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A Workshop Report

# Forest Right Act 2006 – Status of Implementation and its potential in Livelihoods Improvement of Forest Dwelling Communities

December 21<sup>st</sup> & 22<sup>nd</sup> 2010

Co-organized

 **Indian Institute  
of Forest Management**  
Indian Institute of Forest  
Management, Bhopal

 **ऑक्सफैम इंडिया**  
**Oxfam**  
India  
OXFAM India  
New Delhi

 **SPWD**  
Society for Promotion of  
Wastelands Development

At

**Indian Institute of Forest Management  
Nehru Nagar, Bhopal**

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### Background

A workshop on Forest Rights Act was co-organized by OXFAM India, ICCF-IIFM and SPWD at IIFM Bhopal on 21<sup>st</sup> and 22<sup>nd</sup> December 2010 with following objectives:

1. Discussing status of implementation of FRA within various locations of the country and understanding various issues involved at field level.
2. Highlighting and understanding the factors influencing implementation process of FRA on ground. Also to identify the strategies needed to address the shortcoming in the implementation process.
3. Assessment of the extent of land and its incremental potential (after addressing tenure security) to appropriate management practices to improve its productivity, biodiversity and ecological services from land under FRA.
4. Preparing livelihood improvement plans (or identifying its essential components) under FRA framework.

The workshop was attended by 72 participants of 40 different organizations. These participants represented civil society organizations, various departments in the government such as, research and academic institutions, and individuals involved in the forestry. Four members of the joint review committee constituted by MoEF and MoTA for review implementation of FRA were also present. The participants also represented their states of Madhya Pradesh, Chhattisgarh, Jharkhand, Bihar, Odisha, Uttrakhand, Uttar Pradesh, Andhra Pradesh, Maharashtra and Tamil Nadu.

The workshop was formally inaugurated by Mr. V. B. Khare, Ex-PCCF and Advisor of Madhya Pradesh Forest Produce Federation, Bhopal. Prof. KN Krishan Kumar, Faculty member welcome the participants. Prof. Kumar presented the background note, highlighting the policy arena and formulated the questions that are expected to be addressed during this workshop. In his inaugural note he flagged out the issues to be covered in the next two days in the workshop as implementation of the FRA, roles and responsibilities and rights of committees. The act also provides the responsibilities and authorities for sustainable view and reservations on biodiversity and maintaining the ecological balance. Inter departmental coordination (Tribal Development Department, Forest Department, Revenue department, Panchayati raj department etc), and need for convergence.

### Discourses

- Significance of FRA specially in tribal areas
- Historical injustice corrected (definition of forest, how large geographies converted as forests, claims never settled, seen in that spirit of rights resurrected )
- Formulation and passage of the act, debate and clarification on role of FD and other departments
- How the act need to be seen with other acts-PESA/R&R/mining in terms of access to NRM
- Joint Review Committee on FRA<sup>1</sup> and the report highlights

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<sup>1</sup> A committee was constituted by MoEF to review the implementation of FRA. The mandate of the committee was "to study and assess the impacts of The Scheduled Tribes and Other

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- Status of implementation of act in different states
- FRA and conservation
- Need for reorganization of forest administration
- Forest based livelihoods
- Actions needed at different level

Ms. Nisha Agrawal, CEO, OXFAM India in her address, said that current workshop is an effort through which Oxfam is building its strategies of 7 states (UP, Uttarakhand, Bihar, Jharkhand, Orissa, Chattisgarh and Assam) around management of natural resources. FRA is progressive law provided it is implemented in its true spirit. Oxfam India has planned to go step by step to know the issues and the most important the management of Natural resources. Who benefits by them and who controls them? In the states of Jharkhand, Bihar and Orissa where the tribal people's live, pattern of development created massive displacement of the people due to SEZs, mining contracts etc. There are good laws on paper and they should be translated on ground. There is a need to work on laws and policies like PESA, amendments in Land acquisition act, rehabilitation and resettlement (R&R) policy etc.

Mr. Viren Lobo, Executive Director, SPWD, said that FRA is to correct the historical wrong. British declared tribal and pastoralist as problem creators and the same was adopted by the independent India and nothing changed into that account. The forest conservation act and wild life protection act came but the communities' rights were not addressed. He also pointed the accuracy of data base availability related to forest cover. The snow covered peaks, the desert are not having any forest than from where this 33% figure has arrived definition of Forest was questioned.

Dr. R.B. Lal, Director, IIFM pointed that even though JFM have many weaknesses but it cannot be considered as a failure, as it was instrumental in bringing participatory approached into the Indian forestry. Unless we have very well defined land tenure system we cannot address the problem in totality. The biodiversity is also very important and we will have to see social and ecological integrity together.

But there are major limitations in JFM: decisions are controlled by the FD, focus is on tree planting and not meeting multiple needs, only a part of the community resource use area is brought under protection, there are also cases where even promised rights of forest products have often are not been given, and JFM functioning tends to be funding-driven. Further, JFM is not supported by law and being run as a programme under executive orders, giving limited tenure security to communities and no corresponding accountability of the FDs.

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Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, with regards to the sustainable Management of Forest Resources." The committee was proposed to chaired by an ex-forest official, and eight out of its ten members were from the forest department. This process was strongly objected by the CSOs, with the result the committee were jointly constituted by MoEF and MoTA and known as reconstituted committee. The reconstituted committee included half of the members from CSO. This committee shall be henceforth referred as FRA Committee.

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The Chief Guest of the Workshop Dr. V.R. Khare in his chief guest address said that we need to keep our discourses till FRA only, so that the discussions are fruitful and in-depth. He also, highlighted that large level of illiteracy is one of the bottleneck in effective implementation of FRA. The act provides rights with responsibility. There is a need to make separate budgetary allocations for FRA, and provisions for 200 workdays in NREGA. In MP, people are not claiming to change from forest village to revenue village. He also raised the issue of community forest resources (CFR) as what to claim under CFR? What are the rights and what are the responsibilities etc. It was also pointed, within the NTFP marketing the nationalization is considered to be illegal. While in MP, the villagers could harness more benefits after the nationalization of Tendu Patta. He shared his experience of MFP federation of MP to prove the point. He also advocated for the minimum support price for MFPS and some money should be kept for village development to be come under FRA.

### Context Setting- Historical Trend of Forest Governance

The session of was chaired by Mr. Rajeev Kumar, Resident Commissioner, Ministry of Tribal Affairs and Ex-Joint Secretary MoEF and MoTA. Mr. Kumar has an opportunity to draft the act during his tenure as joint secretary in both the ministries.

Ms. Madhu Sarin, presented her paper **“Analysis of contemporary forest rights reform; Issues and Way Forward”**.

Ms. Sarin highlighted the poor procedures and unsound premises for defining forests and assembling the national forest estate. In the process substantial *mis-classification* of multi-functional communal land were made as ‘forest’. These created serious tenurial and land use conflicts, unclear boundaries, jurisdictional disputes between departments and communities. Imposition of inappropriate management objectives on non-forest lands declared state ‘forests’ through sweeping notifications.

For instance 60% forest cover comes in 187 tribal districts and it is in one-third of country (a lot in the NE outside ‘state’ forests). Between 1951- 88, ‘national’ forest estate enlarged by 26 million ha (from 41 to 67 mha) through sweeping notifications. In Andhra Pradesh 9,93,551.84 hectares (24,838,79.6 acres) of land has been under Section 4 notification of Indian Forest Act (IFA) for over 2 decades without settlement of rights and the rights effectively extinguished. Over 60% Schedule V areas declared Reserve Forests by a stroke of the pen. 40% of Orissa’s ‘reserve forests’ never been surveyed – the FD has no maps for them.

At country level the forest area which is considered as ‘legal forest’ is 774,740 km<sup>2</sup> which makes 23.57% of total geographical area. Out of which the reserve forest is 51.6%; protected forest is 30.8% and 17.6% is Unclassed forest which is not legally notified. In MP 12.37 lakh ha forest land is disputed and 3 lakh ha is disputed in just 4 districts of Maharashtra. The forest and revenue record does not tally. The basis of assessing ‘forest cover’ is totally arbitrary. The North Eastern Region is Under Schedule VI or other recognized customary laws; the forest department neither has control nor jurisdiction over these lands but they have termed as ‘unclassified state forest’.

The forest cover on *Jhum* lands is different from official forest. A large part of the region’s high forest cover indicated by satellite imagery is on UCFs and is inherently different from the official fixed. These are the regenerating secondary forest fallows of *Jhum* cultivation under which cultivation alternates with secondary forest regeneration under the *jhum* cycle

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has been developed. The FAO does not consider this forest cover but 'forest fallows'. The majority of these lands are under multifunctional uses and them often changing uses under a wide diversity of ownerships and tenures.

In Arunachal Pradesh the 'forest' makes 61.55% of its geographical area out of which reserved, protected and unclassed Forests constitute 20.46%, 18.49% and 61.05% respectively. 5.138 million ha of the forest area is state-owned and only 15,500 ha is under private ownership. She said "Barring few pockets of land under wildlife sanctuaries, reserved forests, most of the land in entire State is community land. Territorial boundaries of different community or tribes are also identified leaving no scope for any dispute over the possession of land, forest and water bodies among the tribes. Therefore, Forest Rights Act does not have much relevance in Arunachal Pradesh." In the context of the many mega dam & other projects being planned, it is MoEF which grants permission for forest diversion of customary community lands without even informing/seeking consent of communities. In FRA there is need to understand sections no. 3(1) (i), 4(5), 4(7) & 5.

