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**STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT
(2010-2011)**

(FIFTEENTH LOK SABHA)

MINISTRY OF TRIBAL AFFAIRS

**IMPLEMENTATION OF SCHEDULED TRIBES AND OTHER
TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST
RIGHTS) ACT, 2006- RULES MADE THEREUNDER**

TENTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

October, 2010/Asvina, 1932 (Saka)

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Presented to Lok Sabha on 16.11.2010

Laid in Rajya Sabha on 16.11.2010



**LOK SABHA SECRETARIAT
NEW DELHI**

October, 2010/Asvina, 1932 (Saka)

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**COMPOSITION OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND
EMPOWERMENT (2009-2010)**

SHRI DARA SINGH CHAUHAN - CHAIRMAN

**MEMBERS
LOK SABHA**

- *2. Shri T.R. Baalu
- **3. Smt. Harsimrat Kaur Badal
4. Shri E.T. Mohamed Basheer
5. Smt. Bijoya Chakravarty
6. Shri Bhudeo Choudhary
7. Smt. Rama Devi
8. Shri R. Dhruvanarayana
9. Shri Premchand Guddu
10. Shri G.V. Harsha Kumar
11. Shri Baliram Jadhav
12. Dr. Manda Jagannath
13. Shri Mohan Jena
14. Shri Baliram Kashyap
15. Shri Basori Singh Masram
16. Shri Kamlesh Paswan
- ***17. Shri Yashvir Singh
18. Dr. N. Sivaprasad
19. Shri Lalit Mohan Suklabaidya
20. Shri Manohar Tirkey
21. Vacant
22. Vacant

**MEMBERS
RAJYA SABHA**

- ****23. Shri Suryakantbhai Acharya
- #24. Smt. Jharna Das Baidya
25. Shri Avtar Singh Karimpuri
26. Shri Narayan Singh Kesari
27. Shri Mahmood A. Madani
28. Shri Ahmad Saeed Malihabadi
- ##29. Shri Abdul Wahab Peevee
30. Shri Praveen Rashtrapal
- ###31. Shri Nand Kishore Yadav

*Shri T.R. Baalu nominated to the Committee w.e.f. 11.1.2010.

**Smt. Harsimrat Kaur Badal ceased to be a Member of Committee w.e.f. 23.9.2009.

***Shri Yashvir Singh ceased to be a Member of Committee w.e.f. 13.10.2009.

****Shri Suryakantbhai Acharya expired on 21.12.2009.

#Smt. Jharna Das Baidya nominated to the Committee w.e.f. 26.4.2010.

##Shri Abdul Wahab Peevee ceased to be a Member of Committee consequent upon his retirement from Rajya Sabha w.e.f. 2.4.2010.

###Shri Nand Kishore Yadav ceased to be a Member of Committee consequent upon his retirement from Rajya Sabha w.e.f. 4.7.2010.

COMPOSITION OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT (2010-2011)

SHRI DARA SINGH CHAUHAN - CHAIRMAN

MEMBERS
LOK SABHA

- 2 Shri T.R. Baalu
- 3 Shri E.T. Mohamed Basheer
- 4 Smt. Bijoya Chakravarty
- 5 Shri Bhudeo Choudhary
- 6 Smt. Rama Devi
- 7 Shri R. Dhruvanarayana
- 8 Shri Premchand Guddu
- 9 Shri Baliram Jadhav
- 10 Dr. Manda Jagannath
- 11 Shri Mohan Jena
- 12 Shri Baliram Kashyap
- 13 Shri G.V. Harsha Kumar
- 14 Shri Basori Singh Masram
- 15 Shri Kamlesh Paswan
- 16 Dr. Niramalli Sivaprasad
- 17 Shri Lalit Mohan Suklabaidya
- 18 Shri Manohar Tirkey
- #19. Shri Subhash Bapurao Wankhede
- 20 Vacant
- 21 Vacant

MEMBERS
RAJYA SABHA

- 22 Smt. Jharna Das Baidya
- 23 Shri Avtar Singh Karimpuri
- 24 Shri Narayan Singh Kesari
- ##25. Shri Mahmood A. Madani
- *26. Shri Ahmad Saeed Malihabadi
27. Dr. Ram Dayal Munda
28. Shri Baishnab Parida
29. Shri Praveen Rashtrapal
30. Shri Shivpratap Singh
31. Shri Nandi Yelliah

Shri Subhash Bapurao Wankhede nominated to the Committee w.e.f. 27.9.2010

Shri Mahmood A. Madani nominated to the Committee w.e.f. 21.9.2010

* Shri Ahmad Saeed Malihabadi nominated to the Committee w.e.f. 21.9.2010

LOK SABHA SECRETARIAT

1. Shri. A. Mukhopadhyaya - Joint Secretary
2. Smt. Anita Jain - Director
3. Dr. (Smt.) Sagarika Dash - Under Secretary

INTRODUCTION

I, the Chairman of the Standing Committee on Social Justice and Empowerment (2010-2011) having been authorized by the Committee to submit the Report on their behalf, present this Tenth Report on the subject "Implementation of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006- Rules made thereunder".

