

MoEF/MoTA Committee on Forest Rights Act

Consultations and field visits in Gujarat, 27-29 November 2010

Report of key findings

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, Dr R.L. Meena, Ravi Chellam, and Ashish Kothari, toured south-eastern Gujarat for field visits to learn about the FRA implementation on the ground; they and a fourth member, Rakesh Dogra, held a public consultation for the state at Ahmedabad, and met with senior officials.

The visit was facilitated by the state tribal department, and by civil society organizations Arch-Vahini, Dangi Lok Adhikar Sangh and others.

The visit involved the following:

i. Sub-state level public consultation

Organised at the Tribal Research and Training Institute in the Gujarat Vidyapeeth, Ahmedabad, the public consultation for Gujarat was attended by about 100 people, from several districts (Bharuch, Vadodara, Chhota Udaipur, Dangs, Narmada, Panchmahal, Dahod, Sabarkanta and Banaskanta). Most participants were from local communities (including FRCs), mass-based organizations including the Adivasi Mahasabha, Anandi, and other civil society organizations (CSOs). The state nodal officer and other officials of the Tribal Department, and the head and other researchers of the TRTI, were also present.

About 25 oral submissions, and about 20 written submissions, were presented, mostly from communities and CSOs. Senior officials spoke at the beginning and end of the consultation.

ii. Meetings with state and district officials

Two meetings were held with senior state officials. One was in Surat on 27.11.2010 chaired by the Principal Secretary (Tribal) A.M. Tiwari, and including A.J. Shah, Collector Surat, D.P. Desai, Project Administrator Surat. The other, on 29.11.2010 in Gandhinagar, was chaired by the Chief Secretary A.K. Jyoti, and included the Principal Secretary Panchayat and Social Empowerment Department RM Patel, Principle Secretary Forest and Environment SK Nanda, Principal Chief Conservator of Forest Pradeep Khanna, Joint Secretary Revenue Department Amrish Mankad, Joint Director Tribal Development Affairs T.L. Patel, and other senior officials of various departments.

During the field visits in Dangs and Narmada districts, meetings were also held with senior district officials, including the Collector, DFO and other officials such as the Dy Project Administrator, ITDP in Dangs.

During the team's stay at Ukai damsite, a meeting was also held with the Collector, Tapi district, the Conservator of Forests, the SDM, and other officials of the forest, tribal and other departments, and member of the District Panchayat.

iii. Field visits and local consultations

Visits and local public consultations were conducted at the following sites:

A. Dangs District

Bhalkhet village, Ahwa taluka, Dangs district: about 1200 representatives from 86 villages, including their Forest Rights Committees, several civil society representatives, and local government officials.

B. Narmada District :

Sankli village, Dediapada taluka, Narmada district: about 2000 residents of about 65 villages (including their FRCs) from Dediapada, Bharuch, Sagbara, Rajpipla, Valia and Tilakwada talukas, several civil society organizations, and local officials attended a public consultation here. Some fields were also visited, which had been claimed under the FRA but rejected, to verify the veracity of the claims.

A number of political leaders also met the Committee and gave oral or written submissions. This includes Amar Singh Vasava, MLA Dadiapada, Vijaybhai R Patel, MLA Dangs, MB Vasava, District Panchayat member, Uttambhai Govind Vasava and MA Vasava, Taluka Panchayat Members, Rajendra Singh Vasava , ex general Secretary Congress Party, and Ishwarbhai Vahia, member, state Tribal Advisory Council. Their views primarily focused on the illegitimate and improper way in which claims are being rejected or very small lands are being vested; these views are incorporated into the key issues discussed below. Some specific examples they gave were:

- In Bharuch District, Balia Taluka, tribal claimants who had been approved in 1992, also rejected by SLDC and DLC
- In Tilakwada Taluka there are 15 cases of tribals whose names are already in 7/12 form have been rejected.
- In six talukas of Narmada and Bharuch Districts, several community rights applications were rejected.
- There is deliberate rift being created between FRC and JFM, even though FRC is lawful committee under law while JFM is only created by Government orders.

Relevant sub-divisional level officers were present with the team during these field visits.

