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Training Module for Government Functionaries on Forest Rights Act, 2006

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for
Government Functionaries
on
Forest Rights Act, 2006

PREFACE

The implementation of the historic Forest Rights Act has generated huge sense of ownership and security amongst forest dwellers over their land and natural resources. Yet much more have to be done to translate the intended benefits to favour the right holders. The Ministry of Tribal Affairs, Government of India has also realized that in spite of some demonstrative action, the impeding factors such as lack of common understanding and conceptual clarity among different actors, ambiguities in the Act, field level operational challenges and lack of adequate implementation mechanisms pose serious limitations in accomplishing the task at hand. Affirmative steps such as amending the forest rights rules have created better scope and brought in greater clarity to expedite the implementation of Act on the ground

This module attempts to universalize the knowledge on the legal provisions and implementation modalities defined in the Forest Rights Act and subsequent rules. This module also tries to build a holistic perspective of the premise, concepts, definition, processes and delivery mechanisms for effective implementation of the Act to facilitate speedy realization of envisaged benefits to the right holders. This module essentially aims to provide knowledge input while recognizing that the concurrent efforts need to be scaled up for dissemination and translation of such knowledge inputs into the field action.

Under the joint project between the Ministry of Tribal Affairs (MoTA), Government of India (GoI) and United Nations Development Programme India Vasundhara (a civil society organization in Odisha) has prepared this training module. Vasundhara acknowledges the opportunity provided by MoTA and UNDP. They also thank Ms. Vibha Puri Das, Secretary, MoTA, Dr. Sadhana Rout, Joint Secretary, MoTA and Mr. Asit Gopal, Director MoTA for their constant support and guidance. Special thanks to Dr. Naresh Chandra Saxena, Member of National Advisory Council, Mr. Sanjay Upadhyay, Advocate, Supreme Court, Dr. C.R. Bijoy and Mr. Shankar Gopalakrishnan from Campaign of Survival and Dignity for their feedback and inputs to the drafts. Vasundhara's gratitude towards Mr. Santosh Sarangi, Commissioner cum Secretary, Schedule Tribe & Schedule Caste Development Department, Government of Odisha, Dr. Akhila Bihari Ota, Director Schedule Tribe & Schedule Caste Development Department, Government of Odisha for their continuous inputs and suggestions during the development of the module. Sincere thanks to Ms. Swati Dogra, UNDP for her constant support in this endeavour.

वी. किशोर चन्द्र देव
V. KISHORE CHANDRA DEO



MESSAGE

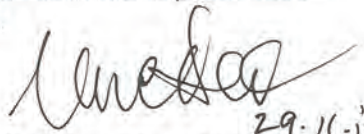
मंत्री
जनजातीय कार्य एवं पंचायती राज,
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The economic development and protection of rights of the Scheduled Tribes remains the top priority of the Government. Human development indicators for education, health and economic condition of Scheduled Tribes are among the lowest in India. Securing sustainable livelihoods, obtaining access to basic services and developing without losing cultural identity are huge challenges which the tribal populations is facing today.

The Government of India has put in place series of landmark rights-based legislations that ensure basic entitlements for common people of which Forest Rights Act (FRA) and PESA are specifically meant for the Scheduled Tribes. The enactment of the Forest Rights Act has been hailed as a milestone in the history of empowerment of tribal population in this country and that this landmark legislation was enacted to undo the historic injustice done to tribal people and other forest dwellers who have been residing in forests for generations but whose rights could not be recorded earlier. The Act has been in operation through State/UT Governments for more than four years now. Despite achievements made in the implementation of the Act, some bottlenecks had been observed which were impeding its smooth implementation. The last four- five months in this year have seen a new impetus to the implementation of the Act. The Government of India has recently issued comprehensive guidelines to the State/UT Governments and also made amendments in the Forest Rights Rules to ensure smooth implementation of the Act and support to right holders under this Act.

The benefits will flow to the vulnerable forest dwellers only when the implementation is robust and according to letter and spirit of the Act. For the purpose of proper orientation and understanding of this historic legislation, training of the front line staff of all the departments concerned with implementation of the Act is crucial. I am happy to note that Ministry of Tribal Affairs and UNDP, as a first step in this direction, is bringing out this **Training Module for Government Functionaries on Forest Rights Act, 2006** under the joint activity programme of MoTA-UNDP.

I believe that this training manual will address the training needs of the field level staff and build a holistic perspective of the premises, concepts, definition, processes and delivery mechanisms for effective implementation of the Act.


29.11.12
(V. Kishore Chandra Deo)

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MESSAGE

Forest Rights Act is a historic enactment and a step towards undoing injustice that tribal communities have been facing.

Despite the progress made in the last four years, the flow of the intended benefits of this legislation to the forest dwellers had remained constrained. Several operational issues due to some lacunae in the Rules had also come to the notice of the Ministry which impeded implementation of the Act in letter and spirit. The Ministry issued comprehensive guidelines on various aspects of implementation of the Act on 12th July this year and took up an exercise for amendment of Rules to strengthen the existing Rules. This exercise was completed on 6.9.2012.

While the amendments in the Rules carry the potential to address the problems in implementation of the Act, the key, however, is in the implementation by the States. In order to orient different departments involved in the implementation of the Act, series of regional consultations were held across the country on the amended rules and the status of implementation was reviewed.

All the regional consultations among other issues, pointed to the need for development of training module for the Government functionaries across different departments and levels of staff involved in implementation.

I am happy that Vasundhara has developed the Training Module for Government Functionaries on Forest Rights Act, 2006 which is being published under the Joint Activity Programme by Ministry of Tribal Affairs in partnership with UNDP.

I hope that the training module will guide the training institutes and facilitators to train the front line staff more effectively, common understanding and conceptual clarity among different departments and levels of staff will emerge which will lead to effective implementation of the Act across the country.


(Vibha Puri Das)



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FOREWORD

This module on Forest Rights Act has been prepared under the auspices of a joint project between the Ministry of Tribal Affairs and UNDP. The module contains sections on legislation, recent revisions, roles and responsibilities of key institutions and functionaries and the process of vesting forest rights.

As a global institution that provides technical assistance programmes in 100 countries, UNDP recognizes that special initiatives are required to reach marginalized and persistently excluded communities. UNDP is proud to support the efforts of the Ministry of Tribal Affairs to ensure effective implementation of Forest Rights Act 2006. Through this transformative Act, the rights of scheduled tribes and forest dwellers will be recognized, their livelihoods secured and communities empowered to protect and conserve forests.

UNDP would like to thank Vasundhara and its staff for support during the elaboration of this module and we acknowledge, with appreciation, the inputs of the senior technical advisors who have assessed, reviewed and helped with the finalization of the content and methodology.

We look forward to the wide dissemination of this module and other relevant learning materials which can facilitate capacity development of key officials on issues of forest rights and community resources.

