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सत्यमेव जयते

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D.O. No.23011/24/2009-FRA

4<sup>th</sup> May, 2010.

Dear

Some civil society organisations have been frequently urging the Ministry of Tribal Affairs to persuade State Governments to implement the Forest Rights Act 2006 in its true spirit. Recently, under the banner of Council for Social Development ([www.cadindia.org](http://www.cadindia.org)), a workshop was held in Delhi to discuss these issues and I attended its valedictory session. The Council, which includes members like Shri B.N. Yugandhar (former Member, Planning Commission), Shri S.R. Sankaran (ex-Chief Secretary, Tripura) and Shri K.B. Saxena (ex-Member, Planning Commission), placed the following issues before me. I would like to enumerate these so that under your direction, you could ensure that your State takes corrective measures, wherever necessary. Short point is that the figures showing the number of applications collected and the number of titles distributed may hide procedural irregularities for restrictive control on the legitimate claims.

- (a) The first point that has been highlighted is that the community claims are not being given due importance, and, therefore, community rights for the collection of Tendu Patta, bamboo and other MFP items are being deliberately avoided. In some areas, traditional grazing rights are also stopped. Your officers will recall that in the very first conference of State Tribal Welfare Secretaries held on 18<sup>th</sup>/19<sup>th</sup> February, 2008, we had highlighted the need for concentrating on community rights first over individual rights.

(b) Another point raised has been the dominant role played by forest department, rather than the nodal department of the State, in deciding on claims and imposing arbitrary conditions for claim verification. Instances of insisting on pre 1980 encroachment cases as proof of occupations were quoted widely. In some cases, it was alleged that forest department is using the JFM structure to take up plantation over lands on which claims under the Forest Rights Act are available. Specifically, it was alleged that

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the State Governments are not pushing for collection of claims and their settlement, in national parks and sanctuaries pending declaration of critical wildlife habitats. As per the Forest Rights Act, you would recall, that settlement of rights should have precedence because any subsequent rehabilitation and resettlement can follow only if the rights have been settled. In some areas, statements were made, that tribals are being evicted without following the procedure laid down under the Forest Rights Act.

- (c) Another issue that was raised was that because of the primary role played by the forest department, claim areas are being arbitrarily reduced even if recommended by Gram Sabhas. I have personally seen such records in one State.
- (d) In some States which are mineral rich, it was alleged that the FR Act was not being implemented because these areas were to be leased out to mines and industrial houses under various MOUs.
- (e) Generally, there was wide-spread apprehension that the claims recommended by the Gram Sabhas were being rejected without any intimation to them or the claimants. These issues, your State Secretary may recall, came up during one of the Conferences where it was felt that the status of claims should be put up at the Sub Divisional and Divisional offices so that there is a degree of transparency. It was also suggested that the status should be made known to the Gram Sabhas. This suggestion, if it has not been followed, should be followed.
- (f) In some States it was reported that the forest departments are still collecting Tendu Patta on the ground that Tendu Patta is a nationalized item. It is pointed out that the Forest Rights Act supercedes all State laws and according to the Act, a community becomes owner of Tendu Patta if it can establish its claims through the procedure laid down. The community then has the option to either sell the Tendu Patta to the forest corporation or any other.
- (g) The State level Monitoring Committee, in most States, has not been meeting to take stock of these field level problems. We would request you to intimate us about the number of meetings that the State level Committee has held during 2009 and the first quarter of 2010. We hope the frequency of such meetings will increase, but more important we hope that this Committee can take care of field level problems that are being projected at Government of India level rather than at the State level, for quicker attention.

## DETAILED STATUS OF IMPLEMENTATION OF FOREST RIGHTS ACT

*Information for most States as of the last week of January 2010. States are divided into those with CSD State federations (where more detailed information is available) and States where friendly organisations are active. Initial two pages consist of a note on major areas of Forest Department interference in recognition of individual titles.*

### Major Areas of Forest Department Interference in Recognition of Individual Land Rights

(Other rights are largely not being recognised at all)

Increasing interference by forest authorities is severely damaging the implementation of the Forest Rights Act in most of the major forest-tribal States. Some trends include:

1. *Demands that claimants should have fine receipts:* In many areas, forest officials are attempting to impose the requirement that claimants should have receipts for paying fines to the Forest Department, or should have "primary offence reports" (POR's) showing occupation prior to the cutoff date. Most claimants obviously do not have these documents, as they were never fined / booked, and this is resulting in their claims being rejected. Such documents were requirements under the earlier 1990 guidelines but have no place in this Act, where they do not even feature on the list of possible evidences (out of which, in turn, only two are required). One of the major steps forward in this Act was precisely to remove these onerous and unnecessary requirements.

**A Few Examples:** In Satna District, Madhya Pradesh, several villages found all their claims rejected as a result of the absence of PORs; Forest Rights Committees were "briefed" that they should reject any claim without a POR. In Rajasthan, an 11 page verification form was being circulated by the Tribal Department (later withdrawn after protests, but still continuing at the sub-divisional level) which required the forest guards' signature; this was often denied if a fine receipt was not present. Similar reports have emerged from several parts of MP and Chhattisgarh.

2. *Demands that claimants should be present on pre-existing Forest Department "encroacher" lists:* Department officials are rejecting claimants who are not on pre-existing lists prepared by forest officials of "eligible encroachers" (often prepared in the 1990's).

**A Few Examples:** This has occurred in large parts of Madhya Pradesh (where 1994 lists are being imposed) and most of Chhattisgarh. In Rajasthan, Gujarat and Chhattisgarh, steps were taken in 2008 and 2009 to focus the process on pre-1980 "encroachers" on the lists, with others being told their claims would be dealt with 'later.' A circular to this effect was withdrawn in Rajasthan after protests.

3. *Evictions in violation of the law:* Evictions are continuing in multiple areas.

**A Few Examples:** In the Dangs district in Gujarat, evictions took place in April 2009. Ongoing eviction efforts and clashes in Burhanpur district of Madhya Pradesh have led even to deaths

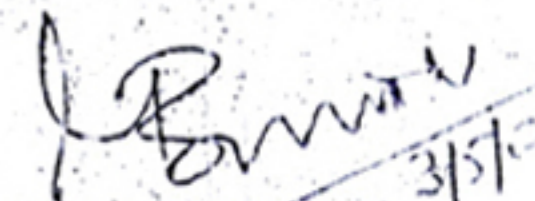
2. Finally, I would like to attach a paper that was circulated in the aforesaid meeting of the Council for Social Development. This paper gives State-wise list of situations which may be construed to be against the provisions of the Forest Rights Act.

Yours sincerely,

Sef / -  
(G.B. Mukherji)

Chief Secretaries of Andhra Pradesh, Chhattisgarh,  
Bihar, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh,  
Maharashtra, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttarakhand,  
Uttar Pradesh and West Bengal.

✓ Copy to Shri Vijay Sharma, Secretary, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi, with a request to pass appropriate orders to the Forest Departments of State Governments to observe and support the provisions of the Forest Rights Act in letter and spirit. The objections raised have not been verified by the Ministry of Tribal Affairs, but as you can see, these have been sent to the State Governments for appropriate action. Some are of a generalized nature.

  
(G.B. Mukherji)  
Secretary (TA)

since January this year. In June 2009, it was reported that a village in Raigad district of Maharashtra was evicted. In Simlipal tiger reserve in Orissa, it is reported that four villages were given eviction notices earlier this year (the date of the notices is unclear). In 2008, evictions or eviction threats took place in Rajasthan, Madhya Pradesh, Gujarat, Tamil Nadu, and elsewhere.

4. *Creating Joint Forest Management Committees and encouraging plantations on people's lands:* The Forest Department has actively created and consolidated more Joint Forest Management committees in forest areas, and has then attempted to use these Committees to either impose control over community forests or to plant trees on people's lands.

**A Few Examples:** In Orissa, such Committees have been used for new plantations on people's lands, leading to clashes. In Kerala, Joint Forest Management Committees have been created at a more rapid pace, while in West Bengal a new JFM resolution was issued late last year that sought to impose responsibilities on people to protect forests as part of JFM when they received rights.

