

MoEF/MoTA Committee on Forest Rights Act

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

Summary report

(longer report will follow)

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

1. The programme

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

The visit involved:

3 July: Public consultation at Haldwani

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

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

Public consultation

Organised from 11 am to 5.30 pm at the Uttarakhand Forest Training Academy, Haldwani, the public consultation had been publicized through relevant listserves, and individual emails/phone calls/invitations to several NGOs, community representatives, and officials. About 80 people participated, mostly from Van Panchayat villages, *khatta* villages, Gujjar settlements, Taungia settlements, Goth settlements, communities living within protected areas, and other communities; NGOs; scientists and academics; forest and social welfare officials; and media. Representation was also made by political parties such as Congress, BJP and CPI(ML), and various social movements such as Bhoo Adhikar Manch, PUCL, and NFFPFW. Everyone wanting to speak was given a chance.

Field visits

Four settlements were visited: two *khatta* villages (settlements on forest land, from some generations back, that have never been granted revenue status), Bindukhatta and Baurkhatta; and two Van Panchayat villages, Ghuna and Jaakh (all in Nainital district). At all these sites, public meetings were held with villagers. Incessant rains restricted movement and public participation on the day of the visit to the Van Panchayats. Members of local NGOs, including the Van Panchayat Sangharsh Samiti and Sainion ka Sangathan, accompanied the team. The Forest Department was also invited to join, but preferred that we conduct the visits independently.

Written submissions

Apart from oral presentations, the team received some written submissions, all from communities and NGOs.

2. Key issues / findings

1. FRA implementation has been seriously delayed across the hills of Uttarakhand, not having even begun in right earnest in most places. While the state claims to

have set up FRCs and SDLCs and DLCs everywhere, virtually all community and NGO representatives said this was merely on paper. There were many reports of FRCs being established without due procedure of an open gram sabha or panchayat meeting, often with the gram pradhan being chosen as the FRC head, and many listed members not even knowing they had been made members.

For instance in Chamoli district, there are reportedly 602 FRCs set up, but no claims have yet been filed. In the two Van Panchayat and two *khatta* villages we visited, there was no sign of the process having started; in the former there was not even any knowledge of the FRA. There is a clear need for more pro-active monitoring by the state level committee, and/or the commissioning of an independent agency that can visit various parts of the state to assess and push implementation. There was also a demand that all those FRCs which were formed only on paper should be reconstituted, and that all FRCs should be provided with maps and other documents.

2. There continues to be confusion on who is eligible, with the widespread misunderstanding that most villages of the state, not being STs and not 'residing in' forest areas, being ineligible. The Committee members had to repeatedly clarify that this was not so, and that this matter had been clarified with the state's Chief Secretary.
3. Official and NGO attempts at spreading awareness of the FRA have been sporadic and very inadequate in the hills. Even worse is an understanding of the complexities of the FRA, with no handbook or guidance material available to relevant officials, and very sporadic one-time training having been carried out. Such a handbook was recommended; and it was suggested to send a simple Hindi booklet on the FRA to all 12000 Van Panchayats (as one example of what can be done).
4. The Social Welfare dept knows its responsibilities as the nodal agency, but expresses its severe lack of capacity as this is yet another additional task the same people have to perform. No extra or special staff has been given for this purpose. Both the SW dept and other participants felt the urgent need for a dedicated machinery for implementation of the FRA.
5. There are widely varying views on whether the FRA would provide any additional benefits to villages that already have the Van Panchayat (VP) system. Forest officials feel that there is no need for the FRA, since villagers already have full rights and management control over VPs. Moreover they point out that this is a well-established system, and it would be detrimental for the villagers to impose yet another institutional structure and legal requirements on them. This is disputed by Van Panchayat sarpanches and members, and many NGOs working on VPs, who point out that since the 1980s, the VP Rules have brought them under much greater Forest Dept control (including through bringing them under the Indian Forest Act 1927), and that the FRA could provide clearer rights and control. This clearly needs much fuller discussion and resolution. A suggestion for a state-level consultation on this issue that came up in the first Uttarakhand consultation, was reiterated, and NGOs and forest officials agreed that they should collaborate to organize this with the NGOs taking the lead. The Committee members requested that this be done soon as it would help feed into its recommendations on this vital subject.
6. There are a number of special situations peculiar to Uttarakhand. For instance, villages settled in *khattas* (lands on which seasonal grazing concessions were originally given in the 1920s/30s, to communities from the hills, and which were

subsequently settled on) have no legal status (neither as forest villages nor as revenue villages). The biggest one (Bindukhatta) has politically mobilized to move substantially towards recognition as a revenue village (though this is currently stuck due to political manipulations), but very many others, smaller and less influential, remain without facilities normally accorded to revenue villages. Their eligibility under the FRA is subject to the requirement of 75 years occupation, which may be possible to prove for only some families, and may not be the truth anyway for a substantial number of families. If justice is to be done to those who may have settled in the last few decades (but after 1930), either the state needs to take a flexible approach to the 3 generations requirement, or the Act needs to be amended. Alternatively there is also a pending proposal by the state government to consolidate the various small *khattas* into one site, to be able to provide facilities and to free up forest land, a proposal that the residents do not seem to averse to so long as it is done properly.

