

Summary of Proceedings & Recommendations of the Workshop on

**“THE SCHEDULED TRIBES AND OTHER
TRADITIONAL FOREST DWELLERS (RECOGNITION
OF FOREST RIGHTS) ACT, 2006”**

20-21 April, 2015

Dr. Prem Singh
M.T.R. Khan



Centre for Rural Studies

Lal Bahadur Shastri

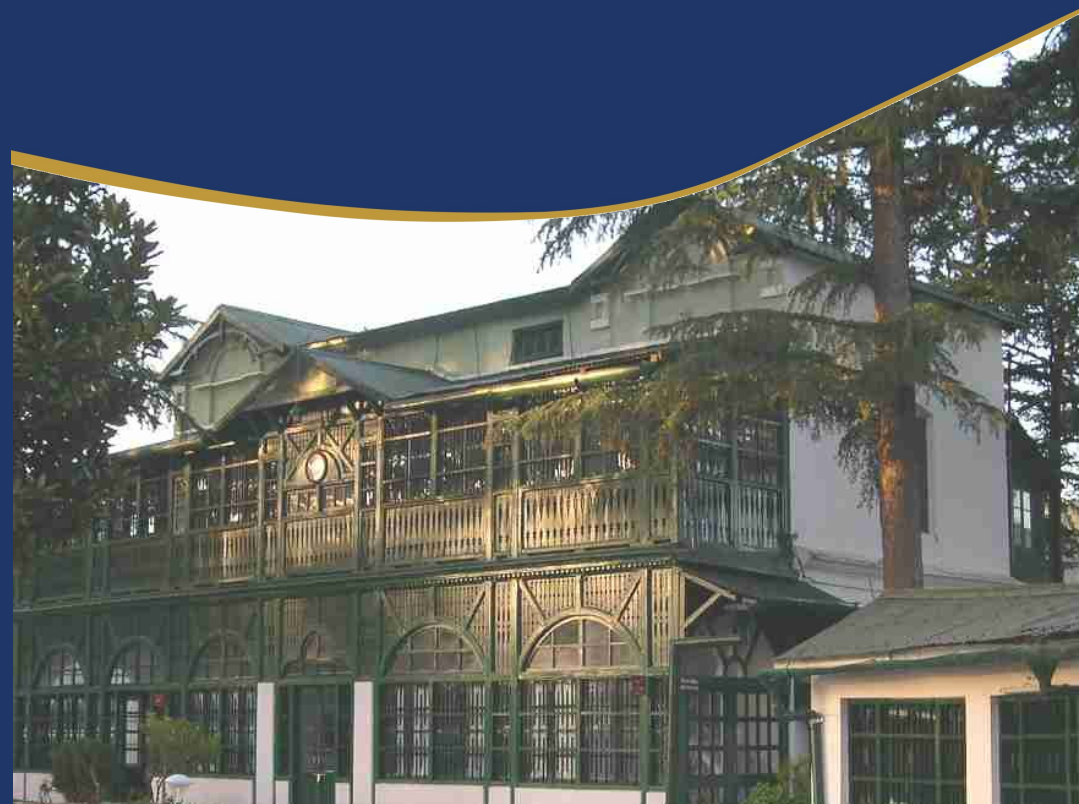
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ACKNOWLEDGEMENT

We take the opportunity to express our gratitude to all those individuals and institutions who helped us in conducting the workshop on “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006” held in 20-21 April, 2015.

The Director of the Lal Bahadur Shastri National Academy of Administration, Mussoorie, Mr. Rajeev Kapoor inaugurated the workshop and Mr. Charanjit Singh, Chief Conservator of Forests, Bhopal, MP graced the function as the Chief Guest. We express heartiest gratitude to both of them.

We are very grateful to Dr. Prem Singh, IAS, Centre Director, CRS, LBSNAA and Deputy Director (Sr.), LBSNAA, Mussoorie, for his guidance throughout the process, right from the start of preparation till the completion of the workshop successfully.

We deeply acknowledge the presence of Prof. K. B. Saxena, IAS (Retd), Shri Vinod Kumar, Director, Indira Gandhi National Forest Academy, Dehradun, Shri B. R. Naidu, IAS, Principal Secretary, Tribal Welfare, Government of Madhya Pradesh, Bhopal, Madhya Pradesh, Mr. R. Ravi Shankar, Deputy Director, LBSNAA, Mussoorie, Dr. Bijay Kumar Swain, Professor and head, CRCDD, NIRD, Hyderabad, Shri Uma Kant Umaraao, Commissioner, Tribal development, Bhopal, Ms. Madhu Sarin, President of Vasundhara’s Executive Committee (EC). We also express our deep sense of gratitude to Shri Tushar Dash, Vasundhara. Bhubaneswar, Smt. Meera Iyer, IFS, Central Academy for State Forest Service, Dehradun, Dr. Sonali Ghosh, IFS, Dehradun, Dr. Bijay Kumar Swain, Professor and head, CRCDD, NIRD, Hyderabad, Dr. Ashish Aggarwal, TERI, New Delhi, Mr. Souparna Lahiri, Activist, M. Gopinath Reddy, Professor, Centre for Economic and Social Studies, Soumitra Ghosh, Activist, and whose contributions were very significant on account of their experience and depth of knowledge on the FRA, 2006.

We express our deep gratitude to Mr. N. C. Saxena, IAS (Retd.) who could not be present during the workshop. By his important and dedicated contribution and guidance, we were able to give such a final shape of this intellectual gathering today.

Our deep gratitude goes to Dr. A. A. A. Faizi, Former Professor, CRS too for his pioneering initiatives for the workshop. The workshop was planned in his tenure at CRS. Though he left the Centre before the workshop, his contribution in guiding and shaping into such an academic gathering was always continuous and worthy to mention. Dr Varsha Ganguly, Professor, CRS, joined at late hours but her contribution in making this workshop meaningful and successful is deeply appreciated.

We must thank all the participants of the workshop whose experience and knowledge threw lights in the intellectual assembly on the subject; they were all eminent in their own fields.

We thank Mr. Tushar Dash for his contribution in shaping the workshop from the very start of preparations for the workshop. His timely helps contributed much to the final deliberation of the workshop.

We also render our thanks to Dr. V. V. Singh and Dr. Rashmi Choudhary for their valuable and timely delivery of rapporteurs' reports covering all the sessions of the workshop.

Last but not the least, sincere acknowledgements are rendered to all the members of faculty and CRS staff for their dedicated supports, hard works and co-operations.

Our sincere acknowledgements are also to all the members of the technical staff whose contributions during the workshop and post workshop activities helped us to complete the workshop successfully.

INTRODUCTION

Background

The Human Development Indicators (HDI) in education, health and per capita income of the Tribal and marginalized groups are among the lowest in the country. To ensure sustainable livelihood as well as access to basic necessities for these sections has been a priority of the Government for a long time. The government has considered the economic development and protection of rights of the Scheduled Tribes and marginalized sections.

Among the milestones of various legislations ensuring basic amenities and entitlements of the common people, “The Scheduled Tribes and Other Traditional Forest Dweller’s (Recognition of Forest Rights) Act, 2006” popularly called as the Forest Rights Act (FRA) is specially meant for ensuring sustainable livelihood for the tribal populations and other forest dwellers, who have been residing in the forests and earning their livelihoods out of the forest resources, in sustainable manner.

This act, which came into force on January 1, 2008, is the outcome of a prolonged fight by the tribal and the marginal communities for their rights over the forestland where they have been dependent over the ages. This has emerged as a landmark social legislation with special provisions to the Community Rights (CRs) and the rights over Community Forest Resources (CFR), described in Sec 3 (1) of the Act. The recognition and entrustment of CFR to the forest dwelling communities is a paradigm shift from the ‘centralised’ forest management towards the community led ‘decentralised’ governance of forest resources.

The FRA comprises rights to the land under occupation and customary land, ownership of minor forest produce, rights to water

resources, grazing fields, habitat of Primitive Tribal Groups (PTGs), conversion of all types of forest villages/settlements to revenue villages, the right and power to protect, conserve and manage community forest resources, etc. This Act is crucial to the rights of millions of tribal and other forest dwellers in different parts of our country as it provides for the restitution of deprived forest rights across India, including both individual rights to cultivated land in forestland and community rights over common property resources.

The main objective of the Act is to recognise the rights of the communities including the tribal and the forest-dwellers and to encourage their participation in the conservation and management of the forests, forest products and wildlife. The livelihood of millions of the poor will get benefited and improved if the rights in the FRA, 2006 are correctly interpreted and justly implemented.

While the FRA is important for strengthening local self-governance of forests and natural resources as well as for securing livelihoods of the forest dwellers and the tribal people who have been living there for years, recognition and implementation of the act including the community rights remain a challenge to the stakeholders. The amended rules in 2012 require a process for delineation and mapping of the CFR, which is an impediment due to the lack of knowledge and capacity to facilitate delineation and mapping of CFR.

Section 3(1)(a) of the FRA recognizes the rights of the Forest Dwelling Scheduled Tribes (FDST) and Other Traditional Forest Dwellers (OTFD) to hold and live in the forest land for habitation or for self-cultivation. Under various sub-clauses of section 3(1) of the Act high priority is to be given to recognition of community rights, including right to protect and manage CFRs. Harmonising these directions would require channeling NREGS funds to improve productivity of lands where the rights of forest dwellers have been recognised with community participation. Thus there is a need for a creative integration of laws including the Forest Rights Act and the

National Rural Employment Guarantee Act among others and to explore how these provisions of the law can be used to strengthen community conservation initiatives and make productive use of community forest resources. For example, conservation-related works may be included in the NREGS to generate productive works out of the conservation process which, in turn, could provide incentives to the local community to participate in the community conservation process for productive and sustainable use of resources. Such integration will take forward towards meeting ecological objectives of the NREGA, which are being neglected in the implementation plan and programmes. This will also influence panchayati raj institutions to integrate community-based resource management plans with the local governance agenda.

Significance

The Forest Rights Act, 2006 is considered a very important landmark in the history of social legislation in the country because this offers people an opportunity of integrating their rights related to the conservation and livelihood security. Proper interpretation and implementation of the Act will empower and strengthen the local self-governance, strengthen the livelihood security of the people towards poverty eradication and facilitate conservation and management of natural resources in the country. The main significance of the act may be summarised as below:

1. Specially meant for the Scheduled Tribes to ensure sustainable livelihood to the tribal populations and other traditional forest dwellers whose main livelihoods lie in the forests and the forest resources
2. Recognition of the rights of the communities including the tribal and the forest-dwellers for the first time and encouraging their participation in the conservation and management of the forests, forest products and wildlife
3. Community Rights/ Rights over common property resources of

- the communities in addition to their individual rights
4. Rights in and over disputed land;
 5. Rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests into revenue villages
 6. Right to protect, regenerate or conserve or manage the community forest resources, which the communities have been traditionally protecting and conserving over the years, for future sustainability
 7. Right to intellectual property and traditional knowledge related to the biodiversity and cultural diversity
 8. Rights of the displaced communities
 9. Rights over developmental activities

Progress and Impediments

Though the Act has come into force in 2008, the progress towards the implementation of the CFR provisions remains unsatisfactory. According to a report of the Ministry of Tribal Affairs, there is only a marginal increase in the recognition of CFR in a few states such as Madhya Pradesh, Karnataka, Maharashtra, Odisha, and Gujarat though states such as Tripura and Andhra Pradesh have taken a leading role in this aspect. In the Northeastern states, the implementation of Forest Rights Act has barely progressed. This may be due to the fact that, in most of the northeastern states, it is felt that the act is not relevant to their situation or the state governments are not clear on how it applied in the Sixth Schedule areas. There is also lack of clarity about the diversion of forestland for development activities under Sec 3(2), which is confused with the recognition of rights over CFR. Lack of awareness regarding the provisions of CFR, misinterpretations and failure of implementation impair the process of CFR claims and recognition even after many years since the operationalisation of the FRA. The unsatisfactory result of the implementation of the Act may be because of:

1. Lack of support from dedicated institutions in the claims and recognition process as well as impediments and delays in implementation
2. Lack of knowledge, awareness and capacity at different levels, especially in Gram Sabhas/ Gaon Sabhas
3. Non-recognition of rights of vulnerable communities such as PVTGs, residents of forest villages, pastoralists and nomadic communities
4. Contradictory as well as conflicting laws and policies (particularly those implemented by the forest department such as the Joint Forest Management program, operation of working plans, laws and regulations on minor forest produce (MFP))
5. Widespread diversion of the forest lands and community forest resources for the purpose of development projects without the consent of Gram Sabha/ Gaon Sabha (which is against the protection specified in the FRA, other protective legislations (PESA) and MoEFCC's own order of FRA compliance in Forest Diversion dated July 30, 2009)

Looking into these complexities and impediments of the interpretation and implementation of the Forest Rights Act, 2006 the Centre for Rural Studies, Lal Bahadur Shastri National Academy of Administration, Mussoorie organised a national level workshop on "The Scheduled Tribes and Other Traditional Forest Dweller's (Recognition of Forest Rights) Act, 2006", popularly known as the Forest Rights Act (FRA) during the 20-21 April, 2015 at the Lal Bahadur Shastri National Academy of Administration, Mussoorie.