2. The Committee took evidence of the representatives of the Ministry of Tribal Affairs on 25th February, 2010 and 8th July, 2010. The Committee wish to express their thanks to the officers of the Ministry of Tribal Affairs for placing before them the detailed written notes on the subject and for furnishing whatever information the Committee desired in connection with the examination of the subject.

3. The Committee undertook on the spot study visit to Bengaluru and Hyderabad and interacted with Scheduled Tribes and Other Traditional Forest Dwellers and held discussion with Chief Secretaries of Karnataka and Andhra Pradesh regarding status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest rights) Act, 2006. The observations of the Committee are based on the outcome of the oral evidence of the Ministry and also the deliberations during their study visit.

4. The Report was considered and adopted by the Committee at their sitting held on 20th October, 2010.

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix to the Report.

NEW DELHI;

20 October, 2010
28 Asvina, 1932 (Saka)

DARA SINGH CHAUHAN
Chairman,
Standing Committee on
Social Justice and
Empowerment

REPORT

I. INTRODUCTORY

1.1 India's forests are home to millions of people, including many Scheduled Tribes, who live in or near the forest areas of the country. Forests provide sustenance in the form of minor forest produce, water, grazing ground and habitat for shifting cultivation. The forest rights on ancestral lands and their habitat had not been adequately recognized in the consolidation of State forests during the colonial period as well as in independent India resulting in injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem. Therefore, it had become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

A. Enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

1.2 The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, is a key piece of forest legislation passed on December, 18, 2006 to address the above issue. The Act seeks to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded and to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land. The Act, also called the 'Forest Rights Act', 'Tribal Rights Act' and 'Tribal

Land Act' concerns the rights of the Forest Dwelling Communities to land and other resources denied to them over decades as a result of continuation of colonial forest laws in India. The Act has been notified for operation with effect from 31.12.2007. A copy of the Act is given at **Annexure-I.**

1.3 The Ministry of Tribal Affairs is the nodal agency for implementing the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. In this connection, the Secretary highlighted during the evidence as under:

“Though the Act was passed by the Central Government, the primary responsibility of implementing this Act lies with the State Governments. We have been given the role of facilitating and monitoring the implementation”.

B. Scope/Coverage of the Act

1.4 According to the Ministry of Tribal Affairs the Act extends to the whole of India, except the State of Jammu & Kashmir, and is applicable to the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes; and the Other Traditional Forest Dwellers. The following are eligible for recognition of forest rights under the Act –

- The forest dwelling Scheduled Tribes or tribal communities who had occupied forest land before the 13th day of December, 2005.
- Other traditional forest dwellers who had occupied forest land before the 13th day of December, 2005.

Three generations means a period comprising 75 years.

C. Major Forest Rights under the Act

1.5 Major forest rights under the Act include:-

- Right to hold and live in the forests for habitation or self-cultivation for livelihood.

- Right of ownership, access, use or dispose of Minor Forest Produce.
- Community rights of uses or entitlements, such as, fish and other products of water bodies or grazing etc.
- Any other traditional right customarily enjoyed by the forest dwellers.

D. Salient Features of the Act

1.6 The Ministry have informed the salient features of Act as follows:-

- The occupation of forest land upto 4 hectares (Maximum) can be recognized.
- Rights are heritable but not alienable or transferable.
- Persons primarily residing in and dependent on the forests or forest lands for bona fide livelihood needs shall be eligible.
- Responsibility for protection of wildlife, forest and bio-diversity has been assigned to holders of forest rights, Gram Sabha and village level institutions in areas where they are holders of any forest right (Section 5 of the Act).
- The forest rights recognized under the Act in critical wildlife habitats of National Parks and Sanctuaries may be modified or resettled provided no forest rights holders shall be resettled or have their rights in any manner affected for creating inviolate areas for wildlife conservation except in case all the six conditions mentioned in Section 4(2) of the Act are satisfied.

E. Notification of the Act & Rules Made Thereunder

1.7 The Committee have been informed that in terms of Section 14 of the Act, the Central Government has notified the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 for implementing the provisions of the Act on 1.1.2008 and published the same in the Gazette of India, Extraordinary, Part II, Section – 3, Sub-section (i) dated 1.1.2008 a copy of which is reproduced at **Annexure-II.**

1.8 Regarding the procedure for recognition and vesting of forest rights, the Ministry have intimated the Committee that the responsibility for implementing the provisions of the Act lies with the State/UT Governments. The claimants under the Act have to submit their claims to the Gram Sabha in the prescribed Form. The Gram Sabha, to be assisted by a Forest Rights Committee, will then recommend claims to Sub-Divisional Level Committee after which the District Level Committee will approve/award the forest rights.