5. *Attempts at vetoing claims recognition at the Forest Rights Committee or Sub-Divisional Levels:* While notice is required to be given to forest officials at the level of the village during verification by the Forest Rights Committees, and while they are members of the SDLC's, the consent (or presence) of forest officials is not a requirement for verification of a claim. Yet, at the village level, in many areas forest officials are refusing to be present during FRC verification, and then insisting that the lack of their approval means the claim should be rejected (contrary to the actual Rules). Similarly, at the level of the SDLC, forest officials are often insisting that their approval must be taken on every claim (which then is only given if the claim is accompanied by a fine receipt etc.)

**A Few Examples:** During FRC verification in Gujarat in November and December 2008, in many cases forest officials refused to be present. In Rajasthan, the 11 page verification form mentioned earlier required the signature of the forest guard (along with the patwari, the sarpanch and others). In West Bengal, State government orders have in fact made forest guards members of the Forest Rights Committees (in direct violation of the law). In Karnataka, recent attempts to get recognition for minor forest produce rights in the BRT Hills wildlife sanctuary are being stalled by the DFO, who is refusing to agree.

6. *Insisting that titles should only be given for a small part of the land under occupation:* Titles are being granted in most States for only a small fraction of the area actually under occupation, as forest officials insist on such reductions.

**A Few Examples:** This has been reported from all States where titles are being given so far, including Andhra Pradesh, Chhattisgarh, Madhya Pradesh, Gujarat and Rajasthan. In Thane District in Maharashtra, attempts were made by forest officials – who have the GPS instruments for mapping the lands – to manipulate the maps or reduce the area shown so that the title would be given for smaller areas.

Two primary problems have emerged in the forest rights struggle in MP. First, the Forest Department continues to interfere in the process of people attempting to claim rights under the Forest Rights Act. Across the State, the Department is insisting that claimants must either produce "fine receipts" (as was done in Satna district) or demanding that claimants must be on the Department's list of "eligible encroachers" made in 1994. Both these demands are brazenly illegal and amount to reducing the act to the earlier, Forest Department-controlled "guidelines" which did not address the issue at all. Moreover, the signatures of the chairpersons and secretaries of Forest Rights Committees have been taken by the Department on blank 'rejection' forms. The Department has also tried to convert Joint Forest Management Committees into Forest Rights Committees. As of January 2010, these problems are continuing. In addition, land titles that have been granted are often for a small fraction of the area claimed, without providing the claimants any basis for the change or giving them an opportunity to appeal against the reduction.

Secondly, community rights continue to be neglected, and claims for such rights are being actively discouraged. While both community rights forms and individual rights forms have been distributed, in some areas such as Betul district, the community rights forms were at first marked "N/A" by government officials. Despite this, several hundred villages had demarcated and asserted their powers and rights over community forest resources in 2008. In August 2009, villages in Burhanpur, Khandwa, Khargone and other areas began a process of demarcating their boundaries and issuing notices to the Forest Department for its illegal attempts to take over management of their community forests.

Implementation of the Act in Madhya Pradesh began in February 2008. In Schedule V areas, Forest Rights Committees were formed at the revenue village level, while in other areas - Burhanpur District in particular - the Committees were formed at the panchayat level. Madhya Pradesh's Panchayati Raj Act provides for hamlet level gram sabhas in scheduled areas, and the Tribal Secretary's May 27th, 2008 orders on the FR Act have required that such hamlet level gram sabhas should take place where people demand them (provided that very recent settlements cannot have their own gram sabhas). Unsurveyed villages are facing difficulties in being included in gram sabhas or in forming Forest Rights Committees of their own, especially in Burhanpur. The government had also ignored the requirement for one third women's representation on the Forest Rights Committees.

As in other States, there were problems getting ST certificates, which were partially resolved by orders to the SDM's to issue the certificates in a time bound manner (people were earlier being directed to their sarpanches). In some unsurveyed and forest villages, people are being required to get signatures from local forest guards for being issued ST certificates, who are refusing, and claiming that the residents are "encroachers." The May 27th, 2008 orders state that lack of an ST certificate should not be grounds for rejecting a claim at the stage of filing the claim; instead, when the claim reaches the Sub-Divisional Committee level, the SDO should be required to verify the antecedents and issue the certificate as per normal procedures. If the person is found ineligible, the claim may be rejected at that stage.

Notwithstanding slow implementation of the Act in the State, the atrocities have not come to an end. As a result of evictions in July 2008, the Jabalpur High Court issued three orders in various cases

barring any further evictions till the rights recognition process is complete - as per section 10 of the Act. Directions have also been issued requiring that the status of lands disputed between the Revenue and Forest Departments - particularly the "orange areas", which total more than 12 million hectares, should also be sorted out immediately. Yet, these orders notwithstanding, in most areas there has been little progress and atrocities have continued in areas like Burhanpur district.

The Madhya Pradesh government had continuously announced January 31st, 2009, as the deadline for filing claims, but this is illegal and was protested against by the local organisations. Press reports indicated that June 30, 2009 was fixed as a new "deadline", and it then was said that, in keeping with the President's address to Parliament, the new 'deadline' for completion of the process is December 31, 2009.

The local organizations have now decided to challenge the many illegalities taking place during implementation. As a first step, villagers are demarcating their customary village boundaries which are well known and demarcated in western MP. While demarcating their community resource boundaries, villagers found that in many cases the forest department has encroached upto 1.5 kms inside revenue village boundaries. On 14th October, in Satna, the SDM Satna and officials of 2-3 blocks agreed to come and see the forest department's encroachment themselves and accepted that this was illegal. They promised to distribute 1200 claim forms for community rights by 25th October and to support their claims for CER rights. These were then distributed, though well after the deadline. Despite the tehsildars promising that they will accept evidence admissible under the Rules, no claim for individual pattas has been accepted without a FD fine receipt. This practice is continuing. As of January 2010, only a few hundred claims had been accepted in Satna District. Further, in many cases the pattas have been issued for far lesser area than that actually under occupation without assigning any reason for the same. Also in Satna, livestock has been carried away by forest staff, often by JFM Committees.

In the area in which the Bargi dam displaced have settled, the response is somewhat different in each of the three districts. In Jabalpur district, pattas have been given in forest villages without claims being invited by FRCs and those holding original leases given by the FD have been excluded. In Seoni district, 1500 pattas have been issued on the basis of ST certificates signed only by the Panchayat. In Mandla district, pattas are being issued only to those who have ST certificates signed by higher officials and claims of those from an area allocated for building a heavy water plant are not being considered.

Meanwhile, clashes between forest officials and people have continued, with several persons getting killed in such clashes in Burhanpur district alone in 2009. The forest department burnt the hut of a villager in the last week of October 2009.

## Rajasthan

FRCs were constituted in almost all of the villages in Scheduled Areas in south Rajasthan (including protected areas), mostly between April 8th and 17th and again in May 2008. In some villages where FRCs were wrongly constituted, the Jangal Jameen Jan Andolan succeeded in getting them re-constituted. In scheduled areas, gram sabhas of revenue villages are being called, whereas in non-scheduled areas, gram sabhas of the panchayats are being called. There have been several cases of

illegal eviction of forest dwellers without giving them a chance to claim their rights under the Act.

Post formation of the Committees initially there was little action from the government side. There was a severe shortage of claim forms, with the government declaring that only claim forms carrying official stamps will be accepted - but not printing sufficient claim forms afterwards. Community rights forms were entirely unavailable. These problems were partially remedied following new orders in July 2003. In June 2008, the Tribal Welfare Department issued a circular that confusingly referred to 9455 families identified in a 1995 government survey as "eligible" persons (i.e., under the circulars of that time, as people who had been identified as having cultivated land from prior to 1980). The circular stated that for these persons, claims should be submitted before June 30th, and rights finalised before July 20th. This led to considerable confusion and was in violation of the Forest Rights Act. After meetings with organisations, this circular was clarified by orders stating that the Act's provisions should be complied with for all applicants. It was also expected that more forms would be made available and the lower officials were directed to provide forms immediately to all those who demand them. However, the Forest Department continued to insist on the old circular.

On July 25th, 2008, around 5,000 people joined a Jangal Jameen Jan Andolan dharna against these illegalities. At the end of the day the Tribal Commissioner gave a written commitment that:

1. Forms for both community rights and individual rights will be freely and properly distributed. Only after the forms have been distributed will the three month period be deemed to have started.
2. The Forest Rights Committees should be allowed to function freely and trained. Earlier the Forest Department was attempting to take over the process in several areas.
3. The Forest Department had been treating pre-1980 claimants as eligible without verification and blocking other claims. The new instructions on this will now be reinforced.