Workshop Title: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Workshop Theme: The Forest Rights Act: A Revisit
The sub-themes are:

- Rights related to forest products and marketing of forest products (NFTP)

- Rights related to entitlement, access and management of the forest
- Community rights vs Individual rights
- Inter-state issues and good practices of the States
- Challenges and Opportunities
- Overlapping and conflicting roles of various institutions, policies and laws

Objective

The objective of the workshop was to assess the progress, identify the bottlenecks, and explore the ways of improving efficacy of the act that aims at recognizing the land rights of communities living in and around forests. The national level workshop will benefit the participants to share views and express opinion on the various themes outlined above and to come out with meaningful and practical approaches for effective implementation of the FRA, 2006. At the workshop, after a predesigned exercise among the participants that comprised of administrators, bureaucrats, academicians, scholars, researchers and activists, suggestions for policy recommendations to be sent to the Ministry of Land Resources were to be collected.

Participants

The workshop was organized to attract eminent administrators, bureaucrats, academicians, scholars, researchers and activists to participate in the two day long academic discussion and serve as a platform for exchange of a wide range of scholarly opinions, both theoretical and empirical, and also drawing on relevant experiences on issues relating to the Forest Rights Act, 2006. The participants were expected to contribute on various issues of the FRA and offer comments and suggestions on the different sub-themes of the workshop.

INAUGURAL SESSION

Welcome Address: MTR Khan¹



Mr. MTR Khan, first of all, greeted Shri Rajeev Kapoor, IAS, Director, LBSNAA, Mussoorie, Shri B. R. Naidu (IAS), Principal Secretary, Tribal Welfare, Govt. of MP, Bhopal, Shri Charanjit Singh, IFS, Chief Conservator of Forests, MP, Bhopal, Shri Uma Kant Umarao, Commissioner, MP, Bhopal, Dr. Prem Singh,

IAS, Deputy Director, LBSNAA and Centre Director, CRS, LBSNAA, Mussoorie, Shri R. Ravi Shanker, IFS, Deputy Director, LBSNAA, Shri Binod Kumar, Director, IGNFA, Dehradun, Smt Madhu Sarin, President of Vasundhara's Executive Committee (EC), and all other dignitaries and distinguished ladies and gentlemen present in the workshop. He said that it was his honour, on behalf of the Centre for Rural Studies, LBSNAA to welcome all those present at the Lal Bahadur Shastri National Academy of Administration, Mussoorie for the Workshop on **"THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006"**, 20-21 April 2015.

He said, "It is our privilege to have such an august and graceful assembly of the very distinguished civil servants and administrators, eminent academics, renowned activists and researchers who would

¹ Assistant Professor, Centre for Rural Studies, LBSNAA, Mussoorie

pave the way for a better understanding to the various themes of our workshop during these two days. We are deeply obliged to all the delegates present here with us for these important two days of intellectual and academic discussions. We are not only colleagues in profession but to be more, are true brothers and sisters in the fraternity of disseminating knowledge, imparting skills and inculcating attitudes. We welcome each one of you in equal measures of effusion”.

He expressed his deep regret that Mr. N. C. Saxena, IAS (Retd.), was not there with the assembly. He said that it was possible to give such a final shape of the intellectual gathering by his important and dedicated contribution and guidance. He said, “We are missing such an important personality, not only from this aspect only but also from the aspect of his possessing a wide knowledge and experience in the field. We owe a great respect and gratitude to him”.

He also expressed his deep regret that Dr. A. A. A. Faizi, Former Professor, CRS was not able to be present in the gathering. He said that though he left the centre sometimes back and was not with them that day for the workshop, his contribution in guiding and shaping into such an academic gathering had always been continuous and were worthy to mention.

Mr. Khan then gave a short introduction on the theme of the workshop. He continued,

“The Scheduled Tribes and Other Traditional Forest Dweller’s (Recognition of Forest Rights) Act, 2006” popularly called as the Forest Rights Act (FRA) is specially meant for ensuring sustainable livelihood for the tribal populations and other forest dwellers who have been residing in the forests and earning their livelihoods out of the forest resources in sustainable manner.

This act, which came into force on January 1, 2008, is the outcome of a prolonged fight by the tribal and the marginal communities for their rights over the forestland where they have been dependent over the ages. This has emerged as a landmark social legislation with special provisions to the Community Rights (CRs) and the rights over Community Forest Resources (CFR), described in Sec 3 (1) of the Act. The recognition and entrustment of CFR to the forest dwelling communities is a paradigm shift from the 'centralised' forest management towards the community led 'decentralised' governance of forest resources.

As you all know, the main objective of the Act is to recognise the rights of the communities including the tribal and the forest-dwellers and to encourage their participation in the conservation and management of the forests, forest products and wildlife. The livelihood of millions of the poor will get benefited and improved if the rights in the FRA, 2006 are correctly interpreted and justly implemented.

While the FRA is important for strengthening local self-governance of forests and natural resources as well as for securing livelihoods of the forest dwellers and the tribal people who have been living there for years, recognition and implementation of the act including the community rights remain a challenge to the stakeholders. The amended rules in 2012 require a process for delineation and mapping of the CFR, which is an impediment due to the lack of knowledge and capacity to facilitate delineation and mapping of CFR.

Looking into these complexities and impediments of the interpretation and implementation of the Forest Rights Act, 2006 the Centre for Rural Studies, Lal Bahadur Shastri National Academy of Administration, Mussoorie, financed by the Department of Land Resources (DoLR), Ministry of Land Resources (MoRD), Government of India, provides a platform of intellectual discussion with an

objective to assess the progress, identify the bottlenecks, and explore the ways of improving efficacy of the act that aims at recognizing the land rights of communities living in and around forests.

The Act & rules must accommodate the benefits reaching the common masses; therefore, a national discussion on Revisiting the Forest Rights Act 2006 is required. This august gathering of administrators, eminent scholars and academics, and renowned activists will benefit the participants to share views and express opinions on the various themes and to come out with meaningful and practical approaches for effective implementation of the FRA, 2006. I am sure that the outcome of this intensive two days' workshop will not only benefit the participants and academic community, but also enrich the practical vision and help the policy makers and administrators of the country".

He said that he was looking forward that this workshop would open a platform of discussion on how and in what manner this issue could be taken forward and deliberated. He also anticipated a great deal of academic discussion and knowledge sharing on the theme and sub-themes during the two days long workshop.

Mr. Khan thanked again each one of the dignitaries and distinguished personalities from different parts of the country for having spared the time of busy schedules to be in the gathering and facilitate the discussions. He wished all of them a very smooth and enriching discussion and a comfortable and enjoying stay in the academy.

Inaugural Address: Dr. Prem Singh, IAS²



Dr. Prem Singh, IAS, Centre Director, CRS, LBSNAA and Deputy Director (Sr.), LBSNAA, Mussoorie thanked Mr Rajeev Kapoor, IAS, Director, LBSNAA, Mussoorie for sparing his precious time to inaugurate the workshop. He expressed his sincere and warm welcome to Shri Charanjit Singh, IFS, Chief Conservator of Forests, Madhya Pradesh, Shri Binod Kumar, Director,

Indira Gandhi National Forest Academy, Dehradun, and the large number of administrators, academicians, practitioners and activists who spared their busy schedules to participate the very important Workshop on the **“The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”** organized by the Centre for Rural Studies, Mussoorie, National Academy of Administration, Mussoorie during the period of 20 and 21 April, 2015 at the premises of the academy in Mussoorie.

In his address, he shared his personal experience saying that, when he read about the workshop on the Forest Rights Act, 2006 being organized by the CRS, he was thinking where the linkage was as he was not an expert in this field. But when he went deeper into the subject, he realised that the first right, the Forest Right Act, gives forests dwellers the ownership of land rights and tenural rights in addition to the large number of other Acts. He expressed his concern over the importance of this area, which the Centre for Rural Studies must take it up and understand in depth about the dilemma of the conservation

² Deputy Director (Sr.), LBSNAA, & Centre Director, Centre for Rural Studies, LBSNAA, Mussoorie

versus land use of the large number of forests in the country. He felt the need to make this subject a venture of research studies in the Centre for Rural Studies as there had not been a stake here in this subject during the past though the Forest Rights Act came up in 2006 for the forest dwellers to realise their traditional rights.

He realised the presence of a large numbers of impediments being faced by different states in implementing the Forest Rights Act, 2006. While going through different literatures, he found that some of the states were doing very well in implementing this particular Act while some other states were not doing so well. He said, "So it is important for us to understand why some of the states have done very well in implementing the Forest Right Act while others have not". He further raised some questions in this regard, "What kind of processes they would put in place? Are there some institutional mechanisms and institutional structures they put in place to help them implement this Act in a much better way?". He further said, "This was one of the reasons why we thought that we would get practitioners from a large number of states where there are major tribal populations such as M.P., Jharkhand, Chhattisgarh, North Eastern States, Karnataka and so on, so that there could be a significant amount of cross learning and sharing experiences and knowledge in the subject of importance among all of us".

He furthered continued, "The outcomes of this workshop, of course, in addition to having intellectual discourses and discussions on the subject of interest, will be some kind of concrete recommendations which will be sent to the Ministry of Tribal Affairs, Government of India as well as the Ministry of Rural Development through the Department of Land Reforms, Government of India. The Joint Secretary, Ministry of Tribal Affairs, Government of India, who is unable to join us here in these two days' workshop due to the some other important engagement, has expressed his concern over this important intellectual discussion and his interest in going through each and every recommendation that flows out of the discussions and discourses".

He showed his concern over the importance of such a workshop while referring to its significance to the trainees. He said, “One of the outcomes of this workshop will be that we will be sharing the outcomes of this workshop with the 183 IAS officers who (presently undergoing trainings) will be going to their respective fields in different districts very soon. Whenever we have such kind of workshops, whatever the recommendation comes out of them, we always share them with the young officers because most of them are administrators at the cutting edge level and we think that this will benefit them to a significant level. This is very important, especially for the officer trainees who are going in the areas where there are large number of forests and people who are affected by this Act. These officers will go through the outcome of the deliberations and the recommendations and use them for their studies in their fields”.

Dr. Singh ended his inaugural address by wishing that the two day workshop would come out success with some kind of productive and fruitful deliberations that would add values to the realisation of the Forest Rights Act, 2006. He wished all the beaurocrates, experts, academicians, activists and other participants a very happy and comfortable stay in the academy. He then invited Mr. Rajeev Kapoor, the Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie to deliver the Address by the Director.

Address by the Director: Shri Rajeev Kapoor, IAS³



Shri Rajiv Kapoor, IAS, Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie welcomed Shri Binod Kumar, Director, Indira Gandhi National Forest Academy, Dehradun, Shri Charan Jit Singh, Chief Conservator of Forests, Madhya Pradesh, Dr. Prem Singh, Deputy Director, LBSNAA, Mussoorie and all the other dignitaries, experts,

academicians and participants of the workshop. He thanked Dr. Prem Singh for giving him the opportunity to present at the Workshop on **“The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”** and deliver the address.

Mr. Kapoor admitted that he had no detailed knowledge on the topic *per-se*. He said, “Fortunately this is the beauty of this academy that we get to know things which are, otherwise in our fields, are being sought in many occasions. The kind of arrangements that we have with the Department of Land Resources for more than two decades have given opportunity to admit to the relevant things/ subjects of concern which are of critical importance to the administration. We have been concentrating basically in the area of the land record management and land reforms, but through such occasions and organizations of such events from time to time, we have the opportunity to interact with very diverse participants whose works and experiences are from different perspectives. This keeps the academy alive as well as focussed on some of the relevant issues such as the equality, poverty alleviation and other relevant issues in the development history”.

³ Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie

Mr. Kapoor thanked DoLR, for continuing to sustain the Centre for Rural Studies and to enable the centre for having a very wide ranging and interesting agenda through such a medium. He said that, though he did not possess a good knowledge on the subject, he went through the papers that were circulated for the seminar and he came to know about the Forest Right Acts, 2006 and how some of the issues were to be fully implemented. He further continued, "Though individual rights have been largely implemented in terms of they have been adjudicated upon but there is a huge gap of community forest rights. There are also issues such as regarding certain states where this act would be applicable and in what respect and in what form. I hope that this is a very important issue partly because, as Dr. Prem Singh mentioned earlier, this continuing tension between development and sustainable livelihood will always remain. I also think it to be more important for such intellectual gatherings and discussions because these occasions also provide a forum, through such academic interactions of the academicians, administrators and activists, which will provide some concrete recommendations and suggestions that can be used as a replicating tool in the policy making. This is very important because this will give an impact in the process of policy making and fill the existing gaps due to the fact that a large majority of forest dwellers who have been sustaining the forests as well as earning their livelihoods for their sustenance do not have a voice of their own".

Mr. Kapoor expressed the importance of the work entrusted to the CRS which should be taken seriously. He kept the hope that the two day workshop would provide this linkage to the policy makers, through the interaction, to take on to a very important state to correct the prevailing deficiencies in the policy making. He brought an example from the period when he was SDM in Ranikhet; he related how the forest rights were implemented after some disturbances in Kumaun in the 1920s when the large amount of forests were integrated and people's lives were affected after which the Forest Panchayat Act came into being in Uttarakhand. He personally spent a year to see how the

communities had maintained and regenerated these forests by adopting constructive management practices. He said, “So I hope that community forests aspect, which is still not being fully implemented in the FRA, would take shape and help to implement these rights where the community can take active role in the community resource management which would lead to both the livelihood generation and development as well as to the preservation of forests”. So with these few words, he rendered his best wishes for the success of the deliberations with the hope that some concrete recommendations would throw out of this workshop to share with the probationary officers as well as with the Government of India for further necessary actions at the end.