Shri T.L. Patel, Joint Director Tribal Development, liasoned as state nodal officer for the FRA, was with the team throughout the trip, and was enormously helpful in facilitating arrangements, meetings, and collection of information.

2. Key issues / findings

Status of implementation

The Committee was given the following state-level status of implementation, as of 30 August 2010:

Villages where FRCs formed: 5775

Individual forest rights (IFR)

Claims received by FRCs: 182,568

Claims forwarded by Gram Sabhas to SDLC: 157,103

Claims forwarded by SDLCs to DLCs (for approval): 31,393

Claims forwarded by SDLCs to DLCs (for rejection): 50,093

Claims returned by SDLCs to GSs (for rejection): 24,350

Claims approved by DLC: 24,187 (over 15,176 ha.)

Claims rejected by DLC: 30,267

These figures show that SDLCs have recommended rejection in 76% (74,443 out of 105,836) of the claims they have cleared so far. Earlier they were sending such claims back to GSs for rejection, but from past few months they are forwarding them to DLCs for rejection)

Community forest rights (CFRs)

(Note: no distinction has been made between Section 3(1) and 3(2) claims in these figures)

Claims received by FRCs: 8909

Claims forwarded by Gram Sabhas to SDLC: 3662

Claims forwarded by SDLCs to DLCs: 580

Claims returned by SDLCs to GSs: 916

Claims approved by DLC: 334 (over 31,456 ha.)

Claims rejected by DLC: 58

Official views

Senior government officials who gave the Committee a detailed presentation at the start of the visit, and again met with the Committee at the end of its visit, presented the overall status of implementation of the FRA and the key issues emerging:

- Gujarat is one of the few states to have regularized a large number of 'encroachment' cases, well before the FRA; a total of 45,352 *pattas* were issued to occupants between 1967 to 1980. The current status of implementation of FRA needs to take this into account.

- In the initial phase of implementation, about 6 lakh claim application forms were distributed; this coupled with mass publicity and the activities of certain NGOs and ‘political elements’ led to a very large number of claims. Many of these were turning out to be false, or duplicate claims.
- At the same time genuine claimants were having a difficult time getting evidence to support their claims. To address both this and the issue of false claims, the government decided to take the help of sophisticated satellite imagery system . It commissioned the Bhaskaracharya Institute for Space Applications and Geo-Informatics (BISAG) to interpret imagery acquired from NRSA, and work out a method of matching this with claims to determine their veracity. Over the last few months in 2010 this methodology has been improved and applied.
- Constant pressure from MoTA was leading to a rushed process, which may be leading to some distortions.
- The state has limited forest and it cannot afford to totally reduce it.

Awareness, training, outreach

The state appears to have carried out extensive public awareness and training in early 2008. It distributed simple booklets on the FRA in mass numbers, gave out about 6 lakh claim forms, and set up a toll-free helpline for anyone to call and seek information and assistance. At least in some areas, there was also active facilitation by subdivisional/district officials and forest officials, by providing FRCs and claimants with documents and advice. Considerable work has also been done by civil society organizations to create awareness, and assist with the claims process.

However, it is not clear if this initial burst by official agencies was uniform across all Scheduled areas, or was sustained over a period of time, continuing the training of ground level staff and FRC members, and continuing the active facilitation. On the other hand the Committee came across widespread complaints of lack of facilitation and active obstruction to the claims process, and inadequacies in the understanding of relevant officials on the nuances of the FRA. Some results of this are given below.

Overall process and institutional performance

The Committee’s observations and impressions regarding the working of the various institutions set up to implement the FRA are as follows:

- The Gram Sabha (GS) and Forest Rights Committee (FRC) process seems to have been very robust in the areas visited, though several problems in composition and functioning were reported from other areas at the public consultation.
- The SDLCs appear to have been the weakest link in many areas, displaying a serious lack of understanding of the intricacies of the FRA, not pro-actively helping the claimants or FRCs, illegitimately or arbitrarily rejecting claims (in some cases en masse), providing a lot of decision-making influence to forest officials, and in other ways being obstructive.
- The DLCs role is not clear; for one thing, they do not seem to have been able to get necessary and appropriate action out of SDLCs. Additionally, they too have

given much greater say to forest officials in taking decisions. In Dangs district the previous District Collector is reported to have been particularly unhelpful; the new one promises to change this.

