Best Practice
Implementation of "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006" in Madhya Pradesh

For
Government of India
Ministry of personnel, Public Grievances & Pensions
Department of Administrative reforms & Public Grievances

Documented & Published
By
SCHOOL OF GOOD GOVERNANCE & POLICY ANALYSIS
(An autonomous organization of Govt. of Madhya Pradesh)
Sushasan Bhavan, In front of STF Shiv Mandir
Bhadbhada Square, T.T. Nagar, Bhopal - 462003
Website: www.sushasanmp.in Email: sushasank@gmail.com
**INDEX**

**Topics**

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Background</td>
<td>1</td>
</tr>
<tr>
<td>Forest Rights Act: Breaking new ground</td>
<td>2</td>
</tr>
<tr>
<td>Has implementation matched the intent of the Forest Rights Act?</td>
<td>3</td>
</tr>
<tr>
<td>Getting into the spirit of the FRA- the Madhya Pradesh Approach:</td>
<td>4</td>
</tr>
<tr>
<td>1. Head start</td>
<td></td>
</tr>
<tr>
<td>2. Large scale capacity building program rolled out</td>
<td></td>
</tr>
<tr>
<td>3. Follow up round of training to clarify emergent issues</td>
<td></td>
</tr>
<tr>
<td>4. Communication and Environment Building</td>
<td></td>
</tr>
<tr>
<td>5. Involving the Civil Society in implementation</td>
<td></td>
</tr>
<tr>
<td>6. Burden of proof for rights recognition less onerous</td>
<td></td>
</tr>
<tr>
<td>7. Gram Sabha Strengthened and Incentivized</td>
<td></td>
</tr>
<tr>
<td>8. Use of Technology in efficient working</td>
<td></td>
</tr>
<tr>
<td>9. Risk Identification in advance &amp; Mitigation measures</td>
<td></td>
</tr>
<tr>
<td>10. Sensitivity to honor and esteem of the forest dwellers</td>
<td></td>
</tr>
<tr>
<td>Effective monitoring</td>
<td>8</td>
</tr>
<tr>
<td>Results achieved</td>
<td>8</td>
</tr>
<tr>
<td>Lesson learnt</td>
<td>9</td>
</tr>
<tr>
<td>Sustainability and Scope for replication</td>
<td>10</td>
</tr>
</tbody>
</table>
Best Practice
Implementation of "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006" in Madhya Pradesh

Background:
Forests have played a vital role in the socioeconomic and cultural life of the tribal people of India. It is well-known that majority of the tribal population lived in isolation in the forested regions of India with harmony, security and trust for many centuries and developed a symbiotic relationship with the forest. The forests provide to the tribals and other communities living close to the forest habitat, shelter, raw materials for household equipment; other material like resins, gums and dyes etc., wood for building houses, fencing and tool making; firewood, herbal medicines; fodder for cattle and grazing areas; other objects like ornaments and religious items etc.

In India, the life and economy of the tribal people are intimately connected with the forests. Majority of the tribal population in India make a living out of the forest produce collected by them. Some of the Studies have shown that in majority of forest areas these forest-dwellers collect 25 to 50 per cent of their food from the forests.

Before the advent of the British rule in India, the forest-dwellers and other indigenous communities enjoyed freedom to use forest or exploit forest resources for their livelihood. The British colonial administration realised the commercial value of forests and began to use them to augment revenue and in the process tried to regulate the rights of the forest dwellers and other indigenous people over forests. The British forest policy was mainly based on commercial interest and it aimed at supplying timber and other forest resources to colonial forest-based industries. The commercial exploitation of forests was encouraged at the cost of the forest-dwellers, the tribals and other indigenous communities, for the greater interest of the colonial rulers.
The colonial laws have led to the State ownership of nearly 97 per cent of India’s forestland, which limit people’s accessibility to forests. With the loss of forest cover and accelerated deforestation, the socio-economic and ecological impacts on local indigenous communities have become acute. Degradation of the surrounding environment and rigid forest laws has adversely affected food accessibility, livelihood options and quality of life, of local indigenous communities.