Following challenges are ahead for democratizing forest governance:

- Getting government and government agencies, particularly the FD, to respect the law and recognize rights
- Ensure multi-functional management by empowered gram sabhas/communities outside the uni-functional technical FD framework, especially for lands which were wrongly classified as 'forest'
- Revitalize indigenous biodiversity knowledge
- Independent evaluation of FDs' 'scientific' management and evolving alternative mechanisms for assessing 'sustainability'
- Imposition of technical prescriptions another form of oppression
- Prevent fresh classification/notification of the commons as forest without due legal process (compensatory afforestation)
- Transfer control of funds for forestry to empowered gram sabhas
- Undertake comprehensive review of contradictory laws and regulations

*A panel discussion followed the presentation of Ms. Sarin. The discussants involves, Dr. Ravi Chellam, Member, Review Committee, Mr. Ashish Kothari, Kalpvriksh, FRA Committee Member and Mr. V. R. Khare, Ex- PCCF and Advisor to MP Minor Forest Produce Federation, Bhopal and member FRA review committee.*

### Emergence of Forest Right Act 2006<sup>2</sup>

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<sup>2</sup> Origins of the Bill: The 1990 BD Sharma note. The drafting of the FRA actually emerged from the struggle for implementation of orders issued by the MoEF in 1990. Dr. B. D. Sharma, a highly respected civil servant then Commissioner for Scheduled Tribes and Scheduled Castes (a constitutional authority), gave recommendations in 1990 based on his 1989 review of the conditions prevailing in tribal areas (which particularly focused on the underlying causes of unrest due to lack of settlement of land and forest rights). A Committee of Secretaries and the Cabinet approved these recommendations, based on which the MoEF (three months after the JFM notification) issued guidelines for regularisation of forest land rights and for resolving conflicts related to forest land.

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To start the discussion Mr. Rajiv Kumar mentioned the act recognizes the forest rights of the dwelling communities who have been residing in such forests for generations and their livelihoods were dependent of forest but their rights could not be recorded. The act recognizes rights of the forest dwelling communities giving the responsibility and authority for sustainable use, conservation of biodiversity and maintaining ecological balance through conservation regime while ensuring livelihood and food security. This act also recognizes that these communities are integral to the eco-systems. The act, apart from ensuring land rights to the tribals and other forest dwellers, who have been cultivating prior to 2005, also guarantees forest use right and right to conserve and protect forestland. Three types of rights are permitted and there is no ambiguity within the act in defining and provisioning these rights. These rights are individual, use and community rights. The critical wild life area defined because of the act only. It was pointed that, all the forest villages should have converted into revenue but it has not happened. The gram sabha is very well defined within the act, and it should follow the way it was defined in PESA, but it is not happening on ground. The western model of forest management may not work here in India, as the Indian society is very different from the western society, so also its economy and dependence. After having recognition of rights, the compensation package may be discussed. Likewise all the forest villages (total 2900) must be converted into revenue villages automatically. The FRC's in relation to other committees (like JFM or NRM committee), there should not be any supremacy or duplicity between them and they should become legal. CFR have neither been claimed nor established. In terms of carbon credits – who will claim that? He felt the need of convergence of different schemes.

### FRA and Forest Conservation

Mr. V.R Khare, opined that it is not true that the forest department is not honoring the provisions of the FRA, even though the department had many reservations before its passing. Once it is passed into the parliament and became an act, it is the law for forest department also. However, forest department had to also follow the ruling of the Supreme Court of India that comes time to time over access to forest. If opinion of department on issues related to environment well being is different, they are so because of its mandate and have to be valued by others. A person in India is free to make it any opinion about anything. After becoming an act, the FD is following it like any other act. Mr. Khare also, questioned the **future of forest rights committees after the implementation of the act.**

### Recommendations of FRA Review Committee

MoEF and MoTA constituted a joint committee to review the implementation process of FRA. The committee was constituted from 20 members of different departments and discipline. This committee shared its report with the ministry based on its interaction into different states. These findings are based on the Study (done in 17 – 18 states, 30 Jan sunvai & 20-21 Village visits) by various FRA review committee members. The committee finds following:

- In the implementation of FRA data deficiency at all levels were found (particularly for CFR)
- The act has not implemented in North-East and Utrakhanad

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- Instead of Forest Right Committees (FRC), Gram Panchayats are working in Non PESA areas.
- Sub-Division Level Committees (SDLCs) are taking the decisions (procedurally it is wrong). Panchayat level representatives should be there in the SDLC but they are absent.
- In some areas Forest Officers are openly advocating against the act.
- Serious problems within the coordination between MoTA and MoEF. They have not acted on the violation of the act.
- There are good cases also e.g. Gadchiroli, where CFRs were claimed as per the provisions of the act.
- Evictions from Forest lands are continuing and fresh encroachment are on as well.
- Problems have occurred in 75 years criteria (Occupational or dependence of forest lands) for Other Forest Dwellers (OTFD). Committee is proposing for residence's criteria.
- Role of women in FRA is critical. Participation of women in FRC is very less, so also following the act, where it made provisions of title in the name of husband and wife.
- Rejections are high due to falls claims.

Out of these, 10 members prepared an "Alternative Summary of the FRA Committee Report"<sup>3</sup>. Some salient features of the summary is provided below.

1. Constitution of Gram Sabhas at the panchayat level, rather than at the village/hamlet level. In number of states, such as AP, WB, and UP, these are being called at the panchayat level, which is illegal.
2. Extensive and wrong rejections/recognitions, primarily due to hasty enquiries and lack of a thorough examination of the rejected /recognized cases by senior officials or the higher level committees.
3. FRC and GS are exercised by the village level officials, and the non-officials of the FRC and GS are just putting their signatures to the reports written by the officials. The village level enquiry reports have not been verified (not even one percent) by block or district level officials.
4. In almost no instance has the SDLC pro-actively provided maps, documents, and evidence to FRCs and GSs, though this is required by the FRA.
5. Evictions are reportedly taking place in violation of Section 4(5) of the FRA, which states: "Save as otherwise provided, no member of FDST or OTFD shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete".
6. Other than Tribal Forest Dwellers (OTFD): The committee has observed that, in all the states where FRA is being implemented, OTFDs have been generally excluded from the claims process on the grounds that they have not been cultivating the claimed plot for 75 years.

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<sup>3</sup> Mr. Ravi Chellam, Ms. Jarjum Ete, Ms. Vasavi Kiro, Mr. Ashish Kothari, Mr. Sharachchandra Lele, Mr. Mannu Lal Markam, Mr. Ramdhan Lal Meena, Mr. Ravi Rebbapragada, Ms. Roma, and Mr. Arup Jyoti Saikia

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7. There are no national level data on the status of FRA implementation specifically with regard to PTGs. The various processes of the FRA have hardly reached them and the progress of implementation is very poor.
8. PESA and FRA provisions, especially on MFP, need to be rationalized so that people come forward to claim and there is no conflict later on.
9. Non-recognition of community forest resource rights and other non-land rights.
10. There is a need for district level committee that can monitor the work of Gram Sabha.

Mr. Ravi Chellam, a FRA review committee member said that, the department of tribal affairs lack in capacity to implement the act while forest department needs to change its attitude and thinking. Method of declaring critical wildlife habitat (CWH) is not right and CWH doesn't mean relocation but it is happening. Especially the declaration of last critical tiger habitat caused much confusion. Now 8 states are making proposals for declaration of CWH and all these are mostly covering the entire protected area (PAs). There is a need to preserve the biodiversity.

### FRA and Other Forest Dwellers

The committee report tried to cover most of the issues except few. FRA has inherent weaknesses especially towards recognizing the rights Other Forest Dwellers (OTFD). The government and departments involved in implementation taking advantages of its weaknesses, these weaknesses making ground for further mass movements/agitations. The provision of 75 years for other forest dwellers (especially for dalits) is very impractical. Also the issues in Assam where residential proofs are being asked with occupational proof.

*It was commented that within the Rajasthan's state policy, there was no mention for FRA. Even the act gives rights over 4 ha of land, it is seldom being honored. Who should be owners and who should be made accountable? The large level relocation due to mining has serious implication and are major concerns.*

### FRA and Ecology

Mr. Viren Lobo, ED-SPWD, setting a historical context to the discussion, talked of ecology versus livelihoods. In 1972- Wildlife Act was passed in the country and there was a felt need to protect wildlife. In 1976 National Council for Agriculture pointed out the need for conservation and soon enough in 1980 the Forest Conservation Act was passed. Given that today there are more than 200 million people within the country dependent on forests the symbiotic relationship between the two is crucial. Post various experiments with social forestry; in 2006 the passing of the Forest Rights Act was recognition that people cannot be removed from the forest.

Clause 3A of the FRA talks of the right to live in the forest. Mr. Lobo highlighted the significance of this, sighting a case of the famine deaths in Melghat, Maharashtra. Studies have shown that when food availability in the Melghat forests declined, lots of child deaths etc took place. The study also showed that when forest resources were better the deaths were less. The relationship between forest habitats and habitats outside the forest is also



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very fine. There is a necessity of looking at forest dominated landscapes in which forest communities derived livelihoods both from within and outside the forest. A Prayas study in Pratapgarh, Rajasthan showed that it is more lucrative to have forests for livelihoods rather than agriculture. If rights are given but livelihoods cannot be ensured, what is the point?

The speaker pointed out the need for baselines to determine what kinds of resources exist in the forest and also the inter-relationship between local communities and people outside forests. In Rajasthan, SPWD found that the community rights lobby and individual rights lobby is at loggerheads. Individual rights are seen as agriculture rights or sometimes they have not been given this also. The right to protect forests mentioned in the Act is a right to NREGA according to the speaker because that can enable conservation and protection. Also CAMPA funds need to be utilized for the same purpose

Another important point discussed was the need to look beyond agriculture and gaining the rights to cultivate on a piece of land; for tribal. The discussion needs to be broad based and there is a need to talk more about biodiversity, the knowledge of forests that tribal possess etc.

### Individual Rights vs Community Rights

Mr. Ganesh Purohit presented a case study where the Individual vs Community rights were discussed in South Rajasthan context. The case being from Girwa, Udaipur, Rajasthan, it was pointed out how the pasture land was very less in the tribal area while in OBC villages where one finds more pastures because of the habit of keeping more cattle. Also because of the varied distinctions of common land between revenue-bilanaam, forest and pasture land, very often tribal and other forest dwellers were not able to claim rights over land they were using for agriculture, or pastures etc. Where people have claimed usage for grazing it has been refused because there is very little pasture land in the area. Even GPS surveys showed more presence of forest lands rather than pastures. However, the contention was that the two cannot be used inter-changeably and not giving users a right over pastures could damage livelihoods which is predominantly an animal husbandry based. In the case study in Vela village, in Vali Gram Panchayat, Girwa block, out of 81 claims only 27 have been settled and given tenancy.