- The SLMC and state nodal agency seem to be active, including through the setting up of a core committee. They have issued a number of circulars for clarification, produced awareness material, regularly checked on implementation, etc. However, their overall role in checking the serious problems faced by claimants, their over-reliance on satellite imagery to the neglect and disadvantage of other forms of evidence, their neglect of non-Scheduled areas and CFRs, and other issues pointed out below, points to the need for significant improvement in their working.
- There is serious lack of transparency in process, e.g. SDLC, DLC, and SLMC meeting minutes and circulars issued by the nodal agency are not publicly available. People have to get information on their own claims or on other aspects using RTI applications. There appears to be no suo moto public disclosure of information by these institutions.
- There are confusing directions regarding the use of satellite imagery, and predominant dependence on such imagery as evidence (see below, more description on this).
- There are evictions before recognition of rights of the claimants, in violation of the FRA.

Individual Forest Rights (IFRs)

1. *Rejections*: There is a high rate of rejections of IFR claims across the state. Government officials in their initial presentation to the Committee had explained that in the initial phase of implementation, mass publicity and political activism resulted in a large number of false or duplicate claims, as also fresh encroachments, and that subsequent verification including through satellite imagery resulted in their rejection. Undoubtedly there have been cases of post-2005, fresh encroachments, and false claims of other kinds (admitted to the Committee by civil society groups also), but this does not in any way explain the extraordinarily high rate of rejections. The Committee came across and was shown evidence of a large number of cases of en masse rejections, on what appeared to be illegitimate or arbitrary grounds. Key issues include:

- Senior officials of the state government are reported to have said that only 10% of the claims are genuine; this has become an informal standard for many district and sub-divisional officials.
- Most of the rejections are happening at the level of the SDLC, without referring the matter to the DLC, or without any appeals by the forest department against the gram sabha recommendation, although it does not have such powers.
- A common reason given for rejection is the lack of evidence, but this has happened even in cases where the claimant has attached more than 2 kinds of evidence (including oral testimonies, panchanama, physical evidences, earlier applications/claims, court orders, etc). In many cases it appears that the SDLC has looked to see if forest offence documents are included (though this is not

- necessary as per the FRA), and more recently, whether the claim shows up in satellite imagery (see below for a more detailed discussion on this).
- Another reason given is that the Survey number mentioned by the claimant is wrong; in many places this could be because numbers have been changed at the official records but this has not been intimated to claimants.
 - In several villages, some claims have been accepted, others rejected, though both have provided similar kinds of evidences. Officials explained that this could be because there are duplicate or multiple claims on the same piece of land; however villagers say that they can show distinct occupations.
 - In many villages, e.g. in Sabarkantha and Banskantha districts, claims have been rejected because the claimants are ex-servicemen receiving pension or are employed in government or other service, or even if some relatives of the claimants are in such service. This too is in violation of the provisions of the FRA.
 - In some places, e.g. Panchmahal district, rejection has taken place because claimants do not have caste certificates. Senior officials explained that this was because there is an ongoing agitation to provide ST status to particular communities; groups like the Bariya, Damor, etc. are given ST status in other districts but not in Panchmahals, due to anomalies in the process of recognition in the 1960s.
 - There are widespread complaints that both SDLCs and DLCs are allowing forest officials to play dominant role in deciding on claims. In many cases, while forest staff okayed the claim during field verification with the FRC, higher up forest officials rejected them later on arbitrary or illegitimate grounds. This was physically verified by the Committee in the case of a couple of claims in Sankli village of Dediapada taluka, Narmada district; also in the public consultations in this and Dangs district, several such cases brought by the public could not be refuted by the sub-divisional officials present on the spot, indeed one of them even said that the ‘files had been given to the forest dept to check’.
 - In one of the most serious lapses of procedure, there appears to be absolutely no opportunity given to claimants to explain or contest the SDLC’s ‘decision’; at best they are being told to go on appeal to the DLC.
 - During field verification, forest staff is using a standard list of ‘objections’ to the claim, which contains several illegitimate grounds, e.g. the area being an ‘eco-fragile zone’, being located in a critical wildlife habitat (though no such CWH has actually been declared as yet), there being x number of trees on the claimed land, the claimant not being dependent (with no explanation), etc. Such a standard list is itself a serious violation of procedure.
 - A number of villages stated that claims were denied in advance, or rejected, because the land was reportedly allocated for other purposes. The most common seemed to be allocation for plantations. Several claimants said their occupied lands were forcibly taken over for plantations, including by JFMCs established by the forest dept under JBIC or other funding, leading to local intra-village conflicts.