Lise Grande
UN Resident Coordinator and
UNDP Resident Representative

LIST OF ACRONYMS

CWH	CRITICAL WILDLIFE HABITAT
DLC	DISTRICT LEVEL COMMITTEE
FAQs	FREQUENTLY ASKED QUESTIONS
FCA, 1980	THE FOREST CONSERVATION ACT, 1980
FRA	THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006
FRC	FOREST RIGHTS COMMITTEE
GoI	GOVERNMENT OF INDIA
GoO	GOVERNMENT OF ODISHA
IAP	INTEGRATED ACTION PLAN
LCD	LIQUID CRYSTAL DISPLAY
MoEF	MINISTRY OF ENVIRONMENT AND FORESTS
MoTA	MINISTRY OF TRIBAL AFFAIRS
OTFD	OTHER TRADITIONAL FOREST DWELLERS
PVTGs	PARTICULARLY VULNERABLE TRIBAL GROUPS
SDLC	SUB-DIVISIONAL LEVEL COMMITTEE
SIRD	STATE INSTITUTE FOR RURAL DEVELOPMENT
SLMC	STATE LEVEL MONITORING COMMITTEE
ST & SC	SCHEDULED TRIBE AND SCHEDULED CASTE
TRI	TRIBAL RESEARCH INSTITUTE
UNDP	UNITED NATIONS DEVELOPMENT PROGRAMME

CONTENTS

OVERVIEW AND INTRODUCTION	1
SCHEDULE	3
INAUGURATION AND WELCOME	4
FOREST RIGHTS (ACT, DEFINITIONS).....	5
INSTITUTIONAL MECHANISMS: ROLE AND FUNCTIONS OF MANDATED INSTITUTIONS.....	8
PROCESS OF DETERMINATION AND VESTING OF FOREST RIGHTS	11
SPECIAL PROVISIONS.....	14
KEY LEARNING FROM DAY ONE	16
GRIEVANCE AND APPEAL AND CONFLICT MANAGEMENT	17
DIVERSION OF FOREST LAND FOR DEVELOPMENTAL FACILITIES: PROCEDURAL ASPECT	18
POST CLAIM MECHANISM.....	19
OTHER IMPORTANT PROVISIONS AND RELATED CIRCULARS/ORDERS	21
OFFENCES AND PENALTIES	22
PLENARY AND VALEDICTORY SESSION.....	23

OVERVIEW AND INTRODUCTION

OBJECTIVES: The module is intended to sharpen the knowledge and skills of government functionaries in effective implementation of Forest Rights Act. It focuses on the legal procedures, claim mechanisms, post-claim process and institutional arrangement to facilitate forest land entitlement to eligible person and communities.

This module is a hand tool for select officials involved in administering and facilitating the Forest Rights Act, 2006.

The objective of the module is to sharpen the understanding on the following aspects:

- a) The premise and salient features of the Forest Rights Act 2006 and subsequent rules for implementation of Act
- b) Typology of Forest Rights and its Determination Process.
- c) Institutional Mechanisms with clear focus of role and responsibilities of Gram Sabha and Forest Rights Committees.
- d) Post Claim Mechanism including convergence of different developmental programs and schemes
- e) Draw an account of mosaic guidelines and circulars issued by State and Union Government

RELEVANCE: The Forest Rights Act (FRA) has matured over five years of its existence and different states have made varied efforts to implement the Act. A defining feature of implementation of FRA is that of incorporating the experiential learning in the amended rules and subsequent government orders issued both at state and national level. Hence it is important that all stakeholders and primarily the select government officials need to understand the procedures and mechanisms of FRA and its implementation to expedite the process of settlement of claims in favour of forest dwelling scheduled tribes and other traditional forest dwelling communities across the country.

MODULE COMPONENTS: The module has three main components:

- a) A suggested two days program and a detailed session outline together with a checklist for trainers to assist in the design and delivery of the materials.
- b) Sample copies of group media tools like posters, power points, visuals which can be customized according to local need.
- c) Handouts with clear list of FAQs for easy reference.

TIME FRAME: Two days with experience sharing sessions on major implementation issues at the district and state level.

TARGET GROUP: Cutting Edge Officials and members of empowered authorities, i.e. members of DLC and SDLC and nominated officials from different departments

GROUP COMPOSITION: The ideal number of participants will be 30.

The checklist for organizers is

- Check that participants are composed of people from desired target group
- Check that proper communication is made to the relevant groups
- Check that at least 1/3 participation is from women

VENUE:The facilitator need to ensure the pre-session preparation on following aspects.

- Seating arrangements are conducive and sufficient to accommodate the number of participants
- The venue is adequately lit and airy to ensure an healthy discussion atmosphere
- Minimum fixtures like power points and open walls are there to facilitate use of audio visual and training aids
- Availability of basic recording equipment such as markers, whiteboards and overhead transparencies to aid them in recording and reporting their discussions

EXPERTISE OF FACILITATOR:

- Have expertise and experiential knowledge on Forest Rights Act and its implementation
- Facilitator should have strong legal orientation of related laws and policies
- Strong communication skills

SCHEDULE

Day One		
1	Inaugural Session ▪ Welcome & Introduction ▪ Training Objectives	30 mins.
2	Tea/ Coffee Break	10 mins
3	Forest Rights (Act, definitions) ▪ Premise of the Act ▪ Deciphering the concepts and Definitions ▪ Typology of Forest Rights	75 mins.
4	Institutional Mechanisms: Role and Functions of mandated Institutions	60 mins.
5	Lunch Break	
6	Process of Determination and Vesting of Forest Rights	90 mins.
7	Tea/ Coffee Break	10 mins.
8	Special Provisions: Conversion of Forest villages, rights of PVTGs, Nomads and Pastoralist Communities	60 mins.
9	Wrap-up for Day One	
Day Two		
1	Key Learning from Day One	30 mins.
2	Grievance and Appeal and Conflict Management	60 mins.
3	Tea/ Coffee Break	10 mins
4	Diversion of Forest Land for Developmental Facilities: Procedural aspect	30 mins
5	Post Claim Mechanism including convergence of different developmental programs and schemes	45 mins.
6	Lunch Break	60 mins.
7	Important Provisions and Relevant Circulars and Orders ▪ Diversion of Forest Land for non-forestry purpose ▪ Critical Wildlife Habitat and Critical Tiger Habitat	60 mins.
8	Offences and Penalties Do's and Don't	30 mins.
10	Plenary and Valedictory Session	90 mins.

INAUGURATION AND WELCOME

TOPIC TO BE COVERED	Inauguration and Welcome
TIME FRAME	30 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• General objectives on power point • Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • Flip cards to invite expectation of participants • Pre designed Questionnaire depicting different components of the content. • Visuals to set the tone of the training
SESSION PURPOSE AND LEARNING OBJECTIVE	• Provide summary information about the purpose, content and flow of the workshop • Collect participants' expectation which can act as pre training need assessment and offer guidance to facilitators. • Know each other • Participant understand the objectives and expected results of the workshop • Setting up ground rules
SESSION OUTPUT	• Objectives of the workshop stated and understood • List of expectations are captured and baseline of the training is set
FORMAT AND TIMING	• Formal inauguration by dignitaries – 15 mins • Instructions and Interaction – 15 mins.
KEY MESSAGES	• Communicating the training agenda • Introducing contents of Training Program
TRAINER NOTES	• Welcome participants by introducing yourself and if appropriate asking them to introduce themselves. Invite and introduce the dignitaries to the house for the formal inauguration. • Facilitator should apprise the dignitaries to emphasize the importance of training program and give an overview of the non- negotiable during the training program in the pre training session. • Introduce the topic of training in brief and capture the expectation either through a pre designed check list or by using flip cards. Place the list of expectations in a convenient place that can be easily referred by all participants. • Give an overview of the sessions and try to communicate the flow of different sessions in the beginning. • Facilitator should chart out the ground rules.