Despite the Tribal Commissioner's assurances that the Act would be properly implemented, there was little improvement on the ground. In addition to continuing illegal evictions by the forest department, the state government issued a new 11 page proforma for filing claims (this was the third new form issued after Jan 2008). The new proforma required that verification of each claim must also be done by the Panchayat Secretary, the Sarpanch as well as the Forester, which is illegal. In fact, the forms assume that the claimant is ineligible. Even the claim proforma is not being issued to claimants unless they provide evidence for their claims beforehand and OTFDs are being asked to produce 80 year old forest offence reports as evidence. In January 2009, following mass demonstrations, the government withdrew the 11 page proforma, but then later said that it would continue but officials would be required to fill the form instead of people. This has had the result of making people vulnerable to the officials and to demands for bribes. As of September 2009, the claims were mostly at the level of the Forest Rights Committees and the Sub-Divisional Level Committees. In the wake of mass demonstrations and rasta rokos on August 3rd, 2009, claims in some districts - such as Sirohi - have moved faster and there is less Forest Department interference.

As of January 2010, organisations estimated that approximately half of all claims are being rejected due to Forest Department insistence on illegal evidence requirements. The Department is insisting that only those on FD "encroacher lists" should have their rights recognised. Some individual land pattas have been issued, although most are for a much smaller area than that under occupation. In Banswara district, claimants refused to accept the titles they were given since they were for a much smaller area

than what they had rights to. In Kumbhalgarh District, JFM Committee's block level meetings were held with people.

Officials also are abusing GPS instruments to delay and distort the process of demarcating the forest on the ground and preparing maps. In Baran district, out of 1250 claims filed by the Satpura (a Primitive Tribal Group), only 450 have been accepted. The district collector is refusing to consider more claims saying that the time limit for filing them is over.

The claims process is not being taken up in the wildlife sanctuaries. For example, although slubir have been organized in other areas, no slubir creating awareness about the Act was held in Kumbhalgarh sanctuary. In Kota district, a protected area was notified some five years ago, and the five villages within this area are being subjected to harassment and eviction notices. There are continued efforts to relocate villagers from Sariska Tiger Reserve, though such relocation is now illegal without the consent of the affected persons and full recognition of rights. In Ranthambore Tiger Reserve, similarly illegal relocation has begun. At least one settlement, the village of Indala, was relocated in May 2009. Though the families had 60-70 bighas of land, no land has been provided and only cash compensation has been paid. As of June 2009, attempts were reportedly on to relocate seven more families, and rumours suggest that another 96 villages will be relocated. As the Act has not been implemented in the Reserve, this relocation is in clear violation of the law. While earlier relocations had taken place through pressure and threats, a rise in awareness among the communities since last year has forced the forest authorities to engage in negotiations in several of these settlements. However, the requirements of scientific proof of human impact and implementation of the Forest Rights Act are not being complied with, which section 33V(5) of the Wild Life (Protection) Act requires (even in cases of "voluntary relocation").

Mobilisation on community forest rights has taken place in approximately 250 villages, though the government continues to ignore them in implementation. The Jangal Jameen Jan Andolan estimates that approximately 90% of the claims filed so far have been filed as a result of its intervention.

## Gujarat

By May 2008, FRCs had been constituted in most villages in Scheduled Areas. In most cases these committees have been constituted at the revenue village level, but in some cases where people have demanded hamlet level G3s in schedule V areas, those have also been permitted. FRCs were instructed in some areas to invite claims for community forest rights during the first month before accepting claims for individual rights. Though this largely did not take place, in late 2008 orders were issued again by the State government to all Forest Rights Committees and gram sabhas asking them to recognise community rights. In some cases, claimants were not permitted to become FRC members due to misinterpretation of the rules.

Despite this initial rapid start to implementation of the Act, by early 2009, the forest rights struggle in Gujarat was again bogged down in the fight to have the law respected by the authorities. Forest Department interference has become common, though the tribal department had initially issued a number of positive clarifications of the FRA for government staff, including that the forest department "could not be involved" with liaison work in the field due to the fact that it is an interested party. Gujarat

government orders do however require that the Forest and Range Department and the Forest Rights Committees undertake spot verification; in some areas the Forest Department is refusing to cooperate in a deliberate effort to block filing of claims. The Forest Department requirement - the Rules only state that notice should be given to the Forest Department and the Sub-Divisional Level Committees are creating problems in some areas in some cases demanding on production of fine receipts as proof of a claim, and in others sending rejected claims to individual claimants rather than the Forest Rights Committees or the gram sabha.

As of October 2009, reports indicated that the Sub Divisional Level Committees had been accepting claims even when they are accompanied by fine receipts - only those on the FD's 'eligible' lists are being accepted. - By January 2010 it appeared that the entire verification process had been brought to a halt. The only claims being accepted are those with Forest Department land records who were already recorded in Forest Settlement Officer reports. The Tribal Welfare Department has failed to object to these illegal requirements, -has also implied that only those who were in 1980 occupation on this basis will have their rights recognised.

The Forest Department has also undertaken a massive program of creating new Joint Forest Management committees under the JBIC/JICA forestry project. This is being used to divide the community and buy off the more powerful elements in the local villages on the promise of generous funds. In some villages they have even made the Forest Rights Committee president the head of the Joint Forest Management Committee, in an effort to coopt him/her.

In some areas, particularly in the Dangs, the forest department is continuing to harass villagers, dig pits in their fields. Evictions and atrocities have continued in the Dangs, to the extent that in early 2008 the Central Ministry of Environment and Forests has directed an inquiry into four cases. On April 22nd, 2009, more than 150 forest guards attacked a family and beat up its members. In some areas, the FD has cut down bamboo in order to prevent people from claiming rights over their forest produce, though the organisations have stopped them. At the state level, the Forest Department has continued efforts to imply that forest rights activists are Naxalites and to frame them in false cases. Recent media reports have alleged that the demand for 'Bhilistan' may be revived and the FD is warning up the activists to keep an eye on their activities.

The Gujarat government has imposed some additional conditions for recognising rights over forest land. In particular, those owning some revenue land, or who have already received patta over forest land under the earlier 1992 GR, will be eligible to rights over a maximum of 10 acres of forest land already in their name. The justification is that that is all the land required for meeting local livelihood needs. There still appears to be some confusion on this matter. The government has issued instructions that those holding jobs or earning pensions will not be eligible though apparently an exemption is being made for those in "very small time" jobs.

The government had granted time till December 31st, 2008, for both individual and community claims to be filed, but this was extended to June 30th, 2009 and then extended again due to lack of awareness. The government and the Forest Department have confused people into equating community rights with the development rights under section 3(2) of the Act (relating to diversion of forest land for schools, anganwadis, etc.) to prevent people from filing community claims to forests, mineral rights, produce etc. Community rights mobilisations have taken place under the Adivasi Mahazhans.

villages in Sabarkantha district have demarcated their traditional boundaries and filed community forest rights claims and 55 in the Dangs district have done so. However, no community forest resources have been recognised in the State till date.

In January 2009, the Gujarat government made an announcement that no titles to individual lands would be given and instead the land would remain forest land, while the rights holders would be given a "certificate" of their rights.

As of end of October, 2009, 1,40,000 numbered claim forms had been distributed. 663 claims for community forest rights and over 80,000 claims for individual titles had been filed. The SDLCs started accepting claims for individual rights after a lot of agitation by the Adivasi Mahasabha. Till now only 1388 individual claims have been accepted and 800 pattas issued only to those who could produce forest department fine receipts. There is tension in areas where a couple of organizations encouraged people to occupy forest land after the Act had come into force due to their claims being rejected.

The government has finally started accepting claims for community rights. Only two tehsils have provided details of how many of the claims have been accepted or rejected. Those rejected want to know the reasons for rejection. The Adivasi Mahasabha is planning to compile such official data to make it available to elected representatives. They have also mobilized the elected members of SDLCs and DLCs to become more active members of these committees. They have also approached the Minister of State for Tribal Affairs who is from Gujarat.