Gujarat has increasingly depended on satellite imagery to determine the validity of claims. The Bhaskaracharya Institute of Space Applications and Geo-informatics (BISAG) has been commissioned to use CartoSat (2.5 mtr) imagery to plot cultivated lands (within forest lands) for each village, overlaying 2005 and 2007 images to determine whether pre-December 2005 occupants are still in occupation at the date of the FRA's coming into force.

In theory, this methodology should be able to accurately determine the validity of claims. In practice, however, there are a number of problems reported by civil society organizations and claimants, and as found by the Committee. This includes:

- i. the imagery shows the overall area of cultivated land, but cannot distinguish the individual plots of each claimant.
- ii. maps produced have been found to leave out large areas of the village, or of the cultivated lands, possibly because of interpretational errors by BISAG staff or others.
- iii. ground verification is often not done, and when done, does not necessarily involve the FRCs and claimants.
- iv. FRC members and claimants are often not given copies of the maps, nor explained the methods used to prepare them, or how they can be used to identify the plots of individual claimants, and are therefore unable to effectively use them or intervene.

Several examples of the above were shown to the Committee.

What is most serious is that due to unclear language used by the state in its circulars regarding the use of satellite imagery to verify claims, in many areas it has been understood that such imagery is to be used as conclusive evidence for acceptance or rejection. A number of officials at the district and sub-divisional level told the Committee that this was their understanding, based on what has been conveyed to them by senior officials or during the periodic reviews. This violates the FRA's provisions that any two of the listed evidences are adequate. This appears to be one reason for the high rate of rejections in the state.

Satellite imagery could indeed be useful in situations where a claimant has only one (or no) evidence, or in the case of false claims. However its use has to be much more transparent, open and accessible to FRCs and claimants. A possible better method would be to provide large-scale imagery to each village, using which the FRCs and claimants could plot their individual occupied lands, and this can then be used for vesting or rejecting claims as also for measurements to provide accurate titles. This suggestion was made to senior officials of the government by the Committee, and there seemed to be willingness to try it. The use of GPS/PDAs is also recommended, provided FRC members or others in the village are trained in their accurate use. The interface between these and the satellite imagery also needs to be fully worked out.

2. *Less land than claimed:* There were widespread complaints that even where claims have been accepted, their extent is much less than claimed. Some of the reasons for this are the same as for rejected claims. There also appears to have been a common practice

of not doing GPS surveys before giving 'adhikarpatras', or doing them without the claimant and FRC being present (except where active local groups or a pro-active official have ensured such presence). In many cases only the extent of land for which an offence report has been issued has been granted, though actual occupation may be larger. However, it is also possible that there are a number of cases of 4 hectares being claimed because the FRA was initially projected as a land distribution law, or of post-2005 additional encroachments being claimed.

3. *Lack of or delayed information on pending or decided cases:* There were widespread complaints that claimants were not getting information on claims made a long time back, and that often it was only through RTI applications that they got to know. Information was at times being given by the SDLC to the panchayat secretary rather than directly to the FRC. There is no system of posting decisions on public places as soon as they are taken.

4. *Proceedings under Section 7/8:* In many places Gram Sabhas have resolved to file complaints under Sections 7/8, against officials who are obstructing or violating the FRA. In some cases however, it was reported that the village *talati* is refusing to sign these.

5. *Adhikarpatras/titles issued only in husband's name:* Representations were made before the Committee that in some places (e.g. Panchmahal / Dahod), *adhikarpatras* / titles are issued only in the names of husbands and that rights of widows or daughters of deceased husband/father are often not recognized. This is in gross violation of the Act which provides for joint titles in the names of both husbands and wives.

