about this. While commenting on Rule 14(1), the

MoTA stated, “Rule 14(1) requires that a person aggrieved by the resolution of the Gram Sabha may file a petition to the Sub Divisional Committee (SDLC) **within a period of sixty days from the date of resolution**. This presumes that the resolution of the Gram Sabha (or the SDLC) is communicated to the claimant on the day the resolution has been passed. There could, however, be a time gap between the date of the resolution and the communication of the same to the affected person. **Natural justice demands that the sixty days should count from the date of communication of the orders.**”⁸¹

But the Ministry of Tribal Affairs did nothing to change the Forest Rights Rules which the officials at the SDLC and DLC continue to use to deny rights to the STs and OTFDs.

III. Inadequate time limit to attend hearing

Rule 14(2) of the Forest Rights Rules 2007 provides “(2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner **at least fifteen days prior to the date fixed for the hearing.**” (emphasis added)

Further, Rule 15(2) provides, “The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner **at least fifteen days prior to the date fixed for the hearing.**” (emphasis added)

The National Committee on FRA found that one of the biggest problems in the implementation of the FRA is that “Rejections are being done without assigning reasons”. It further found that “In an overwhelming number of cases, the rejections are not being communicated to the claimants and their right to appeal is not being explained to them and its exercise facilitated.”⁸²

Since the rejections are either not communicated to the claimants at all or even if they are communicated, the officials often ensure that the claimants do not get sufficient time to file appeal. The minimum notice period of 15 days prior to the scheduled day of hearing is very short. The tribals and other traditional forest dwellers live in the forests in remotest habitations which may not be linked with any communication facilities. Therefore, the tribals and OTFDs from remote areas may not be able to attend the hearing at Sub Divisional office at such a short notice. The minimum notice period of 15 days is being effectively used by the over-jealous officials to deny forest rights to the beneficiaries across India.

If they are unable to attend the hearing, their petitions stand summarily rejected by the SDLC and DLC which are not sensitive towards the problems of the tribals and OTFDs.

6. Unwanted body: the National Committee on Forest Rights Act

On 16 April 2010, the Ministry of Environment and Forests and the Ministry of Tribal Affairs constituted a Joint Committee to review the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the country with a specific Terms of Reference outlined for the purpose. The Committee members were selected from a wide spectrum of background and expertise consisting of retired civil servants, forest officers, tribal department officers and representatives of Civil Society Organizations and NGOs.⁸³

The Terms of Reference of the National FRA Committee are as follows⁸⁴:

- The Committee shall study in detail the implementation of the Forest Rights Act, 2006 including factors that are aiding and impeding its implementation;
- The Committee shall recommend necessary policy changes in the future management of the forestry sector in India which may be necessary as a consequence of implementation of Forest Rights Act;
- The Committee shall identify the role of various agencies (official and others) in facilitating forest-dwellers in carrying out their roles regarding conservation and management of forests as envisaged in the Act;
- The Committee shall identify opportunities for and recommend measures to ensure convergence of various beneficiary oriented programs for the forest rights holders taken up by various line departments in the states
- The Committee shall, wherever possible, hold public consultations on all relevant Issues soliciting the inputs of the concerned stakeholders;
- The Committee shall extend full support to the Ministry for Tribal Affairs in their efforts to enforce and implement the Forest Rights Act;
- The Committee shall define a new role for the Forest Department vis-à-vis the Gram Sabha for forest conservation and regeneration;
- Any other matter which the Committee feels is ancillary or incidental to the purposes of its establishment.

Instead of facilitating the smooth functioning of the Committee, both the Ministry of Tribal Affairs (MoTA) and the Ministry of Environment and Forests (MoE&F) have attacked the National FRA Committee. The MoTA even refused to take ownership of the National Committee.⁸⁵ The National Committee's chairperson NC Saxena had to point out that "this committee is not only of MoEF as incorrectly mentioned in the letter (of Ministry of Tribal Affairs) but has been jointly constituted by the MoEF and MoTA."⁸⁶

As part of its mandate to "study in detail the implementation of the Forest Rights

Act, 2006 including factors that are aiding and impeding its implementation”, the National Committee visited various states, held consultations on all relevant issues with the stakeholders, including forest dwellers, field staff, and public representatives, met senior state officials to brief them about the findings and engaged with them on how to improve the implementation of the Act in the field.

The National Committee as a practice not only shared their field reports with the concerned state governments but also put them on their website for wider dissemination and awareness raising. This practice of sharing field reports with the State Governments and the MoEF and MoTA has often resulted in prompt action by the states or clarifications being issued by MoTA.⁸⁷

But, interestingly, both the MoTA and the MoEF were not comfortable with the functioning of the National Committee on FRA, in particular its transparency, recommendations, sharing of the entire report with the concerned state governments leading to actions against guilty officials, in particular action against a Divisional Forest Officer (DFO) in Uttar Pradesh. With respect to the suspension of the DFO and other action based on the National Committee’s report in Uttar Pradesh, Jairam Ramesh, then Union Minister of Environment and Forests wrote a strong letter to the chairperson of the Committee in which he has stated, “*I am not all happy that FRA Committee findings are being used in this fashion. I expected that you would submit your report by December 15th as agreed and then we would take it forward. This is no way of reciprocating a Minister’s goodwill for civil society groups.*”⁸⁸ Mr Ramesh was apparently unhappy about the suspension of the DFO by the Uttar Pradesh government after an investigation by senior UP officials vindicated the findings of irregularities as pointed out in the report of the National Committee on FRA.⁸⁹

Earlier, on 3 August 2010, Kanti Lal Bhuria, then Union Minister of Tribal Affairs, also raised objections to the functioning of the National FRA Committee. Mr Bhuria argued that “*The Committee, during its visit to States, is not expected to suggest how the Act is to be implemented. Nor is it expected to make references to the Ministry (of Tribal Affairs) as to the instructions that the Ministry should communicate to State Governments regarding the implementation of the Forest Rights Act.*”⁹⁰ Jairam Ramesh, then Union Minister of Environment and Forests also endorsed the views of Mr Bhuria.⁹¹

The National Committee on FRA clarified that “As per the TOR, the committee has been mandated (TOR 1) to study in detail the implementation of the Forest Rights Act including factors that are aiding and impeding its implementation, and (TOR 6) to extend full support to the Ministry of Tribal Affairs in their efforts to enforce and implement the Forest Rights Act. From these two terms it is implicit that the suggestions made by the Committee, from time to time after preliminary findings, for streamlining the implementations to the MOTA is well within the mandate. In fact, suggestions of the committee members to the senior officials of the State including the Chief Secretary after the field visit for the improvement of the implementation process, have been very well received in most of the visited states.”⁹²

7. Effective non-implementation of the recommendations of the Parliamentary Standing Committee on Social Justice and Empowerment

The Parliamentary Standing Committee on Social Justice and Empowerment (hereinafter referred to as “the Standing Committee”) presented its Tenth Report, *“Implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 - Rules Made Thereunder”* pertaining to the Ministry of Tribal Affairs to Lok Sabha and Rajya Sabha on 16th November 2010. The report contained 23 recommendations for proper implementation of the Act.

