

MoEF/MoTA Committee on Forest Rights Act

**Consultations and field visits in Uttarakhand and western Uttar Pradesh, 30 May –
1 June 2010**

Additional Report of Uttarakhand and Western UP consultation (to be read in conjunction with Summary Report)

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

Programme

30th May 2010: Public Consultation

Representations were made by the following communities:

1. Taungiya and other forest villages
2. Nomadic tribes – Van Gujjars
3. Hill villages
4. NGOs

31st May 2010: Field visits

1. Kaluwala Taungiya (Western UP, District Saharanpur)
2. Sodhinagar Taungiya (western UP, District Saharanpur)
3. Van Gujjar dera (Chillawalli range, Rajaji national Park, District Haridwar)

1. Taungiya villages/ forest villages such as goth and khattas

The representations were made by the community members residing in taungiya villages. From Western UP there were representation from 5 villages and in Uttarakhand representation on behalf of 164 villages were made The points brought forth by the taungiya village members were:

- Munnilal a taungiya settler himself from National Forum of Forest People and Forest Workers, UK, Jee ram s/o Panchu mukhia from Sodhi nagar, Balbir singh r/o Bhatia nagar, Vedpal from Bhagawat pur taungiya (all western UP) narrated the situation of the taungiya settlers since the British days.
- Taungiya is a system of plantation and the planters were known as “taungiya planters”, the system was started by the British in 1920’s to plant commercial trees in the Shivalik region of both UP and Utrkhand. The cultivators were basically “ begars” from nearby villages who were treated as bonded laborers by Zamindars of that respective areas.
- Due to overexploitation of the timber by British it was planned by British government to regenerate timber through plantations but the departmental plantations were not successful and hence the taungiya system (which is a Burmese word (means “taung” is hill and “ya” is cultivation) was started. By

- using silvicultural techniques trees were planted. This method was very successful as the land was prepared prior to plantation.
- Before starting this system British held three taungiya conferences in Nainital frp, 1920-30's and elaborated plantation plans were made. Accordingly the taungiya system was started. The cultivators were given 5 acres of land for 5 yrs to plant trees. No wages were given for the labor, they were only given the piece of land for their sustenance. They were not allowed to construct any pucca houses and lived in temporary shelters, no facility such as health, drinking water, education were given to these cultivators. They were punished if the trees got damaged.
 - They were shifted from plot to plot and no permanent settlement was given to these families, until in 1950-60's these families settled themselves (now the present settlement). That is why with every settlement the name of taungiya is attached with the village name. Till now these villages don't have their gramsabha and they are not under purview of UP Panchayati Raj act.
 - FD brought contractors from 1960 and clearfelled trees planted by taungiya cultivators in 1987, in some areas.
 - Taungiya cultivators said that ideally they have right over the entire forest that was planted by them under FRA. They said that they will claim community rights in the forest they planted and will protect the forest from timber mafia.
 - The five villages that put up their case were Bhawatpur, Bhatianagar, Kaluwala, Sodhinagar, Ganeshpur. Due to the active intervention of the local organization working in the area " National Forum of Forest People and Forest Workers" with the Government of UP, separate FRCs were formed in all these five villages.

Claims submitted

- Total 560 claim forms have been submitted to SDLC from these 5 villages. It is not clear how thorough the examination of these claims was, at the level of the FRC and the gram sabha, since the villages do not necessarily have the full capacity to deal with verification. Efforts on part of the state government to enhance that capacity to take decisions on the rights are found wanting.
- It appears that the survey of the land in possession of the individual applicants has not taken place in most areas, nor a system is being put in place to do that.
- Due to confusion of interpretation of 75 yrs provision (all the taungiya cultivators are in the category of OTFD) the forms were taken by FD and given to Gram Panchayat heads for final approval. It was found that FD was controlling the claims process, and that locally the panchayat secretary was becoming an unnecessarily powerful middle agent.
- We found that four extra papers (not required by the Act) were attached with the claim form that was made mandatory by the district authorities for each claimant to fill. This includes verification by village head, Patwari, and Ranger.
- Due to confusion among the officials regarding the Act the claim forms were given to gram pradhan that was causing a conflict among the taungiya villagers and gram pradhans. This appeared partly to have happened due to a panchayat-centred interpretation of the provisions of the Act (especially the definition of gram sabhas). These observations were made while we made visit to Kaluwala and sodhinagar Taungiya villages.

