

## **Minutes of the 3<sup>rd</sup> Meeting of National Forest Right Act Committee**

The 3<sup>rd</sup> meeting of the National FRA Committee as a joint committee of Ministry of Environment & Forests and Ministry of Tribal Affairs (MOTA) constituted by Government of India Ministry of Environment & Forests Notification No.12-1/2006-FP dated 16.04.2010, was held on the 9<sup>th</sup> August, 2010 at Van Vigyan Bhawan, New Delhi.

The following members attended the meeting.

- I. Dr. N. C. Saxena, Chairman
- II. Dr. Devendra Pandey, Co-chairman
- III. Dr. Bachitter Singh, JS, Representative Ministry of Tribal Affairs.
- IV. Dr. C.K. Sreedharan
- V. Shri V. R. Khare
- VI. Dr. A.K. Jha
- VII. Shri Ashish Kothari
- VIII. Dr. Ravi Chellam
- IX. Dr. Sharachchandra Lele
- X. Dr. Arupjyoti Saikia
- XI. Shri Ravi Rebbapragada
- XII. Ms. Jarjum Ete
- XIII. Dr Ramdhan Lal Meena
- XIV. Shri Mannu Lal Markam
- XV. Ms. Vasavi Kiro
- XVI. Ms. Roma
- XVII. Shri Mohan Lal, Representative Ministry of Environment and Forests.
- XVIII. Shri. Achyuta Samanta
- XIX. Shri. Sanjay Upadhyay, Special Invitee.
- XX. Shri Rakesh Kumar Dogra, Member Secretary.

Smt. Rashmi Shukla Sharma from Ministry of Panchayati Raj, New Delhi could not attend the meeting due to some pre-committed engagements. Dr. Bachitter Singh, Joint Secretary MoTA attended the meeting as representative of MoTA for a short while and Dr Mohan Lal attended the meeting representing MoEF.

### **1. Opening remarks from the Chairman**

The Chairman welcomed all the members and summed up the progress so far. He emphasized upon the urgency to complete the work of the committee within the stipulated period

of six months. The chairman categorically informed that the committee will not seek any extension from the government, and this left the committee with not more than two months time to complete the work and submit report.

The Chairman emphasized the following points on which committee need to focus.

- 1- As the states have not by and large implemented the FRA provisions pertaining to community control over forests, members could assume that the ownership and management of forests would continue to be with the Forest Department, and the emerging picture may not be radically different from the present. Accordingly, members need to firm up their views and recommendations.
- 2- The recommendations on Forest management should be based on certain assumptions that the members would make about the picture of forest management, forest ownership or titles that are likely to emerge as opposed to what ought to happen. The chairman was of the view that by the time the committee winds up its work, not more than one percent or so of the forest land is likely to come under the community management under FRA and that being the case, the overall pattern of the ownership is not going to change radically. Therefore, the committee can make assumptions about the status of ownership and management of these areas, as to whether it will be business as usual or will it be radically different. Even if it is not radically different, there is still a case for promoting peoples participation and thinking of integration of JFM with PESA and FRA. There is a very good case for thinking what is likely to happen rather than what ought to happen.

## **2. Letter from Shri Kanti Lal Bhuria, Minister of Tribal Affairs, Govt of India to the Minister for Environment & Forest, Govt of India regarding the working of the committee:**

The Minister for Env & Forest had forwarded to the committee a letter addressed to him by Shri Bhuria and sought the Committee's response. This was taken up for discussion as a special agenda item at the beginning of the meeting. The letter evoked strong reactions from the members. Members felt that committee work has been well received in most quarters and many a times, their work has catalyzed action on the implementation front in many states. The Chairman pointed out that the Committee's TOR explicitly required holding public consultations and such consultations cannot be held without committee members making their views public (a point he had made to the Ministry of Environment & Forests in an earlier letter also). It was also pointed out by members that "studying FRA implementation" automatically means assessing it, and that "assisting the MoTA in implementing the Act" (one of the ToRs) automatically meant giving inputs to MoTA as to how to improve implementation. Members expressed concern that the Minister's letter indicated a) lack of ownership of the Committee, b) lack of openness to constructive criticism for improving MoTA's implementation efforts, and c) lack of appreciation of the contributions made by the Committee to improving implementation at the state-level. It was decided that the co-chair, Dr.Pandey would draft a reply to the Minister, which would then be circulated to members and finalized. The members also suggested that a small group under the chairman may meet the minister, Shri Khare offered to be part of this group, and the chairman said that this could be considered when the new secretary joins the ministry.