The concerned Ministry, i.e. Ministry of Tribal Affairs (MoTA) has submitted Action Taken Report on the recommendations of the Standing Committee and the same has been placed before the Parliament on 22.12.2011. The Standing Committee summarized the status of implementation into four categories: 12 Observations/Recommendations which have been accepted by the Government, one Observation/Recommendation which the Committee does not desire to pursue in view of the replies of the Government, four Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and further recommendations have been made; and six Observations/Recommendations in respect of which replies of the Government are interim in nature.⁹³

However, in 2010, the MoTA had claimed that *“Though the Act was passed by the Central Government, the primary responsibility of implementing this Act lies with the State Governments”* and that its role is limited to only *“facilitating and monitoring the implementation”* of the Forest Rights Act.⁹⁴ Therefore, the implementation of the Standing Committee recommendations has come to mean that the MoTA merely conveyed the recommendations/observations of the Standing Committee to the State/UTs with the advise to comply with the recommendations.

I. Examination of the replies of the Government not accepted by the Committee

As stated already, the Standing Committee has not accepted replies of the Government in respect of four Observations/Recommendations made by the Standing Committee in its 10th Report.

Recommendation: Review the rejected cases

In its 10th Report, the Standing Committee had expressed concern that “genuine claims of genuine beneficiaries might have been overlooked and recommended that the Ministry should instruct the States to review the rejected cases on their merit and also undertake an exercise of sample survey of the rejected claims.” The

Ministry of Tribal Affairs replied that it has written to State Governments on 15.7.2010 conveying the apprehensions of the Standing Committee about the large number of rejections and requested the State Governments “to initiate action, on a statistically acceptable sampling basis, at the level of Gram Sabha and Sub-Divisional Level Committees for categorizing all rejections, with their numbers, in different categories, like (a) non-availability of written records; (b) non-availability of other criteria specified in Rule 13; (c) non-possession of forest land; (d) non-occupation of the sate relevant to the Act; (e) doubtful tribal status etc. and to include this information in the monthly progress report being sent to this Ministry.”

However, the Standing Committee stated that “the Ministry in their action taken reply, have not mentioned anything about the outcome of the feedback from the States and what course of action have been taken by the Ministry to tackle the issue of large scale rejections.” Therefore the Standing Committee again recommended that “the Ministry, over and above impressing upon the States to send the monthly report on a regular basis by including the information on specific causes for rejection, should also take necessary action for improvement in the procedure with more coordination between the Revenue, Tribal and Forest Departments on the basis of the feedback received so that there is transparency and pick up in the title distribution process. The Committee may be apprised of the action taken on the feedback from the States within three months of presentation of this Report.”

Recommendation: Time bound implementation of the FRA

In its 10th Report, the Standing Committee, having observed the extreme slow progress in recognition of titles, had recommended the MoTA to work within a time schedule, fix achievable targets with timelines, chalk out clear cut and definite strategy and put the same before the States for completion of different stages of implementation of the Act such as constitution of Committees, processing of claims, planning for developmental initiatives etc. The Standing Committee had asked the MoTA to apprise them of the progress made by the States/UTs after fixation of such deadlines.

The MoTA responded saying that though the Act does not prescribe any time limit for recognition and vesting of forest rights, the Hon’ble Minister of Tribal Affairs had addressed the State Chief Ministers on 31st August 2010 and again on 10th November 2010 for ensuring disposal of all the pending claims expeditiously and distribution of title deeds to the eligible claimants. States have again been directed to fix achievable targets with timeline and chalk out a clear cut and definite strategy for completion of different stages of implementation, such as, constitution of committees, processing of claims, declaration of Critical Wild Life Habitats, planning for developmental initiatives etc.

It is clear that the MoTA has refused to take any responsibility on itself to lead the country in full and speedy implementation of the provisions of the Forest Rights Act. It seems to be merely happy after making some requests to the state government which are in no mood to implement on their own.

Commenting upon the response of the MoTA, the Standing Committee stated that it is “distressed to note that apart from merely directing the States/UTs to fix achievable targets with timeline for completion of different stages of implementation the Ministry have not taken any positive steps on their own to improve the situation.” Unless the MoTA /Central Government first chalks out a strategy with achievable targets and timelines and assists the States to work towards achieving these with fixed time lines, “there will be no progress on the ground in states/UTs where the title distribution has been nil or insignificant.” Therefore, the Committee recommended the MoTA to “fix achievable deadlines for States/UTs for completion of different stages of title recognition process, direct and assist them to achieve those targets for completion of title distribution process within a fixed time frame. Steps taken in this direction may be appraised to the Committee within three months of presentation of the Report.”

Recommendation: Identify protected areas and prevent eviction of tribals

In its 10th Report the Standing Committee stated that not a single Critical Wild Life Habitat has been declared under Section 2(b) of the Forest Rights Act which led to potential harassment and eviction of the tribes in the name of protected areas/Critical Wild Life Habitats. The Committee had recommended the MoTA to put a time frame for the States and direct the States to identify and list out the protected areas within that time frame. The MoTA should also co-ordinate with the Ministry of Environment and Forests for an early decision on the declaration of Critical Wild Life Habitats preferably within a period of six months.

The MoTA replied that the observations/recommendations of the Standing Committee have been conveyed to the Ministry of Environment & Forests on 2nd February, 2011 for taking action on priority basis. The MoTA has also communicated the recommendations of the Standing Committee to the State/UT Governments with the instructions that forest dwelling tribals and other traditional forest dwellers shall not be evicted from the National Parks and Sanctuaries until their rights are first considered under the FRA which has also been clarified by the Ministry of Environment & Forests, vide their letter dated 21st June 2010, addressed to the Principal Chief Conservators of Forests, Department of Forests of all States/UTs.

The Standing Committee said it was “dismayed” that there has been no progress with regard to declaration of critical wildlife habitats in National Parks and sanctuaries under provision of Section 2(b) of the FRA. It stated that the Ministry of Tribal Affairs has tried to fix the responsibility on the Ministry of Environment and Forest but “the Committee feel that since the declaration of protected areas is in the interest of the tribals, the Ministry of Tribal Affairs should come forward and take up the matter with the Ministry of Environment and Forests for early declaration of wild life habitats so that there is no displacement of Scheduled Tribes from forest areas endangering their lives and habitat.”