ADDRESS BY THE CHAIR: Shri Charanjit Singh, IFS⁴



Mr. Charanjeet Singh, Chief Conservator of Forests, Bhopal, MP greeted Mr. Rajeev Kapoor, the Director, LBSNAA, Mussoorie, Dr. Prem Singh, the Deputy Director, LBSNAA and the Centre Director CRS, LBSNAA, Mussoorie and all the other distinguished participants a very good morning. He said that it was a very great privilege for him to deliver the

Chair Address in such an august gathering and on such a vital subject of **“The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”**.

He expressed his concern in keeping the address very brief as he wanted to preserve his thunder for 21st April, 2015 when would be going to present his own paper on all the challenges and opportunities which being faced at the moment.

He said, “there is a need for open discussion, which basically means there should be no hindrance and we should not be bound by our State Governments or our designations or posts so that there occurs an open discussion, as Amartya Sen in his ‘Argumentative Indians’ says, “We have got such tradition of discussion more than 2000 years ago”. In the rule of Great Ashoka, there used to be discussions; there used to be Dharam Sansads which means that there used to be discussions, may be on the different aspects of Buddhism or matters related to others, for example, if one did not believe in God, which were used to be discussed. This should be our approach so that there are platforms for open discussions”.

⁴ Chief Conservator of Forests (Land Management), Bhopal, MP

Continuing further, he said, “There should be certain structure of the discussion. Discussion should not be for the sake of discussion only but some solid recommendations should come out of that discussion. It has been more than eight years since the FRA 2006 first came precisely on the 2nd January, 2007. What has been the progress in implementation of that? What does this Act wants to achieve? I think basically there are two things which this act wants to achieve: (i) Access to land and the land tenure security - Basically the people who live in forests or on the fringe of the forests face these two difficulties, that is, they do not possess the formal rights (a) on their own land where they live, do agriculture, (b) of their access to the common property like they want to collect some medicinal plants, fuel wood, small timber etc; this act aims to achieve this objective so that there should be access to land and land tenure security. (ii) one very beautiful thing of the Act is that there should be sustainable livelihood of the Scheduled Tribes and other traditional forest dwellers along with the sustainable management of forests and widening. So these two things go together and they cannot be separated; if there are no forests, then there will be no sustainable livelihood. If we do not have these people who live in the forests or on the fringe of the forests who are the largest stakeholders of these forest areas, how can we think of achieving our objectives of the sustainable livelihood and sustainable forest management? So these stakeholders, i.e., the tribal and forest dwellers are going to help us achieving these objectives”.

At the end, he said that we should come out with the recommendations and suggestions on how to go ahead for a practical solution of the various deficiencies in the implementation of the act. He emphasised in identifying these two aspects: (i) what has been the progress in the implementation of the act and (ii) what are the difficulties we are facing, so that we are able to explore the ways of improving the efficiency of the act by identifying and highlighting the things needed to be done and thus the aims and objective of the Act may be achieved.

He then concluded by thanking to all those present in the workshop and wishing a fruitful discussion ahead that would draw out useful recommendations and suggestions to fill the discrepancies in implementing the Forest Rights Act 2006.

Technical Session I

Rights related to Forest Products and Marketing of Forest Products

Chair: Shri Charanjit Singh, IFS

Shree Charanjit Singh opened the first session by welcoming all the participants and he briefly highlighted the importance of the rights related to Forest Products and Marketing of Forest Products. He then invited the speakers to talk and discuss on the various subjects of their own interests under the current theme.

Ms Meera Iyer, IFS, Dehradun

Medicinal Plants as Forest Produce and Source of Livelihood: Opportunities and Challenges

She gave an overview of diversity of medicinal plant resources related to various plant species of medicinal usages found in forests. She informed about the percentage of species available directly from the forests. While describing about the trade of medicinal plants, she pointed out that India has a small share in the world herbal trade. She also focused on the Ayurveda industry of India. The Ayurveda system of medicine in the country is parallel to the modern health care. The major Ayurveda industries in India are family owned. They have been originated through a Vaidya, which are presently run by their third generations. They have kept the production process secret due to which the development is adversely affected. Under the unorganized sector, Vaidyas have their own formulations and many micro units at the local level to prepare various Ayurvedic medicines with low cost, less infrastructure and simple processes etc. Delhi, Mumbai, Kolkata and Tuticorin have the major markets for medicinal plants. Major markets have the individual turnover of Rs 50 lakhs (approx.). The medicinal plant markets are not organized formally though traders from mandis to major markets are very well organized informally,

where traders have very strong business networks and are very secretive about the volume and prices. They also do not let new players join the market. Collectors are either the tribal or the rural poor and they are highly dependent on forests for their livelihoods. They collect medicinal plants along with fuel wood and fodder; the whole family works hard in the collection. Mostly women and children collect leaves and flowers while men collect roots, barks etc. Their earnings are very low the agents normally decide the price. Ms Iyer raised the issue that the collector's final share to be very low in supply chain ranging between 10-60 percent, with mostly being lower than 30 percent. To decrease rural poverty and to generate incomes for local communities collection and growth of medicinal plants should be increased. She also explained that the present large scale extraction of medicinal plants by the collectors had resulted in indiscriminate harvesting by the rural poor for additional income that affected the resource.

She suggested that the collectors should be well organized and collective bargaining should be done to increase the final share in supply chain so that it could generate employment and protect the interests of these people. Growth of selected medicinal plants should be promoted and the value should be added to raw drugs through semi-processing and grading at the village level. The collectors should be facilitated with the savings and credit groups as well as the legal and administrative frameworks. She pointed out about the various scopes of herbal cosmetic industry.

Ramaya Ranjan Patel

Problems of Marketing of Agricultural and NTFPs in a Tribal Region of Odisha: A Case of Gajapati District

He started by describing the reasons of poverty among the tribal people Southern Odisha. According to him, the tribal in the area mostly depend on the primary activities like agriculture and the related works either as cultivators, agricultural labourers or casual labourers and selling of NTFPs (Non-Timber Forests

Products). Despite their hard work and highest ownership of land compared to other communities, people of Southern Odisha remain poor due to the loss of a substantial proportion of their income in the marketing process such as (i) not realising a fair price of the product, (ii) falling in a market where there is buyers' monopoly, (iii) their low bargaining strength caused by absence of alternative sources of buying including government agencies, inadequate connectivity, perishable nature of the commodity with no processing units or cold storage and low demand of those products in local market and (iv) poverty or absence of surplus, which compels them to sell their product even at low price to meet daily requirements.

Dr. Patel viewed the face of many problems and exploitations of these tribal people in the hands of the buyers and middlemen. He raised the issue of varying prices of the products from place to place. Price gaps between the prices realised in the villages and the prices that could have been realised at the district headquarters for the same items were visible. He gave an estimated figure of forgoing 56.64 percent of their agricultural income in the marketing process. He pointed out the fact that many forest products were not available throughout the year and it forced them to suffer from hunger in certain months of the year. He emphasised that the marketing structure for sale of NTFPs to be exploitative and the tribal to be deprived of their due share. He highlighted some of the reasons for low prices: (i) presence of buyer monopolies, weak bargaining of the seller and incompetency of the tribal illiterate women to deal with the clever traders; (ii) lack of value addition or processing units; and (iii) low demand of NTFP in the local areas, and poor connectivity and transportation to the district mandis. He hinted that solutions to these problems would fetch the potential to push them come out of poverty and malnutrition. He also pointed out that the adequate marketing facilities could improve their financial condition. With the proper marketing of organic products they can fetch good income.

Dr. Patel concluded that the tribal are poor because of the fault of others such as the traders, middlemen and government. He emphasised of the requirement to provide an alternative source of buying in the form of the effective and efficient government agencies or co-operative marketing arrangements. He was of the opinion that provision of adequate connectivity and transportation, establishment of cold storage and processing units, information about the market situation and more importantly regulating the traders and middlemen would go a long way in solving the problems of marketing faced by tribal people.

R. Ravi Shankar

Decentralising the disposal of Minor Forest Produce

Mr. Ravi Shanker opined the disposal of “Minor Forest Produce” as one of the important aspects of Forest Rights Act 2006. He reminded the house of various factors influencing the disposal of Minor Forest Produce from where the rights to be demarcated as one such thing with conflicting roles of various institutions and policies. Citing the Section 2(i) of Scheduled tribes and other traditional forest dwellers act 2006 defines Minor Forest Produce that defines Minor Forest Produce, rule 2(iii)(d) that clearly mentions the way to dispose the MFP’s, Section 2(n) of the act that clearly defines the Sustainable Use of the above as assigned it in clause (o) of section 2 of the Biological diversity act 2002, Mr. Shanker highlighted the present challenges before the nodal agency to implementation of the act in true spirit and the role of the forest department and forest corporations and their existing acts and rules. He said, “the existing rules of forest department requires the transit permit for the transport of the MFP’s and the collection of royalties, levies by the Forest Corporations. The forests in the country are managed by the approved Working Plans and Management plans which are Sanctum-Sanctorum of the Department. And the MFP and its disposal are also managed by the prescriptions of the Working Plan”. He further reiterated of the

respective state's rules and regulations also being involved in the disposal of the MFP. He further states, "The FR (amendment) rule (2012) 4(e)(f)(g) clearly mentions the preparation of management plan for community forest resources in order to sustainably manage for the benefit of ST OTFD and integrate such conservation and management plan with micro-plan/ working plan/ management plan of the forest department with such modifications as may be considered necessary by the committee. The National Working Plan Code 2014 also recommends the same". Continuing his session he further reiterated that nothing had happened from the forest department side for the disposal of MFP between 2012 and 2014. He emphasised that approved national working plan should be revised with the involvement of communities, scientific institutions and civil societies for the community resources by maintaining sustainable use and sustenance of the community. He reiterated that there must be a proper system for processing NTFP disposal. He further explained that the states were lagging behind in the implementation of NTFP. To incorporate NTFP, collectors and market should be developed by involving local community, scientists etc. to bring under the management plan. The gram sabha must empower the activities of community supervision such as collecting and harvesting the NTFPs. He further explained that there were a large number of unorganised collectors in the field. He was also concerned of the incompetence of the nodal agencies, which must be strengthened.

He suggested that the working plan and transit rules should be revisited and revised, while at the same time there must be a proper process for NTFP disposal. He emphasised on being currently the high time for revising/ revisiting the working plans of the forests or preparing a new management plan with the involvement of the community, scientific institutions, civil society for these community resources by keeping sustainable use and sustenance of the community. The role of the forest corporations should be a facilitator like Agricultural Produce Marketing

committee's rather monopolizing or controlling agencies and to facilitate for Value addition. And the Transit rules of respective state forest acts should be amended to make the transit easier. The amendment of the act was made in 2012, though the awareness being very low at the implementation level and rather not reaching the grass roots till today. The nodal agencies should be strengthened to implement these act and rules in true spirit. Beyond revising the working plan and the transit rules, the role of the forest department should extend to coordinate with the nodal agencies in all aspect and vice-versa.

Discussion and Remarks by the Chair

Mr. Charanjit Singh, the Chair of the session, thanked all the resource persons and participants for the session and opened the house for further discussion, suggestions and queries, if any, related to the current theme and preceding presentations. In response to some of the issues raised by Shri Uma Kant Umrao, there were discussions on: the way the FRA policy/ practice regime help the people in generating livelihood, challenges being faced by them and the institutional or governmental support they get. Talking about MFP, Mr. Tushar Dash raised the very important issue on the minimum support price and how it could be implemented so as to reach the benefit to the people. Continuing further, Dr. Gopinath Reddy highlighted the very secretive nature of marketing network for MFP and how it could be made transparent and helpful in ownership with technical support; he further suggested on extending the rights to timber beyond the MFP. Talking about the disposal of MFP, Mr. Soumitra Ghosh commented and emphasised on the need to change the rules of the transit permit, which no state had done so far. Ms. Madhu Sarin appealed the house that the more important issues of discussion at the moment should be on how the provisions of the law being implemented rather than focussing on the marketing strategy or others.

At the end of the discussion, the Chair of the session thanked all the members of the house once again for taking part in the discussion actively and raising all the relevant issues in the house. As a concluding remark, Mr. Singh emphasised on the term 'democracy' saying, "all the decisions, whether by the Central Government, State Government, Forest department, department of Rural development or any other, are taken on behalf of the people and for the people'. He further commented that every MFP might need a different model for marketing strategy though the ultimate objective should be to benefit the people. He also said that market price is a complex issue which cannot be controlled. He hoped that the session would lead the house to come up with good recommendations at the end of the workshop. He once again thanked all the participants for taking part in the session very enthusiastically, which he hoped to keep up for the following sessions as well.

Technical Session II

Rights related to Entitlement, Access and Management of the Forest

Chair Person: Ms. Meera Iyer, IFS

The second technical session was chaired by Ms. Meera Iyer, IFS, Faculty, Central Academy for State Forest Service, Dehradun. In her introductory address, she welcomed all the participants and briefly highlighted the importance of the rights related to entitlement, access and management of forests. She then invited the first speaker of the session, Sri Vinod Kumar to speak on Harmonizing Forest Rights for Development and Sustainability.

Shri Vinod Kumar, IFS, Director, IGNFA, Dehradun

Harmonizing Forest Rights for Development and Sustainability

He started his session by giving background information to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 notified in The Gazette of India as on 02 January, 2007. He gave the house an overview of the forest rights including individual rights, community rights/use rights, relief and development rights and forest management rights. He then briefly presented the analysis of his research project in Odisha. In his research in Odisha, he found that the individual title rights claims were 363534 till March 2015 and area of titles in acres was 5,74,797, while the community right titles received were 3474 with an area of 1,80,163 acres. As per his findings, under this project, empowerment of forest right holders was being done with improved access to the community; adjoining catchment areas, water sources and other ecologically sensitive areas were adequately protected. Habitat of forests dwelling ST & others was being preserved from any form of destructive practices affecting their cultural and natural heritage, and compliance of decision taken in the gram sabhas to regulate access to community forest

resources and to stop any activity which affects wildlife, forest, biodiversity.