### Chhattisgarh

Though the State government claims to have recognised more than one lakh individual land holdings under the Forest Rights Act, the process has been implemented in an illegal and highly undemocratic manner.

FRCs were formed hurriedly in late February/early March 2008 without any dissemination of information about the Act to the people. In almost all areas, FRC's were constituted at the panchayat level, though in a few Scheduled Areas hamlet level gram sabhas were allowed to function after they applied for recognition. In many areas existing JFM Committees - the Van Suraksha Samitis - were converted to Forest Rights Committees in total violation of the law. The FRC's were never given clear information on what their task is and in many areas have been simply bypassed by the Forest Department. The State Level Monitoring Committee is essentially non-functional.

Despite the Tribal Department being the nodal agency, FRA implementation seems to have been largely controlled by the Forest Department. Prior to June 2008, only those living on forest land were considered eligible, and forms were only provided for those recorded under previous Forest Department surveys as living on forest land (only numbered official forms were being accepted for claims). After June 2008, this was changed, but the FD continued to dominate the process at the local levels.

Only claims for individual rights were accepted; forms for claiming community rights have not even been distributed in most areas. The government had earlier announced that community rights would be

recognised through a process during and after the monsoon of 2003, but the local community organisations attempted to map community forest resources in six districts in order to prevent a move by the government to reduce or distort community resource rights. Reports suggested that FRCs had been made to sign on statements that they were not interested in claiming community forest rights without being aware of the law's provisions.

Much of this is not surprising, given that the orders issued by the State government (originally on February 8, 2008) were themselves in violation of the Act and the Rules. Thus, the first gram sabha meetings (called between February 25 & 29), were called by the Panchayat Secretary and not the Panchayat. Although claims for community forest rights are to be prepared by the Forest Rights Committees, the order asks the panchayat secretary to seek the assistance of forest and revenue officials, effectively making it a process controlled and managed by officials instead of the gram sabha, as provided for in the law. Gram sabha resolutions based on FRC recommendations were to be passed after giving an opportunity to officers/staff of concerned departments to be heard before forwarding them to the SDLCs. The gram sabhas were also expected to pass resolutions on relocation packages from critical wildlife habitats of sanctuaries and national parks even before these had been identified. The Panchayat secretary is to be the secretary of every FRC despite the rules providing that a villager is to be elected secretary. Claimants are asked to deposit their claims in the Panchayat office instead of to the FRC. Verification of claims was to start straight after their receipt by the panchayat secretary (instead of the FRC) after intimating revenue & forest officials. After verification of claims, survey teams for forest land are to be constituted by the DFO & for revenue land by the Collector. The SDO is to direct the FRC & Gram Sabha when to have their meetings.

Overall, thus, officials have tried to control the process from start to finish - in violation of both the spirit and letter of the Act. Chhattisgarh has seen numerous protests against this, including a mass cycle rally in Raipur in which more than 2,000 people participated, as well as numerous dharnas, morchas and smaller protests in the districts. Dharnas were held in most districts between August 9th and 15th, 2008 and a large morcha in Raipur on August 15th, as well as subsequent protests in December, January, May and August 2009.

In October and November 2008 plans were announced to first grant titles to those who were on lists drawn up based on a prior survey to identify those in occupation of land prior to 1980. As this would create confusion and result in the Forest Department further controlling the process, this move was opposed by the local organisations through protests in all districts in the State, resulting finally in the order being withdrawn and the Act process being allowed to continue.

In tiger reserves in the State, illegal efforts at relocating people prior to the recognition of their rights are underway. Protests had taken place on this in the third week of December 2008. Implementation of the Act in all three tiger reserves had not even begun. In Achanakmar TR in December 2009, Baiga adivasis were illegally and forcibly relocated out of the reserve, leaving them without shelter in the thick of winter. This was in direct violation of law.

108 community forest rights claims had been filed in the state as of mid 2009. Jhudpi, Badc jhar ke jungle and nistari jungles falling within revenue village boundaries are marked by boundary pillars on the ground and in revenue maps from Rajwada times. 50 to 55 stones normally mark the boundary of each village. The villagers have got very involved in re-identifying their village boundaries and the

information about the importance of doing so is spreading from village to village. About 1000 claims have been filed from Mungla and Chowmki blocks of Raynandgaon district. However, the collector refused to accept them saying that he had no instructions to do so. The Collector accepted the claims but there has been no further development.

Details about the 1,90,000 approved individual claims (area applied for, area approved, total area, etc) were sought from the tribal welfare department. Their reply was that they didn't have the information and had asked the forest department for the information, requesting a copy to be sent to the tribal dept as well! A forest official had stated that the department was approving claims of only those who could provide offense reports, i.e. reports from forest officials saying they had "encroached" the land prior to 2005.

## Orissa

More detailed information on the FR Act in Orissa can be found at <http://www.fri.org.in>

The government claimed to have formed more than 30,000 FRCs during two days in March, 2008, when gram sabhas were called. In reality FRC formation began around this time and continued up to June, at which time official figures said around 42,000 FRC's had been created. FRC's have been constituted at the revenue village level. There were attempts in some areas to convert the JVA Committees into Forest Rights Committees, but these were mostly stopped. Subsequently, the revenue secretary sent a letter to all district collectors asking them to give due importance to implementing the Act. It also said that the maps prepared by FRCs need not be to scale. The SDLCs would have the responsibility to prepare proper maps based on the received claims.

Organisations have made claim forms available in many areas where the officially printed ones had not reached. In most areas filing of claims was claimed to be largely complete as of mid-August, 2008. On closer perusal, however, it was found that many irregularities had taken place in the process of submitting claims to SDLCs and that the vast majority of claims were only for individual land pattas, with barely any claims for community rights. The Forest Department has been spreading misinformation about the Act and seeking to divide villages. Non-ST's were initially prevented from filing claims at all and continue to face difficulties. Tribals initially faced acute problems in obtaining ST certificates.

There have also been many cases of the FD forcibly undertaking plantations on cultivated lands both under government programmes and a Japanese funded forestry project in total violation of the law. In several incidents in 2008, adivasis were severely beaten by FD supported goons for resisting such plantations. More recently, the FD has been enticing people to opt for JFM with the lure of Rs 15 to 20 lakh per village, instead of claiming statutory rights over their CFRs, as with the latter they won't get any funds.

In Sunabeda sanctuary and the Simlipal Tiger Reserve, the villagers are facing a lot of problems due to the forest department not permitting even awareness raising meetings. This has intensified after attacks by Maoists inside both the protected areas.

On July 23rd, 2008, the Orissa High Court issued an interim order barring grant of pattas or felling of

tees until further notice (very similar to the February order of the Madhya Pradesh High Court) and allowed the process of the Act to continue. On July 2nd, an application by the petitioners for a complete stay of the Act had been rejected by the Court. Ironically, 45 minutes after issuing the interim order of stay and grant of patta, a different bench of the same High Court directed the State government to implement the Act and make a final decision on all claims within three months of receiving the claims. The order was ignored. The High Court interim order against grant of final titles initially led to demoralisation and a lull in activities as an impression was created that the implementation of the Act had been stopped. However, the court later clarified that the order only barred issuing of titles and not other processes like filing claims and their verification. Finally, in August 2009, the High Court vacated its earlier interim order and allowed the implementation of the Act to proceed normally.

There have been numerous local and district level demonstrations throughout the State against violations of the Act and demanding its proper implementation, including a large rally of more than 5000 people in Bhubaneswar on August 3rd, 2009.

CSD Orissa also launched a campaign for filing claims for community forest rights which has borne fruit. A large number of claims for community forest rights have been filed from all areas of the State. Local organisations are active. At least in some of the districts, the SDLCs and even some DLCs have been very open and supportive, depending on the attitudes of the concerned IAS & IFFA officials. Unfortunately, however, verification of claims for CFRs is yet to take place and no CFR rights have been recognised. Government reports claim to have approved a number of community claims, but these were mostly in fact claims for diversion of forest land for development facilities under section 3(2). In other states, officials continue equating claims for development facilities with claims for community forest rights.