The Standing Committee once again recommended to the MoTA to constantly co-

ordinate with Ministry of Environment and Forests to notify protected areas at the earliest, keep constant vigil over harassment of innocent tribes in the name of protected zone and intervene wherever necessary so that tribal people are not displaced and harassed unnecessarily and stringent action should be initiated on officials who harass the tribal population in these zones.

Recommendation: Assistance/support relating to procurement and marketing of Minor Forest Produce

In its 10th Report, the Standing Committee noted that Minor Forest Produce is central to the existence of tribal communities and the FRA recognizes the ownership rights of the tribals to Minor Forest Produce for the purpose of access, processing and trade. The Standing Committee recommended to the MoTA to pursue with the States to prepare specific action plans for harnessing the existing potential in a scientific manner, providing technical assistance for value addition to Minor Forest Produce and undertaking procurement activities with improved and up-to-date methods. The Committee further desired that the MoTA should take concrete steps in creating facilities in the form of Cooperative Societies so that the tribal people get assistance/support relating to procurement and marketing of their Minor Forest Produce for which they have been given rights under the FRA.

The MoTA replied that it has brought the observations of the Standing Committee to the notice of the State/UT Governments on 8th February, 2011 and they have been advised to prepare specific action plans for (i) harnessing the existing potential of MFP in their respective States in a scientific manner, (ii) providing technical assistance for value addition to Minor Forest Produce, and (iii) undertaking procurement activities with improved and up-to-date methods so that the benefits accrue to the needy tribals. The States where maximum number of title deeds has been distributed have been requested to create facilities in the form of Cooperative Societies so that the title holders get assistance/support relating to procurement and marketing of their Minor Forest Produce.

The Standing Committee opined that “the Ministry have not taken any concrete action in this regard”. The Committee is not impressed with “merely advising the States” as done by the MoTA, without giving them proper direction and ways and means. The Committee reiterated its earlier recommendations.

II. Examination of the recommendations accepted by the Government

The Tenth Report of the Parliamentary Standing Committee on Social Justice and Empowerment contained 23 recommendations out of which 23 recommendations have been accepted by the Government.⁹⁵ AITPN has studied these recommendations and found that in majority recommendations, the Ministry of Tribal Affairs (MoTA) has simply “conveyed” the wishes of the Committee to the state/UT governments with a request to implement them.

Recommendation: States to submit status of implementation of the FRA every fortnight to the MoTA

The Standing Committee recommended that the MoTA should not only merely advise but also “insist all the States to strictly send their status of implementation every fortnight, should make the field visit of its officials to the low performing pockets more frequent with visible outcomes.” The Standing Committee further recommended that the MoTA should think in the line of placing a standing monitoring cell for thorough and meticulous monitoring of the implementation of the Act. Since the MoTA does not have sufficient staff to monitor the implementation of the FRA, it should evolve a mechanism wherein they take the help of Officers from the State Governments. (Sl. No. 20, Para No. 1.97 in the 10th Report)

The MoTA has simply “noted” the recommendation of the Standing Committee. Further, the MoTA has stated that “it may be difficult” to implement the recommendation of the Standing Committee with regard to placing a standing monitoring cell for thorough and meticulous monitoring of the implementation of the Act at every stage “due to constraint of man-power in the Ministry”. The MoTA also termed as “not feasible” the suggestion of the Committee to take the help of officers from the State Governments “as the Ministry does not exercise any administrative control over State Government officers.”

Recommendation: Not to reject community claims

The Standing Committee recommended to the MoTA not to reject the community claims on insufficient grounds, expeditiously process all the pending community claims, and take necessary steps for conferment of more number of *pattas* to communities who have filed the claims. (Sl. No. 4, Para No. 1.43 in the 10th Report).

The MoTA replied that it has already given instructions to the state governments vide Secretary (Tribal Affairs)’s letter dated 20th July 2010; and observations/recommendations of the Standing Committee has once again been conveyed to the states on 8th February, 2011 with the request to take necessary steps under the Act and the Rules for inviting more claims for community rights and their expeditious disposal.

Recommendation: Coordination with concerned agencies

The Standing Committee recommended to the MoTA to co-ordinate with all concerned agencies, take adequate steps in facilitating the forest rights claims and extend all kinds of assistance needed so that rights of the people are recognized in a smooth and hassle-free manner bringing minimum trouble to them. (Sl. No. 5, Para No. 1.44)

The MoTA replied that vide Secretary (Tribal Affairs)’s letter dated 20th July 2010 the states have been issued instructions to provide the Gram Sabhas with the assistance of facilitators in order to (a) overcome the difficulties experienced by

the claimants in accessing the requisite evidence in support of their claims; (b) avoid the delays in preparation of a map delineating the area of each recommended claim; (c) facilitate claims, especially those of PTGs; (d) enhance capacity building of the Forest Rights Committees constituted by the Gram Sabha for assisting the Gram Sabhas etc. The States have also been advised that, as in the case of Gram Sabha, the Sub-Divisional Level Committees may also be provided with the assistance of facilitators for due discharge of functions assigned to them.

Recommendation: Skill capacity development of GS, SDLCL, DLCL and SLML

The Standing Committee recommended to the MoTA to prepare a comprehensive plan for skill capacity development of the Gram Sabhas (GS), Forest Rights Committees (FRCs), SDLCLs, DLCLs and SLMLs within a time frame (Sl. No. 9, Para No. 1.74).

The MoTA replied that it has conveyed the observations of the Standing Committee to the State/UT Governments and they have been advised to prepare a comprehensive plan, on priority basis, for skill capacity development of the GS, FRCs, SDLCLs, DLCLs and SLMLs within a time frame.

Recommendation: Funds under Article 275(1)

The Committee recommended to the MoTA to urgently identify the States where the implementation of the FRA has been affected due to problems/constraints viz relating to land records, un-surveyed forest land, non-availability of detailed maps/records, inadequate manpower & funds and forest areas being affected by left wing extremism and persuade such States to take the benefits of funds under Article 275 (1) for implementing the Act in their States. (Sl. No. 11, Para No. 1.76)

The MoTA replied that vide Secretary (TA)'s letter dated 20th July 2010 it had already requested the State Governments for providing all necessary assistance to Gram Sabhas.

Recommendation: Convergence of all development schemes in tribal areas

The Standing Committee observed that the FRA envisages convergence of welfare and developmental initiatives where all the development and welfare programmes of other Ministries have to be coordinated and synergized so as to achieve planned development for tribal areas. The Standing Committee recommended to the MoTA to immediately put in place a national level coordinating committee with top officials of all concerned Ministries as members who should meet at regular intervals to review the progress/status of various schemes and identify critical gaps in developmental initiatives for taking suitable remedial actions (Sl. No. 14, Para No. 1.79).