He said that the law had been developed in respect of three developmental paradigms- tenure security, livelihood security and ecological security. All Government policy and programmes with facilitating laws of forest, wildlife and biodiversity are now slated to be converged with such Gram Sabhas and their forest right holders. He also widened the definition of Forest Land with a detailed description on forest and other act/ rules/ resolutions for harmonization. In his opinion on the way forward, he gave emphasis on empowerment and capacity building of the Community Forest Resource Members, Convergence and Strengthening linkage with PRIs, Government Departments and NGOs for holistic right-holders & village development. He also highlighted the need to access benefits of Climate Change Action Plans.

He also provided information of NTFP support price to the house. He said that good governance of Forest Rights Act could contribute to the economic transition and conflict resolutions to conserve rich biodiversity and develop local communities. He further discussed the forests and ecological roles, carbon sequestration and biodiversity with emphasis on the challenges such as the integrated and sustainable development for FRH economy and ecological services from forests, developmental services by frontline staff of the tribal, forest, revenue departments and management demands.

Dr. Sonali Ghosh, IFS, Dehradun

Forest Rights Act 2006- Challenges and implications with special reference to North-East India

Dr. Sonali Ghosh opened her presentation with a statement given by Verrier Elwin in 1963:

“To a vast number of the tribal people the forest is their well-loved home, their livelihood and their very existence. It gives them food –

fruits of all kinds, edible leaves, honey, nourishing roots, wild game, and fish.....Tribal folk-tales often speak about the relations of human beings and the sylvan spirits and it is striking to see how in many of the myths and legends the deep sense of identity with the forest is emphasised....From time immemorial until comparatively recently, the tribal people have enjoyed the freedom to use the forest and hunt its animals, and this has given them a conviction, which remains even today in their hearts that the forest belongs to them.” (The tribal world of Verrier Elwin,1963)

She explained that FRA that entails three rights i.e. Land Rights, Usage Rights, Right to protect and Conserve followed by a brief account on the geography and people of the North East India. Her statements in the presentation highlighted the North-East as the home to over 200 tribal groups (of the 635 in India) speaking a variety of Tibeto-Burmese languages and dialects with a strong tradition of social and cultural identity. He stated the area to be a bio-hub with 836 out of the 1200 bird species of Indian subcontinent with the largest populations of the one-horned rhino and the wild water buffalo, as well as with the highest density of tigers. He pointed out the importance of this region which is described as the Global 2000 eco-region (WWF), Indo-Burma ‘hotspot’ (CI), Endemic Bird Area (BI), Centre of Endemism (IUCN) and Sub-centre of Endemism for Cultivated Crops.

She briefly explained the socio-economic issues of the North East as 34.3 percent of the population living as BPL compared to national average of 26.1 percent (1999-2000), while the average per capita income was 30 percent lower than the national average. NDP and per capita income reduced significantly after the closure of commercial logging operations and forest-depleting industries. Under tribal traditions, she described Kebab among the Adis in Arunachal Pradesh, Mei among the Karbis of Assam, Khullakpa among the Kaboi in Manipur, Durbar Shong among the Khasis, Jaintias in Meghalaya and Local bodies such as the Autonomous

councils, Village Councils and resource management by Community and State.

She explained the status of FRA implementation and the forests in the North-East of the country. She said that the North Eastern States of India accounted for one-fourth of the country's forest cover. She noticed a net decline of 549 square kilometres in forest cover as compared to the previous assessment (SFR 2013). The loss of forest cover to the extent of 549 sq km in the seven north eastern states was primarily due to the prevailing socio-cultural practice of shifting cultivation in these states. She stated that the total area of forests under ownership status (based on unorganised records) varied from the total forest area (based on satellite data) of the state.

In the emerging trends under land-use, she emphasized on the local communities holding customary rights on such forests while the state government considering the area to be a government land. She mentioned the presence of plethora of laws with varying degrees of avoidance and conflict between the customary rights and the statute law. She said about forests being understood legally in its dictionary meaning irrespective of ownership and classification. Regarding wildlife hunting, she put the case of empty forests where she described the reasons for this as the low productivity of domestic livestock and high input costs. This impacted on the forests with the empty forests, limited seed dispersal, changing the mammal assemblages in structure, loss in prey (predators) and subsequent land grabbing.

She then came up with statistics on Jhum to justification of this practice not being wholly responsible for the overall forest degradation in the region. She put forward emerging challenges regarding ownership concerns with a view that formalization of traditional holding might reveal inherent contentious character of ownership. This might not only potentially unacceptable politically

but might also cause fears of breaking of the traditional socio-economic structure with the consequence of easier transaction of property. She expressed concerns of elite capture as a driver of social inequality and a source of policy failure across a wide range of governance initiatives. She accounted concerns of livelihood with focus on the role of shifting cultivation, new Indicators of development, infrastructural push and other emerging potentials. As a concluding remark, she expressed her concerns on bringing flexibility in the institutional framework, local communities and local authorities that need to enhance their capacity to appreciate the changing nature of aspirations on development parameters. She also reiterated the need to build a bridge between research and policy adoption. She said that the Northeast best practises can serve as a benchmark for rest of the country.

Dr. Bijay Kumar Swain, Professor and head, CRCDD, NIRD, Hyderabad

Critical analysis of challenges on marketing of forest products by local tribes

Dr Swain showed a film about the affairs of Orissa Rural Development and Marketing Society (ORMAS), which was produced by Special SGSY in Odisha. According to the film, it was the inhabitants of district Koraput in Odisha who were the main actors showing their value added market skills to promote their products collected from nearby forest areas under the special SGSY. The objectives were to ensure time bound achievement to bring specific number of BPL families above poverty line by adopting strategies in terms of organization, infrastructure, technology, marketing and training as well as establishing market linkages with government departments, bulk buyers and corporate agencies. Value addition in making plates from Siyali leaves, broom making, preparation and gradation of arhar dal, onion storage and sale, thread weaving, zinger production, honey and harada produces etc. was explained in detail. There were improvements in their earnings among the

tribal in the districts due to the intervention the tribal of the Koraput, Kalandi and Navapada. Their words to explain their interesting history of entrepreneurship and marketing had been recorded as:

‘We sell Mud and we earn Gold’

Lastly, Dr. Swain highlighted how the people of the area are benefited in the following manner:

- Free from distress sale of their products.
- Role of middlemen is minimized.
- Skill development.
- Marketing and institutional linkages.
- Improvement in self dignity.

Shri Ashish Aggarwal, TERI, New Delhi

Carbon forestry projects: Impact on livelihood

Dr Ashish Aggarwal presented the house a detailed description of two case studies based on the carbon forestry projects. The main objectives of the projects were to sequester or avoid release of carbon along with other co-benefits of biodiversity, ecosystem services and improved livelihoods. His studies on the carbon forestry projects included accounting of carbon offsets or emissions avoided and commercialisation of these offsets through markets. At the moment, more than 300 projects are running across the globe with investment of around \$15 billion. In India, 3 types of projects of carbon forestry are going on such as A/R CDM, Green India Mission and REDD+.

In Haryana, the project covered small scale CDM project in 8 villages of the district – Sirsa since 2008. During the project, plantation of 369.87 ha of marginal agriculture lands for 227 farmers was done with the objectives of: mitigation of global warming, improvement in soil quality and increase in income. The outcome of this Haryana project revealed that the farmers were

incurred with significant economic losses and despite carbon and other benefits, farmers will have to lose if they continue with the project. Hence, a relatively larger number of them had partially or fully withdrawn from the project. Overall, approximately 50% of the project participants changed the project land use, raising several questions over equity implications and win-win claims of climate mitigation measures.

Himachal Bio-Carbon Project was implemented across 177 GPs in ten districts of the state since 2006. It was part of the Mid Himalayan Watershed Development Project (MHWDP) funded by World Bank. Afforestation over 4003 ha of the private, community and forest land was done. House hold survey, focus group discussions and key informant interviews were adopted. It was seen that there were conflicting policy guidelines (environment policy and grazing guidelines on issue goat grazing) and large area of the forest land had not surveyed in the state. Conflict in the forest and revenue records was increasing. Due to this situation, carbon forestry projects undertook plantations without recognition of traditional rights.

Dr. Aggarwal concluded with a note that there was a requirement to develop a comprehensive understanding on impacts of carbon forestry projects on carbon, biodiversity, rights and livelihoods. He also emphasized on the need to involve civil society groups in the implementation of the carbon forestry projects. He said that carbon forestry projects should be consistent with international agreements recognizing the rights of indigenous groups and local communities – UNDRIP, UNDHR, CBD, etc. He also felt it necessary to building capacities of the communities and strengthening their participation at each level with the right to free, prior and informed consent.

Discussion and Remarks by the Chair

The Chair thanked the participants in the session and for the interesting presentations on the theme. She opened the house for discussion, suggestions and queries with a hope for a healthy and academic discussion further on the various issues and concerns of the theme. In the open discussion, Ms. Madhu Sarin raised her concern regarding the presentation of Shri Vinod kumar. She advocated to include the recognition of community rights issues in the project of Odisha. She agreed with the view of Dr. Sonali Ghosh regarding shifting cultivation in North-East. She supported the view that this type of cultivation being active on rotation basis thus not harming in any way and hence not accounted for any type of degradation of the forest area. While responding to her, Shri Vinod Kumar clarified that forest right committees are managing the forest resources under Section -5 of the Forest Rights Act. So, there was no conflict. Shri Soumitra Ghosh argued that government officials were not taking care of the community forest resources. Shri Vinod Kumar had a difference of opinion on this as he submitted that government servants were doing well under the framework of democracy. Mr. Souparna Lahiri could not agree with this; he asked the house why forest department was giving NOC to all big projects in Manipur. The discussion concluded with a point by Sri K.B. Saxena who raised the issue of devolution of power in the system. At the end of the session, the Chair thanked again all the participants for a lively and useful discussion on the various issues, concerns, queries raised in the session. She was hopeful of some concrete recommendations out of the session that would come up during the group exercise next day.

Technical Session III

Community Rights versus Individual Rights

Chair: Shri B. R. Naidu, IAS,

The third technical session was chaired by Shri B. R. Naidu, IAS, Principal Secretary, Tribal Welfare, Government of Madhya Pradesh, Bhopal. In his introductory address, he welcomed all the participants and briefly highlighted the importance of understanding the current theme and how they are related. He then invited the two speakers of the session to speak on different topics under the theme.

Tapas Kumar Sarangi

Reforms in Forest Tenure: Implementation of Forest Rights Act 2006 in Odisha and Jharkhand

Dr. Sarangi started his presentation by saying, “forest dwellers are the most disadvantaged people in terms of resources”. He said that multiple deprivations of forest dwellers led to the loss of land and livelihood. He was of the opinion of forest governance as evolving from regulatory to participatory and to the right based approach. He explained that forest dwellers in Odisha and Jharkhand to be epitomized by the chronic poverty, livelihood loss and food insecurity resulting in declining quality of life. He took up these states as examples due to their presence of more tribal populations in numbers. For these two states, he discussed the demographic and socio-economic profile as well as the forest policies and its outcome in the pre-independence and post-independence India. He stated that most of the forest policies during the pre-independence period emphasize on revenue generation which had affected the livelihood of the forest dwellers adversely. The policies during the post-independence also affected the forest dwellers. But the FRA 2006 recognised the relation between the tribal and forests with provisions of land rights, right to protect and conserve, and right to

relief and development. He also discussed the roles of different institutions in making the FRA a justice for the tribal and forest dwellers. He gave a picture of FRA in Odisha and Jharkhand and raised the issue rejecting a big number of title claims in both the states. Discussing various studies on FRA, he referred to a lot of problems in the implementation of FRA. He said that the progress had been slow due to the lack of social and political mobilization, implementation process driven by bureaucracy, provision of FRA only, neglected LWE affected districts and the less average land received under FRA. He pointed out that the overall process of implementation in Jharkhand had been very slow as compared to that of Odisha due to unsystematic manner of its implementation, lack of awareness/information, non-supply of forms and lack of interest of the government in the implementation of FRA. He also stated that there were numerous vested interests and conflicts found in the process of implementation as well as in the ideological background of the major political parties. He further explained on the impact on the livelihood due to FRA with the visible examples of improved social status of the land owners in the village, reduced conflicts, expectations for assistance under MGNREGS for land development, benefits under anti-poverty programme and assistance under *Indira Awas Yojana* (IAY). The Forest Department also provided saplings to beneficiaries for fruits, started land development activities in forest and plantation under Eco Development Club.

Though the implementation process began in majority of the states since January 2008, he described the process in both the states of Odisha and Jharkhand as not smooth and a tardy progress due to various reasons. He emphasized on the need for proper implementation of this act to have a significant impact on the livelihoods of the potential beneficiaries and growth of forests. He explained that the provision of inalienable land titles would reduce the tenure insecurity and provide incentives to the households for improvement and development of the land under their possession

and thereby increasing their livelihoods, which in turn would reduce their excessive dependence on the forest resources.

He concluded his session with a serious note that, though FRA had been effective in reducing some conflicts and insecurity of tenure, the community rights had not been implemented properly in a number of villages; many potential beneficiaries had been excluded, majority of claims were rejected and more than 50% claims were rejected at lower level. He suggested that increased access to land and forest, as well as proper implementation of FRA, especially CFR in coordination with the other anti-poverty programme, could result better livelihood opportunities to the forest dependents.