Mr. Binu Arickal, Samarthan- Centre for Development Studies, Bhopal, discuss the findings of a Study on Community rights under FRA in Madhya Pradesh and Chhattisgarh. The sample was a mix of high tribal populated areas and areas with higher number of claims within the FRA, areas with low tribal population, those far from the Block office, those near larger forest areas etc. Districts in MP and Chhattisgarh were taken as part of the sample. During the study, the general feeling was that MP and Chhattisgarh have performed fairly well within the implementation of FRA. However, even though a large number of individual claims have been recognized, hardly any community claims were given to people at least at the time when the study was conducted.

Looking at a classification of places where the FRA has been implemented i.e. in forest villages, revenue villages, villages in the vicinity of national parks, outside national parks etc; it has been seen that there is much reluctance in national parks in giving CFR. There

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are many letters written by FD officials where they have categorically said that since there is a national park in the area, the CFR provision (within FRA) is not applicable.

### *Primitive Tribe Group*

In 22 of the study villages Primitive Tribal Groups were residing, the situation seen is much worst. The claims are being made under Section 3.2 of the Act i.e. more for infrastructural purposes and this necessitates the diversion of forest land for these infrastructural projects.

Looking at it from a utility angle one sees that rights for livelihoods are not being claimed much. In Chhatisgarh around 43% of the claims are for infrastructure, 26% for nistar rights and only 7% for livelihoods. While in MP the claim for livelihood rights is higher (23.6%), there is also a large percentage of claims for religious places (30%). Encouragingly at certain places where individual claims have been sanctioned NREGS work has started too.

As far as Community Forestry Rights (CFR) goes, many people have not felt a need to claim for the same, as there hasn't been a restriction on their usage of forest resources. At the same time the feeling is also that only STs can claim for these rights and also that only 2-3 assets can be claimed at one time.

Overall, the study found that though the Act was good in word, the structure of delivery mechanisms was under performing. At places the sub divisional committees and panchayat level committees were not constituted. Also the process of formation of the FRC was not democratic as there was very low participation in the Gram Sabhas. Also very few revenue or forest officers were present while forming the committees. Capacity building activities if undertaken have focused on individual rights and not community rights at all. However, wherever collectors or District level administration have been proactive the Act has been implemented well.

Mr. Vivek Vyas of Seva Mandir presented **“Scope for the Community Forest Rights provision under the Forest Rights Act”**. It is need for the safeguarding of forest lands and area against future diversions. Also it is needed to stop allotments and encroachments. Ensuring that each village is aware about its rights and concessions as per the settlement thereby avoiding inter village conflicts in the future for grazing and JFM. Right to develop and protect forest lands under NREGS. Ensuring the collection and transportation of minor forest produce hitherto being regulated by defunct cooperative bodies like the “Rajas Sangh” and GSFDC etc. Ensuring that individual claims do not compromise community stakes on forest lands.

In Rajasthan, most of the claims seem to be filed for diversion of forest lands for other purposes. (application before 2005 can be accepted under the act). This has potential to be disastrous. Other kinds of CFR claim - Forest Villages, Minor Forest Produce in Sanctuary Areas etc. Most of the CFR claims not coming under noting. CFR claims filed by Seva Mandir inspired Van Utthan Sangh – 80-100 (in the process) nowhere to be seen?

The Seva Mandir Experience shows need for dialogues with the Gram Sabhas and FRCs in consonance with other existing institutions. Assisting with aggregation of claims and

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conducting joint exercises for the same with these institutions. There is a need for conflict resolutions through joint meetings with the communities and a parallel process of documentation. The very need for a CFR claims being dismissed by the forest department. Tribal Department completely ignorant about the significance of the CFR, equating it with the individual claims and asking for various evidences to prove ownership.

Seva Mandir feels that there is no point diverting more undulating forest terrain for agriculture purposes as the returns do not match with the losses in terms of forest wealth. Most of the claimants inordinately turn out to be resource rich farmers who would only gain more weightage after the land disbursement. People also got interested in registering for community rights rather than individual rights.

We need to make it clear our ultimate objective? There is a need to focus more on the CFR provision rather than individual. Communities as well as the forest department's lower rung will have to be explained, what is the additionality to be gained under CFR provision. Proper Verification of claims with FRC and institutional strengthening of the FRCs has to taken up. Also, capacity building of communities is necessary to deal with the issue of honey combing of forest lands.

### Grazing Rights under FRA

Mr, Sunny Rao of Anthra shared their findings from a study on **"Securing grazing rights by ensuring forest right act by pastoralist community in Chittoor and Medhak district of AP"**.

The study was done in 32 villages located in Rishi Valley notified as Rishi Valley Special Development Area (RVSDA). The aim was to develop on sustainable ecological and inclusive approach. RVSDA invited Anthra in 2009 to work with livestock rearing communities residing in RVSDA region, who constitute a major population and depend on the valley for their livelihood. The study area is located in Tettu and Kurbalkota panchayats of Kurabalkota Mandal in Chittoor District. Tettu GP has 32 hamlets, out of them 12 villages depend on Horsley hills forest and 3 villages from Kurbalakota GP for grazing of their livestock.

In January to June 2009, discussions were initiated to understand livestock based livelihood systems, traditional grazing practices, conflicts, problems etc. At the same time the major challenges were harassment by FD, whilst Grazing in Forests and accessing Revenue Hillocks. Shepherds from 15 villages were paying Rs 2 lakhs annually as "fines" to the Forest Department to enter the Horsley hills. The payments were illegal as no receipts were given for the payments. Then Anthra shared information on FRA, 2006 and provisions of claiming community grazing rights with Gram Panchayat, Sarpanch, Ward members, elders, shepherds etc (men and women). In July 2009- Shepherds organised into Sri Gopi Gorrela Mekalapempakamdarla sangham in village Mandemvaripalle. In September 2009, the Thettu gram panchayat passed a resolution that they would be initiating the process of applying for community grazing rights and other community rights, using FRA, 2006. Grazing resource mappings carried out in 15 villages of 2 GP, which were dependent on the forests. In October 2009, shepherds stopped payment of fine to FD. In July 2010, Thettupanchayat (12 villages) and Kurbalkotapanchayat (3 villages) collectively applied for community forest rights 'Form B'- grazing rights, medicinal plants, MFP, and right to protect, conserve and regenerate the forests as per customary practices and knowledge.

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Mapped how multiple villages use the forest, currently and historically according to their definitions and methods of identifying spaces in the forests, relationships between villages etc. Construction and Generation of this forest use resource map, is happening village by village, community by community, and takes time, involving discussions, mapping, cross validation, sharing back with villagers, discussions with different Gram Sabhas etc. Strategy for applying to the SDLC for recognition of all these rights, will then be clear. Probably each Gram Sabha from where villagers are dependent on the forest will make their own community claim. Finally a 'Community B Certificate' which will include the list of all villages and the various ways in which the multiple villages use the forest. Copies of this should be given to each of those Gram Sabhas, Gram Panchayats, whose members are using the forests. Seasonal migratory shepherds graze in the forest from Medak, and Mahabubnagar. RTI submitted to Forest Department for details of Forests..What about migratory pastolist...?

*The discussions were summed up by Mr. Chellam who goaded people to still be optimistic about the Act and to work to better the existing machinery. He also said that the Chhattisgarh study done by Samarthan to a large extent mirrored what the FRA Review Committee has seen across India. In the discussions one of the issues which came up was how we could circum-navigate the 75 years provision in the Act since this can be asserted only by some old person in the village and it is not practical to go around looking for a 90 year old to endorse whether X family had stayed and cultivated a patch of land for 75 years!*

### Status of FRA Implementation and Forest Governance in Various States

The session was chaired by Ms. Moutushi Sengupta, Programme Director, Oxfam India.

#### Andhra's Status

The first panelist Prof. Gopinath Reddy presented his study on " **Making of Andhra's Forest Underclass: An Historical Institutional Analysis of Forest Rights Deprivation**". AP almost covers 23% area under forest and almost 10 million population inhabited in forest areas. The implementation of forest right act is found to be quite encouraging, even the government has also come up with a Roadmap for implementation of FRA in Jan, 2008. The study also highlighted on certain key issues like: unrealistic schedule, poor engagement of CSOs in the entire process, CFRs neglected against IFRs. Another major point highlighted was around bypassing hamlet level gram sabha meetings in decision making. The Community Claims has been settled only for the AP government promoted VSS areas. Overall almost 3.22 lakhs IFR has been settled so far for almost 3.84 lakhs hectares of land. But wherever the claims has been rejected the redressal mechanism is found to be completely absent

The study concluded following:

- The FRA, 2006 promises to be a pro-poor institutional reform, and indeed already many poor have benefited from its implementation.
- However the implementation process has not been pro-poor, and so the benefits to the poor have been restricted so far in a range of ways.
- There are several operational problems:
  1. There has been very poor FRC formation and awareness raising.

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2. Claims have been received through Panchayats rather than by Forest Rights committees.
3. The Government has been focusing entirely on individual claims rather than community claims.
4. Many claims were illegally rejected by forest officials during the verification at the initial stage even prior to placing them before Gram Sabhas for their approval.
5. The Government is reluctant to go ahead with implementation of FRA in the Polavaram Project submergence areas and areas allocated for other development projects to avoid future legal entitlement conflicts and payment of compensation to the forest land occupants despite this being a blatant violation of the Act. Section 4(5) of the Act bars the eviction of any forest land occupant till the process of recognition of their rights has been completed.
6. Similarly, claimants from protected areas are being pressurised to relocate without recognition of their rights in violation of the Act.

### Maharashtra's Status

Mr. Dilip Gode, Vidarbha Nature Conservation Society (VNCS), Maharashtra, presented the Status of Implementation of FRA in Maharashtra. He mentioned that the focus is more on individual claims and interest for Community Forest Rights is very poor. Its potential of securing livelihood of the forest dependent communities, establishing community governance, thereby conserving forest and water resources could hardly be achieved. Process of FRCs formation was not proper and transparent and the Gram Sabha recognized at the level of Panchayat instead of revenue village in non-schedule areas. Use of Remote Sensing (RS), Global Positioning System (GPS), Geographic Information System (GIS) stopped half way by the SLMC causing serious concern and lot of fake cases of forest clearance and fresh encroachments are reported. As of date the number of claims received are 3,39,689 ( 3,35,701 individual and 3,988 Community, mostly under section 3(2). In these titled distributed are 1,10,4767 (1,04,344- Individual and 423 Community). Community Claims under section 3(1) reported 12 only in Gadchiroli district while Community Claims under section 3(2): 411.

