

Consultation on Forest Rights Act and Rights of Pastoralists

8th October, 2017

Venue:

Mill Owners' Association Building, Ashram Road, Navarangpura, Ahmedabad, India



Centre for Pastoralism



Consultation on Forest Rights Act and Rights of Pastoralists

8th October, 2017

Venue:

Mill Owners' Association Building, Ashram Road, Navarangpura, Ahmedabad, India



Centre for Pastoralism



Consultation on Forest Rights Act and Rights of Pastoralists 2017

Executive Summary

The implementation of the FRA has thus far focused primarily on Individual Forest Rights, and has tended to ignore the empowering provisions of Community Forest Resource Rights (CFRs). No more than 3% of the estimated potential for CFR recognition has taken place under the FRA. Accordingly, the provisions for rights of vulnerable communities such as pastoralists and particularly vulnerable tribal groups have not been implemented across the states.

Non- recognition of rights of pastoral communities has resulted in continued restrictions on traditional access to forest areas for grazing and other resource use. There are also cases of violation of their rights in protected areas (wildlife Sanctuaries, National Parks and Tiger Reserves), in areas proposed for forest diversion for various projects, and in areas where plantations have been set up under CAMPA and other forestry programs.

This consultation was organized to discuss the status of rights of pastoral communities recognized under FRA, key initiatives already undertaken by pastoral communities with regard to filing CFR claims, the nature of the state's response to these initiatives, and ways by which pastoralists' CFR agenda might be advanced. The consultation was attended by members of Civil Society Organizations working with pastoral communities, representatives of pastoral communities from different states, researchers, activists and students.

Key Recommendations

- **Increase awareness on the provisions of the FRA amongst pastoral communities. NGOs and research institutes can be identified to undertake more systematic work on the FRA-pastoral community interface. A template based on the experiences of Maldhari pastoralists of the Banni grasslands in Kutch, and the Gaddi herders of Kangra District in Himachal Pradesh can be prepared and shared with other communities and actors from civil society.**
- **Devise action plans to increase the numbers of CFR claims by pastoral communities. Training and capacity building of community leaders and facilitators will be needed to enable an increase in such claim-filing.**
- **Constitute a working group to anchor CFR claim-making and to provide legal support to the pastoral communities dealing with problems of eviction from Protected Areas and restriction on rights, diversion of forest land affecting pasture lands and rights, monocultural plantations in pasture lands .**
- **Document the experiential knowledge of pastoralists to strengthen and promote**

traditional forest management practices by pastoral communities and to create awareness that these are not necessarily detrimental to forests, grasslands and other forms of natural resources as often pointed by Forest Department.

- **Sensitize the Animal Husbandry Department on the FRA and claims of pastoral communities to ensure the Department's involvement and support.**
- **Approach the Ministry of Tribal Affairs to sensitize it to the problems in claims and recognition of rights of pastoral communities under FRA.**

Background

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act also known as Forest Rights Act (FRA), enacted in 2006, recognizes and vests rights of tribal communities and other traditional forest dwellers over forestland and community forest resources in order to ensure tenure and livelihood security of these forest-dependent communities. The FRA also secures rights over the conservation and management of these natural resources, towards enhancing biodiversity, conservation and other values.

The implementation of the FRA has thus far focused primarily on Individual Forest Rights, and has tended to ignore the empowering provisions of Community Forest Resource Rights (CFRs). No more than 3% of the estimated potential for CFR recognition has taken place under the FRA. Accordingly, the provisions for rights of vulnerable communities such as pastoralists and particularly vulnerable tribal groups have not been implemented across the states. Non-recognition of rights of pastoral communities has resulted in continued restrictions on traditional access to forest areas for grazing and other resource use. There are also cases of violation of their rights in protected areas (Wildlife Sanctuaries, National Parks and Tiger Reserves), in areas proposed for forest diversion for various projects, and in areas where plantations have been set up under CAMPA and other forestry programs.

It is important to recognize that pastoralist community claim-making as part of the FRA is likely to be more complex than that experienced by tribal communities. Efforts by the latter have not necessarily been hugely successful, but have certainly featured more prominently within civil society discussions on the FRA. Unlike most tribal communities, pastoral resource rights are defined over large landscapes of pasturelands, often cutting across administrative boundaries (inter-districts, inter-states) and falling in multiple governance regimes (including Reserve Forests and Protected Areas). Also, while on migration, pastoralists often graze areas that are simultaneously accessed by resident communities that practice settled agriculture. In other words, there are often overlapping customary use practices. For reasons of co-dependence, pastoralists have often been welcome amongst settled agrarian communities. In other instances, an uneasy accommodation has prevailed. There is little clarity on how such relationships may unfold as pastoralists seek more formal rights of use under the FRA.