The MoTA replied that it is taking all necessary steps to ensure that there is all-round socio-economic development of the tribal areas. It further stated on 3rd

September 2010 that it has constituted a National Council for Tribal Welfare, headed by the Prime Minister and comprising the Ministers of Tribal Affairs, Finance, Agriculture, Home Affairs, Health and Family Welfare, Environment & Forests, Human Resources Development, Women and Child Development, Culture, Mines, Coal, Power, Deputy Chairperson, Planning Commission and Chief Ministers of Fifth and Sixth Schedule States as members

Recommendation: MoTA's topmost priority

The Standing Committee asked the MoTA to accord “topmost priority” to implementation of the FRA (Sl. No. 1, Para No. 1.9). The MoTA replied that it has already been doing the same.

Recommendation: Take action against people/officials harassing tribals

The Standing Committee recommended for strong punitive action against the people/ forest officials who are found to be flouting with the provisions of the Act and also harassing the innocent tribals (Sl. No. 12, Para No. 1.77).

The MoTA replied that it has brought the observations of the Standing Committee to the notice of all the State/UT Governments on 8th February, 2011 and they have been advised to take all necessary steps to ensure that (a) there is no mis-utilization of the Act by the vested interests/ineligible persons; (b) there is no harassment of tribal people and the ineligible people claiming and getting the rights in the name of tribal people; (c) the vested interests are dealt with tough hands and kept out of the recognition process; (d) the title deeds/pattas are conferred only to genuine beneficiaries, and (e) strict punitive action is taken against the people/ officials who are found to be flouting with the provisions of the Act and harassing the tribal people.

Recommendation: Diversion of forest lands for developmental activities

The Standing Committee observed the state governments have not provided any information regarding diversion of the forest land for developmental activities/ facilities such as schools, dispensaries, hospitals, roads, community centres and minor irrigation canals etc despite the procedure laid down on 18th May 2009 for this purpose. The Standing Committee during their study visit to the States of Karnataka and Andhra Pradesh in June, 2010 found that the authorities were not allowing/permitting the diversion of land for these activities. (Sl. No. 15, Para No. 1.80)

The MoTA stated that it “has conveyed the observations of the Standing Committee to all the State/UT Governments on 8th February, 2011” with the advise to strictly follow the procedure laid down on 18th May 2009 for the purpose of diversion of forest lands for developmental activities under the FRA.

Recommendation: Appointment of Nodal Officers

The Standing Committee recommended to the MoTA to direct the State Governments/UT Administrations of Manipur, Sikkim and Daman & Diu who have not appointed nodal officers to appoint them (Sl. No. 10, Para No. 1.75).

The MoTA replied that “The observations of the Standing Committee have been conveyed to the State Governments of Manipur and Sikkim on 8th February, 2011 and they have been directed to appoint their respective nodal officers”. Daman & Diu has since appointed a nodal officer.

Recommendation: Provide assistance to conduct studies on FRA implementation

The Standing Committee asked the MoTA to provide assistance, if any required, in way of funds/resources, logistics and technical input/support etc to conduct studies in Orissa and Madhya Pradesh on the implementation of the FRA. (Sl. No. 21, Para No. 1.99)

The MoTA replied that it has directed both the State Governments of Orissa and Madhya Pradesh on 8th February, 2011 to complete the evaluation/impact assessment studies of the Act at the earliest. The MoTA has advised the other State Governments also to initiate similar studies in the field in their States. They have been informed that the expenses on these studies may be met out of the grants under article 275(1) proviso of the Constitution of India.

III. Examination of the replies of the Government which are interim in nature

Out of the 23 recommendations made by the Parliamentary Standing Committee in its 10th Report, the replies of the government in six recommendations have been termed by the Committee as “interim in nature.”⁹⁶ The Standing Committee had specifically asked the MoTA to “proactively” involve itself in the implementation of the Forest Rights Act, instead of routinely persuading the State governments. But in four out of six recommendations in respect of which the replies of the Government have been interim in nature, the MoTA has done nothing more than forwarding the recommendations to the respective state/UT governments and Ministries as described below.

Recommendation: Non-distribution of titles

With regard to non-distribution of a single title deed in Tamil Nadu, Bihar and Uttarakhand the Committee specifically recommended that “the Ministry instead of routinely persuading these States to implement the Act should take up the matter at the highest level for identifying and sorting out the impediments/hurdles in way of implementation of the Act in these States.” (Sl. No. 3, Para No. 1.42) But all the MoTA has done was just to convey the observations/ recommendations of the

Committee to the concerned states on 8th February, 2011 and advised them to identify the problems and take remedial measures.

Recommendation: Play “proactive” role

The Committee asked the MoTA to “proactively involve itself in the implementation process, orient, assist and guide appropriately the States for gearing them up for implementation of the Act” (Sl. No. 2, Para No. 1.41) The MoTA replied that it has given instructions to all the State Governments to take immediate steps for implementation of the Act and for expeditious disposal of all the pending claims.

Recommendation: Deputation of trained officials and staff

The MoTA was asked to take urgent necessary steps such as deputation of trained officials, surveyors and expert staff for demarcation and survey of land and field inspection to remedy of the situation where *pattas* are being given to the STs and OTFDs to a lesser extent than what is under actual cultivation. The Committee also asked the MoTA to draw an action plan for the States for taking measures to associate their land recognition programmes with the on-going as well as future rural development schemes (Sl. No. 13, Para No. 1.78).

The MoTA replied that it has brought the above observations of the Standing Committee to the notice of all the State/UT Governments on 8th February, 2011 and they have been advised to take steps for deputation of trained officials, surveyors and expert staff for demarcation and survey of land. The State/UT Governments have also been requested to draw an action plan for taking measures to associate their land recognition programmes with the on-going as well as future rural development schemes. The fact of the matter is that Committee had asked the MoTA to draw an action plan for the States, not to request the states to draw their own action plans.

Recommendation: Follow Orissa Model on protected areas

The State of Orissa has responded well to the provision relating to declaration of Critical Wildlife Habitats and sent proposals pertaining to Gahirmatha Critical Wildlife Habitat, Chilika Nalaban Critical Wild Life Habitats and Chandaka Damapara Sanctuary to the Ministry of Environment and Forests (MoE&F) for notification under the Act. The Committee desire that the Ministry of Tribal Affairs in coordination with the MoE&F should consider these proposals on their merit and an early decision is taken on declaration of these protected areas in the State. The Standing Committee advised the MoTA to impress upon other States to follow the footsteps of Orissa and take necessary action in identifying and locating the protected areas by sending their proposals to the Government for an early declaration of Critical Wild Life Habitats (Sl. No. 17, Para No. 1.82).