After Independence there was some rethinking on the issue of forest policy. The Government of India declared the new National Forest Policy in 1952, which emphasised ecological and social aspects of forestry and gave only secondary importance to the needs of commerce and industry and also to the revenue collection. But in a way, this policy was an extension of the policy during the British rule, which lay down that the claims of the communities living near forests, should not override national interests. The tribals living near forests were discouraged from using forests and forest produce.

In the wake of capitalist development in the agricultural sector the tribals were offered attractive wages as labourers. This resulted in large scale migration of tribals from their native place, resulting alienation from their culture. The faith of tribals who continued to live in the forest amidst all the restrictions enforced on them was also the same, since they had to depend on their patrons in order to make both ends meet. Resultant of all these factors is the present socio-economic conditions of these tribal communities. The self-sufficient non-monetised tribal economy of the past which relied heavily on the forests for their need was transformed into a money-based economy which brought with it its vagaries to the tribals.

Forest Rights Act: Breaking new ground:

In 2006, the government of India passed the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (the Forest Rights Act, or FRA). This Act recognize and vest the right to hold and live in forest land by a member of forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recognized. This act was purported to plug the gaps regarding forest dwellers right in the existing Forest Laws primarily the Indian Forest Act, 1927 and the Wildlife Protection Act, 1972. The FRA also sought to address the shortcoming of the previous rights recognition effort particularly the guidelines issued by the Ministry of Environment and Forests (MoEF), 1990 and onwards. The FRA attempts to do primarily two things – (i) grants legal recognition to the rights of traditional forest dwelling communities, partially correcting the injustice caused by the forest laws, (ii) makes a beginning towards giving communities and the public a voice in forest and wildlife conservation.

The households eligible to garner the rights under FRA are those primarily residing in forest or forest land and depend on forest and forest land for a livelihood (bonafide livelihood needs). The proof of such a claim has to be (i) evidence of residence of 75 years on forest land (for other traditional forest dweller) or (ii) member of a scheduled tribe and residing in the area where they are scheduled (terms as forest dwelling scheduled tribe). The Act provides for recognizing thirteen different rights that are central to the lives and livelihoods of tribals and other traditional forest dwellers across the country.
These rights include rights to hold and live in the forest land, ownership of minor forest produce, community rights of uses and entitlements such as fish and other products of water bodies, grazing, conversion of all types of forest villages/settlements to revenue villages, the right and power to protect, conserve and manage community forest resources, etc.

The new Act made the Ministry of Tribal Affairs, Government of India the nodal agency for recognizing forest rights. Section 6 of the Act provides a transparent three step procedure for deciding on who gets rights. First, the Gram Sabha makes a recommendation - i.e. who has been cultivating land for how long, which minor forest produce is collected, etc. The Gram Sabha is given this role by virtue of it being a public body where all people participate, and hence is fully democratic and transparent. The Gram Sabha's recommendation goes through two stages of screening committees at the Taluka and District levels. The District level committee makes the final decision (see section 6(6)). The Committee has six members - three government officers and three elected persons. At both the Taluka and the District levels, any person who believes a claim is false can appeal to the Committees, and if they prove their case, the right is denied (sections 6(2) and 6(4)). The land recognised under this Act cannot be sold or transferred. Finally, in its most significant and radical step, the law statutorily empowered Gram Sabha to protect and manage their surrounding forests for sustainable use and for preserving their cultural and natural heritage. The act also acknowledges forest dwellers' intellectual property rights over traditional knowledge related to forest biodiversity.

**Has implementation matched the intent of the Forest Rights Act?**

While an Act provides a framework for action, translating the letter and the spirit of an Act on the ground requires significant buy in from the implementation machinery of the government. The best of Acts can flounder if the plan of execution is flawed, the government system is not open to change, the detractors and vested interests have clout to stall executive action and that institutions set up under the act might not have the requisite capacities. The implementations of Forest Rights Act across the country have had its share of issues. Implementation of the FRA has a number of bottlenecks - (i) A number of States yet to commence serious implementation of the FRA, (ii) Failure of the rights recognition process which includes getting the required Gram Sabhas quorum, low capacity level of the Forest Rights Committees etc. (iii) Burden of proof for rights recognition is onerous in many instances, (iv) Capacity constraint in terms of knowledge & information amongst institutions entrusted with the implementation of the act, (v) State Level Monitoring Committee in many instance have largely remained ineffective in terms of monitoring and facilitating the process of implementation, (vi) there have been instances where bureaucracy used to the old regime under the existing forest acts have been slow on the uptake.