- The community rights section in IR's forms were filled but the separate form of community rights were more of development rights in UP. But the community rights asked by the UK taungiya villages included the forest that was planted by the taungiya cultivators and other rights such as NTFP, fuelwood, timber for house construction and agricultural implements.
- No receipts are given to the claimants.

2. Van Gujjars

The representations were made by the Van Gujjars living inside the protected area of Rajaji National Park and Van Gujjars from the Western UP of the Shivalik range. Various critical issues were placed by the nomadic tribe in both of these two states.

- The nomadic tribe Van Gujjars reported that they had to struggle very hard to demand their forest rights under FRA. They said it was through local organizations that they became aware of this new act.
- Van Gujjars do not have their GS so in Western UP, Van Gujjars are attached with the near by villages which is being opposed by the Van Gujjars. The nature of rights of village and Van Gujjars are completely different. The FRC constituted were not sensitive about the rights of nomadic tribes and they are dominating the Van Gujjars. The FRC has been formed at the Panchayat level.
- There has been a positive development in Haridwar district of Uttrakhand where separate FRC's have been formed of Van Gujjars in their respective khols (beat wise).

Claims Filed

- On the whole total 485 claims have been filed at Haridwar district. This district is the only district in UK where the implementation of FRA is taking place due to active intervention of the local organizations. All these claims have been filed from Rajaji National Park area (the families residing inside the Park who were to be evicted by the park administration.)
- The Van Gujjars residing in the Park area complained that the resettlement plan made by the park authorities was very much discriminatory. Initially the plan was made only for 512 permit holder's family who had permit since British rule. The park authorities didn't take into account those families that increased in all these years. Without any compensation and proper rehabilitation plan the authorities planned to evict these families.
- The families who were left out in counting by the park authorities filed a case in High court Nainital against the Park authorities in 2005. In 2007 the Court gave an order in favour of Van Gujjars and directing the State Government to settle the tribes according to FRA.
- But the park authorities instead of settling the 1390 Van Gujjar families according to the HC order, started eviction of Van Gujjar families thus violating the provision of act as well as HC order.

- Jahoor Hasan r/o Beribada, Gholna range, Noorjamal r/o Dholkhand range and 107 huts situated in Ramgarh range in Rajaji National Park area were evicted by using police force on 17-20th October 2008. Petitioners filed a case of contempt against Director Rajaji Park. The case was again decided in the favour of Van Gujjars but no compliance of the order has been done till now by the State government.
- Van Gujjars from entire Rajaji area complained about the high-handed behavior of Park authorities, especially of the Park director S.S Rasily.
- Van Gujjars from other areas who have been resettled before from Rajaji area complained that the land allotted was not in their names. They also complained that Park authorities have objected to them filing the claims under FRA. Park director is saying that they are not entitled for any rights under FRA.
- The FD, be it in Rajaji and other Protected areas are spreading this rumor that FRA is not applicable in protected areas.
- On the other hand, the Committee was told that a number of Van Gujjar families have claimed 4 ha. of land, even though they do not currently occupy or cultivate this amount. Many of them appeared to be under the impression that the Act provides for such land distribution.
- In the field visit inside the Rajaji park area, Van Gujjars complained openly about the repression and exploitation of the FD and demanded that their rights be duly recognized and they be allowed to live with dignity.¹

3. Issues in the claims process

Evidences and certificates for the claim form

- In the case of taungiyas, Van Gujjars, the caste certificate were not issued properly. There is wide corruption in getting these certificates made by the revenue functionaries. In case of Gujjars because of their illiteracy they had to pay Rs 30/- to the person who filled their forms in Haridwar district.