7. Even if rights to protect and manage forests were given to all eligible villages in Uttarakhand, how would communities generate the resources to manage this? Innovative thinking is needed on resourcing communities, through existing or new funds. Some participants suggested linking up with climate funds, such as REDD, PES and carbon funds, to provide incentives for communities to continue conserving forests, though there were also concerns that this should not lead to a predominantly commercial attitude towards forests.
8. Once rights to manage forests and/or access to forest resources are granted, how would sustainability be ensured? This is a serious issue especially given the widespread commercialization of many forest products, such as medicinal plants. There have also been recent instances of Van Panchayats cutting their forests for resorts or other purposes (we have asked the forest dept for details of one or two cases) Various forms of monitoring, with increased capacity of communities, and a clear role for the Forest Department, need to be considered.
9. There is also a proposal to shift 4 villages from the core area of Govind Pashuvihar National Park. It has been reported that they want to move, and that they have given this in writing. However, the FRA has not been implemented here. If given the various development facilities provided for in the FRA, the villages would not want to move out. However, they were also conscious of the need for wildlife conservation, and if this range of development facilities could cause serious damage, they are willing to sit with officials and NGOs and work out what is possible without causing damage, and whether they would still want to stay on. (Note: the community participants at the Consultation were from villages in the protected area, but not from these 4 villages).
10. The MoEF circular (July 2009) requiring completion of the FRA process, and gram sabha consent, for any proposal to divert forest land for non-forest use, is not known to almost anyone. A number of groups and communities struggling against H-E and other projects that are likely to cause ecological and social disruption, are interested in using the circular.
11. On the future role of the Forest Department, Van Panchayat representatives feel that it should become like the Agriculture Dept, providing services to villagers but not considering farmland to be their property. Senior forest officials at the Consultation partially concurred with this, saying they could continue to provide technical inputs, and help in management and monitoring.
12. An issue peculiar to the Uttarakhand hills is the large number of 'absentee rights-claimers', people who have migrated out to cities, even outside the state, but

- come back to claim rights and benefits whenever the occasion arises. This was mentioned by NGOs and researchers; the Nainital District Social Welfare officer reported that about 30 of the 52 claims he has received so far are of this nature.
13. The uniform requirement for development facilities under Section 3(2), of 1 hectare with maximum 75 trees, is problematic because it does not distinguish between various kinds of forest land. While a hectare of oak forest (even if only 75 trees) is much more valuable than a hectare of eucalyptus plantation (even if several hundred trees), but this qualitative difference is not taken into account. This may require an amendment in the Act/Rules.
 14. It was suggested that the state govt urgently carry out a survey of forests available within the boundary of each village, as also other land uses (settlement, agriculture, gauchar, etc), by combining ground level information with GIS generated imagery. This would form a strong base for FRA implementation with little confusion and conflict.
 15. It is not clear if the FRA can be used to get any land benefits for the landless, at the least a plot for homestead; this was strongly suggested by some participants. On the other end of the spectrum, is there any way to deal with legitimate claims from people who also have substantial other resources (a job in a city, other land, etc)?
 16. The gender aspect of the implementation is neglected. Can there be a provision for independent or explicit rights for women, and compulsory membership of relevant committees under the FRA?
 17. It was felt that much better inter-departmental coordination was needed for the implementation of this FRA, at the level of the verification teams, the SDLC and DLC.

3. Some reflections on process and follow up

1. It was useful to inform and speak to senior officials in Dehradun, to ensure that local officials (from forest and social welfare depts.) came for the Consultation. However, one mistake, in hindsight, was that we did not invite the Social Welfare Dept to accompany the team on the field visits.
2. It would be useful for the team to do a bit of preliminary homework where possible, on issues that have a complex history and context (for instance that of Van Panchayats and *khatta* lands), as it is not always possible to get into the nuances during a consultation or a field visit. The team was slightly unprepared for this, but should hopefully be able to make up with subsequent readings/discussions.
3. Attempts by some groups to make political mileage from the Committee's consultations and field visits is a distinct risk, for which the team needs to be prepared. It should at all times be clear that we are not in any way aligned with any political group, even while it may be clear that we are in favour of the implementation of the FRA with due process.
4. At many places (for instance in this visit, at the two Van Panchayat villages), the team is having to explain the FRA, sometimes its very basics, in order to get informed answers to our core questions. The Committee members are therefore acting as a means of spreading awareness about the Act! Hopefully this role should not be seen to be in contradiction to its mandate.
5. The Committee should encourage a state level workshop to resolve the differences of opinion on the FRA's usefulness in relation to Van Panchayats, and to enable the implementation of the FRA in hill villages.

6. As in the case of the previous Uttarakhand consultation/visit by the Committee, one issue needing urgent clarification is the definition of gram sabha, to enable the FRC and other processes to take place at individual village/settlement level rather than clusters of villages coming under the Uttarakhand definition of gram sabha/panchayat.

Report written by:

Ashish Kothari and Roma (with inputs from Jarjum Ete)