Nonetheless, it is worthwhile noting that resolving pastoralist community rights via CFRs is important from multiple perspectives. There is, of course, the key issue linked to pastoralist livelihoods, as well as the question of pastoralist role and capability to manage these ecosystems. These issues have been centrally part of debates surrounding tribal claim-making in the context of access to, use of and control over forest resources.

There is, however, one other dimension that needs to be foregrounded in debates relating to pastoralism and the FRA. While rarely recognized as such, pastoralists have played a key role as animal breeders, and as “keepers of India’s animal genes”. At a recently concluded workshop, hosted by the Government of India, the Government of Gujarat, the National Bureau of Animal Genetic Resources (NBAGR) and CfP*, the point was repeatedly made that pastoralists are responsible for breeding and maintaining India’s animal genetic diversity. Correspondingly, pastoralist difficulties in accessing traditional grazing grounds has potentially damaging consequences for India’s animal genetic diversity. Credible molecular level research out of NBAGR highlights the genetic make-up of indigenous breeds that is responsible for their capacity to withstand temperature and other extremes to a far greater extent than exotic cross-bred animals. The workshop concluded that there is a need to protect both indigenous breeds and the pastoralist production systems responsible for them, simply owing to their role in producing and maintaining a gene pool that will almost certainly serve the national interest in years to come.

(* - Report on the National Workshop on Recognition, Registration and Conservation of Livestock Populations in Pastoral Ecosystems, 6-7 October, 2017. Centre for Pastoralism, New Delhi.)

The Consultation

This consultation, on the sidelines of the Living Lightly exhibition in Ahmedabad, was organized to discuss the status of access rights of pastoral communities and how these may related to the FRA, key initiatives already undertaken by pastoral communities with regard to filing CFR claims, the nature of the state's response to these claims and the ways by which pastoralists' CFR agendas might be advanced.

The consultation was attended by members from civil society organizations working with pastoral communities, representatives of the pastoral communities from different states, researchers, activists and students.

The consultation was conducted in three sessions; the first session presented cases from Himachal and Gujarat, where CFR claims have been successfully filed. This was followed by presentations on community experiences with FRA and the status of CFR claims being made in different states. A concluding session reflected on the strategies and planning required to move the pastoralist CFR agenda forward.

Session 1

This session was devoted to presentations on the efforts that have been made in CFR claim making by communities in Kutch, Gujarat and in Kangra, Himachal Pradesh.

The Banni grasslands in Kutch, present a dynamic socio-ecological landscape with livestock being the primary source of livelihood for the Maldhari pastoralists of the region. Although the Banni grassland was notified as a Protected Forest in 1955, there remains ambiguity over whether the Forest Department or the Revenue Department has principal authority to manage it. The early 2000s saw the enclosure of parts of the Banni grassland, by the Forest Department seeking to demonstrate the benefits of reduced grazing pressures, as well as by Maldharis, venturing into large-scaled cultivation. Both of these led to reduced grazing available to the buffalo-herding Maldharis. In response, the community mobilized to assert collective rights over the grasslands as a means of retaining the grasslands as a pastoral resource, rather than one gradually being taken over by individual farmers.

A Banni Breeders association (Banni PashuUchharak Maldhari Sangathan or BPUMS) was formed in 2009 with about 1200 Maldharis from 48 villages of 19 panchayats. With the assistance of Sahjeevan, the BPUMS undertook extensive consultations with maldharis in the Banni, completed a comprehensive mapping of grazing resources, and developed a bio-cultural protocol. In 2014, Gram Sabhas of the Banni area submitted CFR claims over an area of 2500

sqkm of Banni grassland. The claims received approval from the Sub District Level Committee (SDLC) as well as the District Level Committee (DLC), but the Forest Department raised objections to the claims. CFR titles have not thus far been issued to the Gram Sabhas. BPUMS has taken up the matter with the State Tribal Department, and an official response is awaited.