The representative of Ministry of Tribal Affairs, Joint Secretary Shri Bachitter Singh, joined the meeting at this point. He expressed MoTA's view that the main TOR and therefore focus of the committee should be on the policy changes in the future management of forestry sector (TOR No 2-8). Members however pointed out that these TORs actually included the need to hold public consultations on the FRA and the support to MoTA in the FRA implementation. He accepted these points and also acknowledged that the committee had done a lot of good work that would certainly help the Ministry of Tribal Affairs, and that he wanted the Committee should *henceforth* focus on the remaining TORs.

### **3. Report on action taken**

The Member Secretary then reported on the actions taken on the decisions of the last meeting. The members were informed that the website is already operational and all the members can send the files (soft copies) that they need to upload to the member secretary, so that they can be uploaded. The members were also requested to send the announcement of call for inputs in different languages so that these can be uploaded. Shri Ashish Kothari also requested the members to reach out a number of organizations within their own states and areas of operation with the local language version of the announcement.

It was also decided that the Member Secretary will send all the short or detailed reports to the state governments, connecting with the earlier correspondence regarding the visit of the committee.

### **4. Presentation by special invitee on legal aspects of FRA implementation**

Shri Sanjay Upadhyay, who was invited for the meeting as a special invitee on the legal issues made a short presentation. He pointed out several areas of ambiguity in the Act and the way it is being interpreted in the field, as well as other legal issues that are going to influence its implementation:

- a) The terms community forest resource and community forest rights are often treated interchangeably, but they are not so. The process for delineation of community forest resource is still unclear.
- b) The process of reconciliation of traditional access areas, traditional boundaries and legal boundaries is not entirely clear.
- c) The definition of Other Traditional Forest Dwellers is open to differing interpretations. If one goes by the spirit, it appears that any non-ST residing in a village for more than 75 years should be considered an OTFD, but the letter of the law requires 75 years residence on the land for which the claim is submitted.
- d) He also opined that Hon'ble Supreme Courts view on the Forest rights act where petitions filed before it have gone to the constitutional bench with 6 to 7 transfer petitions of petitions filed at state level, and is being heard by three judges, will be also be very important.

The chairman requested Mr. Sanjay Upadhyay to prepare a short note on these legal issues discussed so as to help the committee in its deliberations.

In connection with some of the legal issues raised, members also raised the need for a comparative analysis of the FRA with other relevant laws. Regarding the Committee's Terms on

future role of the Forest Dept, and the required policy changes, some members felt that the Committee should not restrict itself to JFM like arrangements, and that the meaningful empowerment of the gram sabhas in relation to the department required different arrangements. Additionally though progress on CFRs is currently very slow, it could speed up and if the process is continued over the next few years, considerable forest areas could come under it; this also requires forward thinking on the relationship between the gram sabha and government departments. If possible, the Committee should call for a national workshop on these issues.

## **5. Presentation of Trip Reports:**

Presentation of trip report was made by Shri Ashish Kothari for Uttarakhand and Orissa, Ms. Roma for Himachal Pradesh, Dr. Devendra Pandey for Andhra Pradesh, Shri Ramdhan Lal Meena for Rajasthan and West Bengal, and Dr. C.K. Sreedharan for Kerala, Ms Vasavi Kiro for Jharkhand, Dr. Arup Jyoti Saikia for Assam and Dr. A.K. Jha for Maharashtra. The reports of the visit have already been circulated in the FRA group. It was requested to send the completed reports to Member Secretary so that these can be put on the committee's website.

## **6. National workshop on FRA implementation involving states**

The Chairman was of the view that time is too short for organizing the National Workshop involving states. At best we can have one to one discussions. We can also invite people having good experience in this field and take their views. In the meantime, the workshop on PTGs is being organized in Orissa and few members will be attending that.

