

## MoEF/MoTA Committee on Forest Rights Act

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

Four members of the Committee, Arupjyoti Saikia, Roma, Rakesh Kumar Dogra, and Ashish Kothari, visited Dehradun and surrounding areas on 30<sup>th</sup> May to 1<sup>st</sup> June 2010, for consultations and field visits relating to the implementation of the FRA in Uttarakhand and western Uttar Pradesh.

The visit involved:

30 May: Public consultation at Dehradun

31 May: Visit to settlements in Shiwalik forest division (UP) and Rajaji National Park (Uttarakhand), and open consultation at Mohand Rest House

1 June: Discussions with senior government officials of Uttarakhand

#### Public consultation

Organised from 10 am to 6 pm at the Shatabdi Van Vigyan Kendra, Dehradun, the public consultation had been publicized through relevant listserves, press releases (both through the official press agency and by Committee members), and individual emails/phone calls/invitations to several NGOs, community representatives, and officials. About 100 people participated, mostly from Taungya and other forest villages, Gujjar, Bhotia and Buxa communities, Van panchayats and other hill villages, and other communities; some from NGOs; and v. few officials. Everyone wanting to speak was given a chance.

The consultation was followed by a more focused discussion on the situation in hill villages, with the few NGOs and community representatives that had come from the hill districts.

#### Field visits

Three settlements were visited: two Taungya villages in Shiwalik division of Uttar Pradesh (Kaluwala and Sodinagar) and a Gujjar settlement (in Beenj Khol, Chilawala Range) inside Rajaji National Park in Uttarakhand. The visits involved detailed discussions with villagers, perusal of available records, and discussions also with Panchayat pradhans, forest officials (including the DFO Shiwalik division and the Field Director of Rajaji NP), and the SDM (in UP). A consultation with villagers (with over 150 present) was also held at Mohand RH, mostly with Gujjars and Taungya representatives.

#### Discussion with Uttarakhand officials

Two meetings were organised, one with the PCCF(Van Panchayat) and Chief Wildlife Warden Incharge, accompanied by the Rajaji Field Director, and another with the Chief Secretary along with Additional Chief Secretary, Principal Secy Social Welfare, Secy Forests. PCCF Van Panchayat and Additional PCCF (Representing PCCF Uttarakhand) and other senior officials of the Forest Dept.

## Written submissions

Apart from oral presentations, the team received about 30 written submissions and some video clips/ these were mostly from communities and NGOs, and one from the Forest Dept.