Recommendations:

The Committee recommends the following key steps (several of which were also presented to the Chief Secretary and other senior officials on 29.12.2010):

- Initiate a state-wide process to re-open rejected cases, reviewing them with a fully transparent process open to FRCs and the claimants, ensuring that all acceptable evidences (mentioned in the Rules) are considered (not only fine receipts and satellite imagery), providing to FRCs maps of scale and size on which individual plots can be marked, plotting of fields on such maps by relevant officials and FRCs including claimants using GPS where necessary.
- Issue a circular clarifying that any two evidences listed in the FR Rules are valid, and clarifying its earlier circulars by stating that satellite imagery is only one of these evidences to be used, and that pre-1980 or forest settlement records are not necessary evidences.
- Issue a circular clarifying that rights of pensioners, government or other employees, etc. are to be recognized, if they meet the criteria under the FRA.
- Ensure that while the process takes place consistently and without break, there is no rush leading to distortions on the ground; more important that is a transparent, thorough process that can withstand independent scrutiny.
- Issue directions clarifying that SDLCs are not entitled to reject or accept claims, and can only make recommendations to the DLC to do so; and that even in this it must provide full opportunity to claimants to explain/present their case; and that all minutes and decisions of SDLCs and DLCs must be immediately made

- available on public forums including the web, posted as hard copies on panchayat or other relevant offices, and handed over to relevant FRCs.
- Issue directions to village talatis that they cannot stand in the way of Section 7/8 complaints, and expedite action on such complaints when received.
 - Give titles directly after first completing surveys, instead of first giving *adhikarpatras* or intermediary acceptance certificates and then carrying out surveys.
 - Ensure that titles are given jointly in the name of both spouses, and that rights of widows and daughters (in husbands'/fathers' lands) are duly recognized.

Community Forest Rights (CFRs)

1. *Overall progress:* There has not been much progress on CFRs, as the state decided to process these only after IFRs. There may have been grounds for this such as lack of staff, but as in the case of several other states this kind of phased implementation is a serious mistake as it discourages attempts by communities to sustainably manage and protect forests around them, and also leaves open the possibility of fresh encroachments in areas that would otherwise be the forest commons of the village. Senior forest officials agreed with the Committee that CFRs are as if not more crucial than IFRs, both for the livelihood security of communities, as also for the long-term conservation of the forests.

2. *Community claims and actions:* Unlike in many other states, there seems to be a high state of readiness amongst communities to claim CFRs, at least in the 2 districts visited and the areas represented in the public consultation. In Dediapada and Sagbara talukas alone, about 18500 ha. have been claimed by 24 villages as CFR; in dozens of villages claims have been made for the entire range of CFRights listed in Section 3(1). This includes the right to manage and protect (3(1)i), which is rarely claimed in most parts of the country. Indeed it is heartening that in many of these areas, villages have already set up or are discussing setting up committees under Rule 4e, in anticipation of their claims for CFR being accepted. Many have also initiated, or further strengthened where already existing, efforts at conserving the forest through customary or new rules of regulated use and protection.

3. *CFR and JFM:* As in many other states, JFM boundaries or arrangements are often being imposed on CFR claims. The form issued for CFR claims has a preambular text mentioning 'sahbhagi van prabandhan' (JFM), giving impression that it will remain restricted to the arrangement under this programme. However, the nodal officer told the Committee that CFR claims would be provided to the entire forest area within the village boundary, and will not be artificially restricted.

4. *Shifting cultivators:* There are a small number of shifting cultivators in southern Gujarat. The government has not been able to process their claims, as it has sought a clarification from MoTA on how to deal with them.

Recommendations

- The state must move urgently to expedite the CFR claims process, including through a massive awareness drive, simple material in local languages, pro-active provision of relevant documents to FRCs and GSs, and so on.