While discussing bottlenecks in the implementation of the FRA, it may be remembered that the assessment and award of titles is a huge task both in scale and complexity. As on 30th September, 2011, nationally 31.49 lakh claims have been filed of which 12.30 lakh titles have been distributed. A total of 28,08,494 claims have been disposed of (89.17%). Administration has geared itself to meet the
challenge across states. Some states have taken the lead in introduction of systemic changes in the way the title verification and distribution was done so as to bring transparency and accountability. The implementation of the FRA in Madhya Pradesh is one such illustration, and has been replicated in many other States. It is also a matter of pride for the state being the first to issue title deeds under the FRA, when in Mandla district title deeds were distributed on August 8, 2008.

Getting into the spirit of the FRA- the Madhya Pradesh Approach:

Madhya Pradesh along with Chhattisgarh and Orissa has got the largest number of title claims under the FRA. The total claims for MP is 4,46,569 as on Sept., 2011 which are spread over 40 districts, 150 Revenue Sub Divisions and more than 30,000 gram sabhas involving over 1.5 crore people. This challenge is further exacerbated by tough terrain, no communication, jungle roads and illiterate population. Managing such a large number of claims in a transparent and accountable manner required the administration to think of an approach beyond the routine, and it is to the credit of Madhya Pradesh, that it went about in a mission mode to implement the Act and it has also been commended by Ministry of Tribal Affairs, Government of India. The elements of this approach are discussed below:

1. **Head start**

As soon as the copy of the Act and the draft rules were received, the blueprint on how the act would be implemented was drawn up. The Act was enforced on 31 Dec., 2007 and rules became effective from 1 Jan., 2008. The timeline of the proactive actions taken will substantiate this contention of an early start:

- **By September 2007** the State Government through Forest department had made an estimate of the quantum of workload for each revenue sub-division. These estimates were done on the basis of the forest area, recorded number of cases and the tribal population. The capacity building plan was rolled as early as September, 2007 in the districts categorized to be having heavy workload with the commencement of the Master Trainer training. The Gram Sabha meetings started getting organized by October, 2007 where the members were apprised of the provisions of the Act and the draft rules. Conscious efforts were made to sensitize the Gram Sabha for preventing any mass encroachment by individuals desiring to take undue advantage of the provisions of the FRA.

- The day, act and the rules became effective, i.e. 1 Jan., 2008, a meeting was organized by Principal Secretary, Tribal Welfare Department, involving Principal Secretaries of Forest, Revenue, Finance and Rural Development Department to adhere to a coordinated strategy.

- Hon’ble Chief Minister convened the first meeting on 2 Jan., 2008 for effective implementation of the Act in the state.
On 5th Jan., 2008 Chief Secretary, Government of Madhya Pradesh addressed all the collectors to sensitize the state machinery for timely implementation of the Act.

Starting 26th Jan., 2008 Gram Sabha Forest Rights Committees were constituted/elected.

On 1st Feb., 2008 State Level Monitoring Committee was constituted.

Training of functionaries involved in the implementation of the FRA at all the three levels namely-Gram Sabha, Sub-division and District level were in full flow between Jan-March, 2008.