Tushar Dash

Community Forest Rights: Status of Implementation, Issues and Initiatives

Mr. Dash started his session by presenting his study into two parts: (i) potential of FRA and CFR and (ii) status and issues. He stated FRA to be actually a process of democratic governance with its huge scopes and current process of land reforms in India. He explained that FRA had been used successfully in Odisha with large area being handed over to the communities. Large number of communities and villages got CFR in Maharashtra. Explaining the meaning of habitat, he emphasized on recognizing the rights of pastoral communities. He came up with examples of 48 Maldhari villages that claimed rights over the Banni landscapes. He reiterated the importance of women in decision making and their rights; he said that though women were at the forefront at the time of agitations, they were not found anywhere in other cases such as decision making, management and claiming/ making aware of their rights. According to Mr. Dash, communities, after getting rights, lead to unexpected and encouraging results. He pointed out that out of all the states and UTs in the country, the process of implementation of

FRA is in progress in 18 States only. He highlighted the implementation issues and challenges in FRA as the lack of dedicated institutional support, planning, resource allocation, personnel support, tracking and monitoring requirement for improvement, modification/amendments proposed which seek to do away with the consent of Gram Sabhas in forest diversion process, and guidelines issued by MoEFCC in 2014 diluting FRA. He also raised the issues on CFR management, operation of the JFM obstructing the process of recognition of CFR and CFR management in many states. He questioned on the working plan operations by the forest department in the CFR areas that caused conflict with the legal rights and authorities of gram sabhas in many states and the many cases being filed against the right holders and members of the gram sabhas for exercising their legitimate rights under FRA with the cases still in pending states. He also pointed out that CFR had been recognized in a very few protected areas. He reported that due to illegal relocation, without FRA implementation and devoid of offering option of staying on with rights, families were found moving out from the villages.

According to him, though implementation of the provisions relating to community forest rights remained a key challenge in the process of implementation of the Forest Rights Act, the present status of recognition of community forest rights when compared with the number of forest fringe villages in India showed a dismal picture as only about five percent of the total potential of the CFR had been explored so far. The amendments made in the rules in 2012, various guidelines issued by the ministry of tribal affairs and consultations with the state governments tried to address the issue of recognition of CFR, but despite these interventions, the status of implementation of CFR provisions remained very poor. He described the major obstructions in the process of recognition of CFR rights as: i) general lack of awareness and understanding on the CFR provisions and procedures, ii) absence of dedicated program and institutional support to ground level facilitation of the CFR

claims, iii) obstructions caused by conflicting legal regimes and forest department's interventions such as operation of the JFM program, working plans etc. and iv) non implementation of special provisions meant for vulnerable communities such as particularly vulnerable tribal groups, pastoralists, nomadic communities, women. He also pointed out the issues coming up in the post rights recognition phase particularly relating to exercise of community forest rights by the Gram Sabhas and the management of community forest resources.

Discussion and Remarks by the Chair

Shri B. R. Naidu, the Chair of the session thanked all the resource persons who presented and put forward facts, experiences and ideas on the theme. He then opened the house for further discussion, views and queries related to the current theme of the Community Rights vs the Individual Rights. Continuing the discussion, initiated by Mr. Tushar Dash, on the importance of studying the factual data from fields related to community rights, Mr. Souparna Lahiri raised the importance of understanding community rights and community resource rights as per the provisions in Section 3 of the act. He also emphasised his point of discussion on 'self initiatives' by the community, which needed to be of much interest to all. After a long discussion on the JFM and CFM in the house with examples from such as Orissa by Mr. Tushar Dash, West Bengal by Mr. Soumitra Ghosh and significant inputs on the matter by different resource persons such as Ms. Madhu Sarin, Mr. Souparna Lahiri, Ms. Meera Iyer, Mr. Vinod Kumar and others, Mr. Soumitra Ghosh nicely put forward that 'forests are community resources and any matter related to forests cannot be decided by one but by the community so as to do away with the historical injustice being done to the forest dwellers for years'. While concluding the session by the Chair, Mr. B. R. Naidu said, "Even after the promulgation of the act and after a lot of focus on it, there has not been a satisfactory progress in terms of community rights".

He gave importance on ensuring the objective of achieving ecological security in the community. He was of the view that the major problems with the implementation of community rights lied at the top level where these problems should be sorted out. Unless these problems are sorted out at these top levels, this dichotomy will continue to blame on the lower level for not implementing these rights'. With these few words, he once again thanked all the members in the house for the productive, useful and enriching discussion. He then closed the session.

Technical Session IV

Inter-State Issues and Good Practices of the States

Chair Person: K.B. Saxena, IAS (Retd.)

The fourth technical session was chaired by Prof. K.B. Saxena, IAS (Retd). In his introductory address, she welcomed all the participants and briefly explained the importance of the Inter State Issues and Good Practices of the States. He then quickly invited the speakers of the session one after another to start their presentations.

Shri Uma Kant Umarao, Commissioner, Tribal development, Bhopal

Community rights vs Individual Rights in Madhya Pradesh

Shri Umarao highlighted the challenges of the Community Right claims of taking a back seat in the struggle of Individual claims. He reported the presence of an informal arrangement of community rights and their uses among different families in Madhya Pradesh, thereby creating confusions among the permanent and seasonal beneficiaries. He observed conflicts of interest with the family/professional centric Community Rights causing them to be at a significant stake. He reported that specific initiatives were taken up by the Madhya Pradesh government for identifying the potential habitations/villages and probable Community Rights. Community specific training had also been given. According to him, state government plays the role of “Shrawana” for the Community and monitors the Community Rights claims after identifying the villages/habitations. Sub Divisional magistrate is made responsible for any left out. Initiatives had been taken up for the Gram Sabha meetings focusing on community Rights. He claimed that the outcomes of the project were spectacular with the result of recognizing 22871 claims out of the 40501 community claims received so far in the

state against the total of 33000 community rights recognized all over the county.

M. Gopinath Reddy, Professor, Centre for Economic and Social Studies

Forest Rights Act – 2006: Its Implementation and Impact: A Revisit of Select Villages in Scheduled and Non-Scheduled Areas of Telangana & AP

Dr. Reddy reiterated the fact that the Indian Parliament passed the 'Recognition of Forest Rights Act' in the year 2006 which, for the first time since Independence, recognized the "Historical Injustice" committed through the composition of the national forest estate. He reminded the house of the fact that FRA 2006 created provisions for the redress and recognition of forest rights, inclusive of private land rights, community management rights and forest product harvesting rights amongst others. After its implementation began in 2008, he undertook a study in Andhra Pradesh with the primary objectives to look into the implementation process of FRA, analyze both individual rights and community rights situation and see at what level of institutions the distribution process of FRA being obstructed. Six villages drawn both from Telangana and Andhra regions were surveyed for the study. He found that though the tribal people had been treated as 'forest encroachers' before this act, the Government after the FRA 2006 started recognising them as legal dwellers with many provisions to give the entitlements. His report also revealed the consequence of discernible changes occurred in the land holding status of the sample households after receiving entitlements over the forest cultivable land.

He, based on his study, claimed that though the FRA, 2006 promises to be a pro-poor institutional reform with many of the poor to be benefited from its implementation, the process had been severely anti-poor with the result of the pro-poor benefits being restricted in many ways. The government was focusing entirely on the individual

claims rather than the community claims. Many claims were illegally rejected by forest officials during survey. The other issue emerged from the resurvey was that more than 40% of the individual claims had been rejected without citing any specific reasons causing huge hardships and agony to the forest dwellers in the absence of any redressal mechanism in the place. The undivided Andhra Pradesh granted community forest rights titles to more than 1,669 VSSs over 9.48 lakh acres of forest land by May 2010, which was against the letter and spirit of the Forest Rights Recognition Act as well as the PESA Act as these were not done through the gram sabha or community. He said that the overall pace of implementation of the rights was also found to be slow.

Budhaditya Das, Doctoral Candidate, School of Human Ecology, AUD

National Legislation and Local Contexts: An Ethnographic Study of Forest Rights and Conflicts in the Satpuda Hills of Central India

Mr. Das started his presentation with the statement, “Caught between binaries, the Forest Rights Act of 2006 (FRA) is hailed by those state actors and civil society members who represent adivasis and forest dwellers, and stridently opposed by those who claim to speak for the interests of wildlife, forest conservation and development”. He said that a review of research on this ‘historic’ legislation revealed two kinds of omissions: first, inadequate attention to the historical and philosophical bases of this law, and second, disregarding the varied influences of local geographies, ecology and political contexts on its implementation. In his study, he examined the implicit assumptions about property, land rights and forest-based livelihoods that govern this law and used ethnographic evidence from the teak-dominated dry deciduous forests of the Satpuda hills of central India to demonstrate the way of FRA intervention in conflicts around/ access to forests and forest land. He argued that the local state actors and civil society members interpreted the national legislation in specific ways which

had been shaping the manner of its contestation and implementation in a particular region. His research was based on the detailed fieldwork carried out in the forest villages of Harda and Betul districts of Madhya Pradesh in two phases: from August 2010 to January 2011, and then again from August 2014 till January 2015. He studied the agrarian changes in Harda since the year 1980s. Since then, many government interventions were taken place in the area. There was construction of Tawa canal (Hoshangabad-Harda) for irrigation; and mechanisation as well as commercialisation started (called “Punjab” of Madhya Pradesh). The increase in crop productivity and wheat-soybean-moong cropping patterns uplifted the economy of the area. There had been a shift in changing the labour relations and upland livelihoods, which caused tussle with the forest department as against the foundations of the Forest Rights Act. The state government considered this as violations of the FRA, while these are functioning of the Gram Sabha and there is provision under Section 3(1)(h): Conversion of forest villages into revenue villages, Section 4(3): cut-off date of 13 December 2005 and Section 3(1)(a): Recognition of Individual Rights. Both *Patra Atikramak* and *Apatra Atikramak* are eligible under Section 13, FRA Rules. The qualitative data generated through in-depth interviews with the Adivasi villagers, forest officials and activists suggested the requirement of paying close attention to the historical contexts and political ecologies of forest conflicts to gain a nuanced understanding of the fate of this legislation in different parts of the country. He also suggested that how the existing conflicts could shape FRA implementation. There should also be diversified livelihoods of ‘forest dwellers’. He commented on the enactment of a national legislation to be easier but difficult to implement in a local context.

Discussion and Remarks by the Chair

After a brief discussion on the various presentations and relevant issues in the house, the Chair, Prof. K.B. Saxena summarised

proceedings of the session as a concluding remark by giving the following points:

1. There are differences of opinion regarding community rights and it is advised to the activists that they need to do lot of ground work not only just filing their claims.
2. There are cases in India where it is seen that Forest Department is poisoning the crops.
3. Need to work out on the power relation between administration and people.

Technical Session V

Challenges and Opportunities

Chair: Ms. Madhu Sarin, President of Vasundhara's Executive Committee (EC)

The fifth technical session was chaired by Ms. Madhu Sarin, President of Vasundhara's Executive Committee (EC) and a member of the initial drafting committee of the FRA 2006. Highlighting a brief note on the Challenges and Opportunities as her introductory address for the session, she welcomed all the participants and briefly highlighted the importance of discussing on the current theme. She then invited the speakers of the session one after another to speak on their own different topics under the theme.

Charanjit Singh

FRA: Challenges and Opportunities

Describing the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 as a landmark social legislation addressing pertinent issues related to land tenure security and access to land of the most vulnerable sections of the society, Mr. Singh reiterated the importance of The Act providing an excellent opportunity for not only ensuring sustainable livelihood of the Scheduled Tribes and other traditional forest dwellers but also making them partner in the sustainable management/conservation of the forests, forest products and wildlife. He, however, described the challenges to be humongous due to (i) lackluster implementation of the Act, (ii) poor coordination between different Departments/Agencies, (iii) lack of knowledge/awareness and poor capacity of the Gram Sabhas, (iv) contradictory laws/regulations, e.g., working plans and joint forest management committees, (v) poor land records maintenance and

(vi) weak maintenance/management of common property resources etc.

He explained FRA, 2006 as a part of land reforms providing sustainable livelihood to the Scheduled Tribes and other traditional forest dwellers along with making them partners in the sustainable management/conservation of the forests. He pointed out FRA to be empowering the gram sabha facilitating the consolidation of the claims. He highlighted the problems with gram sabha such as its low level of awareness; and he emphasized on the requirement of NGOs to be associated in capacity building and awareness building of gram sabhas and Rule 6 (k) SDLC to raise awareness among the forest dwellers about the objectives and procedures laid down in the Act and the Rules. He stated of the certain misapprehensions about the FRA, 2006 though this might not be a problem with the support of forest people. He emphasized on the requirement of coordination between the departments of tribal affairs, panchayati raj and revenue. He warned of the potential big hindrance in maintaining coordination between the different departments. He stated that the general land records management/maintenance in most states to be poor except in few states. He suggested that there should be a single data base to avoid the problems arising out of land records management. He further suggested that all the relevant state level laws contrary to the FRA should be amended to bring them in conformity with the Forest Rights Act. He admitted the condition of CPRs to be poor, degraded and destroyed at the village level. He advocated strong need to strengthen the capacity of Gram Sabhas to manage, protect, preserve and add value to community assets. Stating Section 4(4) of the Act providing an excellent opportunity for empowering women, he explained that women would have bigger stakes in individual as well as in community rights being recognised under the FRA. He explained the rule 16 and suggested that Forest Department should take the lead here as their stakes would be the highest in the emerging scenario.