## 2. Key issues / findings

1. FRA implementation is seriously delayed and geographically uneven, with some progress shown mainly in Dehradun area, and almost none in the hills. Much of the Dehradun progress is due to active civil society advocacy and handholding of villagers. The initial steps (FRC formation, claims) have moved well with Gujjar and Taungya villages, but there are serious bottlenecks with regard to evidence (see below, regarding definitions and evidence).
2. Official and NGO attempts at spreading awareness of the FRA have been sporadic and very inadequate, especially in the hills.
3. Though the state claims that FRCs, SDLCs, and DLCs have been formed throughout, FRCs are mostly on paper or very inappropriately formed with no involvement of the general village assembly, and SDLCs and DLCs are hardly functional. FRCs are not necessarily aware of their function of assessing claims, many perceive their role to be like a conduit to the SDLC; none appeared to have done their own surveys or enquiries before sending the cases to Sub-divisional level committee.
4. In UP a process of verification by officials has been devised in the printed forms, which in practice however seem to give some sort of veto power to the various government functionaries, and forces unnecessary requirements on the process such as the signature of officials where the Act does not have any such requirement.
5. The SLMC has held only 2 meetings, none over the last year or so, and is not even fully constituted (its tribal members not having been chosen); it has no regular monitoring mechanism.
6. Some early training programmes were held in 2009, but these were very short, no-one has been given multiple exposures, and there has been no training this year. Most officials seem unaware of how to implement the FRA.
7. The Social Welfare dept is the nodal agency, but has very limited capacity and virtually no presence on the ground; in many places the primary face of the government is the forest department, but it is ill-equipped (attitudinally, technically) to help communities with the process.
8. Where the FRC process and claims filing has taken place, there is a serious problem obtaining evidence for 75 years occupation/use; such evidence is likely to exist only with the Forest Dept which is not able to (or not pro-actively willing to) dig it up. Some officials we met seemed keen to find the evidence to help Taungya villagers, but were not sure how.
9. There is confusion regarding CFRs; even where Gujjars and Taungya villagers have filed what are clearly community based rights (e.g. for grazing, or MFP), they have done so as part of individual household claims. Hill villages are unaware of or confused about CFRs, and how they might apply to various situations including Van Panchayats. Additionally, there has not been much discussion on issues such as overlapping community claims.
10. Uttarakhand forest officials feel that there is no need for the FRA in the case of Van Panchayats (VPs), since reportedly the latter already provide full rights and management controls; this is disputed by some NGOs working on VPs, who feel that the FRA could provide clearer rights and control, not only over VPs but also adjoining RFs which people currently access. This clearly needs much fuller discussion and resolution; senior officials were open to a state level consultation with civil society on this.
11. There is confusion regarding whether revenue villages in the hills are eligible, since they are not "living in" forest land; however the Chief Secy did not seem to think this is a problem, and felt that they could all be considered eligible.
12. Like Van Panchayats, another issue that may be peculiar to Uttarakhand is that of *chaks*, cultivated enclosures within RFs where people have no rights to forest resources, and local groups are unclear whether they would be eligible for FRA claims. Another important issue is the conjunctive use of pastures by three kinds of communities (resident herders, Gujjars, and tribal herders), with the fear that inequitable implementation of the FRA may lead to conflicts amongst the three.

13. There is very widespread confusion regarding the definition of 'gram sabha'; in all cases this is being interpreted as per the panchayat definitions. This is causing the process to get stuck at the level of the panchayat pradhan in the case of Taungya and Gujjar claims; and in the case of hills there is a fear that this will cause destabilization of VPs and other institutions since panchayats there often contain more than one settlement. Senior officials were unaware of the clarification that gram sabhas can be for each settlement; when told, they said this would solve many problems.
14. Data collection and management is poor; Uttarakhand's records (as transmitted to MoTA and reflected in the status as on 30<sup>th</sup> April, 2010) show a figure of 182 claims made (this figure has remained unchanged since December 2009, and was repeated to us by the Pr. Secy Social Welfare, showing lack of review at the top levels), whereas we found evidence of 485 claims having been made by Gujjars alone.
15. Senior officials including the Chief Secy and Secy Social Welfare seemed keen to get inputs and advice on a number of fronts, to expedite the implementation and expand it to areas where nothing has happened.
16. We also came across a couple of serious cases of violation of the FRA, involving eviction or attempted eviction of Gujjars from Rajaji National Park *after* the coming into force of the Act. One such incident occurred on the evening of the team's last day, very soon after the concerned official (the Park Field Director) had attended our meeting with the Chief Secy, and a day after he had been explicitly asked about how he had violated the Act in a previous case of eviction (in 2008). The team takes a serious view of this apparent lack of respect for the Act and possibly for the Committee. There also seems to be a widespread impression that the FD largely speaks against the FRA, or spreads misinformation about it.
17. There is also a proposal to shift 4 villages from the core area of Govind Pashuvihar National Park/Sanctuary; reportedly they want to move. It is not clear if the FRA has begun to be implemented there; the team has indicated to forest officials that relocation without this would be a violation of both the FRA and the Wild Life (Protection) Act. Relocation is also actively being pursued in the case of the two remaining clusters of Gujjar deras in Rajaji NP, with some families wanting to move out, others not; here, though, the FRA process is fully underway.
18. Not much has happened with regard to the provisions on Critical Wildlife Habitats; a process was begun in 2009 but rapid changes in personnel have reportedly delayed it considerably.
19. 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 clearly not being implemented by Uttarakhand. Senior officials were unaware of the circular, and said that even though it would be ideal to implement this, it would stop virtually all projects since there so much of the state is forest land.
20. Since not many people from Uttarakhand's hill areas were able to participate, there is clearly a need for a visit and/or consultation there.
21. The Forest Departments seem ill-prepared for the post FRA scenario and their future role in management of these areas; not much internal discussion has taken place on this.
22. There is a widespread understanding that this is another land distribution act, which will entitle people to stake claim for 4 ha of land, irrespective of the fact of actual possession. Many of the Taungya villagers and Gujjars appear to have made this claim.