### Odisha's Status

Mr. Y. Giri Rao of Vasundhara presented the **"Status of FRA Implementation in Odisha"**.

- The presentation gave a very clear picture on Orissa land holding pattern (State owns 2/3<sup>rd</sup> of land and almost 20% landless, rest 63% population holds hardly 17% land) and the status of mining in the scheduled areas is very large.
- The FRA and its overriding effect on other existing acts and policies Sec: 4(1) of the act.

He highlighted that the women are left out from the entire implementation process and FRA implementation were dominated by male. The implementation is still under the clutch of Government officers and state forest are not cooperating. It is noteworthy that more than 79% of title deeds distributed in the "Revenue Forest Land" and often less area were given than the area actually occupied. The FRCs are not constituted in forest villages.

- Various provisions are not realized
  - Conversion of Forest Villages-still pending
  - Right over Habitat-not given
  - Rights of Nomads, Pre-agricultural and Pastoralists communities
- Various provisions are not realized

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- Rights of Displaced Communities and Other Traditional Forest Dwellers
  - In situ rehabilitation
  - Right over un-utilized areas acquired for developmental projects
  - Section 5 of the Act: Right to protect
- Promotion of JFM is still a priority of the forest department
  - Relocation from Tiger Reserves is still continue

*It was questioned, if we can provide legality to JFM using Indian Forest Act? Ms. Sengupta in her chair remark pointed out that, we have great opportunity to work on various facets of FRA and issues related to forestry. We should also chalk out some action points after the end of the workshop.*

The session was chaired by Mr. Pramod Tyagi, Programme Director, SPWD, New Delhi

### FRA implementation in Jharkhand

Mr. Sharat Singh of SPWD, presented the **FRA Status in Jharkhand**. Quoting the visit report of MoEF/MoTA Committee on Forest Rights Act based on the field visit of 15-19 July 2010 and SPWD experiences on the issue, he mentioned that:

- Jharkhand is a state of 29% forest with 26 % tribal population out of which most are forest dwellers.
- The FRA claims received in the state is only 30000, so hardly 1 claim per village is there.
- There is a top down approach being followed in process of FRA implementation. No effort has been made at ground with deserving community/individual.
- A year back during Governor's rule in the state the then tribal commissioner Shri Madan Kulkarni has done video conferencing with some of the tribal populated District Collectors and FRA committee formation was started. Within the 1-2 hrs duration all the 20000 FRCs were constituted, still claims were amounted to be 16000.
- All these meetings were multipurpose meetings in which all government programme like Indira Awas Yojna, BPL list preparation etc were on the agenda, rather than exclusive meetings for FRA.
- FRA committee members were selected without any public consultation or information to do the formality.

SPWD's experiences on FRA in Palamu region were also shared. In Bishrampur block of Palamu district, out of 54 submitted claims 18 were given the Adhikarpatra of 1.5 acres each. In district Chatra where forest is more than 40% and tribal is only 5-6% but SCs are around 60% and forest dependent, no serious initiative is taken to provide FRA rights to SCs. In Palamu after a meeting the officials declared that forest rights will only be given to the STs.

- There are cases where forest department used MNREGA fund for plantation in forest land and tried to give impression that the land is not under the claim of FRA
- Some state acts like CNT Act (Chota Nagpur Tenecy Act), SPTA (Santhal Pargana Tenecy Act), Wilkinson rules applicable in different parts of the state gives community rights over forest.
- The community is not interested in claiming community rights through FRA, as other rights are already there to provide them with the community right.
- In SPTA area 'PRADHAN's are the head of the village and they have the authority on land issues but in the name of FRA forest department has limited the Pradhan's role by involving itself in the process.

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- Situation of some of the PTGs like Birhor is pathetic, as the restricts posed by FD on rope making within forest resources forced them to switch to make plastic ropes. In several cases they were forced to settle outside their habitat in search of livelihood.
- The Sauriapaharia of Sahebgabj, Godda districts in Damin-E-Koh area of the state they live on forest land slopes and do pea cultivation but they were not given any rights under FRA till date.
- No civil society organization is involved in the process by government, only few taken its own interest and making people aware on the issue but the situation is very grim.
- Several villages (a case of 120 in Saranda forest of south Jharkhand was shown through paper cutting) are not yet in the list of government revenue records and are in the clutches of Naxalism and the state machinery do not have any reach to those villages.

### Status of FRA and Some Emerging Realities of Forest Governance in Chhattisgarh

Shri Ramesh Bhai of Ekta Parishad presented Status of **FRA implementation in Chattishgarh**. He said the ground reality is not different in Chhattisgarh from any other state. Of the 214,918 claims processed in the state, only 250 relate to community rights and none of them grant rights over MFP. According to the Ministry of Environment and Forest (31<sup>st</sup> October 2010), the total number of Claims Received by 30.09.2010 is estimated as 91347 claims for settlement under FRA 4042 claims for settlement under CFR the total number of Titles Deeds distributed/ ready up to 30.09.2010 is estimated as 214668 claims under FRA 250 claims for settlement under CFR NO specification for Settlement Rights of primitive tribes / nomads / pastoral community (Rule 8-B)

- No time bound plan for regularization of claims still implementation of 1980 list on the topmost agenda.
- Dispute continued over double entry land (e.g. cases of Aamatikra & Rajanisari in Korba)
- No space for victims of Salwa Judum Camps (Chintalnar & Surakachar in Dantewara)
- Discrepancy on scale of land allotment (Chaghra in Koriya, Jharpani in Jashpur)
- No demarcation of allotted land (Hazariyakhero in Kawardha and Sonakhar in Raipur)
- No clarity on land map- digital (Sitapur in Surguja, Chuhinala in Mahasamund)
- No clarity on authority of land allotment – 5 official signatory (Kopekasa-Gariyaband in Raipur)
- Forced eviction from claimed land through Jatropha plantation (Daiharipara in Bilaspur)
- No passage for secondary appeal
- No feedback on rejected cases (Dongamahua and Mahapalli in Raigarh)
- No settlement for common property land/ resources under Section 3/1 (B-M) (Peethaama in Jashpur)
- Why there is No Other Forest Dwellers in Chhattisgarh ? (Raut in Narayanpur)
- Atrocious action against claimants (Chantapara in Bilaspur)
- No merger with NREGA (Piperchedi in Raipur)
- No clarity on constitutional set up of FRA committees (by 30<sup>th</sup> March 2008, 38% FPC converted as FRAC)
- Deadline (un) officially declared for CLAIMS submission (30 May / 31<sup>st</sup> December, 2009)
- No clarity on FORM-A (Rule 6/1) says 'extent of forest land occupied' translated as 'Adhighogki Gaye BhumikaVistaar' means 'extent of forest land currently used'

### Emerging realities in Chhattisgarh

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- Large Scale Mining Operations – Raoghat in Kanker, Raniatari in Bilaspur, Daldali in Kawardha, Deobhog in Raipur, Dhurli in Dantewara etc. (about 300 new mining projects is identified by Mining Department of Chhattisgarh)
- Jatropha Plantation – Chhattisgarh Renewable Energy Department has plan to promote Jatropha plantation over 1.2 Million acres of land by 2015.
- New Industrial Ground – Chhattisgarh Industrial Board has proposed expansion of Industrial Parks in Sirgitti&Anjani in Bilaspur, Hirenkhero&Daldali in Kawardha, Dharmjaygarh in Raigarh, Sitapur in Surguja, Dabra in JanjgirChampa, Lohandiguda&Dhurli in Dantewara, Raoghat in Kanker etc.
- Diversion of water resources – All 4 major river (Kelo, Kurkut, Mand and Mahanadi) in Raigarh district captured for industrial purposed which caused serious damage for existing irrigation projects and allied sectors (Sericulture Center of Raigarh is closed)
- Herbal State (?) – Chhattisgarh has potential (500 crore) for large scale forest produce based small/cottage industries; but, lack of any encouraging plan resulted in un-regulated export of precious herbs (Dhulia, Dhoop and Tikhur from Narayanpur)
- Overlapping with role of Forest Protection Committee – The Forest Department still giving back-up to these committees which created conflict between communities (Oron&Korva, Gond&Baiga, Halba and Muria etc.)

*Among the comments it was clearly mentioned that FRA cannot sustain without implementation of PESA. While PESA defines some aspects the FRA provides them. In major part of the country, the priorities are being given to Industries, ignoring the communities rights over resources. The FRA being violated giving land to the Steel industries in Chhattisgarh. The session chairman thanks to all the speakers for giving an in depth analysis and lively discussions.*

**The proceeding of the day-2 was started with a brief recap of the previous day done by Mr. Ajay Bhan Singh of SPWD.**

The session was chaired by Ms. Nisha Agrawal, the preceding was started with a presentation from previous day.

### **Status in Uttarakhand**

Mr. Tarun Joshi, Uttarakhand; focused specially on the implementation of the Act in the State. Post the coming of the Act in 2008, the civil society groups had to organize mass scale protests and go to the High Court to get it implemented because in Uttarakhand the state machinery was not keen to take it up. Even now even a state level committee which is mandated in the Act hasn't been made as yet.

Many communities in Uttarakhand have been struggling to gain rights of usage in the sanctuary areas. But even after the coming of the Act, the situation hasn't improved at all. In forested areas, even after the coming of the Act, many people are still being evicted especially Gujjar communities. In hilly areas in the State, it is seen that there is only 6% land for agriculture and the rest is under control of the Forest Department. Also Uttarakhand has many pastoralist communities, who are finding it difficult to claim their rights under the Act. The situation has become only worse with the recent floods, it is estimated that near about 1600 villages will have to be resettled because of this.



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The situation with CFR is no better, even though Uttarakhand is known for the institution of Van Panchayats, these are reported only on paper (especially went up when JFM came into being) in practicality there is not much.