Tillotama Sarkar

Can Users be Owners? : An Analysis into the Implementation of Forest Rights Act, 2006 among the Sahariya Tribal Community in Central India

Ms. Sarkar said, “Often described as the “upland, forested, remote and tribal” region of India, Madhya Pradesh is home to 46 Scheduled Tribes, who according to several studies appear to be the ‘poorest of the poor’ in India. The Sahariya *adivasi* community form a part of this diverse group of people that contribute to this population. For decades, even after India gained independence and the advantage of positive discrimination, the Sahariyas have barely been able to stay afloat. The ‘free gifts of nature’ that have been endowed in the ecologically diverse and richly endowed tribal belt of India necessitated exercising control over nature by the Modern Democratic State Agencies in the conquest for economic growth. Forest commons in the form of pastures, non-timber forest produce etc. that have been used and collected by the tribals were categorised under *state property*. The idea of eminent domain prevailed above all. Under such circumstances, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 enacted by the Central Government of India has been the first attempt by the state to revisit these sweeping take-overs and attempt to repair the historical injustices that have been played out on people living in and around forested areas. Though the Forest Rights Act shows potential in legitimising commons, ground realities during implementation have thrown up varied challenges from all parts of the country”. Ms. Sarkar, while presenting her study based on an *action research* studying policy and practice on Sahariya tribal community in Sheopur District of Madhya Pradesh, attempted to answer some of the fundamental questions. She tried to look at the effectiveness of the Forest Rights Act in the governance and management of Common Property

Resources. To what extent and in what ways is this legislative reform playing out on ground? Who gains and who loses, and why?

Based on her findings, it was reported that the community was depending primarily upon the resin collected from *Boswellia serrata* for their livelihoods. She said that though the sahariyas utilised their freedom over forest property, the fact of state ownership of the forest and its produces had been fixed in their minds through continuous reminders in the form of bribes, fees and policing by the forest department. She discussed the multiple tools for claiming rights over their forest are being evoked by claimants. She also explained that the land was managed under commons, while the trees were managed individually. She gave the house some lights on the matter by sharing her experience from the field work.

Soumitra Ghosh

Selling and Governing Nature: FRA and its Impact in Forest Villages of North Bengal

Mr. Ghosh opined of selling nature not being new, although the neoliberal way of doing it might seem innovative and ingenuous, especially in the wake of the trade in virtual and intangible products such as carbon stored (or sequestered) in a tree. He said that in the past, the sale had focussed more on tangible products a particular natural system: minerals, animal skins, timber, spices, land to colonize and rule, and, last but not the least, free human labour. This often metamorphosed into bonded or indentured labour. In areas like North Bengal in eastern India, there was no need to buy labour. Like the forest, and trees in it, forest labour had become either a state or private property. While this labour produced exchangeable, value-generating commodities like timber, cane and honey--and ultimately capital, it itself had no visible monetary value.

In his presentation, Mr. Ghosh looked at the historical process that influenced and shaped the forest landscape of Northern Bengal in the 19th and 20th centuries, at great ecological, social and economic costs. The first part briefly traced the history of the labour settlements that British foresters and later their Indian counterparts had set up. The second part dealt with how popular resistance as well as policy changes ushered in an era of uncertainty and flux, which, by influencing and to some extent, changing, use and governance of forests, threatened to change the existing production relations in forests. The third and last part was a brief commentary on the political economy of 'community control' in North Bengal forests—a scenario that came into being in the wake of the historic Forest Rights Act 2006.

Mr. Ghosh claimed the FRA, 2006 as only a piece of paper! He discussed the historical process that influenced and shaped the forest landscape on North Bengal in the 19th and 20th centuries at the great ecological, social and economic costs. He explained that forest dwellers were thrown out of the forest, made them worked as captive labours for others etc. He also stated that forest villages became important in colonial forestry after the introduction of taungya practice. Taungya was based on swidden agriculture to the extent that it had fire as an important component, as without fire taungya plantations could not grow. Thus swiddeners or jhumiyas made a comeback as plantation workers. Later on all jhumiyas were evicted from North Bengal forests. Newly created taungya villages offered some sort of a rehabilitation space for displaced jhumiyas, offering them an opportunity to live traditionally by clearing forests and burning the cleared area before raising crops. During the initial years of taungya, the labour in the fields and during plantation process was mandatory beggar- there were no wages. The wages were finally negotiated in 1971; the Government of West Bengal issued a circular in 1970, prescribing a ceiling for landholdings of forest villagers. Thus a new group of useless villagers emerged in every settlement, who had no official allotments of land and no

agreement deeds with the department. He further said that the panchayati system now, due to FRA 2006, extends to forest villages, yet no real tangible benefit came to the villagers as a result of this; panchayats could not work because of the NOC to be obtained from forest department for developmental activities on village land. He concluded with a statement on the forest department to be misleading the government and the section 5 of Act as useless where gram sabhas being rejected by forest department.

Varsha Ganguly

Revisiting FRA from Rights' Perspective: Theoretical Opportunities and Practical Challenges

Dr. Ganguly presented firstly on revisiting the Forest Rights Act from rights' perspective, theoretical aspects and opportunities for ensuring the right to forestland including access, management and usufruct rights; and secondly on the stock of performance of government and the outcomes with discussions of the learning drawn based on the implementation of the Act and identification of the potential areas of improvement and interventions. She emphasized on the need to revisit the FRA 2006 from the rights perspective. She briefed on the components of rights perspective, characteristics of rights, way of deriving the rights and state's sovereignty in defining, actualizing and ensuring rights. She also explained on the approaches to rights, citizens rights derived mainly from international human rights framework, Indian Constitution and vision of a good society. She saw rights as: being sanctioned and recognised through law with a moral base, correlative nature of rights & duties, any right should be considered as citizens' aspirations, any right should be an enabling factor for well-being of citizens and there must be a thin line between need and justice. She said that a state's sovereignty and actualization of rights depended on a balanced relationship among the powers of the state and citizen, institutional mechanism and decentralized governance. She gave the house a note by discussing on the theoretical

opportunities of FRA, an outcome of citizens' ability to give voice to 'aspirations' and 'bargain ability', citizen-centric principles, institutional mechanism and people's representation.

In her presentation, Dr. Ganguly examined some known criticisms of the Act in different states of the country against the progress of many innovative interventions by the forest dwelling communities to exercise community rights. Based on this, she mapped out good practices of the states and technology adopted for cross-checking the claims and possession of forestland and how such opportunities would ensure the individual and community rights to forestland. She also highlighted some of the challenges articulated from rights' perspective based on the partial success of the Act, such as high rejection of the claims, very few states have upheld community rights to the forestland, lack of political will, technological solutions as deterrents, overpowering officialdom, procedural delays, uneven implementation in different state across India, role and effectiveness of the Ministry of Tribal Affairs (MoTA) as a nodal agency, need for adequate database regarding implementation and outcome of the Act. She emphasized on the practical challenges of FRA emerged from (i) its implementation and existing dissonance between the principles and structure for actualising rights and (ii) citizens bargaining ability and increased use of language of rights and regime of rights (translated as a requirement by the states). She advocated that framing of non-actualisation or challenges framed with the violation, conflicting interests and lack of will for the decentralised governance and expanded regime of rights could be actualised only when the implementers were motivated for a common goal of justice. She put forward some points towards actualisation of forest rights: (i) forest people's knowledge base must be recognized, (ii) trust level between the state(s) and stakeholders/ civil society actors should be steadily rising, (iii) external and internal challenges must be identified and addressed in innovative ways, (iv) people's initiatives should motivate institutional mechanisms to be more flexible-legal cases, (v)

restrictions on mobility of the STs and OTFDs should be dealt effectively and (vi) conceptualisation of rights must occur.

Discussion and Remarks by the Chair

After the presentations by the resource persons of the session, the Chair, Ms. Madhu Sarin, President of Vasundhara's Executive Committee (EC) thanked all the resource persons for their presentations and then she opened the house for discussion, comments and queries on the current theme.

Dr. Ashish Aggrwal explained the two theories of conceptualisation, i.e., *de facto* (means "in fact, in reality") and *de jure* (means "of right, by right, according to law"). The terms *de jure* and *de facto* are used instead of "in law" and "in practice", respectively, when one is describing political or legal situations. He said, "If only the legal law can sanction, then the concept of *de facto* does not stand and it would have a problematic bearing on the understanding of implementation of FRA because there are *de facto* rights adjusting on the ground which needs to be recognised *de jure*. Rights can be sanctioned either through societal norms which might not be legally sanctioned at that point of time but it could become a legally sanctioned law in due process. So, societal sanctions in the long run might seek state sanctions which in due process can become legally binding law. Mr. Soumitra Ghosh raised the importance of understanding clearly the 'relationships of state formation' and 'defining of rights', which is very important in understanding the concept behind FRA easily. He said, "The state has to recognise a set of rights because actualisation of rights is the question of coming to the sanction of those rights by law. So the whole essence of the act gets damaged or confused because of the uncertainty whether the rights are legally sanctioned or not. FRA starts with objects, reasons and preambles that recognise the sets of act. Unfortunately since the state has to record those rights (implementation of rights), question of the whole set of rights whether sanctioned legally or not come in;

this not only brings to confusion but dilute the essence of the preamble. So when these rights are sanctioned and recognised legally and are brought to 'safeguard', then this whole process will be smooth and can turn into a pro-forest people process and legislation. Adding on the discussion on the theory of conceptualisation, Mr. Tushar Dash raised the importance of revisiting the conceptualisation of rights again and again to ensure the essence of law, for which the context of the theory of depoliticisation should be looked into. He further emphasised on the importance of establishing a self asserting governance process, which can assert/ self-assert their rights individually either through the governance of the gram sabha or a collective of gram sabha (as the law provides space for gram sabha to self assert) to result in a formal confer of rights and titles legally (an essential part of the law). While talking about the actualisation of needs referring to the operationalisation of the act, Dr. M. Gopinath Reddy said, "The act itself falls sort in materialising justice and in that case the implementers need to take the matter into different planes". He further stated, "Breaking of power asymmetry is very important for any justice to practically materialise, because as long as the power asymmetry exists or continues any law cannot be brought into practice or justice". Continuing the debate, Mr. B. R. Naidu added on the need of putting the things on the right perspectives.

Then, Ms. Madhu Sarin, the Chair of the session gave her concluding remarks, "One of the things we need to recognise is that the forest department has a particular history with a particular kind of technical knowledge which is not all comprehensive; this knowledge negates the local knowledge". She further reiterated, "This act is creating a space for indigenous knowledge; so with a diverse system of management, not uni-functional (timber focussed), we need to revitalise the existing knowledge with these indigenous knowledge and practices". She emphasised on the need for a change in the role of the forest department with a space to facilitate and assist the gram sabhas when requested. She once again thanked all the participants for keeping the session lively by taking part actively with enriching

views, queries and arguments. She hoped the session would throw important and useful lights for the recommendations. She expressed her gratitude to all the members of the house for cooperating in conducting the session smoothly and timely.

Technical Session VI

Overlapping and Conflicting Roles of Various Institutions, Policies and Laws

Chair Person: Mr. Vinod Kumar, IFS

The sixth technical session was chaired by Mr. Vinod Kumar, IFS, Director, Indira Gandhi National Forest Academy, Dehradun. Highlighting a brief note on the 'Overlapping and Conflicting Roles of Various Institutions, Policies and Laws' as his introductory address for the session, he welcomed all the participants and briefly mentioned the importance of discussing on the current theme. He then invited the speakers of the session to speak on their own different topics under the theme.

Souparna Lahiri

Forest Rights Act 2006: A Challenge in Itself

While introducing the FRA 2006, enacted by the Indian Parliament in December 2006, as a historic legislation restoring rights of forest people in India and recognizes their rights and access to forests which they have protected and regenerated over hundreds of years, Mr. Lahiri opined that, though the FRA opened up opportunities for the forest dwellers to be regarded as integral part of the forest governance and primary stakeholders, the legislation also posed severe challenges to the forest dwellers not only in the full implementation of the Act but also by creating impediments in the operationalisation of the Act to record their rights, both individual and community, provide centrality and required power to the gram sabha, usher in the decentralized form of forest governance, allow the forest dwellers to exercise their constitutional rights to conserve, protect and regenerate forests and, therefore, earn sustainable livelihood. He said that the challenges to be the multiplicity of forest legislations, colonial

mindset of the Indian bureaucracy led by the forest bureaucrats, and the lack of recognition in general of the forest dwellers as the legitimate stakeholders of the forest eco system and not as encroachers, poachers, criminals and destroyers of the forests.

He further gave the house an overview on the history of FRA Implementation in India. He said that as on 30th September 2008 there were 12,25,986 claims filed out of which only 69,513 titles were distributed (5.6%). Among the 7866 community claims filed, no titles were awarded. 9 cases were filed against FRA in various High Courts and 2 in the Supreme Court. Based on his study, he described the status as varying from poor to very poor implementation (less than 20%) in Uttarakhand, Jharkhand, Maharashtra, Gujarat, Bihar, Kerala, West Bengal, Assam, Uttar Pradesh, Madhya Pradesh and Tamil Nadu. Continued FRA violations such as exclusion of smaller habitations from Gram Sabha meetings convened at the Panchayat level, imposition of illegal restrictions on transportation of MFPs, charging levees, fees, royalties on MFPs and exclusion of certain MFPs were observed. He indicated of the conflicting forest legislations in Sections 3, 4 and 5 of the FRA that overrides certain important sections of the IFA, WLPA and FCA related to access and usufruct rights, rights in critical wildlife habitat, rights over forest land under occupation, community forest rights and forest governance. For the FRA vs JFM issues in India's fourth report on the Convention on Biological Diversity, there was only a passing reference to FRA more as a safeguard while the impact of JFM in biodiversity conservation and management was reported in great detail. He ardently felt the need to empower Gram Sabhas, forest communities and Section 5. He also brought the issue of continuous lack of Grievance Redressal Machinery. He observed the presence of multiple governance systems working simultaneously and overlapping management in the system supporting multiple governance systems/ overlapping jurisdictions of Gram Sabha, JFMCs and FDs in these situations in the name of restructuring of forest governance.