## **7. Discussion on Budget and Expenditure:**

The Member Secretary intimated the committee members that a budget of Rs.20,00,000/- (Twenty Lakhs only) has been earmarked out of ICFRE funds for the committee. The member Secretary informed the committee regarding the expenditure incurred prior to the present meeting. It was also discussed that the funds will be enough for two meetings of the committee, maximum of two or three state visits and the report finalization.

## **8. Work Plan of the Committee:**

Some members suggested that an extension of a couple of months be sought so that visits to some of the states not yet covered could be completed, which was important given that the process of consultations and visits was itself yielding results on the ground and was greatly appreciated. However, the chairman reaffirmed the need to complete the work of the committee within the allotted time-frame of six months and therefore requested members to start writing the draft report on the information already collected. A few visits that can be undertaken now are summarized below.

<b>State(s)</b>	<b>Dates of proposed visit and consultations</b>	<b>Members Visiting.</b>
Rajasthan	22 <sup>nd</sup> to 24 <sup>th</sup> August 2010	Shri Ashish Kothari, Ms. Roma, Dr Ramdhan Lal Meena,
Uttar Pradesh	4 <sup>th</sup> to 7 <sup>th</sup> September, 2010	Ms. Roma, Ms Vasavi Kiro
Orissa workshop on PTG's	7 <sup>th</sup> – 9 <sup>th</sup> September, 2010	Shri Ashish Kothari, Dr. A.K.Jha, Dr Ramdhan Lal Meena,

Arunachal Pradesh	19 <sup>th</sup> to 26 <sup>th</sup> September, 2010	Ms. Jarjum Ete, Dr. Arupjyoti Saikia, Shri Ravi Rebbapragada, Ms Vasavi Kiro, Ms. Roma, Dr. Ravi Chellam. Shri Mannu Lal Markam.
Sikkim	27 <sup>th</sup> to 31 <sup>st</sup> September, 2010	Ms. Roma, Ms. Jarjum Ete, Shri Ravi Rebbapragada, Ms Vasavi Kiro, Shri Mannu Lal Markam.
Maharashtra	27 <sup>th</sup> to 28 <sup>th</sup> September,2010	Shri Ashish Kothari, Dr. A.K.Jha.

## 9. Illegal eviction issue

Due to lack of time, this agenda item was not discussed in detail. The Chair requested Dr.Sharachchandra Lele to prepare a note on this issue, and circulate to the Committee for finalization and submission to the Ministries.

## 10. Drafting of the final report

It was decided after discussions that the following themes will be focused for the purpose of the report and the teams were formed based upon individual choices and volunteers. The members who volunteered to be the lead persons are given in bold letters.

Sl. No.	Theme	Team Members
1.	Individual rights	i) Shri Ravi Rebbapragada ii) Ms. Vasavi Kiro <b>iii) Dr. Arupjyoti Saikia</b> iv) Ms Roma v) Shri M. L. Markam
2.	a. Community forest rights (incl. links with pre-existing CFM)	i) Ravi Rebbapragada ii) Ms. Vasavi Kiro <b>iii) Shri Ashish Kothari</b> iv) Dr. Sharachchandra Lele v) Shri Ramdhan Lal Meena
	b. Development rights	<b>i) Shri Ramdhan Lal Meena</b> ii) Dr. C.K. Sreedharan
3.	PAs, CWH, CTH issues, CCA, CRs	<b>i) Dr. Ravi Chellam</b> ii) Shri Ashish Kothari
4.	Technology application to support FRA	<b>i) Dr. Devendra Pandey</b> ii) Dr. Sharachchandra Lele iii) Dr. A.K. Jha