Formation of FRCs

- It was found that in the cases where the FRCs were formed in Saharanpur (UP), Haridwar district(UK), no training was imparted to them. Whatever training the FRCs got it was through local people's organization.

Support from officials

- Officials both SDM and DFO in Saharanpur district of west UP were quite confused in resolving the issue of these taungiya villages. SDM Saharanpur asked

¹ On the day after the Committee's visit, the FD staff reportedly attacked one of the Gujjar families, that of Mehdi Hasan r/o Chillawali range, and evicted the family. The FD staff reportedly beat his wife Hazara, who lodged a FIR in Buggawala P.S. Later a letter was written by the FRA Committee chairperson Sh. NC Saxena to the Chief Secretary, Uttarakhand asking for action on this reported incident.

the review committee to clarify the issue of 75yrs, the record collection and other sections of the act such as formation of FRC.

- Social welfare officers were absent in these consultation though there was an intimation to them; forest department officers on the other hand were present throughout and facilitated the Committee's visits.

Publicity of FRA

- The taungiya and Van Gujjar communities were quite aware of the act which was due to the efforts of the organization working with them. The UP government has done considerable work in publicity of this act and has published a good booklet on the act. Whereas the publicity was virtually non-existent in UK except those areas bordering UP. Chief Secretary UK expressed that the Central government did not do any serious effort to publicize this act as they did in the case of NREGA and RTI. He admitted that UK government also could not do enough.

Relocation

There appear to be several, different narratives on relocation of Van Gujjars from the Rajaji National Park:

- A number of the people say they are being harassed to move out even though they would prefer to stay on. Several Van Gujjars told us they would want to stay on if they are given the appropriate rights under the FRA.
- However, many also said that if they get a good deal outside, they would want to move out. They are however not sure of the government's promises in this regard.
- The Forest Dept officials claim they have provided good facilities at the relocation site, including individual plots in the name of each Van Gujjar family. They also say that some are enjoying both the benefits of having such plots outside and continuing to stay inside the Park; this was denied by the Van Gujjars.

4. Post-claims process

Protection and Management of Forest

- All the communities responded on the issue of protection and management of the forest. Complaints were made that only commercial varieties plantation was done by FD the environment will not be protected this way. They said the communities should be given right to choose the species of plantation that is useful for environment and human beings, livestock and wild animals. Forest officers on the other hand said that there is substantial overgrazing in the forests (including inside Rajaji National Park), leading to not only loss of vegetation but also spread of weeds, and that communities may not by themselves be able to regulate this. They also claimed that where Van Gujjars had been relocated from within Rajaji National Park, that area has regenerated well, with fewer weeds.
- The communities especially taungiyas and Gujjars complained regarding the role of FD in protection of the forest from forest fires. They said that FD has stopped maintaining the forest fire lines since 1986. They maintained that wherever the

local communities are present the forest did not catch fires. The forest fires are often caused by FD to hide the illegal felling of timber from both reserve forest and National park area. Forest officers on the other hand are convinced that one major cause of forest fires is the local people, through carelessness and perhaps even sometimes as deliberate acts of anger or sabotage.

- Taungiya cultivators still believe that they have the best technique to plant forest, they believe firmly that FD departmental plantations are 99% unsuccessful compare to their method of plantations which will bring 100% result. They have even proposed the degraded forest land should be given to them they can plant those trees which are useful for the wildlife, people and environment.
- All the communities strongly condemned the commercial plantations done by the FD which is monoculture. They strongly recommended that the forest should be of mixed nature and more than timber, trees which give fruit, fodder, oxygen, should be planted.
- Communities also recommended that for the protection of wildlife a committee of FRCs should be formed and they should be consulted for the protection and improvement of habitats of the wildlife.

Report by Roma, Ashish Kothari, and Rakesh Kumar Dogra.

Annexures

1. List of participants of Dehradun consultation.
2. List of submissions received .