He also noticed the emergence of the state itself on prevaricating the role and power of the gram sabha and on how far it could leave the governance of forests to such a collective institution. He said that it would be a long struggle for the forest dwellers to prove that the future of this earth and the civilization would be best left to them, since 'if forests survive mankind will survive'. He described this would be the greatest challenge for the forest people, not only in India but globally.

Madhu Sarin

Access to Forest Justice: Inter-departmental Coordination for FRA Implementation

Ms. Sarin stated the tribal in India as living on the richest lands but in deprived conditions. She talked on the nature and extent of injustice by saying: (i) in the hilly tribal areas of Orissa and Andhra Pradesh, it was simply decided not to settle any rights in lands above 10 degree slope – practically all shifting cultivators disenfranchised in the process and (ii) 74% of Schedule V area land in Orissa declared as state property – 50% as forest; rest as revenue 'wasteland' allocated to others without any involvement of those dependent on it. Describing the unique characteristics of the North Eastern Region as: constitutionally protected traditional governance systems and customary tenures, continuing importance of rotational cultivation for livelihoods rooted in communal ownership of land and social organization and equity built into communal land ownership protecting the weak and the poor against landlessness and destitution, Ms Sarin supported the shifting cultivation in the north east regions as these should be described as the multi-functional lands. She affirmed the forest cover on jhum lands as different from official 'forests' where large parts of the region's high forest cover indicated by satellite imagery to be on UCFs and inherently different from the official fixed, single use conceptualization of 'forest' happened to be the regenerating secondary forest fallows of jhum cultivation under which cultivation

alternated with secondary forest regeneration under the jhum cycle. She summarised the consequences of mis-classification of fallows as 'forests' as: (i) bringing the land under the purview of totally contradictory laws and management regimes, threatening and negating customary tenures, rights and livelihoods and (ii) MoEFCC now deciding their diversion for non-forest use despite being owned by individuals or communities and managed for rotational cultivation. She described the disenfranchisement of the tribal and other Forest Communities as being deprived of customary and legal resource rights, holistic land use systems without rigid forest-non-forest boundaries, diverse traditional institutions and labeled 'encroachers' on their ancestral lands.

She did not agree on blaming the colonial period for everything but also accounted the post independence era for not supporting the community rights. She highlighted the absence of the settlement of rights for the tribal. He raised the issue why they were treated as illegal encroachers on their own land. She reminded the house about the point mentioned in the constitution that Schedule-V lands - basically forest and tribal lands – being described as government lands. She reported that more than 12.37 Lakh hectares of land as disputed with 3 Lakh hectares in Maharastra only. She reiterated the dismal conditions of Land Records being subjected to different users where found the unmatched tally of records of forest lands between the forests and revenue departments (MoEFCC, RFA = 77 mha and MoA, RFA = 67.87 mha), including 9.13 mha 'disputed' between them with millions of cultivators caught in between. She suggested that Dept of land resources should facilitate titles on disputed land for which pattas had already given under section 3(1)(g). She urged for a transparent process for recognition for the rights such as: (i) the Gram Sabha (hamlet/village assembly) to initiate determination of rights in open meetings (ii) Ministry of Tribal Affairs to be the nodal ministry for implementation and (iii) Sub-division and District level Committees of the tribal, revenue & forest department officials and elected

local government representatives to examine Gram Sabha recommendations. She also cited some of the challenges ahead such as: (i) Getting government and government agencies, particularly the FD, to respect the law and recognise rights, (ii) Ensure multi-functional management by empowered gram sabhas/communities outside the uni-functional technical FD framework , especially for lands which were wrongly classified as ‘forest’ and (iii) Revitalise indigenous biodiversity knowledge.

While talking on the importance of inter-departmental coordination for improving implementation, she highlighted the limited field staff of Tribal/Welfare departments for empowering Gram Sabhas, the initiating authority under FRA. She also emphasised on the importance of PRI and Rural Development Departments to ensure their field staffs in facilitating field level awareness generation and support the FRCs/Gram Sabhas. She also talked on the critical support required from Collectors & SDOs as Chairs of DLCs & SDLCs as the following:

- a. Ensuring FRCs receive official records/maps etc
- b. ensuring that claims received are processed quickly & claimants informed about any changes made
- c. facilitating effective participation of elected reps on different committees
- d. facilitating cooperation of forest officials where they raise untenable objections (the Mayurbhanj example)
- e. facilitating involvement of PRIs in the process & ensuring the panchayat secretary facilitates GS meetings
- f. Ensuring MoTA guidelines reach RD & PRI field staff
- g. recruit and train additional revenue inspectors for both IFR & CFR mapping
- h. ensure time bound entry into RoRs

- i. Facilitate convergence with other schemes post recognition of rights

She emphatically reiterated the need for convergence of MGNREGA with the JFM. She said that MoRD should amend guideline for transferring MNREGA funds to FD and JFMCs for plantations. She gave the example of the shifting cultivation of Kutia Kondhs in Kandhmal district of Odisha, where found the FD boards announcing teak plantations with MNREGA funds. Or transfer of funds, instead, might be to the gram sabhas/ gaon sabha to use as per their plans for their CFRs (as done in Mendha Lekha on an experimental basis). She suggested for incorporating FRA related issues and role of revenue departments in effective FRA implementation in LBSNAA teaching.

Meenal Tatpati, Kalpavriksh

The Forest Rights Act and Diversion of Forest Land: Challenges and impacts on forest dwellers

Ms Meenal Tatpati advocated and recognized the historical injustice to forest dwellers forced to relocate due to state developmental interventions. She identified the rights of forest dwellers which empowers forest dwellers with the sustainable use and conservation of biodiversity and maintenance of ecological balance of forests. The Sec 3(1) and Sec 3(2), Sec 4 (5) and Sec 5 (c) (d) of FRA protect habitat from any form of destructive practice affecting cultural and natural heritage. It empowers the Gram Sabha to ensure that decisions taken to stop activity which adversely affects wildlife, forests and biodiversity. The Forest (Conservation) Act, 1980 needed to regulate de-reservation forest land (for non-forestry uses, assignment of forest land, reforestation). The Sec 2 enumerates activities governed and Sec 3 is for maintaining the Forest Advisory Committee (FAC). While highlighting the status of forest land diversion in India, she indicated that up to year 1980-2012, about 11 lakh ha were

diverted, in which 40% being for the mining and power projects (in addition to the 43 lakh diverted before 1980) and in the following ten years, more than 11 lakh ha of forest land would be diverted for various 'developmental' projects.

She was of the opinion for the poor implementation of FRA throughout the country. Many projects already started without applying for Forest Clearance with most proposals being without not having FRA compliance reports submitted at the initial stage of clearance procedure (even in 2015). States such as Himachal Pradesh and Haryana insisted on being exempted from compliance. She blamed the district collectors in some areas for issuing illegal 'no claims pending' certificates and other kinds of certificates.

According to her statement, there were evidences where the Forest Advisory Committee recommended clearance even when documentary evidence under Aug 2009 circular were not submitted and rights not being recognized under FRA. She also recommended, 'exemption of August 2009 circular for prospecting and certificates of district collectors certifying that no claims are pending under FRA is being taken as documentary evidence under 2009 circular and projects are being recommended'. Lastly she explained the interpretations of the court on the three cases of Hensmul case, Niyamgiri Judgement and Bajoli-Holi case to the house.

Discussion and Remarks by the Chair

After opening the house for discussion, suggestions and queries, Mr. Binod Kumar, Chair of the session said that the process of institutional support and processes are very important for realizing the actualization of rights. During the discussion, an issue of coordination between centre and state was raised and it was advocated of the strong need for a mechanism which could function with the Ministry of Tribal Affairs. Discussions in the house were also on the need to amend the wild life act. The Chair of the

session, Dr Vinod Kumar concluded the session with following remarks:

1. Under FRA lot of remedial measures are given.
2. Exercise of third tire level government system that can work under coordination with the forest department.

RECOMMENDATIONS OF THE WORKSHOP PREPARED AFTER THE SUGGESTIONS MADE BY THE DIFFERENT GROUPS OF PARTICIPANTS

The following are the recommendations made by the experts from diverse backgrounds including Government Administrators, Academics, Researchers and Activists who attended the two day workshop on the “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”, 20-21 April, 2015, organized by the Centre for Rural Studies, LBSNAA, Mussoorie at the premises of the LBSNAA to be sent to the Ministry of Rural Development, Government of India. The same recommendations will also be sent to the Ministry of Tribal Affairs, Government of India and Ministry of Environment and Forests and Climate Change, Government of India.

Group I: Rights related to forest products and marketing of forest products (NTFP)

1. Transit of MFPs in consonance with FRA rules (facilitation of transit permits being issued by Gram Sabhas) - the states should be asked to change their present transit permit regimes in a time bound manner so that MFPs collected and/or processed at the village/Gram Sabha level can be freely disposed of, including transportation at inter-district and inter-state level.
2. Minimum support price for MFPs in cases of bulk and visible trade (for instance, in tendu leaves and bamboo) should be declared at state level. For all traded MFPs, effective institutional mechanisms to support exercise of MFP rights, including unhindered procurement, processing and marketing must be put into place at gram Sabha/gram panchayat level.

3. The states should be asked to ensure that all royalties/ charges still being levied on MFPs in the states are withdrawn at the earliest, in compliance with the provisions of FRA and Rules.
4. There should be LOCALIZED DATABASES of all MFPs in USE. However, this database should be managed by the concerned Gram Sabha.
5. Strengthening of procurement is very much needed; at present procurement is often unorganised and non-standardised, largely driven by an unregulated market as well as non Gram Sabha actors. The Gram Sabhas must be provided with adequate assistance so that these lacunae can be addressed. Community level institutions under the aegis of Gram Sabhas (co-operatives, SHGs) should be facilitated in order to promote the standardized and organized collection as well as the effective marketing.
6. There is an urgent need for putting up Storage and processing facilities closest to the procurement source.
7. The Gram Sabhas should be provided with adequate assistance, financial and otherwise, so that the community institutions involved in MFP collection/ processing/ marketing can most effectively get engaged in the production chain, at each stage (enterprise development, market linkage).
8. MUDRA scheme should be taken help of to provide collection level/ forward bank linkage to Gram Sabhas/ collector communities.
9. Documentation of Traditional Knowledge and IPRs: (see 3 above) the database (LOCALIZED DATABASES of all MFPs in USE) has to be created in such a way that community rights to traditional knowledge and IPR are protected.

Group II: Rights related to entitlement, access and management of the forest

1. Management rights over community forest resources under section 3 (1) (i) must be recognized and duly recorded. This right has not been recognised in many states thereby depriving Gram Sabhas from taking up forest governance issues and preparing their conservation and management plans for their CFRs as provided for in the law.
2. Gram Sabhas should be functional. Facilitation and Support must be provided to all Gram Sabhas to perform their functions under Section 5 (which provides for empowerment and authority to Gram Sabhas for the protection and management of forests, wildlife and biodiversity while preventing activities leading to destruction of their natural and cultural habitats) and as per the suggested framework in the rules and guidelines issued by the Ministry of Tribal Affairs). Providing necessary support to Gram Sabhas will create enabling environments for them to perform their responsibilities for conservation and management of forests.
3. Review process to assess the implementation at the Gram Sabha Level, including the functioning of Gram Sabha: this bottom up assessment is very much vital to understand the real bottlenecks on ground. The point to be noted is the need for ground-truthing and qualitative assessments, in addition to quantitative numerical data about claims accepted/ rejected.
4. Intensive training sessions should be organized at the block/ tehsil level to sensitize all the stakeholders involved in the implementation process. Such sessions should include review and also-ideally and practically - provide for an interface/ common space for collaborative work between the Gram Sabha and the various state agencies.

Group III: Community Rights vs Individual Rights

1. Knowledge and awareness on community rights and community forest resource rights are very much required as given in the following heads:
 - Conceptual understanding on the community rights and CFR (political philosophy and legal procedures)
 - Sharing of learnings from ground level initiatives and strategies (self-initiated gram sabhas and assertion of CFR rights)
 - Training and workshops on FRA and community rights for IAS and IFS probationers and in service officers (collectors)
2. Special Gram Sabhas for awareness and discussion on community rights should be organized. Dedicated government officials have to facilitate the discussion and CR/ CFR claims process.
3. Proper delineation, mapping of CFRs and incorporation of the rights in RoR (land records) of both the revenue and forest departments should be done.
4. Disaggregated information and data on community rights have to be collected and they must be maintained by the Ministry of Tribal Affairs.
5. CFR governance and management must be ensured - there is a requirement of greater understanding of the concept and legal provisions relating to the authority of Gram Sabhas.
6. All relevant forest and revenue records such as the working plans and the maps should be made available to the Gram Sabhas and the FRCs.

Resolving Conflicting Legal Regimes

7. Addressing FD (Forest Development) programs such as JFM, which is causing obstruction to CFR recognition and management (addressing obstructions in the CFR process arising due to operation of conflicting laws, policies and programs such as JFM, village forest rules, working plans etc. with proactive intervention by the MoEFCC in coordination with

MoTA), it needs to be recognized that JFM is a scheme of the forest department based on an executive orders that cannot over rule the statutory rights of Gram Sabhas over their CFRs. JFMCs and Gram Sabha committees constituted under FRA cannot co-exist in the same village as they are meant to perform the same function.