FOREST RIGHTS (ACT, DEFINITIONS)

TOPIC TO BE COVERED	▪ Premise of the Act ▪ Deciphering the concepts and definition ▪ Typology of Forest rights
TIME FRAME	75 minutes
LEAD RESPONSIBILITY	Training Facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Power point presentation/ Pre written flip charts/ Overhead transparencies • Projector • Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • Ready reckoners • Case studies • Compendium of Thoughts on FRA by eminent personalities
SESSION PURPOSE AND LEARNING OBJECTIVE	• Provide brief overview of historical context of the act. • Introduce the salient features of the Forest rights act • Building common understanding on concept and definitions • Informing about the typology forest rights recognized under the Act.
SESSION OUTPUT	• The content and salient features of act is shared and understood • Awareness of typology of claim and rights determination process is built among participants. • Eligibility criteria for claiming forest rights • Participants acquired knowledge on typology of forest rights
FORMAT AND TIMING	• Power point presentation/ OHP presentation on premise and salient features of the Act (15 minutes) • Opening presentation on concepts and definitions (10 minutes) • Calling interventions from floor (15 minutes) • Introducing Typology of Rights (20 minutes) • Calling for Interventions from floor (10 minutes) • Concluding remarks by the facilitator (5 mins)
KEY MESSAGES	• Undoing the 'historic injustice' during colonial and post-independence era. • Recording unrecorded forest rights of tribals and other traditional forest dwellers, and vesting the rights in writing in the form of a title. • Recognition of Forest Rights recognized under any State law or laws of any autonomous district councils or autonomous regional councils or which are accepted as rights of tribals under any traditional or customary law. • Tenurial security, community rights, right to ownership

	and access rights including the responsibilities and authority for sustainable use, conservation of biodiversity, thereby strengthens conservation regime and ensures livelihood and food security. • FRA applies to all types of forestland. • Forest land means land of any description falling within any forest area and includes unclassified forests, un-demarcated forests, existing or deemed forests, protected forests, reserved forests, sanctuaries, national parks and tiger reserves. • Gram Sabha is co-terminus with village/habitation assembly, and is different from the Panchayat level assembly. • Village includes old habitations, un-surveyed villages, settlements and the recorded forest villages. • Rights include responsibilities and authorities for sustainable use and conservation. • Maintain ecological balance while ensuring livelihoods and food security. • Rights are heritable but not transferrable or alienable. • Rights to be recorded jointly in the name of both the spouses. In case of households headed by single heads, title deed shall be in the name of the single head whether male or female. • No eviction and relocation till recognition of forest rights. • Forest land cannot be diverted for non-forestry purposes without completing recognition of rights under FRA. • Evidence of occupation over three generation is not a prerequisite of claims in case of OTFDs. Only residence evidence for three generation is required. • Same as otherwise provided in this Act and PESA 1996, the provisions of this Act shall be in addition to and not in derogation to the provisions of any other law for the time being in force. Concepts and Definitions • The concepts and definitions needs to be interpreted uniformly across the country. • The definitions and concepts needs interpretation with due respect to the spirit of the law and central circulars. Typology of Rights • Forest rights are perceived under categories such as rights over community forest resource (CFR), community rights, community development facilities and individual and collective forest land rights. • Community Rights under section 3(1) are different from the developmental facilities mentioned under Sec 3(2). Typology of Claimants: • Forest Dwelling Scheduled Tribes and Other Traditional Forest Dwellers.
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FACILITATOR NOTES	• This is one of the key sessions on Forest Rights Act. It is necessary to set the tone of the entire training programs. Facilitator must take adequate care of limiting the session inputs to the desired session objective i.e. premise and introduction to concepts and definitions. Facilitator must recognize and inform the participants about the detailed discussion of many such concepts in the following sessions to enable participants to have a holistic view. • Trainers must use case studies to substantiate the content of presentation. • Facilitator must provide pre written hand out/ready reckoner of the premise of the act.
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INSTITUTIONAL MECHANISMS: ROLE AND FUNCTIONS OF MANDATED INSTITUTIONS

TOPIC TO BE COVERED	Institutional Mechanisms : Role and Functions of mandated institutions
TIME FRAME	60 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Power point presentation/ Pre written flip charts/ Overhead transparencies • Projector • Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper
SESSION PURPOSE AND LEARNING OBJECTIVE	• Provide overview of design features of institutional mechanisms mandated under law • Develop clarity on roles, responsibilities and functions of the mandated institutions under the law • Role and functions of relevant government officials and other actors
SESSION OUTPUT	• Developed understanding of design features of mandated institutions. • Clarity on roles and functions of relevant authorities, functionaries and complementing actors.
FORMAT AND TIMING	• Opening presentation; lead questions and institutional architecture -30 mins • Group work and clarification- 20 mins • Concluding remarks – 10 mins
KEY MESSAGES	• There are 4 tier institutional mechanisms, i.e. Gram Sabha, SDLC, DLC and SLMC enshrined in the law. • Gram Sabha is the prime authority to determine the nature and extent of forest rights. • Gram Sabhas shall elect members of Forest Rights Committee, consisting of not less than 10, but not exceeding 15 persons, of which at least 2/3rd members shall be Scheduled Tribes and at least 1/3rd of such members shall be women. • Where there are no scheduled tribes at least 1/3rd of such members shall be women. • The quorum required for any Gram Sabha meeting is at least 50% of total members of habitation/village of whom at least 1/3rd must be women. • In addition to the above mentioned point, the quorum of the Gram Sabha to pass any resolution with respect to the claims of forest rights would require at least 50% of the claimants or their representatives and such resolution shall be passed by a simple majority. • Gram Sabha to initiate process for determining receiving and verifying claims. • Gram Sabha shall hear and resolve conflict of claims. • Gram Sabha is empowered to protect and manage forest and

	can constitute Committee for protection and management of same. • SDLC shall ensure free, open and fair Gram Sabha. • SDLC is the authority to consolidate and examine the claims determined by Gram Sabha. • SDLC shall raise awareness on the law and provide necessary evidence, forms and records at free of cost. • SDLC shall prepare draft record of proposed forest rights and forward to DLC for final approval. • Coordinate with other SDLC(s) in case of overlapping claims spread over the jurisdiction of two sub-district(s). • SDLC shall hear grievance and disputes regarding claims. It shall also hear appeals against Gram Sabha decisions. • DLC shall further examine, consider and finally approve the claims. • Empowered authorities cannot reject any claim without giving an opportunity to the claimant/ Gram Sabha/government agencies for hearing. • DLC shall give detailed reasons in writing in case it overrules claims approved by Gram Sabha and SDLC • Reasons for rejection should be communicated “in person” to the claimant. • DLC shall provide certified copy of record of rights to the eligible claimant. • DLC shall ensure incorporation of forest rights in relevant government records. • Coordinate with other DLC(s) in case overlapping claims spread over the jurisdiction of two district(s). • DLC shall hear grievance and disputes regarding claims. • In case of disagreement amongst members of SDLC or DLC, the decision of the chairperson will be final. • SLMC shall meet every quarter to monitor the process of recognition, verification and vesting of forest rights. Besides this, SLMC also would consider and address the field level problems and furnish a quarterly report to the Central Government in the prescribed format. • SLMC shall monitor the claims of displaced communities and ensure the compliances of the provisions under the Act. • SLMC shall monitor resettlement for forest rights holders, whose rights may be modified or resettled in case of declaration of CWH. • SLMC shall take appropriate action against concerned authorities in case of contravention of any provisions of the Act and Rules. • Tribal Departments of concerned states are the nodal agency to facilitate the implementation of law in respective states. • Tribal Departments shall have the coordination responsibilities with other relevant departments and initiate process of convergence.
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	Ministry of Tribal Affairs is the nodal agency to issue clarification and facilitative order.
FACILITATORS NOTES	- Prior to the formal, the facilitator should compile the information generated from the pre-assessment format, pertaining to the role and functions of different empowered bodies/ authorities. - Facilitator should take all necessary steps to establish the supremacy of Gram Sabha and clarify its role. - Facilitator should demonstrate the channels of communication amongst various institutions. - Facilitator must clarify the modus operandi and accountability framework among different tiers of institutions. - Facilitator must carry and display the posters and flow charts depicting the roles and functions of Gram Sabha in particular, SDLC and DLC in general. - Facilitator should provide pre written handouts on institutional design features, its roles and functions.