### FRA Status in Uttar Pradesh and Issues

Ms. Roma of NFFPFW shared the status of implementation process of above two states. In Uttar Pradesh the situation is more chaotic due to the actions of the forest department. No one is rejecting the importance of forest management, this should be routed through people's hand and this aspect is completely missing from the implementation process. The act provides spaces to make stringent actions and promote supremacy of FD. The FRA review committee had differences on this aspect and Mr. N.C. Saxena has the opinion if committee put more suggestions, they may not be accepted. The clause 3(1)(i) – talks of management and what type of management are needed? To be specific on this, the act needs an amendment.

- Implementation of CFR - need to start working more from lower level and amendments are required.
- In UP the government has used this act to kill the Maoist movements.
- In Tripura, the government used all possible pressure against insurgency. The individual rights are being used for shifting cultivators to be settled. Laminated records were prepared with map.

Ms. Roma also pointed major challenges in terms of (a) Forest dwellers have straight fight with Indian state (b) in case of Maoist, democratic struggle is required based on mass struggle and mass based organizations. In majority of cases the typical NGO are also playing dirty roles. Mass based organizations, new institutions structures and new political and economic programmes are needed. Collective production is also required under CFR for that regular consultations are needed.

### Status in Madhya Pradesh

Dr. Ganesh Yadav and KN Krishna Kumar presented **"Forest Right Act 2006– Implementation STATUS and Concerns effecting Forest Dwelling Communities in Madhya Pradesh"**. This study was done in January 2009 in selected villages of Ghoradungari Block of Betul North Forest Range. Some highlights of the study are:

FRA was well received initially in MP and within 3 months training was given to the officials and staff of Tribal Welfare & Forest Departments and NGOs. The Act was translated in 3 tribal languages – Gondi, Bhil and Korku. MP has highest number of claims and right settlement, more than 98000 cases of encroachment withdrawn by state government. Awareness at grassroots is still not adequate and district and Sub Division committees facing confusion with regard to rules and implementation.

Since the reasons for non-acceptance/rejection are not known, such claimants are unable to appeal process within the specified period of 30 days. In majority of cases the reasons given pertain to- patta, dual claims, disagreement by FD. Claims returned on grounds of non-

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compliance of Forest Department recommendations. No forest rights were given on 'mines not in operation' – even when they are inoperative state much before December 2005. Unavailability of claim forms (CFR) as reported in Betul. No knowledge on how to demarcate/verify CFR? Absence of guidelines for CFR? Demarcation leading to inter village conflicts when two villages claim CFR rights over one forest area etc were major findings within the study area. Ownership on tendu leaves and other nationalized item is not clear.

Sustainable use, management and conservation of forest resources and biodiversity needs to be focused. Role of forest department once the rights are transferred into the FRA area needs to be discussed. Impact assessment needs to be done on FRA areas especially covering, changes in socio-economic status after the transfer of forest rights, area wise transfer of land / acquisition for community development projects.

### FRA and Conservation

Mr. Ashish Kothari highlighted that there were three major points between present Parallel laws and conservation and they are

- (a) How the protection of forest and wild life may taken forward
- (b) What dangers might be there to the forest from this act &
- (c) the present forest conservation structure – what are the dangers to the forest and those who get benefits from here.

The debates were there before and after this act as on one hand one aspect was that the forest and wild life may be vanish on other hand the people will be motivated by this act and they will protect forest and wild life. The truth lies in between and his opinion is with the second aspect. There are dangers also. How this will be strengthen. Already established system like CCA (in thousands) will become stronger. People are doing on their own and they do not have legal provisions for that.

The CFR claims are being made in Gujarat, Rajasthan, Maharashtra, Uttarakhand etc. few have been claimed and more have to be claimed. Million hectare of land may be claimed and may be protected under CFR and forest protection may be strengthened. Have to fight against the artificial imposition of JFM and other committees.

Section (5) where powers have been given to Gram sabha for protection, conservation etc. Rule 4 (e) to form the committees. It is in the circular of 2009 that prior approval is required from Gram sabha for the allotment for land to non forestry uses. So the committee has recommended that this should be included properly in both FPA and FRA. It will be use full for the protection of the forest and the so called developmental projects may be stopped.

Critical Wildlife Areas (CWA) are also important. Under this provision n dams or roads or mining may take place in CWA and if people are living there than coexistence may also be protected. Protected area may also be taken forward with people's participation or jointly. It has not been done under wildlife act so it has also been props

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There are threats also.

- (a) Fresh encroachment accelerated after 2005. We should not hide it.
- (b) Section 3 (2) people's rights on developmental schemes – linear development, which goes from inside the forests, other than roads than the threats may be more, though no case has come so far.
- (c) Sustainable use - what will be the limits? who will decide it?

In NTFP - some 150 – 200 species are at the verge of extinct, so how we can stop their extinction and the limit of exploitation may be decided. The present protection modal – threats from the act – illegal Displacement is still taking place in Sariska, The package for displacement is not proper. Critical wildlife habitat – whatever the small process has been initiated – people's consent has not been taken - the FRA has been violated. The present protection modal and its impact on FRA is a complicated subject.

### Suggestions for Changes in Forest Administration

Ms. Diana Joseph from Center for Peoples Forestry, Hyderabad presented case study on **“Forest Governance in Community/Jointly Managed Areas (CFM/JFM/CFR/GIM/REDD+) and need for re- organisation in the Forest Administration and Networking among Community Institutions”**.

The study felt a need for re-organisation in the forest administration at two levels

- (a) FD level
- (b) Community level (JFMC-level)

The forest department makes the working plan on every 10years and the community makes the micro plan which get approval from DFO in tune with FD. There is an interface between the JFMC and the FD in terms of its implementation. FD deals with the technical part and JFMC deal with the management – execution and benefit sharing part. For forest governance there is Forest development agency which has some nomination of the members of JFMCs where in SFDA have no representation of community.

In India, 84,632 JFM committees covering an area of 17.33 million hectares. A total of 83, 84,788 families are involved as members out of whom 27, 29,433 (32.55%) belong to Scheduled Tribes, 15, 83,078 (18.80%) Scheduled castes and rest 40, 72,277 (48.56%) belong to BC and other general category. JFMCs are directly linked to the Forest Department. JFM has interface with the FD but in orrisa where community forest management is on and the community does not have any interface with FD.

### Major Concerns

- (a)Benefit sharing in JFMCs
- (b) Recognition of collective rights under FRA
- (c) Delineation of CFRs
- (d) Proposition in the Green India Mission

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Final decision comes in the hand of stakeholders where in CFR it is not means there is a lot of gap between these two.

### **Recommendation**

- (a) Reorganization in the FD
- (b) Networking of Community Institutions
- (c) Proactive role by Tribal Affairs department

### **Recommendations for Forestry in 12<sup>th</sup> Plan Preparation**

Mr. Raja Chakraborty shared the recommendations given to planning commission for the preparation of 12<sup>th</sup> Five year plan. The issues which were discussed and put in few were recommended are as follows:

- Forest resource delineation – CFR clarity is not there.
- Issue of CFR and JFM – the management responsibility under CFR
- SDLC – quarterly monitoring is must
- Reasons for rejections
- No clarity for claim filing – CBO help
- Written resolutions in gram sabha
- R & R – Piecemeal basis – under FRA proper R & R has taken place.
- Individual claims should have been speed up
- Record maintenance
- Areas of conflict and overlap in acts and laws
- Actual title on holding
- Institutional support for Agri. Development using schemes like NREGS
- Fodder development – through land use plan
- NTFP – Flexibility is required – also MSP, Collectors federations/groups
- Carbon credit should go to the community
- On allotted lands-wastelands development, irrigation development.
- Fund allocation (proportionately) for Tribal farming system development, Livelihood enhancement, Resource development and area development etc.
- Equitable growth – forest people as well as plain's people

### **Potential of Forest Tenure and Rights for Livelihoods and Income Enhancement**

The session was chaired by Mr. H.S. Pabla, Chief Warden, Wildlife, GoMP. The major focus of this session was to present prevailing good practices and the need for new approaches that can help to contribute in improvement of forest based livelihoods.

Mr. Naresh Biswas, Nirman Sansthan, Dindori and Mr. Jacob Nellithenam, Farmers Network, Bilaspur presented the **“Ecological Principles of Bewar Cultivation of Baiga Tribe of Central India”**. Mr. Biswas mentioned that Baiga is one of the primitive tribe of Central India and inhabits in Mandla, Dindori, Balaghat, Shahdol, Sidhi, Umariya and Anuppur

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districts of MP; and Kawardha and Bilaspur districts of Chhattisgarh. The total population within these states comes out to be 3,17,549 and their habitat is known as Baigachak.

Among the three cultivation practices of Dahi, Kidwa and Bewar. Bewar is one of the important practice that use multi crops in a single field. The principals are based on the fact that a family needs various kinds of grains, vegetable, fruits, roots and shoots for their survival and all these were grown in a single field since centuries ago. This practice not only saves soils, but also gives good production in varied range of rainfall conditions. It is low cost and less labour intensive too. The study shows that Bewar is biodiversity based sound cultivation practice; however this has been branded as illegal by the forest department. The result is clearly visible, in places where Bewar is still prevails, one can find good, bio-diverse and dense forest with comparative happy and content community. On the other hand those areas that were taken away from Bewar are neither producing agriculture nor any kind of forest.

Mr. Kamendra Singh Rathod of Samarthan Samiti, Udaipur presented options of **“Forest Based Livelihoods in southern Rajasthan especially NTFP”**. In tribal community the Forest provides 11% of the means of the livelihoods, so forest and their produce are very important in lives of the people. Among the major produce, Tendu leaves, Baheda, Ratanjot, Punwad, Palash, Bamboo, Amla, Aonla chool, Gum, Ker, Ber, Lakh, Honey, Wax and Grasses are important constituents. Some of these species are threatened due to over exploitation. In current scenario the Rajas Sangh have given sole responsibility to procure and market the forest produce, through Lamps. However, these are directly reaching to the middleman and market. Kamendra mentioned that following acts and policies needs attention for NTFP management and forest based livelihoods.