2. Large scale capacity building program rolled out

It was clear at the outset that the key to effective implementation of the FRA would be an effective capacity building regime. How well the provisions of the FRA are implemented was to depend on how well the provisions were understood by the institutions and functionaries involved in implementation. The scale involved was huge involving training of nearly 1.5 crore Gram Sabha members, 10000 nodal officers, 1000 Sub Divisional Level Committee (SDLC) members, 288 District Level Committee (DLC) members and 500 Master trainers. The officials of Revenue, Forest, Police and Panchayat Departments, especially from the identified sensitive districts from the point of view of the possibility of fresh mass encroachments and resultant conflict, were trained as master trainers. All India Institute of Local Self Government had organised the training of SDLC members and the master trainers at the district level. Retired officials of Revenue and Forest departments including retired I.A.S. and I.F.S. officers were engaged for the job. These officers were briefed by the Principal Secretary, Scheduled Caste & Tribal Welfare Department and the then Director, TADP whose office was nominated the nodal office to implement the Act. The training of master trainers and the Nodal Officers of Gram Sabhas was completed during January 11-21, 2008. In turn the Gram Sabha members were enlightened about the law, rules, procedure, and the administrative arrangements for implementing the Act in their meetings starting January 26, 2008. Gram Sabhas decided to constitute their forest rights committees in their meetings routinely scheduled during the week commencing January 26, 2008. It may be mentioned that organizing such a large scale training programme across the hinterland of forty districts within a limited time period was a significant challenge. The training provided created the bulwark on which the implementation of the FRA would rest.

3. Follow up round of training to clarify emergent issues

A second round of training at all levels was organised in July, 2008 so as to clarify the term "primarily reside in and who depend on the forests or forest lands" in accordance with the clarification issued on June 9, 2008 by the Ministry of Tribal Affairs, Govt. of India. This second round of training catalyzed formation of Forest Rights Committees (FRCs) immediately thereafter. Most of the Gram Sabhas also resolved to issue notification for inviting claims as well. The FRCs were ready to take up their work right away.
4. **Communication and Environment Building**

- A compilation of all the circulars, notifications issued and letters written at various levels was published for ready reference at government level and at DLCs and SDLCs level.
- The task was involving huge illiterate tribal population speaking different dialects and therefore the Act and the Rules were translated in three major dialects (Devnagri Script)- Bhili, Gondi and Korku, and distributed these through Nodal Officers, Street Play teams and inmates of ST hostels so that the children could use their summer vacation to enlighten their parents and their neighbourhood people about the provisions of the Act and the Rules in their mother tongue.

  - Thirteen Street Play Groups were engaged to perform over 1400 street performances at weekly market centres to raise awareness about the whole process throughout the 89 tribal blocks in the State.
  - Large scale publicity campaign was launched through advertisements in newspapers, and through radio spots on 13 primary channels of "Prasar Bharti" and 3 channels of "Vividh Bharti". "Doordarshan" also relayed weekly programme "Naye Dwar" on every Monday. Media workshops were organized at Divisional headquarters to familiarize the media with the provisions of the Act, so that they can effectively play the role of Watch Dog for the whole process. Organization of media workshop brought transparency in the implementation of the Act and mistakes, intentional or unintentional were brought to the notice and were rectified.
  - A large number of claim forms and the copies of the Act and the Rules in Hindi were got printed and distributed free of cost through various official and non-official channels including the street play teams.

The effective communication strategy raised the demand for the entitlements under the Act from the potential beneficiary groups and ensured access to the enshrined rights. Involvement of the media created a buzz and positive opinion around the FRA in the State.

5. **Involving the Civil Society in implementation**

The Not-for-profit organizations were proactively involved in the process. They were active participants in the debate between the rights activists and the environmentalists. To help the civil
society to make them informed interventions. NGO workshops were organized at Bhopal, Jabalpur, and Jhabua. Other than being engaged at the policy level, the NGOs were also the eyes and ears for the administration. The feedback from the NGOs was factored into the design and helped in making mid course correction and any micro level intervention.

6. **Burden of proof for rights recognition less onerous**

As implementation progressed it was discovered that the tribal’s were finding it difficult to get caste certificate and two pieces of evidence to attach with the claim form. It was directed that mere mention of caste and the type of evidence by the claimant should be sufficient for verification up to SDLC level. It was made the responsibility of the SDO concerned to attach the necessary documents or otherwise after verifying the facts, consider the case in the meeting of SDLC. In addition, for the purpose of two piece evidence, State government issued instructions to the concerned departments to keep relevant old records in ready position and copies to be provided free of cost to the claimants, whenever asked for. For issuing of caste certificate to the Scheduled Tribes, special camps were organized during April-June, 2008 so that they don’t have problem in getting a caste certificate. To further ease the process, claims on disputed lands between Revenue/Forest were resolved at District Level Committee.