PROCESS OF DETERMINATION AND VESTING OF FOREST RIGHTS

TOPIC TO BE COVERED	Process of Determination and Vesting of Forest Rights
TIME FRAME	90 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • Visuals
SESSION PURPOSE AND LEARNING OBJECTIVE	• Inform the details provision of modalities different type of claims. • Develop understanding on the process of determination and vesting of various types of rights.
SESSION OUTPUT	• Government officers are aware about the provisions with regard to modalities of claim making of various forms of claims. • Officers are clear about their role in process of rights determination and vesting of such rights.
FORMAT AND TIMING (METHODOLOGY PART)	• Opening presentation mainly painting outline of the session – 5 mins • Group work and model situation analysis - 20 minutes • Presentation on the process of determination and vesting of rights- 30 mins • In house Problem solving exercises – 20 minutes • Capture the knowledge and consolidate the learning- 15 minutes
KEY MESSAGES	• Gram Sabha shall initiate the process of determination and verification of claims. • Gram Sabha is coterminous with habitation/village assembly. It is a habitation or a group of habitations, or a hamlet or a group of hamlets in the Scheduled Area. • The SDLC or DLC shall not insist upon any particular form of documentary evidence for consideration of a claim. • Satellite imagery and use of technology shall not be treated as evidence. • SDLC shall provide required support including evidences and information such as maps, working/ management plan, survey and settlement reports, gazetteers and etc., to Gram Sabha during determination of nature and extent of forest rights. • Revenue and Forest Department officials shall be present during the verification of claims on receipt of intimation from the FRC. • DLC to specifically focus and ensure facilitation of claims on CFR, habitat rights and rights of pastoralist/nomadic communities. • DLC to ensure necessary support to Gram Sabha through SDLC. • SDLC and DLC needs to provide information on status of claim to the Gram Sabha and concerned claimants. • SDLC and DLC to ensure mechanism for prompt hearing of

	grievances and disputes. • DLC to ensure no eviction or relocation till recognition of rights is completed. Specific messages with regard to process features of different type of claims A. Rights over Community Forest Resource (CFR): • Recognition of common forest land within official boundaries of village but as per traditional or customary boundaries of the village or seasonal use of land scape in case of pastoral communities. • Gram Sabha shall constitute a committee for protection of wildlife, forest and biodiversity, which shall also prepare conservation and management plan for CFR. And this committee shall be controlled and monitored by the Gram Sabha. B. Community Rights (CR) to Resources • Nistari rights recognized under erstwhile princely states, Zamindari or such intermediary regimes. • Ownership, access to collect, use and disposal of Minor forest produces within or outside the traditional or customary boundary of a village. • Recognition of community rights of diversity of use entitlement granted to the community. For example; fishing, grazing, use of water bodies, seasonal resource access of nomadic and pastoral communities. • PTGs now understood administratively as PVTGs and Pre agricultural communities can establish rights over habitats and traditional boundaries. • All forms of villages on forest land, including forest villages, un-surveyed villages and old habitations whether recorded or not can be converted to revenue villages. • Communities hold rights to protect, regenerate, conserve and manage their community forest resources and forest land claimed as community rights. • Traditional rights customarily enjoyed by forest dwelling communities except hunting or wild animals. • Communities shall have right of access to biodiversity and community intellectual property and traditional knowledge related to biodiversity and cultural diversity. C. Individual and Collective Land Rights: • Occupation of forest land for habitation and self-cultivation shall be recognized. • Lease grants issued by authorities of forest land shall be converted to permanent titles. • Displaced communities shall claim their in situ rights and entitlements. Applicability of Forest Rights Act • All the forest rights provided under section 3 of the Act are to be recognized in any description of forest land, including Reserved Forests, Protected Forests, unclassified forest, un-
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	demarcated forests, existing or deemed forests, notified forests, recorded forests, Sanctuaries, National Park and Tiger Reserves.
TRAINER NOTES	• Prior to the formal, the facilitator should compile the information generated from the pre-assessment format, pertaining to process of determination and vesting of forest rights. • Facilitator must make two power point presentations * introductory elements of determination of rights * Process features • Facilitator will have written briefs of model situation to be taken up during the group work. • Facilitator must have idea of problem solving exercise and steps involved in this. * Collect challenges pertaining to determination of various form of rights from the floor * Group the challenges judging the commonality of issues * Open house Discussion • Facilitators should share the key learnings/ points at the end of the session.

SPECIAL PROVISIONS

TOPIC TO BE COVERED	• Conversion of Forest Villages • Rights of PVTGs, Nomads • Pastoralist Communities • Rights of Displaced Communities
TIME FRAME	60 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • Visuals on special issues like PVT, Nomad, Pastoralists, Forest villages, Displacement
SESSION PURPOSE AND LEARNING OBJECTIVE	• Build understanding on significance of special provision for specific groups
SESSION OUTPUT	• Common understanding is built on determination of forest rights in favour of specific groups
FORMAT AND TIMING (METHODOLOGY PART)	• Open remark – 5 minute • Select visual of two relevant groups and drawing up important features – 30 minutes • Presentation of specific provisions- 15 minutes • Taking up few questions and concluding remark- 10 minutes
KEY MESSAGES	Forest Villages, Old habitations, Settlements • FRC shall be constituted in all villages. • Villages include forest villagesold habitations, unsurveyed villages, settlements and the recorded forest villages. • All types of forest villages are to be identified and converted as revenue villages. • Conversion of forest village does not attract provisions of Forest Conservation Act, 1980 or the FCA Rules 2003 including court initiated diversion conditionalities of Net Present Value and compensatory afforestation. • Conversion of forest villages shall include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities and public spaces. Rights of PVTGs, Pastoralist, Nomads • DLC to facilitate claims by traditional institutions and ensure habitat rights in consultation with traditional institution of PVTGs. • Claims on habitat rights can be made either through their community or traditional community institutions. • DLC to facilitate filing of claims by Pastoralists and Nomadic communities. Displaced Communities • Displaced communities shall claim their in situ rights and entitlements. • SLMC shall monitor the claims of displaced communities and ensure the compliances of the provisions under the Act.
FACILITATOR NOTES	• Facilitator must arrange the audio- visual equipment and video film

	relevant for the session. • Facilitator must have a pre written flip chart on typical characteristics of specific groups that are being talked about. • Facilitator should have basic idea of such groups that exist in the training region. • Facilitator must have the detail presentation on the specific provisions and key action features pertaining to specific group that is being discussed in the training. • Facilitator must take note of unresolved questions and share it with state authority. • Facilitator must observe and pen down the action points.
WRAPPING UP OF DAY ONE – CONSOLIDATION OF ACTION POINTS FROM EACH SESSION -20 MINUTES	