- Monopoly rights given to RTADCF through letter no. F 6 (34) Revenue/77/ dated 22/10/1977 in TSP and SAHARIYA area
- Outside the TSP and SAHARIYA areas the rights to get income from the forest produce on BILANAM / CHARNOT areas are in control of the Gram Panchayats.
- Department of forests gives contracts to the registered contractors for collection of minor forest produce and tendu patta in forest area and the royalty goes to forest department

As per PESA Acts 1999 Gram Sabha (Village Council defined as per tribal customs) have right to manage the MFPs and other issues but forest Dept has given this rights to Gram Sabha (defined by revenue village panchayats) by order 17 July, 2003. This is being contested in some of the villages. Tribal and other traditional forest dwellers forest rights Act (FRA) 2006 given access, collection, use and disposal of all NTFPs to forest dwellers would be free of royalty. In some of the villages, where PESA is active, the village council is collecting royalty on the Bajari and NTFPs. Rights over income from NTFPs given to panchayat but single paisa has not been transfer to panchayat by forest department. Samarthak Samiti is also organizing Custard Apple collection and marketing organizing tribal communities. Other activities that can enhance forest based livelihoods involve:

- Nursery development,
- Plantation in forest area,
- Processing and value addition of different forest and agriculture produce
- Plantation on private lands,

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- Seed distribution for development of demonstration plot for important plant species
- Awareness generation for conservation of resources
- Organizing tribal communities as SHGs, user groups and skill based capacity building programmes etc

Mr. Sandeep Mishra, Business Development Manager, Udyogini presented Udyogini's '**Experiences on Forest Based Livelihoods**'. Udyogini is working in MP, Jharkhand, Bihar, Assam, Utrakhnad, Rajasthan and Odisha. Udyogini promotes 'Village Level Service Centre (VLSC)'. These centers are operated by local women and persons with entrepreneurial interest and skills. These VLSC's are one of the important components of value chain and help to add in the volume of the produce. These VLSCs are further organized into cluster involving 5 or more centers. The Cluster Level Service Centers helps in monitoring of the services of village centers. The business development service refers to wide range of services used by entrepreneurs to help operate efficiently and grow business with the broader purpose of contributing to economic growth, employment generation and poverty alleviation. Focus on promoting access to and use of these services by MSMEs. It was originally focused on training, consulting and other services to address the internal constraints faced by enterprises has now grown to include marketing services and information resources to help the MSMEs gain access to services.

- Market access
- Input supply
- Technology and product development
- Training and Technical Assistance
- Infrastructure
- Policy / Advocacy
- Alternative Financing Mechanisms

In a typical market, if companies decide to buy products from producers, they want to be sure of both the price, quantity and quality of the supply. If producers decide to sale to a company, they want to be sure of a reliable market, a fair price and support services for their production. In the case of raw materials, farmers must be able to sell what they produce, at an attractive price. In the case of the end product, the company must be able to sell all it produces at a price sufficient to cover its cost with sufficient profits.

Formation of groups can help achieving following:

- economies of scale in provision of services, supply of inputs and collection of crop;
- easier two-way communication of information;
- more effective provision of training;
- easier negotiations on price;
- joint collateral for loan security;
- peer group pressure for loan repayments;

To name some of the successful models of Market Linkages

- Community Managed Organization ( e.g.- *Shri Mahila Gram Udyog*)
- Corporate Tie-up (e.g.- ITC-SEWA, Fab-India-Ranga Sutra, Pepsi Co.-Basix Model)
- Collaborative Model (e.g.- Current PPCP models, Udyogini)

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- Women Entrepreneurs (e.g.-The Village Phone, RSP)

Mr Venugal Rao shared LAYA's experiences with respect to **Restoration,**

Deleted: 11

### **Sustainable Harvesting and Value Addition for Ecological Balance and Livelihood Needs**

Over a period of time the people and its dependence on forest and forest produce has seen many changes. There is a shift from shifting cultivation to settled cultivation but the high capital cost of agriculture and reduction in rate of returns hence interest in agriculture is almost low or nil. It has also been observed that the tribal community's life support system (forest, agriculture, water) and their livelihoods are under threat and hence migrations have been taking place. There has been over exploitation of many NTFP due to this there has been reduction in bio diversity. Nearly 90-95 % of the Gum trees have vanished from the forest around 10-15 varieties of these trees have gone extinct. The major reason behind this was increased pressure on forest, unscientific/ unsustainable harvesting techniques and no efforts for ecological restoration. LAYA identified few species and have been working with the community for sustainable harvesting, improving management of these species.

The species are gum tree, in conventional system a incision is made in the tree and over the year due many biotic and abiotic factors the production has dwindled and many trees have also died. The organization has improved upon the management and harvesting practices for these species. The focus has also been on restoration through plantation of the threatened species.

To strengthen the livelihood of forest dependent community the organization has adopted a five prong strategy.

- Sustainable harvesting
- Restoration (through plantation on private lands, land acquired under the FRA)
- Quantity improvement (through injection of hormones and other practices)
- Quality improvement (better storage practices, timely harvesting)
- Extension (interaction with the scientific community)

Similarly for another overexploited species the Broom grass, in the forest area of North coastal Andhra around 5 varieties of broom grass is found. It was noticed that the number is fast dwindling. LAYA initiated the domestication of these broom grass, and have also done some value addition at the village level. The experience shows that from an acre of broom grass a farmer can earn Rs 30,000 to 40,000.

The organization also had similar experiences of the Toddy tree (*Caryota Urens*), wherein it was found that one toddy tree was fetching Rs 1.5 lakh. The inflorescence of the toddy tree is tapped and due to excessive tapping it dies in three to four years. Even the wild mangoes have been over exploited for timber, the organization provided exposure to the community on possible value additions of mango.

The importance of tribal agriculture its role in conserving bio diversity and providing food security is necessary. The organization has been making efforts to domesticate many of the medicinal species, tuber crops.

- Communities have got access on forest lands but no control/ownership;

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- Climate is almost uncertain;
- long term fallow *podu* is observed due to low production and productivity;
- Overexploitation are being observed from the existing forests;
- Induced crops are giving negative results;
- Externalists trying to intrude into forest lands for mining or other activities;
- Tribal communities life support system and their livelihoods are under threat and hence migrations takes place;
- Insecurity is further damaging forests;
- The above indicators shows the importance of ownership right on lands and rights on NWFP.

### Suggested possible options

- Understand local livelihood needs;
- Control and access to communities on lands in around the village as per customary rights
- Restoration must be the top priority;
- Reduce pressure on existing forests by sustainable harvesting practices and domestication of important species;
- Find species for livelihood needs as well as ecological importance;
- Domesticate economic important species;
- Maintain local crop diversity;
- Focus on small extent for production and productivity;
- Focus on value additions;
- Create market chains for NWFP;
- Accompany with community or community groups to achieve the above tasks:

### Suggested Strategies to Improve Forest based Livelihood

- Involve communities in identifying livelihood needs;
- Participatory restoration with economically important forest species;
- Understand present harvesting practices;
- Involve line departments in the process;
- Train the local communities on sustainable harvesting practices;
- Promote value addition practices;
- Accompanied with communities on redistribution of powers for proper implementation of above activities

The middle men continue to play their role they tend to pay in advance to gain access to the produce. There has been increase in income but the percentage increase the organistaion was not very sure. The NREGA is also impacting NTFP trade, with the increase in daily wage rate the collection of kendu leaves has gone down during the month of MAY as the tendu collection rate is very low. On cluster level business development services, Udyogini is not very sure at this moment, how it can be linked up with FRA, but it can surely help in improving income from NTFP trade. But they felt that in light of FRA some of the problems that they had faced in Mahuli leaf transportation could be resolved if the community was given the requisite rights under FRA. The mono cropping of broom grass promoted was being promoted in podu (shifting cultivation lands).



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There was a suggestion that Baiga's should claim habitat right for the heritage cultivation but if Forest department will monitor it then there might be some problems as forest department does not have knowledge of agro diversity, and the role of forest in preserving ecological and cultural knowledge.

*The Chair shared his views at the end of the session. He said that the forest department would cooperate with all the concerned departments to implement the FRA in the field. FD would continue to discharge its duties till rights have not been transferred to the claimants. In Madhya Pradesh there is no system of transit permit for NTFP. He also shared that M.P forest department will embark on large scale plantation of Mahua trees in the coming year. In the end he summed up saying that he and his department will cooperate for implementation of FRA.*

### Recommendations of the Workshop

The way forward session of the two days workshop was facilitated by Ms. Vanita Suneja, Economic Justice Lead, Oxfam India; Mr. Viren Lobo, Executive Director and Prof. Krishna Kumar, Faculty member IIFM, Bhopal. Based on the presentations and discussions during these days following action points were suggested by the participants of the workshop.

**Action Points for Policy:** Need to lobby with MoEF and MoTA to address the issues that discussed during the deliberation of two days. The workshop proceeding would be shared with the respective ministries.

- Clarification notes on many issues needs to be issued from MoTA. These notes may help in smooth implementation of the act.
  - a. MoTA should issue directions wherever FRC have been incorrectly i.e., at Panchayat level or without adequate representation of different sections of the community or without following a democratic process, *these FRCs are to be reconstituted through open elections at level of PESA or revenue village-level Gram Sabhas,*
  - b. MoTA should issue a clarification that OTFDs as defined under the FRA are all those who can prove 75 years of residence in the area (not necessarily on the plot being claimed), and dependence on the forest land as of December 2005. MoTA should also clarify what kinds of evidences may be used as proof of 75 years of residence and how these are to be made available to the villagers. Finally, MoTA should clarify that no disqualifications on the basis of possession of additional revenue land or jobs, or location of residence on revenue land, are permissible under the FRA.
  - c. A special set of guidelines need to be worked out for the proper use of spatial technology in the delineation, location, and status verification of claims filed, so as to ensure reliability, objectivity and transparency.
  - d. MoTA should clarify the procedure to be followed for ensuring that rights certificates issued under the FRA (both individual and community rights) are entered

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in the record of rights, land settlement and forest settlement records of each state. Specifically, it should (in consultation with the Ministry of Finance) issue instructions to ensure that the lands with settlement and cultivation rights (u/s 3(1)(a)) may be treated on par with fully private lands for the purpose of receiving financial support, including bank loans. It should also clarify whether these (3(1)(a)) lands are to be converted into revenue lands or not.

e. MoTA and MoEF need to work out a set of instructions for ensuring that evictions do not take place in violation of the FRA (section 4(5)), and at the same time ensuring that fresh encroachments do not take place.

f. Given the serious inadequacies in implementation of CFR at all levels, there is a need for a 2<sup>nd</sup> phase implementation of FRA in all states with primary focus on CFR. It is important for MoTA and all state nodal agencies by issuing clarifications and instructions on various issues.