7. **Gram Sabha Strengthened and Incentivized**

The two third attendance as quorum at Gram Sabha meeting was also a problem. It was found that the poverty and necessity to get wage labour for everyday livelihood, coupled with the fact that nothing of immediate utility happened at such meetings, were the main causes for apathy. The women could not participate because of the triple burden of wage labour, child rearing/household chores, and the social taboos. The cutoff for the required quorum was reduced to 10%. In addition, a provision for Rs 100 per claim was fixed as incentive for disposal of case at SDLC. Rs 10 could be sanctioned for anyone assisting the illiterate tribal in filing the claim, Rs 20 for anyone getting the two pieces of evidence as claimed by the applicant and remaining Rs 70 being spent on the Forest Rights Committees when they spent time on verification of claims as also on providing food to Gram Sabha members when their meeting was called for considering the claims. It was also directed that the Gram Sabha meetings should be held either early morning or in the evening so that the poor can earn their daily wage and also participate in the meeting. Providing food helped women participate in a big way.

8. **Use of Technology in efficient working**

Latest state of the art technology, i.e., GPS enabled Personal Digital Assistant (PDA) for survey of claimed land was introduced to achieve time and cost efficiency. With latitude and longitude being recorded, the data could be easily transferred to the

---

School of Good Governance & Policy Analysis, Bhopal (M.P.)
Forest base maps. Photograph of the beneficiary was also recorded on the spot, improving transparency in title verification. PDA data also helped in digitizing the verification records and getting the title deeds printed immediately after the case was cleared by the DLC without doing any additional manual writing or mapping work. Software was also developed for monitoring progress of constitution of Forest Rights Committees, nomination of members for Sub-Division and District level Committees and reviewing status of number of claims received.

9. Risk Identification in advance & Mitigation measures

There were writ petitions against the Act and the process in Tamilnadu was stayed by the TN High Court. A possibility of a repeat in MP was imminent when a writ was filed at Jabalpur High Court for staying the distribution of the first set of title deeds. The state's Advocate General personally appeared in Hon'ble High Court and pleaded the case for the State Government. Hon'ble High Court was pleased to refuse the grant of stay.

10. Sensitivity to honor and esteem of the forest dwellers

Prior to implementation of the FRA, the rights of most forest dwellers were not recognized and cases had been filed against them for encroaching on Forest land under the then applicable law. Along with imposition of fines, the agricultural and other equipment of the tribals were seized. Post FRA when land rights were recognized, in an excellent gesture the State Government returned the confiscated equipment and other allied possessions of the tribal dwellers in public function with full honor and dignity. All pending cases pertaining to encroachment were withdrawn.

Effective monitoring

The State Level Monitoring Committee has been set up and has played a proactive role in terms of clarifying various provisions and issued orders to the district level authorities, holding regular reviews of the process including video conferencing, interaction with NGOs etc. In addition officials of Directorate of TADP and Commissioner, Tribal Development were deputed to visit a district for two days to oversee the whole process including the quality of record keeping. This was necessary because the district officials of Tribal Welfare Department had never done any legal or quasi judicial work and they were made the Member-Secretaries of the DLCs and SDLCs.

Results achieved

With all above initiatives, Madhya Pradesh became the first in the country to start distributing the title deeds and also a role model for other states. As on 31st May 2012, the status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is as under:

1. No. of claims filed at Gram Sabha level - 4,50,867 [4,41,895 individual (3,02,105 STs and 1,39,790 OTFDs) and 8,972 community]
2. No. of claims recommended by Gram Sabha to SDLC - 4,50,591
3. No. of claims recommended by SDLC and sending to DLC - 4,45,342
4. No. of claims approved by DLC for title - 1,69,384
5. No. of titles distributed - 1,61,202 distributed (1,55,124 individual (1,53,024 STs & 2100 OTFDs) and 6078 community)

6. Extent of forest land for which titles distributed (in acres) - 5,06,548.96

**Lesson learnt**

**Being Proactive:**

Even before the Act came in operation, Madhya Pradesh was probably the first off the block and did a lot of preparatory work and planned out a blueprint for implementation. As soon as the Act was implemented nationally, Madhya Pradesh could from day one start out in right earnest. It was therefore natural that MP would have become the first State in the country to give out the titles to forest dwellers under the Act. Indeed a very credible achievement.

