



NATIONAL PLATFORM FOR SMALL SCALE FISHWORKERS

January 21, 2020

To
The Working Committee,
Ministry of Tribal Affairs, Govt. Of India.

Sub: Comments on Draft Working Committee Report on Guidelines for Conservation Management and Sustainable Use of Community Forest Resources Under Forest Rights Act, 2006.

Madam/ Sir,

National Platform for Small Scale Fish Workers (NPSSF) appreciates the effort taken by the Working Committee in drawing the Guidelines for Conservation Management and Sustainable Use of Community Forest Resources under Forest Rights Act, 2006. The need for a set of such guidelines has been long felt. But we are constrained to state that while the guidelines has touched upon many relevant and important issues regarding management and conservation of community forest resources under FRA, it has failed to deal those in necessary details.

Fishers form a substantial part of forest dwellers as our forests are replete with water bodies. Section 3(1) (c) of FRA confers upon them the right to access fish resources as in stating that forest dwellers are to enjoy “other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;”

Forest dweller fishing communities are facing grave problems in asserting their right to access and sustainably use the fish resources as well as to protect them in water bodies falling in the forest areas. The problems and the inadequacies of the guidelines in addressing those are given below –

Sl. No.	Problems Encountered	Critique of the Guidelines
1	Constitution of Gram Sabha: In many areas, especially where the forest dwellers live outside the forests in panchayat villages where the non-forest dwellers dominate, it is very difficult to convene Gram Sabha to claim the rights of forest dwellers. It is not clear from the FRA, its rules or guidelines if the Gram Sabha can be constituted exclusively with forest dwellers.	The Draft Guidelines has not considered this very common problem. It should have proposed that only the Gram Sabha of forest dwellers and not that of the non-forest dwellers have the right to decide on their claims.
2	Convening the Gram Sabha: According to the Rules of FRA “The Gram Sabhas shall be convened by the Gram Panchayat” [Rule 3(1)]. In many areas Gram Panchayats, because of their political affiliation and ties with the government are reluctant to convene the ‘Gram Sabha’. It is not apparent from the FRA or its Rules who has the authority to convene Gram Sabha	The Draft Guidelines has not considered this very common problem. There should be a provision for self-convening the Gram Sabha by its members.



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	if the Panchayat refuses to do that.	
3	<p>The introduction to the ‘Guidelines’ states that “The recognised rights of the forest dwelling communities include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring the livelihoods and food security of the forest dwelling STs and OTFDs.” But “The Model Guidelines for management of CFRs” states “Objective of the Management: The objectives of the management is to be consistent with the extent (read <i>existing</i>) rules and regulations on forests. Independence from the stranglehold of the forest acts that has evicted forest dwellers from their habitats and livelihood through the ages or subservience to those.</p>	<p>From responsibilities and authority on conservation of biodiversity and maintenance of ecological balance to submission to existing forest rules and regulations. This self contradiction runs through the whole of the instant draft Guidelines.</p>
4	<p>According to the draft Guidelines, the Gram Sabhas will –</p> <ul style="list-style-type: none"> • Constitute community forests resource management committee (CFRMC) as an executive arm of the Gram Sabha in managing CFR areas. • Constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members; • monitor and control the committee constituted under clause (e) which shall prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling Scheduled Tribes and other Traditional Forest Dwellers and integrate such conservation and management plan with the micro plans or working plans or management plans of the forest department with such modifications as may be considered necessary by the committee. Be empowered to carry out the powers and authority as laid down under section 5 of FRA. • File complaint before the state level monitoring committee (SLMC) under 	<p>This means that the Gram Sabha, with its community forests resource management committee (CFRMC) is going to evolve as an institution which will carry regular monitoring and controlling of forest conservation and sustainable use of the resources. It will have its own plan which will be integrated with the micro plans of the forest department with necessary modifications of the latter.</p> <p>But in reality the Forest Department holds all the authority in developing the plans of forest conservation and implements the same. Not only the Gram Sabha or forest dwellers do not have their plan, they do not even have the capacity to do that.</p> <p>The responsibilities and authorities conferred on the Gram Sabha and CFRMC in the Guidelines are only paper statements, while the authority to make plans and implement them exists on the ground for the forest department. To get rid of this contradiction it is needed to –</p> <ol style="list-style-type: none"> i. Help develop the forest conservation and sustainable use plan in



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	<p>section 7 and 8 of the Act in case of any violation</p> <ul style="list-style-type: none"> • Make rules and issue appropriate directions for governance and conservation of CFR, including functions of CFRMC; conflict / dispute resolution; benefit sharing; issuance of transit permit; fund management and etc., regulating powers, functions and activities of the CFRMC • Make rules or issue directions for management of fund generated from various sources • Approve CFR conservation and management plan / strategies / actions prepared / suggested by the CFRMC. If required, the Gram Sabha can modify suggested plans / actions / strategies including CFR conservation and management plans • Appoint any person or hire any institution for extending support to the Gram Sabha for preparation of CFR conservation and management plan, financial management system or activities coming under the purview of the Gram Sabha • Resolve any conflict or dispute related to the CFR governance and management <p>How and wherefrom the Gram Sabha is going to draw its authority and expertise to accomplish the above is the problem.</p>	<p>consonance with the rights and entitlements by (a) necessary amendments in the rules of business of the ministries. The authority to draw such plans should rest with Forest Dwellers and not the Forest Department. (b) providing adequate information and expertise to the forest dwellers as well as to use their traditional knowledge to conservation and sustainable use plan. (c) disbanding Forest Protection Committees of the Forest Department and replacing them by CFRMCs.</p>
5	<p>Last but not the least – Forest cannot be divided into CFR and non-CFR areas for management. The Gram Sabha must have the authority to decide on the Forest Management Plan as a whole.</p>	<p>The Guidelines concerns itself with CFR management only. Instead, it should have concerned itself with the management of forest as a whole. Ecosystems cannot be managed in part.</p>

The main shortcoming of the Draft Guidelines is that it glosses over the fact that two diametrically opposite acts are in operation in our forests – Indian Forest Act and Forest Dwellers’ Rights Act and tries to prescribe a compromise between the two. Historical fact is that the latter came into being as a tool to replace the wrong doings of the former.

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