- There should be no imposition of JFM boundaries or arrangements on CFR claims, and it should be made clear that communities can claim as per the definition of CFR in Section 2 of the FRA.
- SDLCs and DLCs, or relevant departments, should facilitate the setting up of GS committees for the management and protection of CFR areas.
- Details of NTFP/MFP ownership, marketing, management, and sustainability need to be worked out, including amendment or repeal of state laws that contradict the ownership provisions of the FRA, providing support prices and marketing support to rights-holding communities, and facilitating the participatory monitoring of sustainability.
- The state should immediately initiate the processing of claims by shifting cultivators, treating their claims to the full area used for the entire jhum cycle under Section 3(1)j and 3(1)l, and not limiting them to a fixed occupation of maximum 4 ha which is relevant only for Section 3(1)a.

Protected Areas (PAs)

1. *Recognition of rights:* Unlike in many other states, claims are being actively considered in PAs in the Scheduled Areas (for other areas, see below). Some have been accepted in Shoolpaneshwar Sanctuary, as an example. It is not clear if this is a uniform trend across all PAs in Scheduled Areas.
2. *Critical Wildlife Habitats (CWHs):* Though Gujarat was one of the first states to initiate the process of identifying CWHs, it ran into procedural difficulties and has sought an explanation from the MoEF with regard to some aspects such as gram sabha consultations and consent. This was reportedly over a year ago, but no response has been received from MoEF.
3. *FRA and EDCs:* PAs have existing Ecodevelopment Committees (EDCs), which are being considered for continuation even in the post-FRA case.

Recommendations

- As everywhere else, and perhaps even more so in the case of PAs, there needs to be urgent encouragement and facilitation for CFR claims.
- The CWH process needs to be activated, with care to follow the full democratic and knowledge-based process laid down in the FRA and related guidelines. The knowledge base used for identifying CWHs must include traditional/local knowledge.
- A circular should be issued by the state nodal agency that EDCs would be replaced by GS committees where FRA rights are vested, and that these need to be involved in PA governance as part of co-management arrangements and institutions.

Other Traditional Forest Dwellers (OTFDs)

1. *OTFDs mostly not covered:* Since implementation has taken place only in Scheduled Areas, most eligible OTFDs of the state (who would be in non-Scheduled areas) have so far not been covered.

2. *Rejections*: It seems that all OTFD claims have so far been rejected, due to problems in showing evidence of 75 years residence and occupation. Senior officials seem to be aware that the criteria for being eligible relates only to residence, and not to occupation, but it is not clear if this has been conveyed to DLCs and SDLCs clearly enough. Nor does it seem that there is any active facilitation of OTFDs to help them find evidence.

Recommendations

The state needs to urgently facilitate OTFD claims by clarifying to relevant officials that only the criteria of residence applies to the 3 generations clause, and by helping to find evidence. Extension of the implementation process to non-Scheduled areas is also urgently needed, as given below.

Non-Scheduled Areas

Possibly the biggest lacuna in the state's implementation is that non-Scheduled areas have not been covered at all. As a result many eligible forest-dwellers, such as Maldharis in Saurashtra and Kachchh, have been completely left out. The government says this is because there is no clarity on who will take it up in areas where the Tribal Dept has no jurisdiction, staff, or funds. Apparently the Revenue Dept was considered, but felt unsuitable as the District Collector is also DLC chairperson, thereby constituting a possible conflict of interest. In the Committee's discussion with the senior officials, the possibility of the Panchayat Dept being authorized was brought up. The Chief Secretary assured that a solution would be soon found.

Recommendations

The state needs to immediately resolve the issue of which department will facilitate the process in non-Scheduled areas, and create a mechanism to facilitate communities in getting their rights. Particular help would be required by pastoral and nomadic groups, e.g. in Saurashtra and Kachchh.

Forest Villages

The state has not yet moved on the conversion of forest villages into revenue villages. The nodal officer told the Committee that this would begin in March 2011; currently a settlement officer is processing the matter.

Recommendations

The state needs to immediately move on the conversion of forest villages into revenue villages.