### **3. Some reflections on process and follow up**

1. It was extremely useful that the Member-Secy had done considerable homework before the visit, including personally speaking to the Chief Secy and other officials. This would obviously not be possible in every state, which makes it all the more important that every visit be organised well in advance and that ICFRE (or preferably, MoEF/MoTA) facilitate it by sending a letter to the relevant senior officials.
2. Personal and professional contacts through civil society networks were crucial in generating widespread public involvement during the visit. Also important was to get a diversity of participants, as the dialogue process itself is crucial. This was evident from the participation of a conservation NGO (WTI) that has filed a case against the FRA; at the public consultation, he spoke of the need for a change in the Forest Dept's orientation away from "colonial style" management, the importance of such dialogues, and happiness that

many villagers spoke about the rights of wildlife too. Communities, though strongly eloquent about the injustices they have had to suffer, were clear they wanted the involvement of the Forest Dept in further management. Forest officials were visibly open to the importance of implementing the Act, even while expressing concerns about the implications of ‘handing over forests fully without checks’. Some of the above may be posturing, but we believe that at least some is also the beginnings of a change brought about by dialogue (not only during this visit, of course). We feel that the Committee’s process is itself therefore as crucial as the final report.

3. The formats prepared by the Committee were very useful as guiding material, but not always easy to follow in the field. The IFR format needs a summary version like the CFR and State formats have, in case of lack of time to fill the full formats.

4. It will help if Committee members carry a basic set of materials with them (preferably several copies, since some of these may need to be handed out), including:

- Committee notification (*note*: as already stated on the listserve, this needs to be re-issued, since it still says “proposed”)
- Committee announcement (preferably in local language)
- Letter to relevant state govt
- Full set of Committee members’ names and contact details
- Act and Rules (again, preferably in local language; we need to check with MoTA if it is available in languages other than Eng and Hindi)
- Committee letterhead
- Key MoTA clarification circulars, e.g. definition of gram sabha, definition of “living in and dependent on forest”, etc.
- MoEF circular (July 2009) on need to implement FRA and obtain gram sabha consent for clearances under Forest Conservation Act

5. A combination of official and NGO members is very useful, to be able to reach out to various constituencies.

6. Informing the local press re. public consultations and visits is crucial, unless an event is considered to be of a particularly sensitive nature.

7. Apart from asking questions, our team was also often called upon to give advice and inputs, especially by officials at various levels. Where possible the team gave examples of progressive practices in other states, but occasionally it also provided outright advice to both officials as well as forest-dwellers (e.g. regarding holding a consultation on Van Panchayats and the FRA). At times it was also difficult to resist speaking not as a Committee member but on behalf of one’s own affiliation (as a NGO, activist, official, etc). It may be worth discussing in the Committee whether and how far these are appropriate. The role of our Committee needs to be correctly understood and portrayed before everyone, lest we are blamed for dealing with the expectations and individual cases of people like an appellate or commission.

8. All hard copy submissions were digitalized (by the simple technique of taking digital pictures of each page), and hard copy was kept with the Member secretary. May be in future all submissions are digitalized immediately and a list of these uploaded in the FRA Yahooogroup so that other members can have access to them.

***Report written by:***

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