5.	Role of FD in post-FRA forest governance	<ul style="list-style-type: none"> <li>i) Dr Devendra Pandey</li> <li>ii) Dr. Ravi Chellam</li> <li>iii) Ms. Vasavi Kiro</li> <li>iv) Shri Ashish Kothari</li> <li>v) Dr A K Jha</li> <li><b>vi) Dr. Sharachchandra Lele</b></li> <li>vii) Dr. Arupjyoti Saikia</li> <li>viii) Shri Ramdhan Lal Meena</li> <li><b>ix) Dr. C.K. Sreedharan</b></li> </ul>
6.	PTGs, shifting cultivators, Nomads	<ul style="list-style-type: none"> <li><b>i) Dr. Arupjyoti Saikia</b></li> <li><b>ii) Shri Ramdhan Lal Meena</b></li> <li>iii) <b>Shri. Ashish Kothari</b></li> <li>iv) Shri V R Khare</li> <li>v) Ms Jarjum Ete</li> <li>vi) Ms Roma</li> </ul>
7.	FRA applicability in 6 <sup>th</sup> Schedule Areas	<ul style="list-style-type: none"> <li><b>i) Ms. Jarjum Ete</b></li> <li>ii) Dr. Arupjyoti Saikia</li> </ul>
8.	Forest Diversion for development projects & FRA interface	<ul style="list-style-type: none"> <li>i) Shri Ravi Rebbapragada</li> <li>ii) Shri. Ashish Kothari</li> <li><b>iii) Dr. Arupjyoti Saikia</b></li> </ul>
9	Convergence of govt programmes & agencies in exercise of individual forest rights	<ul style="list-style-type: none"> <li>i) Dr. A.K. Jha</li> <li>ii) Shri V R Khare</li> <li>iii) Dr Ramdhan Lal Meena</li> </ul>

It was agreed that the materials for some of these sections/themes, such as those related to FRA implementation, were largely now available with the committee (following the field visits completed), and so the first drafts of these sections could be ready by early September (prior to the next meeting of the Committee). However, in the case of other themes, such as the future role of the Forest Department and the convergence of government programmes, the committee deliberations were only just beginning, and so one could only expect preliminary notes to be available by early September.

*The committee would aim to prepare the draft final report by mid-October 2010, and put it on the website to invite suggestions from the stakeholders. A month or so would be given for feedback, after which the report could be finalized. Therefore, the above teams are requested*

*start working on the write-ups amongst themselves and put for wider consultation with the committee members within the fracommittee yahoo group.*

### **11. Future role of the Forest Department:**

The Chairman, in his opening remarks, had pointed out that the future role of the Forest Department would be greatly influenced by the extent to which Community Forest Rights are actually granted and what fraction of the forested landscape they eventually cover. Therefore, it was necessary to provide suggestions as to what the role might be under different scenarios, viz., a scenario wherein very small area is covered by CFRs (a rather likely scenario, given current rate of implementation) and one wherein substantial area is covered by CFRs. The co-Chair also pointed out the need to be realistic in defining the future role. Other members pointed out that the recommendations on the future role of the FD cannot be tied solely to the scale of implementation of the CFR provision, since the ToR (no.7) required the Committee to define a new role for the Forest Department vis-à-vis the Gram Sabha 'for forest conservation and regeneration', which would also then include Gram Sabhas constituted under PESA or other Panchayati Raj Acts. Since the Ministers of Env & Forests and Panchayati Raj had already begun preliminary discussions on the convergence of PRIs with forest governance institutions (including JFMCs), the Committee agreed that its report would cover these dimensions as well.

The possibility of holding a workshop or interaction with senior forest officials on this subject was also discussed. The representative from MoEF, Mr. Mohan Lal, was requested to explore the possibility of MoEF organizing such an interaction. It was felt that a focused workshop in early October, involving a small group of officials and a few civil society members, could be organized, in which a draft note of the Committee's views of this subject (future role of the FD) could be presented and reactions sought. This would help finalise this section of the Committee's report. The Chairman asked the sub-group working on this topic to draft its note, and then suggest a plan for the workshop.

### **12. Schedule of Fourth Meeting:**

The next meeting of the committee is scheduled on **14<sup>th</sup> September, 2010, 9.30 AM** at Van Vigyan Bhavan, Sector 5, R K Puram, New Delhi.

The meeting ended with thanks to the chair, co-chair and all the members for their active participation.



(Rakesh Kumar Dogra)  
Member Secretary, National FRA Committee

Ref:

Circulation to All the Members.

The Secretary, Ministry of Environment and Forests, Ministry of Tribal Affairs, Ministry of Panchayati Raj, Government of India for kind information. Director General (Forests), Additional Director General (FC) for kind information.  
All the Chief Secretaries of the States for kind information.