Central Pulp Mill (CPM)

In both the field visits and the public consultation, forest-dwellers and civil society organizations brought up the issue of the continuing lease for bamboo harvesting to the Central Pulp Mill (CPM), now JK Mills. At many sites it appears that this lease overlaps with forests that communities are claiming as CFR. In addition there is the special issue

of the Kotwalia PTG, which is traditionally specifically dependent on bamboo, and whose rights to this resource have not been vested. It seems also that a recent (October 2010) decision increase the royalty payments from CPM (and a reported proposal to renew the lease coming up for renewal in 2011), has not taken into account the fact that rights over bamboo would now be vested with communities and families.

Several villages have protested this, including in some cases (e.g. Para village, Sagbara taluka, Narmada district), physically stopping work (see attached photo).

Recommendations

The lease to CPM is coming up for renewal in 2011. The state government must decide to not renew this lease, and instead respect rights to bamboo being vested in communities. Gram Sabhas should be free to negotiate, if they want, new arrangements with CPM or other industries, or refuse any further harvesting by them.

Particularly Vulnerable Tribal Groups (PTG)

There does not seem to be any special focus on PTGs. Gujarat has 5 identified PTGs: Kathodi, Kotwalia, Padhar, Siddi, and Kolgha. The Committee met a delegation of Kotwalias; most of them did not know about the FRA, and there had been no attempt by the relevant SDLCs/DLCs to inform them about it, much less to facilitate their claims. The nodal officer assured the Committee that their case would be taken up urgently.

Recommendations

There is a need for urgent special focus on PTGs, informing them about the FRA and the claims process, and facilitating their claims especially in situations where they may be part of mixed villages in which their voice is submerged, or by recognizing GSs and FRCs at their individual settlement level. Facilitation is also needed to vest rights in specific resources, e.g. bamboo on which the Kotwalia are dependent. Reference can be made to the special provisions given to PTGs during the colonial times, including *maficut* for tribal groups of the Dangs, and bamboo rights to Kotwalia.

Displaced persons

A few instances of people displaced by dams, plantation, etc, making claims and not getting rights were brought to the notice of the Committee. Senior officials informed the Committee that the issue of displaced families and communities had to be resolved, to enable them to make claims under the FRA. The particular case of Ukai and Sardar Sarovar dams were mentioned.

Recommendations

The nodal agency and SDLC must commission an urgent study to identify communities/families that have faced displacement and would be eligible to claim rights under relevant provisions of the FRA. Thereafter, or immediately in the case of already identified people, their claims must be facilitated.

Role of civil society

The Committee found both on its field visits and during the consultation, that civil society organizations (CSOs) in many places have played a very positive role in implementation. This includes creating awareness and training, providing simple outreach materials, acting as watchdog, carrying out advocacy for better implementation, helping villagers with claims process including mapping, and in formation of GS committees for forest management/protection. At least partly this is the reason for a large number of CFR claims in Dangs, Tapi and Narmada districts, compared to many other parts of India.

Recommendations

The state government must make use of the services and expertise of CSOs much more than has been done so far. This would be for all the actions mentioned above.

Fresh encroachments

Some groups reported to have incited fresh encroachments, but no concrete information was made available to the Committee.

Recommendations

The nodal agency should commission an independent study of allegations of fresh encroachments, and if found to be true, it should take appropriate action against all those responsible, including officials allowing such fresh encroachments.

Role of the Forest Department

Villagers during the field visits and in the public consultation were almost uniformly of the opinion that there would remain an important role for the Forest Department in the post-FRA rights scenario. This would be especially for technical help and assistance in dealing with external threats. However, they were categorical that the department should not behave like a policeman, but like other departments like panchayat and agriculture, who do not control the land resources but provide extension services to create awareness among the people; or, as one elder said, “less like the British”, and more like a friend.

Forest officers do not seem to have collectively thought of their changing role vis-à-vis the FRA as yet; senior officials the Committee met said they needed to engage in this.

Recommendations

The Forest Department should initiate a process of internal thinking on its future role in relation to the FRA, especially in relation to governance and its relations with Gram Sabhas. The state government should also facilitate a series of dialogues between the Department and local communities and civil society organizations on this, with some targets on effecting the changes in a time-bound manner. The Committee recognizes, of course, that this also depends on changes at the national level, which it will be signaling in its final national level report.

Report by:
Ashish Kothari and R.L. Meena
30 December 2010