

MoEF/MoTA Committee on Forest Rights Act

Field visits to Simlipal Tiger Reserve and Ambadiha Resettlement Site, Orissa, 25-26 July 2010

Report and Recommendations

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

As part of its visit to Orissa to assess the status of implementation of the Forest Rights Act (full report is available separately at <http://fracommittee.icfre.org>), the MoEF/MoTA Committee visited two villages (Bakua and Kabatghai) slated for relocation from the Simlipal Tiger Reserve on 25th July 2010, and the resettlement site Ambadiha (where families of another relocated core village Jenabil are settled) on 26th July 2010. Two members of the Committee, Arupjyoti Saikia and Ashish Kothari, were on the team on the first day; one (Ashish) on the second. They were accompanied by an independent researcher-photographer Nikhil Roshan.

The visit involved detailed discussions with the villagers at each of these sites, observations at the resettlement site, and perusal of available records including FRA rights claim forms. Officials of the tribal, forest, and revenue departments were with the team, as were members of civil society organizations working in the area, such as CREPDA.

Visit to villages in the Simlipal Tiger Reserve core area

Visits to two villages (Bakua and Kabatghai) inside the Core area revealed the following key issues:

1. At Bakua, a Kolha tribe village with 21 households, the FRA process was begun in March 2008, with formation of a FRC. However, filing of claims only began in June 2009 as villagers had little idea what to do. IFR claims have been vaguely filled in, with no specific area/boundary given (Mohanty Suren, the FRC Secretary, said that when filling the claims they were told by forest officials not to write the extent of cultivated lands). No verification has so far been carried out (officials said there were elections and then 'Maoist' trouble preventing them from working; they are now concentrating on the buffer area after which they will deal with the core villages). ***Filling of CFR forms began only two days before the visit of our team!*** Officials accompanying us were unable to explain this. Moreover, ***the CFR forms shown to us in Bakua, which villagers said were filled for them by officials, violate the FRA or are improper in many ways***, e.g. in denying firewood and nistar rights, not mentioning the right to manage and protect forests, not giving the area of the forest in which MFP rights are

- applicable, mandating that collection and sale would be as per the Orissa MFP Rules 2002, and so on (the issue of these improper forms was taken up later also, see below).
2. Villagers in **Kabatghai** (where also a FRC was formed in March 2008), said that *claims forms were supplied to them just two days before the Committee's visit*. Again, accompanying officials were unable to explain this. Only 3 forms were filled though there are 19 households. No CFRs have been claimed as villagers don't think they will get them anyway, this being a core tiger area (an impression apparently reinforced by the sarpanch of Gudgudia, under which Kabatghai falls, and because previous requests for minor irrigation project and other schemes have been denied).
 3. Villagers at Bakua complained that the RI who is supposed to verify the claims, has been demanding bribes; they reported that they had heard from Lembujharan village (in the buffer) that for 17-18 plots, the RI took a total of Rs. 8000 for mapping and verification (this was not confirmed by the Committee).
 4. At both villages, the predominant impression amongst villagers is that they have to move out of the reserve and that they cannot have rights in the core area. The fact that the FRA allows them to stay inside with various rights, has not been explained to them. Nevertheless villagers of Bakua quite categorically stated they did not want to move out, even if no facilities are given to them (this assertion is on video of a local videographer). They said that two palli sabha meetings have been convened to discuss this, and both times people have refused to consent to relocation. The Dy Director STR, Shri B.R. Das, stated that since there was no consent, there has been no further process of relocation. At Kabatghai villagers took compensation for their revenue lands in 1995, but since they have not yet been relocated, and now realize that they could claim rights inside, they are uncertain if they still want to move out. It is not clear what will happen with the compensation they have been paid (this has apparently been deposited in their bank accounts but has not been accessed by any of the families yet). Some Kharia families have been relocated earlier (in 1994-96).
 5. At both villages, we explained to them that *they have all options available to them: if they choose to stay inside they have to work out ways of ensuring forest and wildlife protection by themselves or in collaboration with the FD, and if they choose to move out they can avail of the Rs. 10 lakhs package offered by the tiger reserve authorities*. This was confirmed by officials accompanying us. At both villages residents stated that they have traditions of protection (e.g. sacred groves, Gaisara), and have been cooperating with the FD in various conservation activities. In any case, we impressed upon both villagers and officials (including at a subsequent meeting with the District Collector and the Simlipal Field Director), the need to complete the FRA process before any relocation discussion, decision, or processes are carried out.
 6. Forest officials (the Deputy Director of the tiger reserve was with us at Bakua and Kabatghai) stated that the villages needed to be moved out to complete the notification of the national park, and also because there were reports of the people helping poachers from outside. However, they admitted that *there is no specific study showing that there is irreversible damage due to these villages*. Such a

scientific and objective assessment is a pre-requisite for any move to modify rights or relocate people, under both the FRA and the Wild Life Act 2006.