In some cases, the SDLCs are sending verification teams consisting of forest, tribal and revenue officials, who are visiting the villages for on site verification of claims. This is apparently being done as FD staff did not show up when intimated by FRCs that they were planning field verification of their claims. During their initial visits, the verification teams have only dealt with claims for individual forest rights while leaving out claims for community forest rights. This is being partially rectified now with persistent demands by local organisations. Since late 2009, Orissa's ST Welfare department has been issuing new orders on the issues of procedures are followed during the recognition of rights, that community forest rights and the rights of FTGs are given special attention and that every claimant is given an opportunity to appeal against the rejection of her/his claim. Several positive circulars along these lines have been issued. The Forest Department has been instructed to stop blocking claims for rights on reserve forest land (initially the FD was opposing any). The ST department has also issued an order to facilitate development of land on which rights are granted and extending NREGS to such lands.

Claims are also being verified in wildlife sanctuaries, although there continues to be forest department resistance to cooperate with the process in the tiger reserves. However, community rights are yet to be recognised in them. In 2009, interference had increased in protected areas and in areas slated to be granted for mining, where the government was not allowing the process to proceed.

Recognition of the rights of residents of unsurveyed villages which do not come within any Panchayat, conversion of forest villages into revenue villages and recognition of the habitat rights of Orissa's PFTs

him to recognise their rights under the Forest Rights Act. The park director had a panel of the court with no authority to recognise rights under the Act. The state government was then made a party to the petition and in its order dated 26.9.08, the High Court instructed the government to constitute the required committees under the Rules and initiate the process of claims being filed within a period of 100 days. However, no action was taken till later in 2008 and then subsequently in 2009.

In mid October 2008, more than 100 families were evicted from the Rajaji National Park in direct violation of the court order. These families have managed to return to their lands with the support of local movements. In late 2008, SDLCs and DLCs were constituted which got some faulty FRCs nominated. During a public dialogue with the PCCF and the Collector of Dehradun district organized in June 2009 as part of an international conference, the govt officials accepted that correct procedure had not been followed in the constitution of FRCs and that these needed to be reconstituted. They also made a commitment to support proper implementation of the Act but there appears to have been little progress since then.

## Goa

In February 2008, Forest Rights Committees were formed by the concerned BDOs at the G.P level and Sarpanches were nominated/selected as the ex-officio presidents of the Committees; as such the process has largely been violated. The whole process has been carried out by the Revenue and Forest officials and the tribal department has no knowledge of it. In some areas the Forest Department has been continuing with cashew plantations on people's lands. The government has reportedly blocked implementation of the Act in mining areas.

It seems that the State Level Monitoring Committee, the District Level Committees and the Sub-Divisional Level Committees have not yet been constituted as of June 2009, though in any case the process for demarcating "critical wildlife habitats" appears to be underway.

Since mid 2009, Gakuvad, a federation of the Gawda, Kunbi, Velip and Dhangar Adivasis has become active in demanding implementation of the FRA. The federation organized a people's tribunal on 30-31 May, where forest officials claimed they had no idea about the Act or their responsibilities under it. But a committee for declaring Critical Wildlife Habitats has been constituted. Tribals in Goa were granted ST status only in 2003-04 although most forest land in the state is tribal land. In 1968, the government had promised to issue land titles to people living in wildlife sanctuaries but the FD claims to be still doing the survey of the land. District Level Committees have been formed in both South Goa and North Goa. FRCs have been constituted in some villages such as Khopigao and Gaodongri in Canacona Taluka of South Goa. Claim forms have reached the BDO's office. But the formal process of submission of claims was yet to begin in the State as on end October 2009. However, in mining areas as in Rivona village in Sanguem Taluka where people have been protesting mining activities, no attempts to constitute FRCs have been initiated by the authorities.

with the District Collector. After a preliminary talk, representation of the District Collector is within the purview of the Government. It is reported that the District Collector is within the purview of the Government. It is reported that the District Collector is within the purview of the Government. It is reported that the District Collector is within the purview of the Government.

In the month of August 2007, four adivasi homes were demolished in the area. At least two families have reportedly already accepted the compensation and moved out, though it is illegal to do so. Recognition to take place prior to the recognition of rights has not even been initiated in the area) and it is also illegal to provide compensation. Reportedly the authorities are not accepting claims from tribals under the Forest Rights Act. Increasing pressure on people to accept the cash compensation and to move.

### Himachal Pradesh

The implementation of the Act was technically begun in the two Scheduled Tribe districts of the state in May 2008. Meetings of Panchayats were made one of the agenda items of the Panchayat meetings held soon after. Neither the officials conducting the meetings nor the villagers had information about the Act. Filing of claims was apparently due to begin in December 2008, but has yet to be extended to other districts of the state.

However, the earlier implementation of nomadic pastoralists of Gaddis and Gujars, who are not as tribal as STs, who move outside their districts or visits their alpine pastures only during this section of the population which would benefit considerably through clear recognition of rights both to their seasonal pastures and the migratory routes. However, the rules about procedure to be followed for recognizing the rights of such nomadic communities were through not only multiple jurisdictions of the multiple districts and sometimes Districts of Jammu has not been effective despite several protests to MoTA.

Himachal is quite unique among Indian states in having well recorded forest rights communities. The main problem is that practically all the recorded rights are individual rights. Recognition of community forest rights and management rights. Local activists have been successful in getting the state government to promise to begin on recognising such community forest rights under FRA. However, without extending the FRA to the non-ST districts of the state, the government is now claiming that the deadline for accepting claims has already passed because the government's camp was on finalising the recognition of rights by Dec 31, 2009. Local NGOs are planning to challenge the government's claim about the Act's implementation.

### Uttarakhand

The meaningful implementation of the Act is said to have begun until late 2009. It was reported that the Chief Minister said that there is no need for this Act in Uttarakhand as rights are already well known and well. However, in September 2008 the Ministry of Environment and Forests issued a contempt notice to the Director of the Garo National Park for attempting to enforce the Van Gujjar community forest rights. The implementation of the earlier orders of the Ministry of Environment and Forests.

mid August to have the gram sabhas at the hamlet level wherever ward sabhas could not be held due to the lack of a quorum. The local organisations are demanding that hamlet level gram sabhas should be made mandatory and not left to the discretion of the District Collector. These gram sabhas were initially called on August 13th but subsequently seem to have been called in several areas during September 2008.

The FRA process has however only been initiated in villages that are in fact near actual physical forests and where there is overwhelming evidence of total dependence on physical forests for livelihood. The process seems to be ignoring villages that are on the fringes or which have forest land but no actual forest.

There has been a lack of information dissemination and publicity, with almost no official action in this direction. However, in several areas, hamlets have on their own begun to organise Forest Rights Committees, declare and demarcate community forest resources and prepare for implementation of the Act. On 1 November 2008, a mass public rally was held primarily on the issue of community control over forests. In response, the Forest Department has launched an intense effort to organise JFM Committees in as many villages as possible in an effort to undermine and take control over efforts by communities to assert their rights over forest protection and management.

In September 2009, reports indicated that implementation had hardly gone forward anywhere in the State, despite news reports in which the Forest Minister referred (incorrectly) to 'distribution' of land under the Act. However, the ST Minister has announced grand plans for development of Adivasi including provision of homestead under FRA which has been virtually reduced to a land allocation welfare scheme rather than a rights settlement. In January 2010 the Kerala High Court granted an interim stay order on an application from Wayanad based environmentalists against grant of titles under the Act; the order was then vacated on February 8<sup>th</sup>, 2010.

## Karnataka

There was an initial burst of activity in February 2008, when Forest Rights Committees were constituted in several districts of southern Karnataka. In some areas Committees were constituted without even holding a gram sabha. Elected representatives and local organisations protested to demand the cancellation of these Committees. The process then came to a halt due to state elections. Since then, it appears that District Level Committees and Sub-Divisional Level Committees have been set up in some districts, but information is very poor.

In October 2008, fresh orders were issued by the CM's office to constitute Forest Rights Committees by November 4th, but it is not clear if this happened in all areas. The Forest Department has been attempting to push JFM Committees into the role of Forest Rights Committees.