The MoTA replied that it has “conveyed” the observations/recommendations of

the Standing Committee to the MoE&F on 2nd February, 2011 for taking necessary action and the State Governments have also been suitably advised in this regard.

Recommendation: Reports on status of implementation of the FRA

The Standing Committee asked the MoTA to urge the State Governments/UT Administrations to regularly send monthly progress reports and also upload the information on the status of implementation of the Act on the website <http://forestrights.gov.in> (Sl. No. 19, Para No. 1.96). In reply the MoTA stated that it has written to all the State/UT Governments to comply with the recommendations of the Standing Committee.

Recommendation: Place the report of the National Committee on the FRA

The Standing Committee asked the MoTA to make best use of the National Committee on the Forests Rights Act jointly constituted by the MoTA and MoE&F for safeguarding and protecting the interests of the STs and OTFDs. The Committee also directed the MoTA to place before it the Report of the National Committee on FRA as and when it is presented for its consideration (Sl. No. 22, Para No. 1.103). The MoTA replied that “The Ministry is examining the report [of the National Committee on the FRA] and will take appropriate action.”

8. Conclusions and recommendations

The importance of the implementation of the Forest Rights Act, 2006 has been reiterated by the government at the highest level including Prime Minister Dr Manmohan Singh. Union Home Minister Shri P Chidambaram and Minister for Rural Development Shri Jairam Ramesh touted implementation of the Forest Rights Act as one of the key instruments to counter the Naxal menace.

However, this report makes it clear that there has been little willingness to implement the Forest Rights Act in letter and spirit. The Act has been implemented without adhering to basic principles of the Section 6 of the FRA that delineates the mechanisms for adjudication of the claims: Gram Sabha level committees are to decide the claims whose decisions in case of any grievance will be adjudicated by the Sub-Divisional Level Committees, which are also to review the resolution of the Gram Sabhas, while the decision of the District Level Committees shall be final and binding. In the actual implementation of the Act, the State Governments set up Panchayat level committees despite that Panchayat consists of many Gram Sabhas which hinders proper determination of the nature and extent of individual or community forest rights or both. The SDLCs and DLCs have further been directly deciding the claims without first being determined by the Gram Sabhas which is mandatory under Section 6(1) of the FRA and further denying any opportunity of appeal. The Government claims that 12,51,490 titles (45.94%) were distributed but in large majority of the cases, land titles issued do not have boundaries, signatures of the authorities while 14,72,672 claims (54%) were rejected and are not being re-considered. The rot continues to grow.

If India is to undo historical injustice and counter the Naxal or any other extremist menace, it must ensure proper implementation of the Forest Rights Act. Given the scale of the rot and its growth, the only solution is providing adequate human and financial resources to the National Commission for Scheduled Tribes which shall examine the complaints pertaining to the claims under the Forest Rights Act.

The Asian Indigenous and Tribal Peoples Network recommends the following to the Government of India especially the Ministry of Tribal Affairs:

1. Provide adequate human and financial resources to the National Commission for Scheduled Tribes which shall adjudicate the complaints/claims under the Forest Rights Act.
2. Amend the Forest Rights Rules 2007 in conformity with the Forest Rights Act, 2006 and place the following recommendations before the Parliament:
 - Rule 14(1) be amended as follows:

“Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the communication of the resolution of the Gram Sabha to him/her, file a petition to the Sub-Divisional Level Committee.”

- “fifteen days” be substituted by “thirty days” in Rule 14(2)
 - Delete the word “reject” in Rule 14(3) of the Forest Rights Rule 2007 as this power of the Sub Divisional Level Committee is antithetical to the Forest Rights Act
 - Rule 15 (1) be amended as follows:

“Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the communication of the decision of the Sub-Divisional Level Committee to him/her, file a petition to the District Level Committee.”
 - “fifteen days” be substituted by “thirty days” in Rule 15(2)
 - Delete the phrase “allow or reject” in Rule 15 (3)
 - Insert the following proviso after amending Rule 15(5)

“Provided that in case of rejection of the petition, the rejection along with the reasons thereof should be communicated in writing to the claimant within fifteen days”
3. Amend Section 6(6) of the FRA to provide that the decisions of the DLC can be reviewed by the National Commission for Scheduled Tribe or by the courts
 4. Withdraw the Ministry of Tribal Affairs circular dated 4 March 2010 which stated that cases once rejected by the District Level Committee cannot be reopened.
 5. Direct the State Governments to properly implement the Forest Rights Act by taking the following measures:
 - Ensure that no forest department officials are involved at the Gram Sabha level committees in accordance with the Forest Rights Act and no Forest Department officials are involved at any stage other than provided under law which is at the Sub-Divisional Level Committees and District Level Committee;
 - Declare as null and void all the Forest Rights Committees formed at Panchayat level and constitute the Forest Rights Committees at the Gram Sabha level (not the level of Panchayats) as per Rule 3(1) of the Forest Rights Rules 2007 read with Section 2(g) and Section 2(p) of the Forest Rights Act;
 - Upload details of each claim (whether accepted, rejected or in process) on the website of the Ministry of Tribal Affairs to bring transparency;
 - State in writing the grounds of denial in case of rejection;
 - Issue proper certificate including date, signature, and the area of the land, scientific measurement of the land with map and boundaries clearly

- demarcated;
- Re-issue the land titles in cases wherein land titles were not issued in a proper manner such as absence of date, proper demarcation of boundary of the lands being granted and/or signatures of the authorities are not provided; and
 - Declare the Forest Protection Committees formed in villages under Joint Forest Management programme as null and void for the purpose of the Forest Rights Act.
6. Issue specific directions to the State government on the status of recognition of Community Forest Rights, procedure of claiming and how CFR claims should be mapped and processed as provided under the FRA.
 7. Direct the state governments to strictly adhere to the MoTA's circular of 09.06.2008 which has clarified that the interpretation of the phrase "primarily resided in and who depend on" in Section 2(o) of the FRA with respect to the "other traditional forest dwellers" includes persons "who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs" or "who are working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land".
 8. Direct the State governments to ensure recognition of the rights under the FRA in the protection areas, including National Parks, Tiger Reserves, Wildlife Sanctuaries or Reserved Forests.
 9. Conduct capacity building programmes to train nodal department officials of the states, some of whom, as the National Committee on FRA found out, "have not read the Forest Rights Act"; and
 10. Implement the recommendations of the Parliamentary Standing Committee on Social Justice and Empowerment with regard to the Forest Rights Act, 2006