Visit to Ambadiha, resettlement site of Jenabil village

A visit to Ambadiha, where the residents of Jenabil village (Simlipal TR core area) have been resettled, revealed the following:

1. 61 Kolha tribe households were relocated from Jenabil earlier in 2010, with 40 taking Option 1 (land/homestead) and 21 Option 2 (cash compensation). (Previous relocations from Jenabil include 11 Kharia and 12 Bathudi households in 1998, 5 Santhal and 3 Kolho households in 2003).
2. The team was given evidence of claims having been filed by 47 households when they were in their original settlement (Jenabil) inside the Simlipal TR core. These were filed in 2008, but were never processed as villagers were told they have to move out anyway. ***The fact that the families are moved out pending verification and recognition of the claims constitutes a violation of section 4 (5) of the FRA.*** Officials explained that the relocation in 2010 was a continuation of a process begun in 1998, and that therefore it was not considered necessary to go through the FRA process. This is however not a tenable argument, since people should be entitled to rights under a new law if they have not been moved out before that. For instance, a number of people claimed they had more land (revenue lands and forest land under occupation) inside than they were given or could buy at the relocation site (for example, Ganga Ho claimed 8 acres, for which he had encroachment fine receipt as evidence). Additionally, like the remaining villages inside the core (see above, re. Bakua and Kabatghai), they were never told they had the right to stay on inside if they wanted; for the last 20-30 years, they said, they had been told they would have to move out, and no facilities (schools, wells, etc) had been allowed inside Jenabil. This time around, they were apparently told that if they did not move out by February, they would not get any R&R package.
3. Some villagers claimed they had been threatened that they would be arrested as 'Maoists' if they refused to move out. One Budhu Ho has reportedly been arrested on charges of Maoist activity (after the Maoist attack in Simlipal in 2009), and not yet released.
4. The relocation experience has been mixed. All households appear to have got 2 acres; they had been promised 2 hectares (5 acres), and officials said that they would be able to buy the remaining with the cash compensation they have received. People complained vociferously about lack of water, poor quality of some of the land (the Committee visited some very stony land that requires urgent leveling work), absence of pattas, shortage of land, inadequacy of fuel and fodder sources nearby, the heat (they said Jenabil was like being in an air-conditioner!), and broken promises of various kinds. The housing, now pucca, was however done as they wanted, and officials were trying to extend to them benefits under NREGS and other schemes, including subsidized rations as BPL families. Officials also stated that pattas would be issued within a few days, that a liftwater project was coming in soon, and the DC had ordered development of the stony

- land. They also said they were working under severe constraints because NTCA had not released the central assistance for relocation that was due.
5. About 8 or 9 individuals (such as Osamani Naik and Kala Ho) appear to have been left out of the R&R package; officials said these were not listed in the survey done by the RFO, and their cases are going to be taken up in the RPDAC meeting.
 6. Families that had been relocated in the first phase (1998) appeared more settled, some having constructed larger houses and established garden plots. Those shifted in 2003 complained of not yet having got titles to the land they were given, and of being discriminated against because they did not get the Rs. 10 lakh package the latest oustees have got (at the time they were shifted, the package was only for Rs. 1 lakh). A memorandum was given to the Committee by Bathudi families that had been earlier moved out, claiming that they had been pressurized and allured into relocating, and promised various facilities some of which were still not given.
 7. Officials of forest, revenue, land, and other departments who were with us were requested to ensure that all relevant facilities are provided urgently. They promised to do so. They also informed that the District Collector visits here every month, and orders necessary action.

The above issues were shared with the District Collector and various departmental officials in the collector's office. (Only the issues pertaining to Bakua and Kabatghai were taken up, as the visit to Ambadiha was made on way back to Bhubaneswar). The following was highlighted:

1. It was explained to the officials that the process of recognition of rights under FRA has to be followed in the core and other villages of the protected area and that the process of relocation has to be in compliance with FRA as also the Wild Life (Protection) Act. On the relocation process the Collector informed that necessary discussions have been undertaken in the RPDAC meetings prior to relocation of the villages.
2. It was also stressed that all options must be made available to villages still within STR, including the option of staying on inside with the rights they are entitled to under FRA, as also the various R&R packages available. The DC agreed that this would be made clear.
3. The DC admitted that the CFR form that villagers are being asked to fill is improper, and instructions had already been issued to withdraw it; when the Committee brought to her notice that these forms were still in use (and had in fact been given to us by the forest officials in the field), she again issued immediate instructions for its withdrawal.
4. The issue of rights of PTG and Nomadic communities Khadias and Mankadias was discussed and the authorities were requested to facilitate processing of such claims.

Key observations and recommendations

1. In the case of Bakua, Kabatghai, and any other villages currently slated for relocation, it is vital that the full process of the Forest Rights Act is undertaken,

- without* any threat of relocation or inducements through the offer of a ‘generous’ relocation package.
2. In all these cases, villagers must clearly be told that they have the option of staying on with the rights they are eligible to under the FRA, or the option of shifting out with the Rs. 10 lakh package.
 3. Implications of both these options need to be made clear. If they choose to stay on at their current sites, they would have both the powers and the duty to protect forest and wildlife (as per Section 5 of the FRA). They may also have certain restrictions on their resource use activities that they decide to impose on themselves, or are mutually agreed on between them and the tiger reserve authorities, to help protect wildlife. If they choose to relocate, they have both the options (land/homestead, or cash compensation) available.
 4. In the case of Jenabil/Ambadiha, a number of actions are necessary. Responsibility must be fixed for the violation of the FRA that has clearly taken place, in relocating these people without the FRA process having been completed. The claims that were made by families should be examined and relevant rights granted; this would then be the basis of a fresh round of claiming compensation, if the villagers so desire. An independent team reporting to the District Collector should be set up to monitor the provision of all promised facilities at Ambadiha, and in addition whatever can be done to compensate for the trauma of relocation.

**Report prepared by Ashish Kothari with inputs from Arupjyoti Saikia
9 September 2010**