In tiger reserves, the administration along with some environmental NGO's such as Wildlife First have been spreading false propaganda to the effect that people will now be relocated with a compensation of Rs. 10 lakhs per family without clarifying that rights must be recognised first and that relocation can only take place with the informed consent of the gram sabhas and only if it has been scientifically

directed constitution of Forest Rights Committees at the gram sabha level. The process took place in some of the most problematic sections. However, the process stopped soon after the end of February 2008, following the announcement of panchayat elections. When implementation restarted in June 2008, the process continued, including calling of the gram sabhas at the level of the "gram sangha" - which, in forest areas, can be very large. In Jalpaiguri district, in November 2008, the government was insisting on Forest and Revenue officials being members of the Forest Rights Committees - a clear violation of the law - and accusing protesters in the area of encouraging "encroachment".

In the southern districts the process appears to have taken place with almost no public awareness and with complete official control of the gram sabhas being called. A deadline of November 30th, 2008 had been fixed by the State government but protests took place at the end of November to get this extended, as in most areas gram sabhas never took place properly and hence could not have listed claims as per the Rules. Some pattas were issued prior to the Lok Sabha elections, but it appears that "pattas" have been identified by the Forest Department as no proper gram sabhas have taken place in almost all areas and no ERC verification has been undertaken either. In the large number of hamlets, villages and other settlements in North Bengal, no effort has been made to convert them into revenue villages. Instead, the forest staff have attempted to grant pattas to people selected by them, denying the others even an opportunity to file their claims. This makes the process a direct violation of the Act.

Efforts to resist these illegalities have been met with accusations that the concerned organisations are "misleading" people and are Maoist affiliates. Community rights have been totally ignored, and in areas where people have themselves attempted to exercise their community forest management powers and rights, as in Jalpaiguri District, these have been sought to be repressed by the government. In October 2008, further, the West Bengal government issued a new JFM circular which attempts to reduce these community forest management powers to Joint Forest Management, while imposing the same earlier conditions on the types and quantities of minor forest produce that can be collected, such as on grazing, etc., all of which are now illegal as per the Act.

In Buxa Tiger Reserve efforts were made for several weeks in June and July 2008 to relocate people in the offer of the Rs. 10 lakh proposed compensation package. The process was subsequently halted due to protests and intervention by political leaders.

In August 2009 a writ petition was filed against these illegalities in the Kolkata High Court.

## Kerala

A Working Group was set up to recommend the best methods to implement the Act. The working group had finished its work in May, 2008. Subsequently, it appears that the government had decided to proceed with holding gram sabhas at the ward sabha level (that is, a gram sabha for each constituency in the panchayat). These ward sabhas are quite large and include many non-forest dwellers and non-tribals. The decision to hold these ward sabhas was opposed by tribal movement organisations, the tribal wing of the CPM, the CPI etc. Nevertheless, on July 29th, 2008, the process began in Attappady District in some selected gram sabhas - only those actually near existing forests, as opposed to all those with forest land - and in other areas in Ernakulam, Kannur and other areas. In all areas, the ward sabhas could not be held due to the lack of an adequate quorum. As a result a decision was taken in

of the order). However, since then the process of implementation has commenced freely.

On 3 July 2008, new information was received to the effect that from July 1st the State government had begun constituting District Level Committees in most districts. By the first half of August, 2008, the process of creating FRC's had begun in most hill areas in the State. In some districts, however, only the District and Sub-Divisional Level Committees were set up. In Kanyakumari District, the Forest Right Committees were being constituted directly by the Collector, but this was contested by the local movements. Conceding this, FRCs were constituted by the Gram Sabhas. 963 claims have been filed in Pechhiparai Panchayat, and the District Collector has initiated the process of getting the land surveyed in collaboration with the FRC even before the claims have reached the SDLC. In Thiruvannamalai district, 5165 land claims have been filed. But the district authorities asked the Panchayat presidents to make sure that no claims are entertained from those claimants who have other lands in their name, have other source of income or a government job -- all in violation of FRA.

In Dindigul district, meanwhile, despite the formation of FRC's at the panchayat level as early as May, in mid November 2008 the Collector started demanding that all forms should be submitted directly to him or to the concerned RDO (equivalent of an SDO), and that only forms in English would be accepted. This was protested in the area. On 20 October 2009, Adivasis from Kodikunai hills protested at Dindigul against evictions and eviction threats, false cases, prevention of collection of forest produce such as honey and firewood and demanded implementation of FRA.

FRC's formed at the hamlet level on the initiative of people have not been officially recognised. Such FRC's have been particularly prominent in the Nilgiris. The process of submission of claims and their determination has been completed in a number of villages in the first quarter of 2009 itself, but the SDLC and DLC have remained unresponsive. However, the District Collector has initiated a parallel process calling forth NGOs, handing over the responsibility of formation of FRC's to these NGOs, which have restricted them exclusively (and illegally) to STs keeping away non-tribals. This appears to be intended to create a conflict between STs and non-STs, particularly since many of the latter are eligible under the Act. Similarly on the borders of the proposed Mudumalai Tiger Reserve, the Masinagudi panchayat has thrice called one day bandhs in protest at the illegal notification of a critical tiger habitat inside the reserve. At the end of November 2008, the Forest Department attempted to file false cases against 50 activists in the area in order to suppress the protests, but the police were forced to release those arrested and withdraw after a snap bandh called locally and mass demonstrations. On December 30, an all party committee called a mass demonstration against the illegal critical tiger habitat declaration at Gudalur; approximately 70,000 people participated. The situation in the area remains tense as of February 2010, with repeated protests and attempts by the Forest Department to use other pretexts -- such as the Preservation of Private Forests Act and a proposed "Elephant Corridor" -- to take over people's lands. In February 2009, however, the Madras High Court directed that no adivasis or other forest dwellers should be removed until the implementation of the Act was complete.

Violations of the Act also continue. In Kalakkad Mundanthurai Tiger Reserve, on 6 May 2008, eviction notices were issued to all the Kani adivasis living in four villages inside the reserve, on the grounds that they had "failed to help the Forest Department." This is no ground for eviction under any law and is a violation of basic human rights. When the villagers replied pointing out that the notice is not only illegal but also a criminal offence under the Forest Rights Act, they received another letter on 6th June from the concerned forest officer - the Deputy Director of the Tiger Reserve - threatening

government has begun promoting coffee plantations on people's lands in Vishakhapatnam District, rubber in East Godavari District and biodiesel in several districts.

In the Gudem area of Vishakhapatnam district, the forest department was not permitting the title of any claims on the grounds that no survey of forest land had been done under the AP Forest Act, 1987 and for which no final notifications have been issued to date. However, the villagers have rejected the premise saying that there is no link between notification of the land and people's right to file claims under the FRA. Similarly, claims were not being entertained for the land to be submerged by the Polavaram dam or allocated for other development purposes.

Due to the lack of organisation among the Chenchus in Srisailem Tiger Reserve, efforts are continuing to illegally relocate them. The wildlife wing now appears to have decided to permit the Chenchus living in the core of the tiger reserve to stay on as it feels it can use them for tiger conservation.

In August 2003, the AP High Court followed the lead of the Madras High Court and issued an interim order barring grant of final titles for rights. In May 2009, the High Court in turn vacated this order and granted permission to issue titles. The earlier interim order of the High Court had led to a general apathy among government officials (who widely interpreted the order as a stay order, when it was not one).

As per official data of August 2009, 1,79,643 individual titles have been issued for a total area of 4,86,780 acres. This is against a total of 3,27,715 individual claims being filed with gram sabhas for a total area of 9,47,788 acres. Thus the approved claims and approved area is roughly 50 % of what was claimed. No reason has been provided for the rejection of such a large number of claims or reducing the area claimed, thereby depriving the people the right to appeal. People are now seeking such information under RTI to challenge arbitrary rejections and reductions in area claimed.

On the surface, Andhra has also issued an impressive 2276 'community certificates of title' (presumably meaning titles for community rights) for a total area of 7,84,949 acres. Information obtained under RTI about the details of these community claims, however, has revealed an attempted 'coup' of community forest rights by the forest department. The majority of community forest rights which have been approved are claims filed by JFM committees (VSSs in AP) which have no right to file claims under the Act. If the forest department created committees continue, the gram sabhas empowered to protect, conserve and manage their CFRs for sustainable use will be illegally deprived of their statutory right under the Act while the FD will retain control over JFMCs as before. In contrast, many of the community claims filed by villagers have either been rejected or approved for a much smaller area than that claimed. The Adivasi Aikya Vedike organized a protest against this abuse of the FRA in Adilabad and the villagers are planning to file fresh claims for CFR rights. Herding and grazing communities have been struggling to file claims for seasonal grazing rights which continue being ignored. Since the 'Telengana' conflict erupted, FRA implementation has largely been stalled.