KEY LEARNINGS FROM DAY ONE

TOPIC TO BE COVERED	Key Learning from Day 1
TIME FRAME	30 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • Flip cards
SESSION PURPOSE AND LEARNING OBJECTIVE	• Recap and revision
SESSION OUTPUT	• Participants Refresher
FORMAT AND TIMING	• Open remark – 5 minute • Administering of cards – 15 minutes • Clarification of doubt- 5 minutes • Taking note of action points - 10 minutes
KEY MESSAGES	NA
FACILITATOR NOTES	• Facilitator must come prepared with an opening presentation, mainly the outline of the previous day's session • Distribute the cards among participants • Arrange the cards under different thematic inputs • Dedicated space to be allocated for each themes

GRIEVANCE AND APPEAL AND CONFLICT MANAGEMENT

TOPIC TO BE COVERED	Grievance and Appeal
TIME FRAME	60 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • Pre written charts/notes • LCD/overhead projector
SESSION PURPOSE AND LEARNING OBJECTIVE	• Build understanding on process of grievance and appeal • Role of Appellate Authorities
SESSION OUTPUT	• Common understanding is built on process of grievance redressal and role of appellate authorities
FORMAT AND TIMING	• Opening presentation – 10 minute • Group work of model situations – 30 minutes • Sharing of key lessons- 10 minutes • Taking up few questions and concluding remark- 10 minutes
KEY MESSAGES	• SDLC and DLC to prepare disaggregated data pertaining to decisions on claims which needs to be shared with the claimant/Gram Sabha. • Claims shall not be rejected or modified arbitrarily without giving reasonable opportunity to the aggrieved. • Appeal can be filed within 60 days of the decision on claims which can be extended up to 90 days • The date on which the claimant receives written information on the decision on the claim shall be considered as the date of decision. • Aggrieved may be a claimant, Gram Sabha, traditional institution (in case of PVTGs), any other state agency. • Gram Sabha, SDLC and DLC are key grievance redressal authorities.
FACILITATOR NOTES	• Facilitator should have a power point or OHP presentation on grievance and appeal process and redressal authority structure. • Model situation brief must be pre written. • Facilitate must divide the group as per the number of model situations. • Hold group presentation on analysis of model situation and invite reactions from the house. • Facilitator must take note of unresolved questions and share it with state authority.

DIVERSION OF FOREST LAND FOR DEVELOPMENTAL FACILITIES: PROCEDURAL ASPECT

TOPIC TO BE COVERED	Diversion of Forest Land for Developmental Facilities
TIME FRAME	30 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Markers (one per participant or per table) • Tape (e.g. double-sided sticking tape) • Flip chart stand, flip chart paper • LCD and overhead projector
SESSION PURPOSE AND LEARNING OBJECTIVE	• To develop clarity on the procedures regarding diversion of forest land for developmental facilities
SESSION OUTPUT	• Officers are clear about the nomenclature of developmental facilities. • Officers have the clear understanding of procedures and authorities for diversion of forest land for developmental facilities
FORMAT AND TIMING	• Presentation of provisions and process of diversion of forestland for developmental facilities – 20minutes • Open house discussion – 10minutes
KEY MESSAGES	• Diversion of forest land for developmental facilities shall not be equated with Community Rights. • Diversion of forest land is free of all requirements under Forest Conservation Act 1980 (See above). • Diversion of Forest Land is subject to recommendation of Gram Sabha. • User agencies such as department of Central or State Government and District Panchayat can only be the project proponent of such developmental facilities. • The maximum area allocation is 1 hectare for each case, which involve felling of tree not exceeding 75 trees per hectare.
FACILITATOR NOTES	• Facilitator shall have a detailed presentation of legal provisions and mechanisms. • Facilitator must record the observations of the participants. • Facilitator must be aware about the special provisions in IAP district about diversion of Forest Land under the scope of FCA, 1980: It is important to note that MOEF through a separate circular has generally relaxed FCA provisions to allow for diversion up to 5 hectare of Forest land in IAP district.

POST CLAIM MECHANISM

TOPIC TO BE COVERED	Post Claim mechanism including Conservation management plan and convergence of different developmental Programs and Schemes
TIME FRAME	45 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	● Markers (one per participant or per table) ● Tape (e.g., double-sided sticking tape) ● Flip chart stand, flip chart paper ● LCD and overhead projector
SESSION PURPOSE AND LEARNING OBJECTIVE	● Inform the provision pertaining to post claim planning and role of line department officials ● To understand the institutional mechanism for post claim activities.
SESSION OUTPUT	● Participants are aware about post claim convergence possibilities. ● Participants have the roadmap for facilitation of post claim support, handholding and responsibility of state towards fulfillment of rights to leverage livelihood benefits. ● Participants have clarity on institutional and planning requirements to facilitate sound conservation and management practices.
FORMAT AND TIMING	● Presentation on provisions and process of conservation and management under FRA and possibilities of schematic convergence- 15 minutes ● Case study analysis – 20 minutes ● Capturing experiential knowledge from the floor- 15 minutes ● Summing up - 10 minutes
KEY MESSAGES	● All government schemes and programs are to be converged at the village level in favour of the right holders. ● This is to ensure that all development and welfare schemes denied due to non-recognition of forest rights are now available and are fully used. ● Responsibility lies with the State government to ensure convergence. ● Gram Sabha holds key authority to prepare and implement the conservation and management plan. This is to be integrated with the micro plans or working plan or management plans of the Forest Department by the Forest Department. ● Any modification of conservation and management plan require approval of the Gram Sabha. ● On request of Gram Sabha, the departmental officials shall provide support and handhold forest communities to prepare and execute their own conservation and management plan. ● Institution responsible for conservation and management of community forest resource is the Gram Sabha whose decisions are executed by its elected committee.

	● Afforestation, regeneration of forest and other conservation activities should be under the purview and control of Gram Sabha within the area under its jurisdiction especially where such rights are claimed under the FRA. All existing management committees under JFM/ participatory forest management guideline should consequently be integrated in the overall conservation and management plan of the Gram Sabha or the Committee under it
FACILITATOR NOTES	● Present the provision of post claim management as described under Act and rules ● Share success stories from different states ● Facilitate the floor to come up with their own examples of convergence

OTHER IMPORTANT PROVISIONS AND RELATED CIRCULARS/ORDERS

TOPIC TO BE COVERED	• Ownership over collection, processing, disposal and transportation of minor forest produces (MFPs) • Diversion of Forest Land for non-forestry purpose • Critical Wildlife Habitat
TIME FRAME	60 minutes
LEAD RESPONSIBILITY	Training facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • LCD and overhead projector
SESSION PURPOSE AND LEARNING OBJECTIVE	• Overview of related policies and provisions that has a bearing on implementation of FRA
SESSION OUTPUT	• Officers are clear about provisions and circulars such as collection and disposal of MFPs, CWH, diversion of forestland, and other relevant provisions.
FORMAT AND TIMING	• Presentation on related policies and provisions- 20 minutes * Presentation on CWH * Presentation on diversion of forestland • Open house discussion -30 minutes • Summing up – 10 minutes
KEY MESSAGES	• Minor Forest Produce includes all non-timber forest produce of plant origin including Bamboo, Brush Wood, Stumps, Cane, Tussar, Cocoons, Honey, Wax, Lac, Kendu Leaves, medicinal plants, herbs, roots, tubers and etc. • Disposal of minor forest produce means right to sell as well as individual or collective processing, storage, value addition, and transportation within and outside the forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihood. • Committee constituted under rule 4, clause (e) or the person authorized by Gram Sabha will have the authority of transit permit in relation to transportation of MFPs. • The procedural requirement of transit permit in no way will restrict or abridge the right to disposal of MFPs. • Collection of minor of forest produce shall be free from all royalties or fees or any other charges. • Diversion of forestland demands prior informed consent from Gram Sabha and completion of recognition of rights. • CWH has to be identified on the basis of scientific and objective criteria through an open process of consultation by an expert committee, which should include experts from the locality appointed by the concern State government. The committee should also have representative of MoTA.
FACILITATOR NOTES	• Facilitator shall have a detailed presentation of legal provisions and mechanisms. • Facilitator must record the observations of the participants and unresolved queries.