- There is a strong need of convergence among various departments and civil society actors. The act involves four major departments, Department of Tribal Welfare (MoTA) is the nodal agency for the implementation of the act. This ministry is mandated to streamline the development of tribal communities including the implementation of PESA within the schedule areas. However, the land on which the act will be implemented is under the jurisdiction of the Forest Department which is mandated for forest management within the country. The revenue department is mandated to keep the database related to land records. Around 1.2 million ha is disputed between FD and RD in MP alone. The Panchayati Raj is another department which is responsible for recognizing the claims at the village level and forwarding it for settlement to the SDLC and DLC headed by district head and responsible for final decision. A strong convergence is needed at all level among these departments and ministries. The civil society actors should also act in facilitating the processes of the FRA at all level.
- All kind of evictions needs to be stop as they are violating Section 4(5) of the FRA, which states: "Save as otherwise provided, no member of FDST or OTFD shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete".
- In all the states where FRA is being implemented, OTFDs have been generally excluded from the claims process on the grounds that they have not been cultivating the claimed plot for 75 years. This needs to be addressed.
- There are needs for national level database creation on the status of FRA implementation specifically with regard to PTGs. The various processes of the FRA have hardly reached them and the progress of implementation is very poor especially in PTG habitat. A exercise in creating awareness about CFR amongst communities, officials and civil society groups, is needed. This must supported by local languages involving all kind of media. CFR titles should be issued in the name of the Gram Sabha, while respecting specific rights to specific families or user groups of forest-dwellers as claimed and vested in the CFR area.
- The right recognition process is yet to start in the 'Forest Villages', this needs attention of all the actors.

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- Given the lack of capacity to deal with the formal procedures of the external world by PTGs, MoTA and state governments should to *suo moto* identify all of them, collect all relevant records pertaining to their customary rights and boundaries, contact their traditional institutions, and actively facilitate the process of obtaining rights, by involving them and helping them build capacity to handle this as also the post-rights phase, using PTG languages. This would also require special training and orientation programmes for government officials working in PTG areas on the special needs of these groups and the provisions of the FRA.
- Once the PTG obtains the right to 'habitat', 'habitation', and other CFR and IFR, it will have a particularly challenging task ahead. This is especially so where the PTG habitat is now inhabited by or used by several other communities, government agencies, and private actors, and where the PTG itself has entered into wider market, political, and social relations. Learning and building capacity, at a pace suited to tribal way of life, and leading to clear articulation of what it means to be a PTG in the current context will be essential.
- Technically advanced processes like Remote Sensing and GIS may be used in the verification and recording of the claims.

### Action Points at Grass root

- Constitution of Gram Sabhas as defined in the PESA. In number of states, such as AP, WB, and UP, these are being called at the panchayat level, which is illegal.
- Review of the extensive and wrong rejections/recognitions, primarily due to hasty enquiries and lack of a thorough examination of the rejected /recognized cases by senior officials or the higher level committees.
- Making supremacy of FRC and GS in the decision making rather than considering them just signatories to the reports written by the officials. The village level enquiry reports needs verification by SDLC and DLC.
- SDLC should be sensitized to act pro-actively in providing the maps, documents, and evidence to FRCs and GSs.
- The efforts needed to make sure the avoidance of fresh diversion of the forest lands for the non-forest purpose by anybody.
- Habitat rights should be part of the implementation of the FRA act and they can be extended to the non-PTG (Primitive Tribal Group) areas also.
- Needs for review of exiting literature that was prepared for awareness generation to be used in the grass roots. Preparation of more if existing literature fails to address the issue, considering the tribal communities have one of the lowest literacy rates.

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- There is still need for mass awareness campaign in many remote locations using appropriate ICT methodologies.
- There is a need for a workshop that can exclusively cover the issues related to Nomads and Shifting Cultivation.
- In areas where community rights are being recognized, the efforts may be directed to identify appropriate institutional mechanism.
- FRA implementation processes were entirely dependent of presence of the persons/institutions. All good efforts whether done by government or non government should be appreciated, documented and disseminated.
- There is a strong need for networking wherever the implementation of the act is being violated.

### **Need for Network**

A strong need for collective efforts was felt; this can be done through formal/informal network and should involve all the levels right from community to actors involved on national level. These efforts can ensure discussions at regular intervals and help in creation of bottom up pressure to change in the policy arena and implementation process.

### **Vote of Thanks**

Mr. Ajay Bhan Singh thanks all the participants for their active participation into the workshop.



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ANNEX-I

Agenda

**Day 1: 21/12/2010 (Tuesday)**

Registration of Participants  
Welcome

Introduction to Workshop	Prof Krishan Kumar K N, IIFM
Address by Oxfam India	Ms. Nisha Agrawal, CEO, Oxfam India
Address by IIFM, Bhopal	Dr. R. B. Lal, Director, IIFM
Address by SPWD	Mr. Viren Lobo, Executive Director, SPWD
Address by Chief Guest	Mr. V. R. Khare, Ex-PCCF, MP & Advisor to MP Minor Forest Produce Federation, Bhopal

Session I

Session Chair : Mr. Rajeev Kumar, (Ex Joint Secretary, MoTA & Resident Commissioner, Jharkhand in Delhi)

Context Setting: Ms. Madhu Sarin, Noted Activist and Environmentalist, "Analysis of contemporary forest rights reform; Issues and Way Forward".

Panel Discussion

Discussants

Mr. Ravi Chellam, Wildlife Conservation Society - India Program & member FRA Review Committee

Mr. Ashish Kothari, Kalpvriksha, FRA Committee member,

Mr. V. R. Khare, Ex- PCCF and Advisor to MP Minor Forest Produce Federation, Bhopal

Session II

Individual rights vs Community rights; Livelihoods vs Ecology; Rights of various groups- PTGs, forest dwellers and tribals

Session Chair: Ravi Chellam, Wildlife Conservation Society - India Program.

Panelists

Mr. Viren Lobo, Executive Director, SPWD- "Ecology and Livelihood in FRA Context"

Mr. Ganesh Purohit, Noted Activist and Secretary, Jagran Jan Vikas Samiti, Udaipur & Dr. Jagdish Purohit, Senior Programme Officer, SPWD, Udaipur- "Community Forest Rights and Individual Forest Rights in South Rajasthan"

Mr. Binu Arickle, Samarthan Centre for Development Studies, Bhopal & Mr. Amit Anand, State Programme Officer, UNDP, MP, "Recognition of Community Claims under FRA in MP and Chhattisgarh- Bottlenecks and the Way Forward"

Session III a

Reality Check- Status of FRA and Forest Governance in States

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Session Chair: Ms. Moutushi Sengupta, Programme Director, Oxfam India

Presenters

Prof. M. Gopinath Reddy, Centre for Economic and Social Studies (CESS), AP- "Making of Andhra's Forest Underclass: an historical Institutional Analysis of Forest Rights Deprivation".

Mr. Dilip Gode, Vidarbha Nature Conservation Society (VNCS), Maharashtra, "Status of Implementation of FRA in Maharashtra"

Mr. Y. Giri Rao, Vasundhara, "Status of FRA Implementation in Odissa"

Session III b

Session Chair : Mr. Pramod Tyagi, Programme Director, SPWD

Presenters

Mr. Sharat Singh & Mr. Pran Ranjan, Senior Programme Officer, SPWD- "Status of FRA Implementation in Jharkhand"

Mr. Ramesh Bhai, Ekta Parishad, "Status of FRA in Chhattisgarh"

Mr. Sunny Rao, ANTHRA, Secunderabad, "Securing grazing rights through Forest Rights Act".

Close

**Day-2: 22/12/2010 (Wednesday)**

Recap- Mr. Ajay Bhan Singh, Programme Director, SPWD, Bhopal

Session IV: Learning Groups & Experience Sharing

Session Chair: Ms. Nisha Agrawal, CEO, Oxfam India, New Delhi

Presenters

Ms. Roma- National Federation for Forest People and Forest Workers (NFFPFW)- "Status of Forest Right Act Implementation in UP".

Mr. Ashish Kothari, KALPVRIKSHA, Pune- "FRA and Biodiversity Conservation".

Ms. Diana Joseph, Programme Officer , Center for Peoples Forestry (CPF)- "Forest Governance in community/jointly managed areas (CFM/JFM/CFR/GIM/REDD+) and need for reorganisation in the Forest administration and networking among community institutions".

Dr. Ganesh Yadav, Programme Manager, ICCF, IIFM, Bhopal & Prof K N Krishan Kumar, Faculty Member, IIFM Bhopal, "FRA 2006 Implementation and Concerns"

Mr. Vivek Vyas, Seva Mandir, "Experiences of Seva Mandir on Community Forest Resources".

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Mr. Raja Chakravorty, Programme Officer, Oxfam India, "Planning Exercise for 12<sup>th</sup> Plan".

Session V

Potential of forest tenure and rights for livelihoods and income enhancement

Session Chair: Mr. H.S. Pabla, Chief Wild Life Warden, GoMP

Presenters

Mr. Jacob Nellithanam, Farmers Rights Network, Bilaspur & Mr. Naresh Biswas, Nirman Sansthan: "Ecological Principles of Bewar Cultivation of Baiga's of Central India".

Mr. Sandeep Misra, BDS Manager, "Experiences on Forest based enterprises", Udyogini

Mr. Kamendra Singh Rathod, Secretary, Samarthak Samiti, "Forest Based Livelihood in South Rajasthan"

Dr. Rayudu Venugalrao, Laya , "Harvesting & value addition methodologies for forest produce".