8. In many states, JFM Committees have been made implementing agencies for development programs under MGNREGA. Instead of JFM Committees, the ministry of Rural Development should assign the responsibility to the conservation and management committees constituted by Gram Sabhas under FRA.
9. Study and assessment of MoRD programs and interventions to bring convergence with FRA are very much essential for which the following steps are important:
 - Information booklet on convergence of MoRD programs for forest rights holders must be prepared and distributed.
 - MGNREGA (allocation of resources to the FD): Plantations undertaken by the FD with MGNREGA funds leading to violation of forest rights – these need to be routed through Gram Sabhas and their conservation and management committees for holistic management of their CFRs instead of a mechanical focus on plantations.
 - Convergence planning and implementation based on Gram Sabha Planning on CFR must be ensured.
 - For implementation of watershed programs, forest management committees under FRA must be treated as watershed committee.
10. MoRD and MoPR can converge resources to provide support to FRA and community rights process

Group IV: Inter-state issues and good practices of the States

1. Effective training programs for officials and stakeholders should be conducted.
2. Law must be translated into local Adivasi languages and made available easily to the stakeholders.
3. Political will (pro-active chief minister, chief secretary, GoMP gave leadership) must be made.
4. Regular inter-departmental meetings chaired by the Chief Secretary, along with a strategic plan, leading to practical implementation must be organized.
5. Training on conducting Gram Sabha meetings with maximum participation of all socio-economic groups and the women must be conducted.
6. MP Community Leadership Programme: Persons should be trained to evaluate the government programmes in a village, and to create leaders at the grassroots level.
7. Gram Sabha and the district-level leadership should be supported by political will to make FRA implementation more effective.
8. Circulars must be issued in a consultative manner.
9. Where there is an agreement, joint circulars should be issued by both the ministries, i.e., MoTA and MoEFCC
10. Discussion and consultation must be done to continue where there are disagreements.
11. Trainings on capacity building in the State Tribal Welfare Departments (like the forest departments have their own cadre, training programs) must be conducted.
12. Cooperative federations are more effective than corporations in the governance and marketing of Non Wood Forest Products. The role of forest corporations should be made to provide facilitative support when asked for it.

Group V: Challenges and Opportunities

1. Empowering the Gram Sabha as per FRA - for claiming and exercising rights with equal participation of women must be ensured.
2. Strengthening institutional mechanisms for the orientation and training of all the stakeholders must be ensured and must be taken care for its smooth functioning.
3. National Resource Centre (Bhubaneswar) could be strengthened for this purpose.
4. Tribal Research Institutes also need to be strengthened.
5. FRA must be necessarily incorporated in the training of IAS, IFS and State Civil and Forest Services.
6. Revenue Department should record all the titles issued under FRA - both at the community level as well as at the individual level.
7. There should be inclusions of members from MOTAs and State Tribal Departments in the committees deciding on Forest Diversion.
8. There must be a weeding out of all the contradictory laws and rules that impinge on the FRA.
9. Channelising the Central and State funds to the Gram Sabhas must occur for the protection and management of CFRs and for developing lands with individual titles.

Group VI: Overlapping and Conflicting Roles of Various Institutions, Policies and Laws

1. Formation of inter-ministerial committee at Central Level-MOEFC, MOTA, MORD, MOPR
 - State Level Monitoring Committees - Tribal/ Welfare, Revenue, forest and Panchayati Raj need to be made more functional (in most states, these exist only on paper at present)
2. Issues of harmonizing conflicting Laws
 - Section 4 (1) and Section 13
The conflicts arising out of above Sections need to be resolved by amending/removing laws and regulations which contravene the FRA.
3. Although the FRA is an overarching central legislation, the rules need to be periodically assessed for providing further clarifications as required.
4. Institution of Gram Sabha
 - Gram Sabha is the key institution under the FRA which is non-negotiable.
 - Gram Sabha formation should be invariably at the hamlet and/ or village level and not at Gram Panchayat level. Gram Sabha can vouch for the claims of the claimants.
 - The Power of Gram Sabha to give evidence to claimants of OTFD needs to be recognized.
 - Section 5 needs to be implemented in letter and spirit under which Gram Sabha's permission is needed for any diversion of forest land. If we take away this section, it impinges Article 51 of the constitution which gives responsibility to the citizens to maintain and preserve the resources.
5. The institution JFM needs to be scrapped or subsumed.

6. Poor and non-implementation of FRA by the States
 - This has to be reviewed by the Centre on a continuous basis and appropriate mechanisms need to be put in place to avoid any delays or violations of the Act.
7. The Appeal Mechanism needs to be included a proper redressal mechanism, which is lacking at the moment.

In addition to the above recommendations, the following points suggested by some of the experts in the concerned area also need to be considered and looked into for the better implementation of the FRA 2006.

- A. The tribal in India have suffered due to the anti-tribal and market oriented forest policies which depleted biomass (gatherable) or due to displacement from their ancestral lands when these were diverted for other purposes. In this context, despite the government's emphasis on faster implementation of the Forest Rights Act for correcting the historic injustice to the forest dwellers by wholesale classification of land under tribal possession as state property, recent studies show that administration is under pressure from the higher authority (PMO) to issue a large number of titles with little emphasis on quality or linkages with tribal livelihoods. Though more than 1.5 million titles (both individual and community rights) have been issued (covering 3 million hectares), it is found that (i) the area settled with the tribal is much less than their occupation in many places, (ii) boundaries of the settled area is not demarcated, (iii) meetings of the gram sabha are being called at the panchayats level and not at the hamlet or revenue village level as prescribed in the Act and (iv) rejections are being done without assigning reasons. So, these need to be corrected as per the law in the FRA.

- B. There has been little effort to improve productivity of assigned land by linking it with soil conservation works with NREGA funds, or to clarify which department will maintain land records, and how succession would take place in case of death of the right holder. There has been no progress to convert forest villages into revenue villages, despite direction from the Supreme Court. There is an urgent need to concentrate and focus on these points to make meaningful of the FRA.
- C. The picture is extremely depressing in recognising the community forest rights (CFR). Many states do not report area under CFR to the nodal ministry, i.e., the Ministry of Tribal Affairs, or they confuse it with development rights which are for diversion of forest lands for construction of local school or anganwadi centre. Only 5 States (Chhattisgarh, Maharashtra, Orissa, Rajasthan and West Bengal) have granted 3,539 CFR titles on 73,104 ha. This number needs to be compared with what the Ministry of E&F claims is the area of 22 million ha under Joint Forest Management with the local communities. So, there is a need to check if we have achieved only a mere 0.3% of our goal, or whether MoEFCC is exaggerating the figure. These drawbacks need to be improved soon to reach the benefits to the targeted poor.
- D. Problems are found even in the limited progress made in some states. Chhattisgarh has not given right of ownership over minor forest products (MFPs) required under 3(1)(b) & 3(1)(c) of FRA on the ground that these rights have already been granted under PESA; but this contention is invalid as PESA covers only the Scheduled Areas, and not the entire state. Similarly Jharkhand has not recognized even a single new right in the last three years on the ground that the tribal enjoy similar rights under the local acts. So, there is the urgency of these states to read section 3 (1)(j) of the Act which clearly

includes that within CFR all such rights that are recognised under any State law or which are accepted as rights of tribals under any traditional or customary law and correct their perspectives on implementation of the FRA.

- E. Mere granting of ownership over MFPs will not improve tribal livelihoods, as overall production of MFPs (except of tendu leaves) has fallen rapidly due to the choice of Forest Department in planting species, such as teak (in place of sal), which yield no recurrent product for gathering. Therefore, silvicultural practices should be radically changed to boost the production of gatherable biomass, and not merely timber. We need crown-based forestry, and not trunk-based which benefits markets only.
- F. Moreover, the important MFPs continue to be 'nationalised', that is, these can be sold only to government agencies. Despite prohibition of charging royalty under FRA, Odisha continues to impose royalty on MFP collection. MFP policies in the states are often dictated by the desire to maximise state revenues, and not for the welfare of gatherers, who are often women. If farmers are free to sell their wheat and paddy in the open market, why should we restrict the tribal people from doing so? The states should attract the tribal populations by paying them price support rather than compel them to sell to government agencies.
- G. While the resistance of state governments to let go government control over forests is well known, it must emphasize that FRA does not ask for wholesale transfer of management to the local communities. Section 3 (1)(i) of the act gives right to forest dwellers 'to protect, regenerate or conserve or manage any community forest resource' only when they have been traditionally protecting and conserving that resource for sustainable use. While there are excellent examples of local

governance, the experience of north-east where most forests are under community control shows that sustainable management cannot always be taken for granted if government totally withdraws from the scene. Therefore government should continue to provide technical support to the Gram Sabhas and monitor its sustainable use through encouraging regeneration of forests and ensuring not only higher production of MFPs but price support as provided to farmers so as to rejuvenate tribal economy.

VOTE OF THANKS: Dr. Prem Singh, IAS⁵



Dr. Singh first greeted Prof. K.B. Saxena and all the participants of the workshop. He, on behalf of the Director, LBSNAA, Mussoorie and the Centre for Rural Studies, thanked all the distinguished participants for their sparing two days in the academy to discuss on one of the important issues of the country. He was grateful to all the

experts present in the workshop for working together and giving the recommendations which, in management, are regarded as smart – simple, actionable, doable so on and so forth, which will be of great use the centre and academy.

He said, “I personally feel that this is one step towards making sure this extremely critical act helps the millions of poor people in realising their rights over the forests and the forest lands where they have been living for years. More than giving too many answers, this workshop might have raised some questions as the initial workshops or initial discussions rarely come up with answers. There may be a few more doubts and a few more questions. Therefore, a series of such workshops and discussions in different academic organisations and training institutions along with taking up a series of studies through primary research by different researchers and eminent academicians will help in realising the act which is beneficial for a large number people in the country. Prof. Saxena has beautifully said, ‘This came up

⁵ Deputy Director (Sr.), LBSNAA, & Centre Director, Centre for Rural Studies, LBSNAA, Mussoorie

at a time when there was a window of opportunities and when everything was in favour of us. Political will is already there now and it is up to us how we take it further'. This happens in many of the public policies and we may be able to push some of the good things that this act has brought.

I can assure you, sir (Prof. K.B. Saxena) and all the participants here that the thousands of young officers of various services including IAS, IFS and other services, who come here in the academy for training and who will be dealing with this at the fields, will be sensitised with this issue. We make sure that in every course there are at least a couple of sessions on this Forest Rights Act because we feel that this is very critical for the poorest of the poor. In addition to doing the glamorous jobs such as public-private partnership or infrastructure, at times we need to spend some time on these issues for whom they cannot take into Page no.3 or NDTV debates as such. These debates will be in the academy and I am sure that all the officers who come out of this academy will be sensitised on all these issues which will ultimately help the poor. With these few words, I thank each one of the participants here for your fruitful and enriching contributions in the workshop. I feel that we have

had an enriching experience during the last two days. I am sure I will go through all the presentations once more which will be helpful to me to understand better in the subject. I thank all of you once again. Thank you".

Annexure 1: List of papers Presented during the workshop

1. Medicinal Plants as Forest Produce and Source of Livelihood: Opportunities and Challenges
Ms Meera Iyer
2. Problems of Marketing of Agricultural and NTFPs in a Tribal Region of Odisha: A Case of Gajapati District
Ramaya Ranjan Patel
3. Decentralising the disposal of Minor Forest Produce
R. Ravi Shankar
4. Harmonizing Forest Rights for Development and Sustainability
Shri Vinod Kumar
5. Forest Rights Act 2006- Challenges and implications with special reference to North-East India
Dr. Sonali Ghosh
6. Critical analysis of challenges on marketing of forest products by local tribes
Dr. Bijay Kumar Swain
7. Carbon forestry projects: Impact on livelihood
Shri Ashish Aggarwal
8. Reforms in Forest Tenure: Implementation of Forest Rights Act 2006 in Odisha and Jharkhand
Tapas Kumar Sarangi

9. Community Forest Rights: Status of Implementation, Issues and Initiatives
Tushar Dash
10. Community rights vs Individual Rights in Madhya Pradesh
Shri Uma Kant Umarao
11. Forest Rights Act – 2006: Its Implementation and Impact: A Revisit of Select Villages in Scheduled and Non-Scheduled Areas of Telangana & AP
M. Gopinath Reddy
12. National Legislation and Local Contexts: An Ethnographic Study of Forest Rights and Conflicts in the Satpuda Hills of Central India
Budhaditya Das
13. FRA: Challenges and Opportunities
Charanjit Singh
14. Can Users be Owners? : An Analysis into the Implementation of Forest Rights Act, 2006 among the Sahariya Tribal Community in Central India
Tillotama Sarkar
15. Selling and Governing Nature: FRA and its Impact in Forest Villages of North Bengal
Soumitra Ghosh
16. Revisiting FRA from Rights' Perspective: Theoretical Opportunities and Practical Challenges
Varsha Ganguly

17. Forest Rights Act 2006: A Challenge in Itself

Souparna Lahiri

18. Access to Forest Justice: Inter-departmental Coordination
for FRA Implementation

Madhu Sarin

19. The Forest Rights Act and Diversion of Forest Land:
Challenges and impacts on forest dwellers

Meenal Tatpati

Annexure 2: List of participants and attendees in the workshop

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