OFFENCES AND PENALTIES

TOPIC TO BE COVERED	Offences and penalties
TIME FRAME	30 minutes
LEAD RESPONSIBILITY	Training Facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • LCD and overhead projector
SESSION PURPOSE AND LEARNING OBJECTIVE	• To inform participants about the penal provisions in case of violation of act.
SESSION OUTPUT	• Participants are aware about the legal penal provisions in case of violation of Act. • Clear thumb rule of what is legally unacceptable.
FORMAT AND TIMING	• Presentation on the penal provision – 15 minutes • Open House Discussion – 15 minutes
KEY MESSAGES	• Contravention of any provision of the Act or the Rules shall be considered as an offence. • The penal provision applies to any authority or committee or officer or member of such an authority or committee. • Any forest dwelling Scheduled Tribe or any Gram Sabha, in case of any dispute relating to a resolution by Gram Sabha or any higher authority, shall give a notice of not less than 60 days to the SLMC before moving to court. • Protection of actions taken in good faith by any Central Government or the State Government employees.
FACILITATOR NOTES	• Facilitator must prepare a presentation on the offence and penal provisions in the Act • Must have a set of questions to be asked to participants • Must capture the observations and typical situations raised by the participants

PLENARY AND VALEDICTORY SESSION

TOPIC TO BE COVERED	Plenary and Valedictory Session
TIME FRAME	65 minutes
LEAD RESPONSIBILITY	Training Facilitator
MATERIALS/ EQUIPMENT REQUIRED FOR THE SESSION	• Markers (one per participant or per table) • Tape (e.g., double-sided sticking tape) • Flip chart stand, flip chart paper • LCD and overhead projector
SESSION PURPOSE AND LEARNING OBJECTIVE	• Seek expert knowledge on issues and learning points raised during different sessions • Summative analysis of the course
SESSION OUTPUT	• Broad and in-depth overview on certain critical issues through expert opinion • Clear articulation of points to be taken note of • Appraisal of training content
FORMAT AND TIMING	• Brief Appraisal to Panel on the training and contents of training course – 10 minutes • Panel Discussion – 30 minutes • Summing up of Panel discussion by Panel Chair – 10 minutes • Evaluation of Training Program – 15 minutes • Vote of Thanks – 10 minutes
KEY MESSAGES	Officials should assume facilitative role for the smooth and effective implementation of the Act
FACILITATOR NOTES	• Facilitator must prepare a summative presentation on training course, matters dealt in the program and key issues emerged during various discussions. • Facilitator must prepare and share a note to Senior Officer on the key issues emerged from the discussions and if any issue unresolved. • Facilitator must prepare some lead questions for each panelist, which needs to be thrown to the house for opinion from the participants. • Facilitator must discuss with the Panelists prior to the session and apprise them the objective of the plenary session, its output and key message needs to be communicated to the officers. • Facilitator should share and collect the evaluation form before formal plenary discussion to all participants for their feedback. • During Deliberation, Facilitators should go through the feedback forms shared by the participants and prepare some important points, especially the comparative chart on expectation and input provided during various sessions. • Facilitator either himself/herself or appoint a rapporteur for the panel discussion who should capture the learning.

ABOUT THE CONTRIBUTORS

This document is compiled by Vasundhara a research and policy advocacy group that works on environment conservation and sustainable livelihood issues. The organization was initially conceived to support and strengthen community based initiatives to protect and conserve forests in the state of Odisha. Over the years, while working and retaining its focus on community forestry Vasundhara has matured into having explicit focus on issues of natural resource governance, climate change and sustainable livelihoods of forest dependent communities. Recently Vasundhara has been embarking on a more direct action on different initiatives on environment, conservation and climate change policy issues.

Y. Giri Rao has worked on issues pertaining to tribal development and governance for over 22 years. He has extensively worked on community conservation initiatives, forest based livelihood, forest tenure and rights issues. He is presently acting as Secretary cum Director of Vasundhara.

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Sweta Mishra has specialized in Environmental Science, and has been working in development sector for over 10 years. She is well versed with issues of conservation, natural resource governance, forest, land rights and climate change. She has many accredited publications both in development and policy journals to her credit.

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FREQUENTLY ASKED QUESTIONS ON THE IMPLEMENTATION OF FOREST RIGHTS ACT 2006



Frequently Asked Questions

The enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) is an important watershed in the history of tribal empowerment in India especially relating to tenure security on forests and forest land. The Act became operational through notification of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules on January 1, 2008 which marked a historic journey to recognize and vest Forest Rights to the marginalized and vulnerable who are dependent on forests for their sustenance and their existence.

Over a period of last four years of implementation of the Act, some problems impeding the implementation of the Act in its letter and spirit had come to the notice of the Ministry of Tribal Affairs. Some of the major concerns regarding implementation of this Act related to high rate of rejection of claims , little progress in the recognition of community rights and habitat rights of PTGs , convening of Gram Sabha meetings at the Panchayat level, insistence of particular form of evidence, claimants not being informed about rejection of claims and inadequate awareness about the provisions of the Act and the Rules, etc. Based on this experience, the Ministry of Tribal Affairs issued detailed **Guidelines** to the States in July 2012 and notified **amendment to the FRA Rules** in September 2012 in order to develop further clarity on the interpretation of the Act and to streamline its implementation.

The Ministry in collaboration with UNDP organized **Five Regional Consultations** covering 22 states across India to share the recent amendments to the Rules, understand the operational challenges and to collectively identify the way forward on effective implementation of the Act including preparation of Action Plans for time-bound implementation of the Act. The Regional Consultations provided a platform where Tribal Welfare, Panchayati Raj, Forest and Revenue Departments shared their views and sought clarifications on wide range of issues.

This Booklet seeks to addresses some of the questions raised during the Regional Consultations related to the process of recognition of rights, evidence requirements, ownership over minor forest produce, rights over community forest resource , protection against eviction, definition of OTFDs, convening of Gram Sabha at hamlet/habitation level, recognition of habitat rights of PTGs etc. It is an attempt to consolidate the responses given in the workshop by the Ministry of Tribal Affairs. This Booklet can be used as a reference document for consultations, workshops, and effective implementation of FRA.