Concluding Session- Wrap up, Way forward & Vote of Thank

Ms. Vanita Suneja, Economic Justice Lead, Oxfam India; Mr. Viren Lobo, Executive Director, Prof. Krishna Kumar, Faculty IIFM, Bhopal

Vote of Thank: Mr. Ajay Bhan Singh



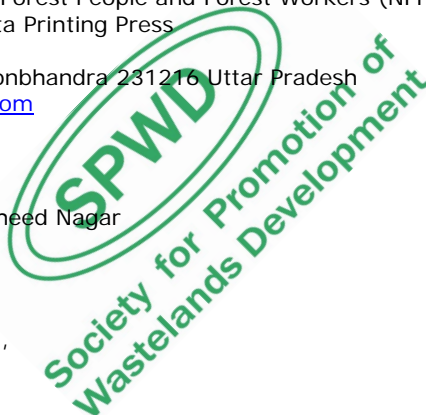
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ANNEX-II

**Workshop Participants**

1. Ms. Madu Sarin  
Noted Activist  
Chandigarh  
Mail: [msarin@sify.com](mailto:msarin@sify.com)
2. Prof. M. Gopinath Reddy  
Professor  
Political Science and Public Administration  
Centre for Economic and Social Science Studies (CESS)  
Hydrabad  
Mail: [mgopinathreddy@gmail.com](mailto:mgopinathreddy@gmail.com)
3. Ms. Roma  
National Federation for Forest People and Forest Workers (NFFPFW)  
Purab Mahal, Near Sarita Printing Press  
Munshif Chauraha  
Roberstganj District: Sonbhadra 231216 Uttar Pradesh  
Mail: [romasnb@gmail.com](mailto:romasnb@gmail.com)
4. Mr. Y. Giri Rao  
VASUNDHRA  
Plot Number A-70, Shaheed Nagar  
Bhubneshwar 751007
5. Mr. Ganesh Purohit  
Jagran Jan Vikas Samiti,  
Sapetia, Bedla  
Udaipur (Rajasthan)
6. Mr Amit Anand  
State Programme Officer, MP  
UNDP, Bhopal
7. Mr. Jacob Nellithanam  
Farmers Rights Network  
Bilaspur  
[farmersrights@gmail.com](mailto:farmersrights@gmail.com)
8. Mr. Naresh Biswas  
Nirman Sansthan  
Dindori
9. Mr. Viren Lobo  
Executive Director  
SPWD  
14, Vishnu Digambar Marg,





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New Delhi 110002  
Mail: spwd\_delhi@yahoo.com

10. Ms. Diana Joseph  
Programme Officer  
Centre for Peoples Forestry  
Hydrabad, Andhra Pradesh
11. Prof. K.N. Krishan Kumar  
Faculty Member  
IIFM, Nehru Nagar,  
Bhopal
12. Prof P.K. Biswas  
Faculty Member  
IIFM, Nehru Nagar,  
Bhopal
13. Prof. H.S.Gupta  
Faculty Member  
IIFM, Nehru Nagar,  
Bhopal
14. Prof. Bhaskar Sinha  
Faculty Member  
IIFM, Nehru Nagar,  
Bhopal
15. Dr. Ganesh Yadav  
Programme Manager  
ICCF-IIFM, IIFM,  
Nehru Nagar,  
Bhopal
16. Mr. Pramel Gupta  
Vrutti Livelihood Resource Centre  
Bhopal
17. Prof. Debashish Debnath  
Faculty Member  
IIFM, Bhopal
18. Dr. R.B.Lal  
Director  
IIFM, Nehru Nagar, Bhopal
19. Mr. Sunny Rao



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Anthra,  
A-21 Sainikpuri,  
Secunderabad 500094,  
Mail: [anthra.hyd@gmail.com](mailto:anthra.hyd@gmail.com)

20. Mr. Ramesh Bhai  
Ekta Parishad  
Gandhi Bhawan, Shyamla Bhawan  
Bhopal  
[ektaparishad@gmail.com](mailto:ektaparishad@gmail.com)
21. Mr. H. S. Pabla  
Chief Warden, Wild Life,  
Forest Department, GoMP  
Bhopal
22. Mr. Sandeep Misra  
Business Development Manager  
Udyogini,  
Plot No. 40, Kachnar City, Vijay Nagar,  
Jabalpur 482002 (MP)  
Mail: [bdsjabalpur@udyogini.org](mailto:bdsjabalpur@udyogini.org)
23. Mr. Rajeev Kumar  
Resident Commissioner  
Jharkhand Bhwan  
Opposite Indian Airlines Colony  
Kusumpur Pahari, Vasant Vihar  
New Delhi 110057
24. Mr. Binu Arickle  
SAMARTHAN-Centre for Development Studies  
36, Green Avenue, Chuna Bhatti  
Kolar Road  
Bhopal 462016  
Mail: [info@samarthan.org](mailto:info@samarthan.org)
25. Ms. Lolita  
ICCF-IIFM  
Bhopal
26. Dr. Ravi Chellam,  
Wildlife Conservation Society of India,  
Centre for Wildlife Studies  
1669, 31st Cross, 16th Main,  
Banashankari 2nd Stage,  
Bengalooru- 560 070
27. Mr. Ashish Kothari  
KALPVRIKSHA



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Flat no 5, 2nd Floor,  
Shri Dutta Krupa,  
908, Deccan Gymkhana,  
Pune 411004, Maharashtra  
India  
Email: [kalpavriksh@vsnl.net](mailto:kalpavriksh@vsnl.net)

28. Mr. V.R. Khare  
Rtd. PCCF & Advisor to MP Forest Produce Federation  
Sport Complex, Indira Nikunj, 74 Bunglows  
Bhopal 462003

29. Mr. Shushil Sharma  
HARD, P.O. Kotma (Budhanpur Rd)  
District: Anupur (MP)  
Pin: 484334  
Mail: [hard\\_ktm@rediffmail.com](mailto:hard_ktm@rediffmail.com)

30. Prof Parag Dubey  
Faculty Member  
IIFM, Nehru Nagar,  
Bhopal

31. Ms. Goswami  
Secretary, PARIVAARTAN  
At.: Bardebheta, Post: Kanker,  
District: North Bastar  
Chhattisgarh 494334

32. Mr. Amod Khanna  
TAAL, Arera Colony,  
Bhopal  
Mail: [amod\\_khanna@gmail.com](mailto:amod_khanna@gmail.com)

33. Mr. Vivek Vyas  
Seva Mandir  
Old Fatehpura,  
Udaipur 311001, Rajasthan

34. Mr. Pradeep K. Singh  
SRIDA,  
At. & Post Barela  
District: Jabalpur (MP)

35. Mr. Ishan Agrawal  
Team Leader  
Foundation for Ecological Securities (FES),  
Dindori (MP)

36. Mr. Tarun Joshi  
Sanion ka Sangthan  
[vanpanchayat@rediffmail.com](mailto:vanpanchayat@rediffmail.com)  
9412438714



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37. Mr. Reghu Tiwari  
AMAN  
[Aman\\_uttarakhand@rediffmail.com](mailto:Aman_uttarakhand@rediffmail.com)
38. Mr. Soumitri Das  
Fellow  
Forestry & Biodiversity  
Earth Science & Climate Change Division  
TERI  
Darbari Seth Block, I H C Complex  
New Delhi 110003  
Mail: [sdas@teri.res.in](mailto:sdas@teri.res.in)
39. Mr Rahul Banerjee  
Indore
40. Ms. Sreetma Guptabhaya  
KALPVRIKSHA  
Flat no 5, 2nd Floor,  
Shri Dutta Krupa,  
908, Deccan Gymkhana,  
Pune 411004, Maharashtra  
India  
Email: [kalpavriksh@vsnl.net](mailto:kalpavriksh@vsnl.net)
41. Ms. Indu Netam  
Adivasi Samta Manch  
At & Post : Bhanupratapur  
Kanker (North Bastar)  
Chattisgarh
42. Mr. Mohan Dangi  
Secretary  
Prayatna Samiti  
26-27, Mahavir Colony,  
Bedla Road,  
Udaipur 313011
43. Mr. Keshav Bhai  
DISHA  
Kanker (Bastar)
44. Dr. Hilaluddin M.  
Advisor  
NRAA, NASC Complex  
New Delhi 110003
45. Dr. Sreedhar  
Environics  
Chennai
46. Ms. Nisha Agrawal



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- Chief Executive Officer  
OXFAM India  
1, Community Centre  
New Friends Colony  
New Delhi 110025
47. Ms. Moutushi Sengupta  
Programme Director  
OXFAM India  
1, Community Centre  
New Friends Colony  
New Delhi 110025
48. Ms. Vanita Suneja  
Economic Justice Lead  
OXFAM India  
1, Community Centre  
New Friends Colony  
New Delhi 110025
49. Mr. Mirja Firoj Baig  
Oxfam India  
1, Dalibagh, Butler Road  
Lucknow 226001
50. Mr. Raja Chakraborti  
Oxfam India  
Lucknow
51. Ms. Rebecca David,  
Oxfam India  
Mumbai
52. Ms. Induja Rai  
OXFAM India  
1, Community Centre  
New Friends Colony  
New Delhi 110025
53. Mr. Pramod Tyagi  
Programme Director  
SPWD  
14, Vishnu Digambar Marg,  
New Delhi 110002
54. Mr. Ajay Bhan Singh  
Programme Director  
SPWD  
B-143, Alkapuri  
Bhopal 462024
55. Dr. Jagdish Purohit  
Senior Programme Officer



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SPWD  
26-27, Mahavir Colony,  
Bedla Road,  
Udaipur 313011  
Mail: [spwdudpr@yahoo.com](mailto:spwdudpr@yahoo.com)

56. Mr. Juned Khan  
Senior Programme Officer  
SPWD  
26-27, Mahavir Colony,  
Bedla Road,  
Udaipur 313011  
Mail: [spwdudpr@yahoo.com](mailto:spwdudpr@yahoo.com)

57. Mr. Sharat Singh  
Senior Programme Officer  
SPWD  
HI-214, Harmu Housing Society,  
Ranchi 834012  
Mail: [spwdranchi@gmail.com](mailto:spwdranchi@gmail.com)

58. Mr. Pran Ranjan  
Senior Programme Officer  
SPWD  
HI-214, Harmu Housing Society,  
Ranchi 834012  
Mail: [spwdranchi@gmail.com](mailto:spwdranchi@gmail.com)

59. Mr. Jagdish Menon  
Programme Officer  
SPWD  
26-27, Mahavir Colony,  
Bedla Road,  
Udaipur 313011  
Mail: [spwdudpr@yahoo.com](mailto:spwdudpr@yahoo.com)