Prior to 2012, the FRA had been implemented in only three districts, in Himachal Pradesh's tribal belt. However in 2012 the State Tribal Department agreed that the FRA should be implemented throughout the state. This step opened a legal route for communities to assert their claims as enshrined by the FRA. Civil society organizations mobilized communities to forward CFR rather than individual claims and a number of Forest Right Committees (FRC) were established. Nomadic pastoralists of the Bara Bangahal region have taken the initiative to claim their CFR rights with the help of a local organization, Himachal Van Adhikar Samiti. CFR claims have been mapped for 55 villages in the Bara Bangahal Wildlife Sanctuary and 29 Forest Right Committees have been formed to forward these claims. These claims have been premised on extensive resource mapping to show seasonal grazing routes (in summer and winter pastures), the number of livestock in each herd, the time-period over which such grazing has been undertaken and so on.

What has been particularly noteworthy about the claim filed by the Bara Bangahal herders is the inclusion in the claim of summer and winter grazing areas as well as areas that are grazed while on migration. Some of these areas have overlapping rights with settled agricultural communities, and it is possible that such communities will contest the pastoralists' claims. As mentioned earlier, this problem of overlapping rights lies at the heart of the difficulties of settling pastoralist claims to grazing areas. Responses from the SDLC and DLC are awaited.

Session 2

This session focused on a sharing of experiences on forest rights issues faced by pastoral communities, the status of claims and problems in exercising rights by pastoral communities in Gujarat, Rajasthan, Uttarakhand, Maharashtra, and Telangana. Representatives from camel, sheep, goat and cattle herding pastoralists from these states also shared their experiences and the difficulties they face during seasonal migrations.

Gujarat

In Gujarat, the Rabari and the Jat pastoral communities breed the Kharai camel. This was recently recognized as a distinct breed owing to its remarkable capacity to survive in the mangrove forests that are present along the Lakhpat, Abdasa, and Mundra coastlines. Their numbers have declined over the years due to the reduction in these mangrove forests, destroyed due to rapid industrialization in the region. This has implications for both local ecology and local pastoralists. The Forest Department has now taken up plantation of mangroves in an attempt to conserve these valuable resources. Unfortunately, these plantations have been established along the grazing routes of Kharai camels, and the presence of plantations has resulted in Forest Department restrictions on herder grazing along these routes.

A Camel Breeders Association, the Kutch Unth Uchhar Maldhari Sangathan, or KUUMS, has been formed and is now trying to initiate the process of advancing forest rights claims by camel pastoralists. As part of this process, 13 different clusters of grazing areas have been identified and mapped. FRCs have been established for 3 villages, but so far no claim has been filed.

Small ruminants in Gujarat (in Lakhpat Taluka) are traditionally reared by Rabari, Sodha, Jat and Notiyar communities. Their livelihoods are largely dependent on the selling of goat and sheep and sheep wool. As with most pastoralist communities, these pastoralists have long-standing relationships with communities whose villages they pass through on migration. Grazing grounds, or rakhals, are spread across Lakhpat Taluka and are a key resource used by pastoralists. In the early 1970s, these rakhals were notified as Reserve Forests and since then there has been some ambiguity regarding pastoralist rights to graze these forests. Over the past 4-5 years, there has been an increase in tension between pastoralists and the Forest Department over restrictions relating to grazing and wood collection from the rakhals. In order to safeguard their grazing rights, Sahjeevan has worked with pastoralists to form 8 FRCs. Much of the resource mapping has been completed, and three claims have been filed to the SDLC. Each claim includes community claims over Nistar, NTFP, grazing, a demand for the conversion of forest villages to revenue villages and management rights. There is so far no response from the SDLC and the status of these claims is unknown.

There are several Maldharis who live in and around Rampara Wildlife Sanctuary and use the land around the sanctuary to graze their livestock. This land has now been declared an eco-sensitive zone and Maldharis are no longer allowed to graze these areas. This denial of traditional rights is in violation of the FRA mandate.

Rajasthan

In 2005, the Government of Rajasthan planned to re-introduce tigers into the Sariska Tiger Reserve (STR). As part of this exercise, 29 villages from STR were to be relocated outside the Reserve. A number of communities, including Gujjar, Mera, and Mev have grazing patches (orans) and migration routes (rendered to them by the maharajas) within STR. Thus far no claim has been filed as part of the FRA. The local communities have recently written a letter to the ministry of tribal affairs stating that the FRA has not been implemented in STR. The Institute for Ecology and Livelihood Action has supported forest rights claims of five villages, conducted resource mapping and sent them to the District Level Sub-Committee. A response is awaited. The pastoral communities also face tremendous hardship while they migrate from one state to another, including restrictions on access to traditionally grazed areas, corruption within the Forest Department, hostility from communities they encounter while on migration, and harsh penalties that include detention of their livestock for weeks at a time. All of this engenders high levels of insecurity.