### States with Friendly Organisations

#### West Bengal

Implementation of the Act appears to have begun near the end of March 2003, with a circular that

process that co-existence is not possible.

In the area in which the BET Hills wildlife sanctuary falls, representatives of NDFB have been among members of both the SDLCs and DLC. The District Collector is willing to approve the claims for ownership rights over NTFPs but the DFO has till now refused his consent citing a Supreme Court order of February 2000. Upto date information about further developments is not readily available.

In Nagarhole Tiger Reserve, in mid-May 2009, four adivasi homes were demolished in the forest area. At least seven families have reportedly already accepted cash compensation and moved out, though it is illegal for any relocation to take place prior to the recognition of rights (which has not even been initiated in the area) and it is also illegal to provide only cash compensation. Reportedly the authorities are not accepting claims from tribals under the Forest Rights Act, due to increasing pressure on people to accept the cash compensation and to move.

### Himachal Pradesh

The implementation of the Act was technically begun in the two Scheduled Tribe districts around April or May 2003. Election of ERCs was made one of the agenda items of the Panchayat gram sabha meetings held soon after. Neither the officials conducting the meetings nor the villagers had any information about the Act. Filing of claims was apparently due to begin in December 2008. The Act has yet to be extended to other districts of the state.

However, the considerable population of nomadic pastoralists of Gaddis and Gujjars, who are listed as tribes in H.P., either lives outside these districts or visits their alpine pastures only seasonally. For this section of the population which could benefit considerably through clear recognition of their rights both to their seasonal pastures and their migratory routes. However, the rules do not provide any details about the procedure to be followed for recognising the rights of such nomadic communities which pass through not only multiple gram sabhas but also multiple districts and sometimes 2 or 3 states. This lacuna has not been rectified despite repeated protests to MoTA.

Himachal is quite unique among Indian states in having well recorded forest rights of local communities. The main problem is that practically all the recorded rights are individual rights with no recognition of community forest protection and management rights. Local activists are attempting to persuade the state government to primarily focus on recognising such community forest rights under the FRA. However, without even extending the FRA to the non-ST districts of the state, the government is now claiming that the deadline for receiving claims has already passed based on the central government's emphasis on completing the recognition of rights by Dec 31, 2009. Local movements are planning to challenge this illegal termination of the Act's implementation.

### Uttarakhand

No meaningful implementation of the Act appears to have begun until late 2009. It was reported in the press that the Chief Minister had stated that there is no need for this Act in Uttarakhand, as all forest rights are already sealed (which is untrue). However, in September 2008 the Nainital High Court had issued a contempt notice to the director of the Rajaji National Park for attempting to forcibly relocate the Van Gujjar communities in the park, in violation of the earlier orders of the High Court directing

them with unspecified further action if they do not disown their people. Even though the forest villages in the Anamalai Tiger Reserve are forest villages who have formed FRCs and were ready with their claims, the Tiruchelveli district officials delayed the process on the plea that a Panchayat of forest villages are a part, does not have a 'Gram Sabha'. In late 2009 the process was finally initiated.

Eviction threats accompanied with an offer of Rs.10 lakh per family for relocation were issued in the proposed Anamalai Tiger Reserve in August 2008, and were then withdrawn following protest action by the Collector. The district officials have been insisting that the people cannot claim their rights in wild life sanctuary and tiger reserves under FRA. The process is yet to take off.

## Andhra Pradesh

Forest Rights Committees had been constituted mainly at the panchayat level in February and March 2008. Despite Andhra's large tribal population and the large area under schedule V of the constitution, leave aside hamlet level gram sabhas, even revenue village gram sabhas have not been permitted. Consequently, residents of remote tribal hamlets of large panchayats have been unable to file their claims under the FRA. In several areas the ITDA undertook surveys with GPS systems to carry out mapping. One "social mobiliser" was appointed in every village under the existing World Bank sponsored Indira Kranthi Patakam scheme (formerly known as the Velugu scheme), and the mobilisers were instructed to help with claims. However, the government has largely focused on individual claims. ITDAs are sending surveyors for surveying the lands for which only individual claims have been made. The verification forms for these have illegal additional pages that require sanction from forest beat guards and revenue officials. Many claims were illegally rejected by forest guards during the initial phase of verification by the FRCs. In Adilabad, many claims were initially rejected but the people have re-filed them. In addition, GPS surveys have been abused and people have found smaller areas of land being recorded than those that they claimed, leading to demands for resurveys in many areas. Forest Department interference has also increased, leading to recognition of much smaller areas than were claimed or are actually under occupation on the ground.

Initially no claim forms were being issued for community rights, and when they were subsequently issued, people were informed to simply tick those that they wished to claim - which led to their rejection. Following mobilisation by movements and grassroots groups, and providing village training in mapping their community forest resources, claims for community forest resource rights have now been filed by several hundred villages. This has incidentally also led to rediscovery of some community lands that had been illegally seized by the Forest Department, and in some areas (as in the case of Orient Cement in a village in Adilabad) contributed to helping people resist handover of their common lands to private companies. Community claims were being sent directly to the State. Although District Collectors and ITDA officers had agreed to accept claims for community rights, no facilitation for these was or is being provided by the government. Out of an estimated 5000 tribal villages in the state, organisations have been able to mobilise 700 to 800 villages. In protected areas as well the process of claiming rights has taken place to a limited extent.

It appears that the AP government intends to compel those issued individual titles to engage in plantations on their lands instead of self cultivation for which the rights have been granted.

In the three Tiger Reserves in Maharashtra there have been reported attempts at relocation of villages in violation of the FRA. Official sources indicate the decision to relocate 22 Land villages in Tadoba, Pench and Tadoba respectively. The village of Botezari was relocated out of Tadoba reserve in 2007 though such relocation was illegal under the Amendment to the Wild Life (Protection) Act (which had come into force the previous year). Part of the village of Kolsa was also relocated at the same time. If rights were recognised, there was no scientific investigation and no consultation took place. Facilities at the relocation site are still not complete even at the time of writing, though as per law relocation is not allowed until facilities are complete. Harassment continued inside the reserve leading to repeated protests in November 2008 and May 2009. In June 2009, the forcibly relocated residents of Botezari attempted to return to their original village inside the tiger reserve as they were on the verge of starvation. After being arrested, they did not want to come out on bail as they were at least being fed inside the prison. Their condition continues to be deplorable.

On August 3rd, 2009, rasta rokos and protests took place in several parts of Raigad, Thane and Nandurbar districts. Shortly afterwards the entire process was suspended as a result of the notification of elections. Though it was restarted in late 2009, similar issues of Forest Department interference and changes in areas being recognised have been reported. Progress has been very slow even on individual rights, while community rights have mostly been ignored. In individual rights, only claims for pre-1980 occupation are being accepted in most areas, and subjected to Forest Department lists; the Tribal Welfare department claims that other claims will be "kept pending."

### Dadra and Nagar Haveli

In meetings held in April, the administration agreed to implement the Act by taking the revenue village as the unit rather than the very large panchayats. However, as of September 2009 no further implementation had occurred, despite the Collector's written assurance after a protest demonstration. The situation remains that of suspended animation.

### Jharkhand

Implementation of the Act only began in Jharkhand in October 2008, due to the lack of elected panchayats in the State. The State government claimed that it was not able to implement the Act due to this, since the Act requires elected members in the Sub Divisional and District Level Committees, while the Rules require the panchayats to summon a gram sabha. The Ministry of Tribal Affairs was requested for a clarification on this and had, in July 2008, informed the Jharkhand government that the State government can, in consultation with the gram sabhas, appoint members to fill these positions.

In Latchar, West Singhbhum and East Singhbhum districts, gram sabhas were called at the end of November 2008 and Forest Rights Committees elected, though in some areas the Forest Department has tried to impose JFM Committee members as FRC members. As of October 2009, systematic distribution of claim forms had not yet taken place in most areas. Although District Collectors have received some funds for printing forms etc, even where printed the BDOs have not bothered to distribute them. There are reports of revenue field level officials demanding bribes for giving forms. The Forest Department has attempted to restrict recognition to pre-1980's claimants in some areas.