1.9 The Committee are happy to note that after a long time an all encompassing Act i.e. the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been enacted to give recognition to the rights of the Scheduled Tribes and other Traditional Forest Dwellers whose rights could not be recognized for generations. With the enactment of the Act, the long felt needs and aspirations of these groups of people have been fulfilled. The Committee are given to understand that the Act, while making conservation of forests more effective and transparent, aims at providing tenurial security and legislative protection to the rights of the Scheduled Tribes and other Traditional Forest Dwellers. The Act with its multiple dimensions also aims at addressing several issues affecting these people. The Committee strongly feel that the Act, if implemented in letter and spirit, will go a long way in redressing the historical injustice meted out to the Scheduled Tribes and other Traditional Forest Dwellers. The Committee, therefore, recommend that the Ministry of Tribal Affairs being the nodal Ministry should accord topmost priority to implementation of the Act in the most effective manner. Concerted

efforts, in close coordination with State Governments, should be made to implement every aspect/provision of the Act so as to achieve the objectives enshrined in Act and bring relief to the Scheduled Tribes and other Traditional Forest Dwellers. The momentum gathered around the Act should not be allowed to wither, the pace of its implementation expedited and no laxity in implementation of the Act either on the part of Central Government or the State Governments should be allowed. For this the Committee recommend the Ministry to take proactive steps by coordinating the activities of other Departments such as Environment and Forests, Revenue Departments, Panchayati Raj and Local Bodies apart from involving various Governmental Organizations and NGOs as well as People's Representatives.

II. STATUS OF IMPLEMENTATION OF THE ACT

1.10 On the status of Implementation of the Act, the Ministry have informed the Committee that States have progressed in varying degrees in implementation of the Act. States like Andhra Pradesh, Chhattisgarh, Gujarat, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tripura and West Bengal which have established the prescribed structures/procedures have received large number of claims and have started distributing the title deeds. Other States, because of various reasons, are still to catch up. As per the information collected till 31.7.2009, more than 28,49,000 claims have reportedly been filed in various States/UTs and more than 9,93,988 titles have been distributed in the States/UTs. A statement showing the State-wise status of implementation of the Act as furnished by the Ministry is given at **Annexure - III**.

1.11 The Ministry in their background note had provided the following statement on claims and distribution of title deeds under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights Act), 2006:-

(As on 31.10.2009)			
S. No.	State	Total number of claims received	Total number of titles deeds distributed/ ready
1.	Andhra Pradesh	3,26,303 {3,19,703 individual and 6,600 community}	1,73,091 distributed
2.	Arunachal Pradesh		
3.	Assam	66,546 (63,448 individual and 3098 community)	
4.	Bihar	788	
5.	Chhattisgarh	4,57,857	1,92,088 distributed
6.	Goa		
7.	Gujarat	1,84,329 (1,76,242 individual and 8,087 community)	5,668 distributed
8.	Himachal Pradesh		
9.	Jharkhand	4,539	72 distributed including 2 community rights
10.	Karnataka	45,801	-
11.	Kerala	35,620 (34,886 individual and 734 community).	23 distributed
12.	Madhya Pradesh	3,71,993 (3,69,437 individual and 2,556 community)	47,460 distributed and 39,799 ready.
13.	Maharashtra	2,66,572	2,453 distributed
14.	Manipur	-	-
15.	Meghalaya	-	-
16.	Mizoram	-	-
17.	Orissa	3,06,034 (3,04,336 individual and 1,698 community)	50,190 distributed

S. No.	State	Total number of claims received	Total number of titles deeds distributed/ ready
18.	Rajasthan	58,721 (58,708 individual and 13 community)	5,412 distributed
19.	Sikkim		
20.	Tamil Nadu	8,352	
21.	Tripura	1,62,819	82,741 distributed
22.	Uttar Pradesh	52,736	
23.	Uttaranchal		
24.	West Bengal	1, 41,783	9,602 distributed and 3,396 ready
25.	A & N Islands		
26.	Daman & Diu		
27.	Dadra & Nagar Haveli		
	Total	24,90,793	5,68,800 distributed and 43,195 ready.

1.12 When the Committee asked the reasons for non-receipt of claims for title deeds in respect of States such as Goa, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim, Uttarakhand, Andaman & Nicobar Islands, Daman & Diu and Dadra and Nagar Haveli, the Ministry in their written reply clarified the position as under :-

Sl. No.	Name of the State	Status/ reasons for non-receipt of claims
1.	Goa	The State Government has not constituted the prescribed committees under the Act. Nor has it received any claims at Gram Sabha level so far. The Ministry has been urging the State Government from time to time to implement the Act expeditiously but the State Government has not shown any progress.