Uttarakhand

In rural Uttarakhand, the implementation of FRA has been sluggish, despite the fact that large numbers of people depend on forests to meet a variety of needs. Around 150 buffalo herding Van Gujjar families that reside in the Rajaji National Park (RNP) have been issued eviction notices by the Forest Department. The community has struggled to get their forest rights recognized under the FRA. One of the problems is that the Uttarakhand Van Gujjars are not deemed to be tribals. While the Van Gujjars in Jammu and Kashmir and Himachal Pradesh have been granted Scheduled Tribe status those in Uttarakhand and Uttar Pradesh are classified as Other Backward Classes. This has proven to be a major hurdle in obtaining formal recognition of access and use rights under the FRA.

Telangana and Maharashtra

The consultation included presentations from Telangana and Maharashtra. Communities in these areas are facing many of the same problems that pastoralists encounter in other parts of the country. Thus far there has been no attempt by the pastoralists of the region or Civil Society Organizations to work with these groups to file claims as part of the FRA. There is need for a great deal more work to understand the socio-cultural-legal contexts of pastoralism in these states.

Session 3

The concluding session conferred on the strategies and plans to take forward the process of CFR claims with pastoral communities. The following points came up for discussion.

- It was commonly felt that there is a need for more collective efforts by pastoral communities and support organizations to advance CFR claims.
- There was a strongly articulated position that pastoral communities over the years have managed the forest and biodiversity and maintained a co-dependent relationship with nature. Their patterns of resource use and biodiversity management need to be better understood and, where appropriated, better promoted. The current trend of evictions from traditional grazing grounds is likely to have impacts on their livelihoods but may also have unanticipated, and potentially negative, impacts on the forests and grasslands historically grazed by these communities.
- The new Compensatory Afforestation Fund Act 2016 poses a serious threat to pastoral communities as it lacks provisions to safeguard forest rights. The CAF Act now allows the Forest Department to carry out plantations (mono-cultural in most cases) in community lands and pastures, without obtaining prior consent from local communities or their gram sabhas. Such actions pose a grave threat to the rights and livelihoods of pastoral communities. The CAF Act also allows for use of funds to relocate villages from Protected Areas and this will likely incentivize increased violation of rights of pastoral communities through eviction from Wildlife Sanctuaries, National Parks and Tiger Reserves.
- In addition to forest lands, pastoralists also use revenue lands and wastelands to meet their grazing requirements. In each of these there potentially complicated rights-related issues. Many more claims will need to be filed to generate a better understanding on how complicated these issues are, and how they might be resolved.

Key Recommendations

- **Create awareness on the provisions of the FRA amongst pastoral communities. NGOs and research institutes need to be identified to undertake more systematic work on the FRA-pastoral community interface. A template based on the experiences of Maldhari pastoralists of the Banni grasslands in Kutch, and the Gaddi herders of Kangra District in Himachal Pradesh can be prepared and shared with other communities and actors from civil society.**
- **Devise action plans to increase the numbers of CFR claims forwarded by pastoral communities. Training and capacity building of community leaders and facilitators will be needed to enable an increase in such claim-filing.**
- **Constitute a working group to anchor CFR claim-making and to provide legal support to the pastoral communities dealing with problems of eviction from Protected Areas and restriction on rights, diversion of forest land affecting pasture lands and rights, monocultural plantations in pasture lands.**
- **Document the experiential knowledge of pastoralists to develop the argument that traditional forest management practices by pastoral communities are not necessarily detrimental to forests, grasslands and other forms of natural resources. For example in Rajasthan when Maldharis were prohibited to graze, exotic plant species like Lantana and Hyptis increased. This in turn appeared to lead to an increase in wildlife attacks on crop fields. According to the Maldharis their livestock movement and rotational grazing helped in controlling the growth of these species.**
- **Collaborate with other FRA networks advance the process generally.**
- **Undertake studies in different parts of the country or different agro-ecological regions on the issues and concerns of pastoral women and include women in the process of creating awareness about FRA and CFR.**
- **Sensitize the Animal Husbandry Departments on the FRA and claims of pastoral communities to ensure the Department's involvement and support.**
- **Approach the Ministry of Tribal Affairs to discuss the rights of pastoral communities along with those of particularly vulnerable tribal groups as per the FRA.**

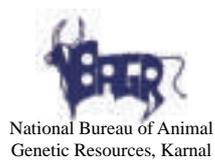




Organisers



Co-Organiser



Sponsors



In Collaboration with