December 2012

- 1. Section 3(1)(c) of FRA confers ownership rights over minor forest produces (MFP) to forest dwelling STs and Other Traditional Forest Dwellers. Can ownership rights over Tendu/Kendu, Bamboo which are nationalised forest produce under the State forest laws be conferred under FRA?**
 - Yes. The recognition and vesting of ownership rights over all minor forest produces (MFP) including bamboo and tendu/kendu are to be conferred to forest dwelling STs and Other Traditional Forest Dwellers as and when the claim for such rights is made.
 - Section 2(i) of FRA clearly defines the term “minor forest produce” which include bamboo and tendu/kendu.
- 2. Whether the shift of ownership of MFPs from the State in case of certain nationalised MFPs, like, tendu patta, would not lead to exploitation of MFP gatherers by the private traders?**
 - The shift of ownership to right holders does not necessitate withdrawal of the State agencies from MFP trade. It is advised that the State agencies should continue to extend their support system to the MFP gatherers by way of purchasing the produces to provide minimum support price and safeguard against any potential exploitative cartel of buyers. A parallel may be drawn in the manner with process followed for rice and wheat.
 - MFP gatherers may be organized through formation of cooperatives/federations or producer companies to enhance bargaining power vis-à-vis MFP buyers.
 - Abolition of monopoly of State Agencies in the trade of nationalized MFPs will in fact strengthen institutions engaged in trade of MFPs and making them more competitive and this will reduce exploitation of the rights holders under the watchful eye of the State.
- 3. Can the Gram Sabhas issue MFP transit permits and what will happen to the existing transit rules?**
 - Yes, the Gram Sabha has the authority to regulate transit permit for MFPs where rights have been recognized under FRA.
 - The Forest Rights Amendment Rules, 2012, notified on 6.9.2012 provide that the transit permit for transportation of minor forest produce shall be issued by the Committee constituted by the Gram Sabha under Rule 4(1)(e) or the person authorized by the Gram Sabha. These Rules further provide that the Gram Sabha shall approve all decisions of this Committee pertaining to issue of transit permit.
 - The State/ UT Governments, therefore, should modify their existing transit permit regimes in relation to transportation of minor forest produce with respect to right holders under FRA and align it with the provisions of FRA.
- 4. Will issuance of transit permits by the Gram Sabha lead to over exploitation of the MFPs?**
 - No, the issue of transit permit by the Gram Sabha has no correlation with over exploitation of MFP. There are enough safeguards in the law to ensure that over exploitation of MFPs is avoided.
 - For example, as per Rule 4(1)(e) of FR Rules, 2008, the responsibility for carrying out the provisions of Section 5 of the Act has been given to a Committee to be constituted by the Gram Sabha.

- The Forest Rights Amendment Rules, 2012 notified on 6.9.2012 now require the said Committee to prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of FDSTs and OTFDs and integrate such conservation and management plan with the micro plans or working plans or management plans of the Forest Department with such modification as may be considered necessary by the Committee. The monitoring and control of the said Committee vests with the Gram Sabha. The Gram Sabha, therefore, has to ensure that the transit permits are issued by such Committee with proper assessment and in conformity with the conservation and management plan and that such transit permits do not lead to over exploitation of the minor forest produce.
 - The Gram Sabha can further modify the conservation and management plans and impose restrictions if it considers that the existing regime of collection, use and disposal of minor forest produce is leading to over exploitation of minor forest produce.
 - The Gram Sabha as well as the right holder has also been empowered under the Act to stop any activity that adversely affects forest, wildlife, biodiversity among other things.
- 5. According to PESA, ownership of Minor Forest Produce has already been vested with the Gram Sabha, then what is the need and legality of the various provisions of FRA that give SDLC/ DLC the power to regulate and recognise the ownership of MFPs?**
- The application of PESA is limited to Scheduled Areas only, therefore it gives the ownership of the MFPs to Gram Sabhas only in the Scheduled Areas. Large tribal populations also live outside the Scheduled Areas which are covered only under FRA. Moreover, PESA does not require administration to give a written title to each right holder, which FRA does.
 - SDLC/DLC are only part of the process of recognition of rights. The regulation of MFP vests with the Gram Sabha.
- 6. Can the habitat rights of the PTGs under FRA also include revenue lands?**
- Ordinarily No, unless there are recorded forests or there are forests that come within the definition of forest land under the Act on such revenue lands (land under the administrative control of the revenue department) and they overlap with the habitat of the PTGs (Particularly Vulnerable Tribal Groups).
 - Further, if the habitat area (or its part) of a PTG does not come within the definition of forest land then such habitat rights cannot be recognized under FRA. However, it may be recognized under the respective revenue laws of the concerned State, if the State so desires in order to protect the habitat rights of the PTGs.
- 7. How will the claims on rights of PTG groups and habitat rights be facilitated particularly in view of the habitat involving more than one Gram Sabha?**
- The definition of habitat under Section 2(h) and the right to such habitat has been clearly laid down in the law under section 3(1)(e) of the Act. Rule 12(1)(d) further directs Forest rights Committee to ensure that the claims from PTGs are verified when such communities or their representatives are present.
 - Further, the right to community tenures of habitat and habitation may be recognized over customary territories used by the PTG for habitation, livelihoods, social, economic,

spiritual, cultural and other purposes. In some cases the habitats of PTGs may overlap with forest and other rights of other people / communities.

- Rule 8 also envisages the role of the District Level Committee (DLC) to ensure that such rights of the PTGs and other vulnerable communities are addressed keeping in mind the objectives of the Act.
- Further, it has now been provided in the Amendment Rules, 2012 notified by the Ministry on 6.9.2012 that, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups (PTGs), the DLC shall ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and that their claims for habitat rights are filed before the concerned Gram Sabhas wherever necessary by recognizing floating nature of their Gram Sabhas.
- In view of the above provisions in the Act and the Forest Rights Rules, the DLCs should play a proactive role by initiating the process of recognition of rights of the PTGs in consultation with their traditional institutions and ensure that their claims for habitat rights are filed before the concerned Gram Sabhas.
- Where the claims of PTGs have already been filed, the DLCs should take steps to ensure recognition of their rights along with mapping of the area of each claim over which their rights have been recognized.

8. Whether OTFDs who do not fulfil the condition of occupation of forest land for three generations (75 years) prior to 13th December 2005 would be eligible for recognition of forest rights under FRA?

- The Act does not envisage the occupation of forest land for three generations (seventy five years) prior to December 13, 2005 for qualifying as OTFD under the Act. The occupation of forest land should be prior to December 13, 2005 as per Section 4 (3) of the Act which stipulates the condition of occupation of forest land for recognition and vesting of forest rights. This condition does not differentiate between forest dwelling STs and OTFDs.
- To qualify as OTFD and be eligible for recognition of rights under FRA, three conditions need to be fulfilled- 1) Primarily resided in forest or forests land for three generations (75 years) prior to 13-12-2005 2) depend on the forest or forests land for bonafide livelihood needs 3) occupied forest land prior to 13-12-2005.
- Primarily resided in does not mean occupation. Proof of residence in the village for 75 years where claim has been filed and dependence on forest land will suffice for being considered as OTFD. As clarified in an earlier letter No.17014/02/2007-PC&V(Vol.VII) dated 17.06.2008, regarding the phrase “primarily resided in”, “such Scheduled tribes and other traditional forest dwellers who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs would be covered under the definitions of forest dwelling scheduled tribes and other traditional forest dwellers given in Section2(c) and 2 (o) of the Act.

9. What would be the legal status of the titles given under FRA?

- The title given under the FRA is a legal title and is a formal recognition of forests right which is recognized and vested in the right holders in form of a signed document by the competent authority under the Act. It shall be registered jointly in the name of both the spouses or a single head in case only one head is alive as the case may be. It has the

force of law and are non transferable, inalienable but heritable as per Section 4(4) of the Act.