Annex I: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

EXTRAORDINARY

PART II – Section I

PUBLISHED BY AUTHORITY

NEW DELHI, TUESDAY, JANUARY 2, 2007/PUSA 12, 1928

Separate paging is given to this Part India order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 2nd January, 2007/Pusa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 29th December, 2006, and is hereby published for general information:-

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

NO. 2 OF 2007

[29th December, 2006]

An Act to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-
 - (a) “community forest resource” means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;
 - (b) “critical wildlife habitat” means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;
 - (c) “forest dwelling Scheduled Tribes” means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the

Scheduled Tribe pastoralist communities;

- (d) “forest land” means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;
- (e) “forest rights” means the forest rights referred to in section 3;
- (f) “forest villages” means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;
- (g) “Gram Sabha” means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;
- (h) “habitat” includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;
- (i) “minor forest produce” includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;
- (j) “nodal agency” means the nodal agency specified in section 11;
- (k) “notification” means a notification published in the Official Gazette;
- (l) “prescribed” means prescribed by rules made under this Act;
- (m) “Scheduled Areas” means the Scheduled Areas referred to in clause of article 244 of the Constitution;
- (n) “sustainable use” shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002;
- (o) “other traditional forest dweller” means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.

Explanation.-For the purpose of this clause, “generation” means a period

comprising of twenty-five years;

(p) “village” means-

- (i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or
- (ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or
- (iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or
- (iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

(q) “wild animal” means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

CHAPTER II

FOREST RIGHTS

Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers.

3. Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers.-

- (1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-
 - (a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;
 - (b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;
 - (c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

- (d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;
 - (e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;
 - (f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;
 - (g) rights for conversion of Pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;
 - (h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;
 - (i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;
 - (j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;
 - (k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
 - (l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;
 - (m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.
- (2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:-
- (a) schools;

- (b) dispensary or hospital;
- (c) anganwadis;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres:

Provided that such diversion of forest land shall be allowed only if,-

- (i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.

- 4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in-
 - (a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;
 - (b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.
- (2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for

wildlife conservation except in case all the following conditions are satisfied, namely:-

- (a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;
- (b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;
- (c) the State Government has concluded that other reasonable options, such as, co-existence are not available;
- (d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;
- (e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;
- (f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package:

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

- (3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.
- (4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of- kin.
- (5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land

under his occupation till the recognition and verification procedure is complete.

- (6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.
- (7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.
- (8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

Duties of holders of forest rights.

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to-
 - (a) protect the wild life, forest and biodiversity;
 - (b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;
 - (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
 - (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof.

6. (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional

forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under subsection

(3) and the Sub-Divisional Level Committee shall consider and dispose of such petition:

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the SubDivisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the SubDivisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

- (8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.
- (9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

Offences by members or officers of authorities and Committees under this Act.

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Cognizance of offences.

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

CHAPTER VI

MISCELLANEOUS

Members of authorities, etc., to be public servants

9. Members of authorities, etc., to be public servants.- Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith.

10. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.
(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.
(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal agency.

11. Nodal agency.- The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

Power of Central Government to issue directions.

12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

Act not in derogation of any other law.

13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power to make rules.

14. (1) The Central Government may, by notification, and subject to the condition

of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (a) procedural details for implementation of the procedure specified in section 6;
 - (b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;
 - (c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;
 - (d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;
 - (e) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K. N. CHATURVEDI

Secy. to the Govt. of India

Annex 2: Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007

(TO BE PUBLISHED IN THE GAZETTE OF INDIA
EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)
OF DATED 1st JANUARY, 2008)
GOVERNMENT OF INDIA
MINISTRY OF TRIBAL AFFAIRS

New Delhi, the 1st January, 2008

NOTIFICATION

G.S.R. _____(E).- WHEREAS the draft Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 were published, as required by sub-section (1) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the notification of the Government of India in the Ministry of Tribal Affairs number G.S.R.437(E), dated the 19th June, 2007 in the Gazette of India, Part II, Section 3, sub-section (i) of the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of forty-five days from the date on which the copies of the Gazette containing the said notification are made available to the public;

AND WHEREAS copies of the said Gazette were made available to the public on 25.06.2007;

AND WHEREAS the objections and suggestions received from the public in respect of the said draft rules have been duly considered by the Central Government;

NOW, THEREFORE, in exercise of the powers conferred by sub-sections (1) and (2) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the Central Government hereby makes the following rules for recognizing and vesting the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers residing in such forests, namely:-

1. Short title, extent and commencement.-

- (1) These rules may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007.

- (2) They shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.-

- (1) In these rules, unless the context otherwise requires,
 - (a) “Act” means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
 - (b) “bonafide livelihood needs” means fulfillment of sustenance needs of self and family through production or sale of produce resulting from self-cultivation of forest land as provided under clauses (a), (c) and (d) of sub-section (1) of section 3 of the Act;
 - (c) “claimant” means an individual, group of individuals, family or community making a claim for recognition and vesting of rights listed in the Act;
 - (d) “disposal of minor forest produce” under clause (c) of sub-section (1) of section 3 of the Act shall include local level processing, value addition, transportation in forest area through head-loads, bicycle and handcarts for use of such produce or sale by the gatherer or the community for livelihood;
 - (e) “Forest Rights Committee” means a committee constituted by the Gram Sabha under rule 3;
 - (f) “section” means the section of the Act;
- (2) The words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Gram Sabha.-

- (1) The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein at least one-third members shall be the Scheduled Tribes:

Provided that not less than one-third of such members shall be women:

Provided further that where there are no Scheduled Tribes, at least one-third of such members shall be women.
- (2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.

- (3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.
4. Functions of the Gram Sabha.-
- (1) The Gram Sabha shall –
- (a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;
 - (b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;
 - (c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;
 - (d) consider resettlement packages under clause (e) of sub section (2) of section 4 of the Act and pass appropriate resolutions; and
 - (e) constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act.
- (2) The quorum of the Gram Sabha meeting shall be not less than two thirds of all members of such Gram Sabha:
- Provided that where there is a heterogeneous population of Scheduled Tribes and non Scheduled Tribes in any village, the members of the Scheduled Tribe, primitive tribal groups (PTGs) and pre-agricultural communities shall be adequately represented.
- (3) The Gram Sabha shall be provided with the necessary assistance by the authorities in the State.
5. Sub-Divisional Level Committee.-The State Government shall constitute Sub-Divisional Level Committee with the following members, namely:
- (a) Sub-Divisional Officer or equivalent officer - Chairperson;
 - (b) Forest Officer in charge of a Sub-division or equivalent officer - member;
 - (c) three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District

Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member; and

- (d) an officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

6. Functions of the Sub-Divisional Level Committee.-The Sub-Divisional Level Committee (SDLC) shall-

- (a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected;
- (b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- (c) collate all the resolutions of the concerned Gram Sabhas;
- (d) consolidate maps and details provided by the Gram Sabhas;
- (e) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
- (f) hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- (g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram Sabhas;
- (h) co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims ;
- (i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records;
- (j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;
- (k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules;
- (l) ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A & B) of these rules;
- (m) ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.