Though hundreds of settlements submitted resolutions seeking court intervention at gram sabha level, initially most gram sabhas have taken place at the revenue village level. In some cases, the District Collector has agreed to hold gram sabhas as per the provisions of the Panchayati Raj Act of 1952. The process of recognizing hamlet level gram sabhas has begun in the district.

In early 2009, there were also intensified efforts to remove people from their lands for plantation purposes. In Latchar district, in the second week of February, false cases were filed against people who resisted plantations and two people were arrested. In August 2009, cases were filed against people occupying forest land for decades, and they were jailed, though they now have rights to the land under the Forest Rights Act. Many villagers have been evicted since 2005 in the name of undertaking plantations.

As of October 2009, the State government had not issued any clear orders, and actual implementation was dependent on the District Collectors. In the absence of clear procedural guidelines being issued across the state, and the limited personnel available with the welfare department, implementation is largely being led by the district collectors. There seems to be wide variation in the approach being followed by different collectors. In some districts, the Collectors have delegated the task of getting FRCs elected to poorly trained BDOs. In some areas the BDOs have nominated FRC members on their own without calling gram sabha meetings while in other cases, the Collector is insisting on securing signatures of 2/3rd members of the Gram Sabha on the voters' list before accepting the validity of the gram sabha meeting. Largely due to state government pressure to show some results, about 200 individual titles have been issued in the whole state to date. In many cases the titles are for lesser area than that claimed but no reasons have been given for the same. The claims of other traditional forest dwellers are being ignored. There have reportedly been almost no claims for community forest rights. In one area, the Bihors claimed the right to collect NTFPs which has been granted over a 150 acre forest area.

The Forest Department is refusing to accept claims in most wildlife sanctuaries, national parks and tiger reserves on the grounds that rights in reserve forests were recognised during the colonial period. However, some individual land titles have been issued in Hazaribagh wildlife sanctuary. No effort has been made to convert forest villages (there are 28 forest villages in the state) into revenue villages although individual titles have been issued in one. Bamboo and Tendu leaf continue being managed as nationalized MFPs by the forest department.

## Tamil Nadu

On 19 February 2008, the State government constituted the State Level Monitoring Committee and directed the District Collectors to constitute the District and Sub-Divisional Level Committees. On 22 February 2008, a letter was issued directing the convening of gram sabhas. It appears that at the 1st normal gram sabhas, the Act was raised at some villages in Erode and Dindigul Districts. On 21 February 2008, the Madras High Court issued a stay order against any issuing of patta or felling orders (under section 3(2)). On 30 April 2008, after an application for vacation of this order was moved by a tribal organisation, the High Court clarified that implementation of the Act should proceed, but the title for any rights should be granted only after obtaining orders of the Court. These court orders have been used as a convenient excuse by the government for non-implementation of the Act. This was cited by the Nilgiris District Collector to claim that no implementation is necessary (an untrue interpretation

has recently been emphasised in official orders, but are in fact lagging behind. FRCs are facing immense problems in proving 75 years of residence as there are hardly any records available for that purpose.

By end of January, 2010, out of 3,55,638 individual claims received by FRCs, 1,19,219 individual titles had been issued. 111 community titles have also been issued out of which 9 have been issued to PCCs covering a total forest area of 2479 acres. Most of these are however for diversion of forest land under section 3(2), not for actual community forest rights.

A major problem faced in Orissa was that all the finally approved claims or pattas were for revenue forest land and none for reserve forest land with the forest department. No maps are available for much of the reserve forest land as it has never been surveyed. Absence of maps was being given as the official reason for non-recognition of claims on such forest land, though this is no reason for violating the law in this gross manner. Recent orders by the ST department have sought to address this problem.

In December 2009, further confusion was created by the Central Empowered Committee of the Supreme Court (in the *TN Godavarman* case) sending its recommendations (regarding a 2008 application by the Orissa government) directly to Orissa's PCCF. These recommendations should never have been sent, as they have no validity or legal force as such and are only for the court's consideration. The recommendations were then further circulated to the concerned wildlife DFO's. The CEC had recommended that collection of Kendu leaves in one protected area should not be permitted at all and permitted in the other two other PAs only subject to the approval of the National Board of Wildlife. These recommendations are based entirely on the provisions of the Wild Life (Protection) Act, without any reference to the Forest Rights Act, under which ownership, collection and use of minor forest produce is a statutory right the exercise of which cannot be subjected to any administrative ban. The CEC's recommendation largely supported the Environment Ministry's view presented to the CEC on October 17, 2008, where the Ministry too had exclusively based its stand on the Wild Life Act while completely ignoring the fact that this is now a legal right of forest dwellers under the Forest Rights Act. This has resulted in creating confusion about the recognition of rights over NTFPs in protected areas in Orissa.

There are also disturbing news about the impact that deployment of para-military forces in Malkangiri district for anti-naxal operations is beginning to have on local tribals. 50 Sarpanches petitioned to the Collector to stop combating operations in their area as there were not any naxals there. Instead of accepting their demand, 14 of the sarpanches were arrested. The para military forces are reported to have shot dead two Koya tribal youth who ran out of fear on seeing them. This has created such a scare in the area that the Koya tribals of 10 to 12 villages have abandoned their homes and lands and moved down to lower areas. Instead of having their rights recognised such people face losing the little they already had due to the government's 'Operation Green Hunt' being started.

#### Maharashtra

In Maharashtra, implementation slowed greatly in 2009, while attempts to empower the Forest Department increased. The first gram sabhas were called in April 2008 in Nandurbar and Jalgaon districts, followed by other districts in May and June. Prior to these gram sabhas, the Tribal Welfare

regarding the Act. It was also decided by the State Monitoring Committee that the gram sabhas in Scheduled and non-Scheduled Areas will be held at revenue village level. In scheduled areas, gram sabhas have been held at the Gram Panchayat level and the FRC's will be constituted at the level of each revenue village - implying that the panchayat-level gram sabha will be the decision-making body. The government had also declared that gram sabhas at the hamlet level will be held only in exceptional circumstances (eg. remote areas, geographical difficulties, "Naxalite" affected areas) and till date these have been held only in some areas in Nandurbar and Jalgaon Districts and in some villages in Thane District.

Initially the state government had announced that the Gram Sevak will be the secretary of the FRC. Under pressure this decision was changed and the Tribal Welfare Department then announced that an educated person from the village is to be appointed as Secretary. However, even so, in some areas the officials present at the Gram Sabha have insisted and appointed the Gram Sevak as Secretary of the FRC.

Both individual and community rights forms are being distributed, but the emphasis is on individual rights forms. The organisations have been demanding that separate gram sabhas for community rights should be held, but no decision on this has as yet been taken by the government. On August 2008, community forest rights of two villages were recognised in Gadchiroli district, making them the first two cases of recognised CFR rights in the country. However, it appears that even these claims were not accurately recognised, for the rights given were not to the traditional community forests of the villages (as required by the law) but to the potentially smaller area that was already recorded as the village jungles. 40 villages in the surrounding area are also ready to file their CFR claims.

Verification by Forest Rights Committees began in several areas at different times - mid March 2008 in Gadchiroli, the first week of December 2008 in parts of Thane, etc. In some areas, such as Jawahar Taluka in Thane District, false records of verification have been made even though verification has not taken place. Even in areas where verification is taking place, it is frequently happening under pressure to meet deadlines and targets and hence with frequent violations of the regulations. Verification is being made subject to the decisions of the Forest Department in many areas. Organisations have been fighting these violations. They have also been demanding that those who hold dahi and ek savi lands as well as those who were eligible under earlier circulars should receive priority.

Meanwhile, in January 2009, the State government began appointing "authorised employees" to conduct GPS surveys of claimed lands. In practice most of these "authorised employees" are Forest Department personnel. Organisations have protested this move and demanded that the government should allow Forest Rights Committees in using the technology. This demand was accepted but not implemented and the Forest Department continues to largely be in control of the GPS instruments. This means that people cannot be certain of exactly what kind of map is being prepared of their claim and whether the area is being accurately mapped.

Non-ST's in the Vidarbha area have been facing problems demonstrating three generations of their ancestors. The organisations there are pushing for oral evidence of elders given in the gram sabha to be accepted but this demand has not yet been accepted.