10. Where are the records of rights going to be maintained? Whether in the revenue records or forest records?

- As regards maintenance of records of rights, Rule 12 A of the Amendment Rules, 2012, notified on 6.9.2012, provides that on completion of the process of recognition of rights and issue of titles under the Rules, the Revenue and the Forest Departments shall prepare a final map of forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and the forest records within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier.
- It is suggested that if the forest land is under the administrative control of the revenue department, the revenue department shall maintain record of rights. If the forest land is under the administrative control of the forest department, the forest department may maintain the records and the records of the titles for individual land rights also need to be recorded in the revenue records. States may take appropriate steps to enter the record of rights in the relevant State records. What is most important that every such record is not only verified on the ground but also reconciled with both forest and revenue records. For example, State of Uttar Pradesh has amended its record of rights (termed as Category (6) under their revenue law) to add a new column for maintenance of forest rights.

11. What impact the conversion of forest villages would have on the other communities apart from the scheduled tribes residing in the same villages?

- The conversion of the forest villages into revenue villages shall in no way affect any of the communities residing in the village, even though they may not be belonging to Scheduled Tribe or qualifying as OTFD. FRA does not abrogate rights or privileges recognized under any other Act, Rule or Government Order. In fact, the conversion of forest villages into revenue villages would enable the Government to extend all the development facilities to these villages and the residents of this village would be entitled to get the benefits of the development programmes and schemes of the Government.

12. Who will prepare conservation and management plan for community forest resources?

- As per the FR Amendment Rules, 2012 notified on 6.9.2012, the committee constituted by the Gram Sabha under Rule 4 (1)(e) for carrying out the provisions of Section 5 of the Act is required to prepare the conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling STs and OTFDs.

13. Can Gram Sabhas be called at the Gram Panchayat level for the purpose of FRA?

- No, Gram Sabha should not be called at the Gram Panchayat level for the purpose of FRA. A Gram Panchayat normally consists of one or more revenue villages. As per the provision of the Act, Gram Sabhas are to be held at the village level and village has been defined under section 2(p) of the Act.

14. Can the Gram Sabha meetings be held at the habitation/ hamlet level even in areas not coming under PESA?

- Yes, the Gram Sabha may be held at the hamlet level in areas not coming under PESA.
- The terms “Gram Sabha” and “village” for purposes of FRA are already defined in Sections 2(g) and 2(p) of the Act where any forest settlement, forest village, old habitation or settlement and unsurveyed village may also be treated as village among others. Such entity, even if not notified or recorded as village, are recognized as village for the purpose of this Act.

15. Whether the community rights of the non-Scheduled Tribes who are traditionally using the community resources in the Schedule V areas where PESA is applicable would be affected if they are not eligible for recognition of these rights in those areas under FRA?

- No, the community rights of non-Scheduled Tribes or ineligible OTFDs will not be affected in Schedule V areas where PESA is applicable.
- Section 13 of the FRA clearly supports such an arrangement as the FRA is in addition to and not in derogation of any other law for the time being in force.

16. Whether the title holders have the rights over the trees also standing on the forest land for which their rights have been recognised and vested under FRA?

- Yes, the title holders have right over trees on the forest land for which rights have been recognized under FRA.
- Section 3(1)(a) of the FRA recognizes the right of the FDSTs and OTFDs to hold and live in the forest land for habitation or for self-cultivation for livelihood by a member of a forest dwelling Scheduled Tribe or other traditional forest dwellers. In view of the above, the titleholders have the right over the trees standing on the said forest land but for felling and disposal of the trees, the same shall be treated in the same manner as trees on private land are treated under the relevant State laws and shall be subject to conditions, requirements for permission etc. as specified in those laws.
- For further clarity, the number of trees on the land with species and size should be mentioned in the title. There would be no restriction on collecting and using the minor forest produce from such trees.

17. The number of claims settled under Community Rights is very small as there is lack of adequate documentary evidence to corroborate those claims. What are the documentary evidences required in case of community rights?

- Rule 12A(11) introduced through the recent amendment specifies that the SDLC / DLC cannot insist on a particular evidence in support of the claim. Physical and oral evidence is also admissible under Rule 13. Official documents such as working plans, gazetteers, forest settlement reports, and other types of evidence mentioned in Rule 13 may be considered. Further the evidence for rights over community forest resource and evidence for other forest rights in including community are distinguished in Rule 13 (1) and (2). In fact more evidences such as Government records or earlier classification of current reserve forest as protected forest or as gochar or other village common lands, nistari forests as well as earlier or current practice of traditional agriculture have been added as evidence for “community forest resource”.

18. After recognition of rights under FRA can the forest rights holders get any support for development of the forest land and community forest resources?

- The amendment rules now provide for post claim support to the forest rights holders and require the State Government departments especially tribal and social welfare, environment and forest, revenue, rural development, Panchayat raj and other departments to provide support for land improvement, land productivity, basic amenities and other livelihood measures under existing government schemes to such claimants and communities whose rights have been recognized and vested under the Act.

19. Can the states get separate budget allocations for the demarcation of CFR areas and smooth implementation of FRA?

- Article 275(1) provides window to each state to demand for grants for implementation of FRA. Grants under Special Central Assistance (SCA) to Tribal Sub Plans (TSP) can also be demanded for the development of land over which rights have been recognized.

20. A lot of social capital has been invested by states in the capacity building of JFM Committees in the last 15-20 years for the protection, conservation and management of the forests. Shouldn't these JFMCs be converted into committees under 4(1) (e).

- It is the prerogative of the Gram Sabha to decide whether to nominate the members of the JFMCs in the new Committee under Rule 4(1)(e) or constitute it with new members. It is further clarified that only the members of the Gram Sabha are eligible to become a member of the Committee under Rule 4(1)(e). Automatic conversion of JFMCs into Committee under Rule 4(1)(e) is neither mandated nor desirable under the FRA as the objectives, structure and mandate of JFM is different from that of Committee under Rule 4 (1) (e).

21. Should JFM Areas be directly converted to Community Forest Resource Titles

- As per the provisions of Act and Rules, automatic conversion for JFM areas into CFR areas is neither mandated nor desirable as the objectives, structure and mandate of JFM is different from that of rights under community forest resource. However, wherever JFM areas are co-terminus with CFR boundaries, Gram Sabha may apply and get the title to such community forest resource, subject to the final approval by DLC.

22. Does Development right under section 3(2) which involve land use changes need to be referred under the Forest Conservation Act 1980?

- No permission is needed under FCA, since the Forest Rights Act frees the rights of all encumbrances and procedural requirement of the Forest Conservation Act through Section 4(7). However such conditions must fulfill the conditions under Section 3(2) of the Act namely diversion of less than one hectare, cutting of not more than seventy five trees, recommendation of the Gram Sabha and limited to the thirteen items listed under Section 3(2) of the Act. Procedure for diversion of forest land under Section 3(2) of FRA has been laid down by the Ministry of Tribal Affairs vide Annexure to letter No-23011/15/2008-SG.II, dated- May 18, 2009.

23. Is FRA applicable in National Parks and Sanctuaries? Would it not further threaten the last existing healthy forest with wildlife?

- Yes, FRA is applicable in National Parks and Sanctuaries. FRA only recognizes pre existing rights which are already being exercised by the eligible persons in the National Parks and Sanctuaries. Therefore there is nothing new that is being done to bring fear to the future of National Parks and Sanctuaries except securing their tenure on such lands. Further, where such rights may potentially cause irreversible damage to wildlife, FRA provides for creation of inviolate areas for wildlife protection (called Critical Wildlife Habitats) through a democratic and transparent process after recognition of rights under the FRA is complete.

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