**Technology:**

helped in managing the huge quantum of workload. Processing more than 4 lakh title claim was an herculean task. Mapping of situation of the ground regarding actual area occupied by an individual household was done through PDA devices equipped with GPS technology. Use of more traditional total station surveys would have been time consuming. A PDA device can be used by almost anyone with a little bit of training, and this technology was a game changer for Madhya Pradesh, later followed by other States.

**Effective communication strategy:**

Conscious efforts were made by the State Government in keeping all the major stakeholders informed. With the bulk of forest dwellers not having access to more traditional media, street plays and radio were used extensively. The audience- media match was very carefully done. Also the mainstream media was also engaged and explained the objective, principle and the implantation strategy of FRA. Any nascent opposition was effectively countered by a very effective communication strategy.

**Leadership:**

A project of this scale can easily flounder if effective and decisive leadership is not provided. In this case the Chief Minister himself was on the driver’s seat, and the prestige and power of the Chief Minister’s office provided the required impetus to the implementation efforts. At the operational level, the man in charge was the Principal Secretary, Department of Scheduled Tribe and Scheduled Caste Welfare, who coordinate the entire operation.

**Sensitivity to the ground realities:**

While the intent of the Act was clear, there were immense operational hurdles. Here the administration was dealing with forest dwellers that are mostly illiterate and not empowered. Rules were changed to accommodate this variable, e.g., onus of proof of caste was transferred from the individual to the office of the SDO. Incentives were provided to the Gram Sabha to provide documentation assistance to the forest dwellers to claim title under the Act. In addition the acts and rules were translated to the local language which helped both the beneficiaries as well as the Gram Sabha members who were the first level of adjudication. Awareness amongst beneficiaries regarding their rights and reduction of transaction cost of making an application by simplifying the rules meant that the access to rights under the FRA was ensured.
Capacity Building Outsourced:

With such a large scale capacity building exercise which spreads across a number of districts and in difficult terrain, was not an easy task for the nodal Department i.e. the Department of ST and SC welfare to take up on its own. Training was outsourced which saved time and proved economical.

Sustainability and Scope for replication:

For sustainability of any initiative, following factors are essential:

1. Proven leadership.
2. Well thought implementable plan.
3. Awareness generation Publicity of the scheme.
4. Capacity building of the field functionary.
5. Involvement of stakeholders in the planning and implementation.

While implementing forest right act in M.P., above factors were kept in mind due to which the initiative was sustainable and results could be achieved.

In the review meetings at Delhi, innovations of Madhya Pradesh in the implementation of the Act were appreciated. Delegation from Gujarat, Maharashtra, Andhra Pradesh and Uttar Pradesh visited Madhya Pradesh to witness firsthand the implementation of FRA. Involving the local people is key to success for any project, by which more transparency may be achieved.

The MP design was adopted by many states including the processes and training modules. The PDA based survey system has been adopted by almost all the States in the country. The states of Chhattisgarh and Maharashtra have also picked up translated versions of the Act and the Rules for replication there. The MP approach has become a model for replication for implementing any such contentious legislation effectively and efficiently.

The following strategies adopted during the implementation of Forest Rights Act can be replicated successfully for any other initiative:

1. Aggressive involvement of media like advertisements in Print and Electronic media, Radio Jingles, Programme telecast on Television.
2. Capacity building of implementation machinery.
3. Introduction of latest technology like use of PDA for survey. The PDA is having benefits like portable, handy, time saving and user friendly device, very accurate method for survey, GPS enabled, represents exact position of beneficiary’s land on the Forest Map, Gives exact area of beneficiary’s land both in Hectare and Acre with longitudinal and latitudinal position, Snaps the photographs of the beneficiary on the spot, entire data of beneficiary’s land can be transferred from PC to PDA for field survey and after field survey the survey data can be transferred back to PC for generation of Title Deed for lamination and final distribution.
5. Involving Civil Society in implementation of initiative.