7. District Level Committee.-The State Government shall constitute District Level Committee (DLC) with the following members, namely:-

- (a) District Collector or Deputy Commissioner - Chairperson;
 - (b) concerned Divisional Forest Officer or concerned Deputy Conservator of Forest - member;
 - (c) three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member; and
 - (d) an officer of the Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in charge of the tribal affairs.
8. Functions of District Level Committee.-The District Level Committee shall-
- (a) ensure that the requisite information under clause (b) of rule 6 has been provided to Gram Sabha or Forest Rights Committee;
 - (b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;
 - (c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;
 - (d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;
 - (e) co-ordinate with other districts regarding inter-district claims;
 - (f) issue directions for incorporation of the forest rights in the relevant government records including record of rights;
 - (g) ensure publication of the record of forest rights as may be finalized; and
 - (h) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexures II & III to these rules, is provided to the concerned claimant and the Gram Sabha respectively ;
9. State Level Monitoring Committee. -The State Government shall constitute a State Level Monitoring Committee with the following members, namely:-
- (a) Chief Secretary - Chairperson;
 - (b) Secretary, Revenue Department - member;
 - (c) Secretary, Tribal or Social Welfare Department - member;

- (d) Secretary, Forest Department - member;
 - (e) Secretary, Panchayati Raj - member;
 - (f) Principal Chief Conservator of Forests - member;
 - (g) three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
 - (h) Commissioner, Tribal Welfare or equivalent who shall be the Member-Secretary.
10. Functions of the State Level Monitoring Committee.- The State Level Monitoring Committee shall -
- (a) devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;
 - (b) monitor the process of recognition, verification and vesting of forest rights in the State;
 - (c) furnish a six monthly report on the process of recognition, verification and vesting of forest rights and submit to the nodal agency such returns and reports as may be called for by the nodal agency;
 - (d) on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;
 - (e) monitor resettlement under sub-section (2) of section 4 of the Act.
11. Procedure for filing, determination and verification of claims by the Gram Sabha-
- (1) The Gram Sabhas shall-
 - (a) call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of these rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, shall be made within a period of three months:

Provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.
 - (b) fix a date for initiating the process of determination of its community forest resource and intimate the same to the adjoining Gram Sabhas where there are substantial overlaps, and the Sub-Divisional Level Committee.
 - (2) The Forest Rights Committee shall assist the Gram Sabha in its functions to-

- (i) receive, acknowledge and retain the claims in the specified form and evidence in support of such claims;
 - (ii) prepare the record of claims and evidence including maps;
 - (iii) prepare a list of claimants on forest rights;
 - (iv) verify claims as provided in these rules;
 - (v) present their findings on the nature and extent of the claim before the Gram Sabha for its consideration.
- (3) Every claim received shall be duly acknowledged in writing by the Forest Rights Committee.
- (4) The Forest Rights Committee shall also prepare the claims on behalf of Gram Sabha for community forest rights in Form B as provided in Annexure I of these Rules.
- (5) The Gram Sabha shall on receipt of the findings under clause (v) of sub-rule (2), meet with prior notice, to consider the findings of the Forest Rights Committee, pass appropriate resolutions, and shall forward the same to the Sub-Divisional Level Committee.
- (6) The Secretary of Gram Panchayat will also act as Secretary to the Gram Sabhas in discharge of its functions.
12. Process of verifying claims by Forest Rights Committee.-
- (1) The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department –
- (a) visit the site and physically verify the nature and extent of the claim and evidence on the site;
 - (b) receive any further evidence or record from the claimant and witnesses;
 - (c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individuals, communities or their representatives are present;
 - (d) ensure that the claim from member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified when such communities or their representatives are present; and
 - (e) prepare a map delineating the area of each claim indicating recognizable landmarks.

- (2) The Forest Rights Committee shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.
- (3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing:

Provided that if the Gram Sabhas are not able to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub-Divisional Level Committee for its resolution.

- (4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorised officer .

13. Evidence for determination of forest rights.-

- (1) The evidence for recognition and vesting of forest rights shall, inter alia, include -
 - (a) public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, pattas or leases , reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;
 - (b) Government authorised documents such as voter identity card, ration card, passport, house tax receipts, domicile certificates;
 - (c) physical attributes such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;
 - (d) quasi-judicial and judicial records including court orders and judgments;
 - (e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;
 - (f) any record including maps, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;
 - (g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;

- (h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;
 - (i) statement of elders other than claimants, reduced in writing.
 - (2) An evidence for Community Forest Rights shall, inter alia, include –
 - (a) community rights such as nistar by whatever name called;
 - (b) traditional grazing grounds; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems; sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;
 - (c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;
 - (3) The Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee shall consider more than one of the above-mentioned evidences in determining the forest rights.
14. Petitions to Sub-Divisional Level Committee.-
- (1) Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.
 - (2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
 - (3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.
 - (4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.
 - (5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.
 - (6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.
 - (7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level

Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.

15. Petitions to District Level Committee.-

- (1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.
- (2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
- (3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.
- (4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.
- (5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.
- (6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.
- (7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-Divisional Level Committees and pass appropriate orders.

Dr. Bachittar Singh
Joint Secretary

[F. No.17014/ 02/ 2007-PC&V (Vol.VII)]

ANNEXURE – I

[See rule 6(l)]

FORM – A

CLAIM FORM FOR RIGHTS TO FOREST LAND

[See rule 11(1)(a)]

1. Name of the claimant (s):
2. Name of the spouse
3. Name of father/ mother
4. Address:
5. Village:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. (a) Scheduled Tribe : Yes/ No (Attach authenticated copy of Certificate)
(b) Other Traditional Forest Dweller: Yes/ No If a spouse is a Scheduled Tribe (attach authenticated copy of certificate)
10. Name of other members in the family with age: (including children and adult dependents)

Nature of claim on land:

1. Extent of forest land occupied
 - (a) for habitation
 - (b) for self-cultivation, if any: (See Section 3(1)(a) of the Act)
2. disputed lands if any: (See Section 3(1)(f) of the Act)
3. Pattas/ leases/ grants, if any: (See Section 3(1)(g) of the Act)
4. Land for in situ rehabilitation or alternative land, if any: (See Section 3(1)(m) of the Act)
5. Land from where displaced without land compensation: (See Section 4(8) of the Act)
6. Extent of land in forest villages, if any: (See Section 3(1)(h) of the Act)
7. Any other traditional right, if any: (See Section 3(1)(l) of the Act)
8. Evidence in support: (See Rule 13)
9. Any other information:

Signature/ Thumb Impression of the Claimant(s):

FORM – B
CLAIM FORM FOR COMMUNITY RIGHTS
[See rule 11(1)(a) and (4)]

1. Name of the claimant(s):
 - (a) FDST community: Yes/ No
 - (b) OTFD community: Yes/ No
2. Village:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:

Nature of community rights enjoyed:

1. Community rights such as *nistar*, if any: (See Section 3(1)(b) of the Act)
2. Rights over minor forest produce, if any: (See Section 3(1)(c) of the Act)
3. Community rights
 - a. uses or entitlements (fish, water bodies), if any:
 - b. Grazing, if any
 - c. Traditional resource access for nomadic and pastoralist, if any: (See Section 3(1)(g) of the Act)
4. Community tenures of habitat and habitation for PTGs and pre-agricultural communities, if any: (See Section 3(1)(e) of the Act)
5. Right to access biodiversity, intellectual property and traditional knowledge, if any: (See Section 3 (1)(k) of the Act)
6. Other traditional right, if any: (See Section 3(1)(l) of the Act)
7. Evidence in support: (See Rule 13)
8. Any other information:

Signature/ Thumb Impression of the Claimant (s):

ANNEXURE – II

[See rule 8(h)]

TITLE FOR FOREST LAND UNDER OCCUPATION

1. Name(s) of holder (s) of forest rights (including spouse):
2. Name of the father/ mother:
3. Name of dependents:
4. Address:
5. Village/gram sabha:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. Whether Scheduled Tribe or Other Traditional Forest Dweller
10. Area:
11. Description of boundaries by prominent landmarks including khasra/ compartment No:

This title is heritable, but not alienable or transferable under sub section (4) of section 4 of the Act.

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).....affix our signatures to confirm the above forest right.

Divisional Forest Officer/ Deputy

District Tribal Welfare

Officer Conservator of Forests

District Collector/ Deputy Commissioner

ANNEXURE – III

[See rule 8(h)]
TITLE TO COMMUNITY FOREST RIGHTS

- 1. Name(s) of the holder (s) of community forest right:
- 2. Village/ Gram Sabha:
- 3. Gram Panchayat:
- 4. Tehsil/ Taluka:
- 5. District:
- 6. Scheduled Tribe/ Other Traditional Forest Dweller:
- 7. Nature of community rights:
- 8. Conditions if any:
- 9. Description of boundaries including customary boundary and/or by prominent landmarks including khasra/ compartment No:

Name(s) of the holder (s) of community forest right:

- 1.....
- 2.....
- 3.....

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).....affix our signatures to confirm the forest right as mentioned in the Title to the above mentioned holders of community forest rights.

Divisional Forest Officer/ Deputy
Conservator of Forests

District Tribal Welfare Officer
District Collector/ Deputy Commissioner

End notes

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87. Some of the clarifications issued by the Ministry of Tribal Affairs with regard to Forest Rights Act in response to questions raised by the state government are found at <http://www.tribal.nic.in/writereaddata/mainlinkFile/File1300.pdf>
88. Letter of Jairam Ramesh, then Union Minister of Environment and Forests to NC Saxena, Chairperson, National Committee on FRA, dated 28 October 2010
89. Email letter of NC Saxena in response to email of Jairam Ramesh dated 28 Oct 2010
90. Letter of Kanti Lal Bhuria, Union Minister of Tribal Affairs to Jairam Ramesh, Union Minister of Environment and Forests, D.O. No. 17014/3/2010-FRA dated 3 August 2010
91. Email reply of NC Saxena to Jairam Ramesh, then Union Minister of Environment and Forests, dated 12 August 2010 in response to the Minister's email of 5 August 2010 forwarding the letter of Hon'ble Minister (TA) Shri Kanti Lal Bhuria and endorsing his view on the current functioning of the FRA committee.
92. Email reply of NC Saxena to Jairam Ramesh, then Union Minister of Environment and Forests, dated 12 August 2010 in response to the Minister's email of 5 August 2010 forwarding the letter of Hon'ble Minister (TA) Shri Kanti Lal Bhuria and endorsing his view on the current functioning of the FRA committee.
93. 18th Report of the Parliamentary Standing Committee on Social Justice and Empowerment (2011-12) (15th Lok Sabha) on the action taken by the Government on its 10th Report, Presented to Lok Sabha on

22.12.2011, Laid in Rajya Sabha on 22.12.2011

- ^{94.} Tenth report of Parliamentary Standing Committee on Social Justice and Empowerment (2010-2011) (15th Lok Sabha), report on Ministry of Tribal Affairs – Implementation of Forest Rights Act 2006-Rules made thereunder, Presented to Lok Sabha on 16.11.2010 and Laid in Rajya Sabha on 16.11.2010
- ^{95.} 18th Report of the Parliamentary Standing Committee on Social Justice and Empowerment (2011-12) (15th Lok Sabha) on the action taken by the Government on its 10th Report, Presented to Lok Sabha on 22.12.2011, Laid in Rajya Sabha on 22.12.2011
- ^{96.} 18th Report of the Parliamentary Standing Committee on Social Justice and Empowerment (2011-12) (15th Lok Sabha) on the action taken by the Government on its 10th Report, Presented to Lok Sabha on 22.12.2011, Laid in Rajya Sabha on 22.12.2011

The Asian Indigenous and Tribal Peoples Network (AITPN) is an alliance of indigenous and tribal peoples' organisations and individual activists across the Asian region. It seeks to promote and protect the rights of indigenous and tribal peoples in Asia:

- by providing accurate and timely information to national human rights institutions, the United Nations and its specialised mechanisms, as appropriate;
- by conducting research, campaigning and lobbying on country situations or individual cases;
- by increasing the capacity of indigenous peoples through relevant training programmes for indigenous peoples' rights activists and community leaders;
- by providing legal, political and practical advice to indigenous peoples organisations;
- by providing input into international standard-setting processes on the rights of indigenous peoples; and
- by securing the economic, social and cultural rights of indigenous peoples through rights-based approaches to development.

AITPN has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC).

For further details, please write to:

Asian Indigenous & Tribal Peoples Network (AITPN)

C-3/441 Top Floor, Janakpuri, New Delhi-110058, India

E-Mail: aitpn@aitpn.org

Tel/Fax: +91 11 25503624



Asian Indigenous and Tribal Peoples Network