2.	Himachal Pradesh	The State Government has informed that the pace of implementation of Forest Rights Act in this State has been affected by migration of tribal population from snow-bound areas during winter season last year; promulgation of Model Code of Conduct from March to May last year for the Elections; sowing season in May and June and a Writ Petition filed in H.P. High Court.
3.	Manipur	The State Government had informed that in tribal communities, the tribal chiefs are already holding ownership of forest land as their ancestral land in non-Reserved Forest Area. Therefore, implementation of the Forest Rights Act is perceived to be minimal in Manipur.
4.	Meghalaya	Though the State Government has constituted the prescribed Committee, they have not sent any progress report towards implementation of the Act stating that 96% of forest land is owned by clan/community/individuals. Therefore, the Act has limited scope.
5.	Mizoram	The State Government has informed that the Act was to be approved by the State Legislative Assembly as per the Article 371 (G) of the Constitution. In the sitting on 29.10.2009 of its Fourth Session, the Sixth Legislative Assembly of Mizoram has resolved that the Forest Rights Act shall be adopted in the entire State of Mizoram with effect from 31.12.2009. The same has recently been notified by Govt. of Mizoram on 3.3.2010.
6.	Sikkim	The State Government had informed that In Sikkim, there are no forest dwelling Scheduled Tribes and other traditional forest dwellers in the true sense of the terms. Most of the Scheduled Tribes of Sikkim hold revenue

		land in their own name and they are not solely dependent on the forests for their livelihood.
7.	Uttarakhand	The State Government has informed that the formation of various Committees under the Act could not be done earlier due to the coming into force of Model Code of Conduct for elections. The pace of implementation of Forest Rights Act was therefore adversely affected.
8.	Andaman & Nicobar Islands	The Andaman & Nicobar Administration has informed that there are no non-tribal forest dwellers as defined in the Act in A&N Islands. The Act, therefore, is applicable only to the Forest Dwelling Scheduled Tribes of these islands. The area inhabited by the Scheduled Tribes of A&N Islands has been declared as reserved area under the A&N Islands Protection of Aboriginal Tribes (Regulation), 1956. The interest of the tribals in the land situated in the reserved areas are fully protected under the provision of the regulation. The tribal reserves have been notified as reserved or protected forest reserve.
9.	Daman & Diu	<p>The Administration of Daman & Diu had made a reference to this Ministry that the term "State Government" has not been defined under the Act or the Rules thereof. As Daman & Diu is a UT, they were not able to constitute the prescribed Committees for implementing the Act. The Administration had requested that the term "State Government" may be defined that the State Government in relation to the Union Territories is the Administrator appointed under Article 239 of the Constitution of India.</p> <p>The Ministry had clarified the above issue to the Administration of Daman & Diu in the month of January,</p>

		2009 but thereafter the UT Administration has not sent any progress report relating to implementation of the Act to this Ministry.
10.	Dadra & Nagar Haveli	The Administration of Dadra & Nagar Haveli has informed this Ministry that despite notices in advance and propaganda, it has been difficult to hold gram sabha meetings in absence of quorum of 2/3 of all members of such gram sabhas. All out efforts are being made for constitution of Forest Rights Committees in all the gram sabhas.

1.13 In a subsequent reply on State-wise information on claims received by the Gram Sabha (individual and community) and title deeds actually distributed under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, as on date (31.7.2010), the Ministry have provided the following statement:-

(As on 31.7.2010)

SI.No.	States	No. of Claims received by the Gram Sabha	No. of title deeds distributed
1.	Andhra Pradesh	3,29,858 (3,22,955 individual and 6903 community)	1,65,727
2.	Assam	1,14,857 (1,10,019 individual and 4,838 community)	29,885
3.	Bihar	2,179 (123 ST and 2056 OTFDs)	-
4.	Chhattisgarh	4,91,374 (4,87,332 individual and 4042 community)	2,14,918 (2,14,668 individual and 250 community)
5.	Gujarat	1,91,477 (1,82,568 individual and 8,909 community)	19,054 (18,745 individual and 309 community)
6.	Jharkhand	29,551 (29,097 individual and 454 community)	6,079 distributed (6,022 individual and 57 community)
7.	Karnataka	73,729 (72909)	961 (960 individual and

Sl.No.	States	No. of Claims received by the Gram Sabha	No. of title deeds distributed
		individual and 820 community)	1 community)
8.	Kerala	37,253 (36,017 individual and 1,236 community)	9,997
9.	Madhya Pradesh	4,00,482 (3,93,457 individual and 7,025 community)	94,154
10.	Maharashtra	3,27,447	81,681
11.	Orissa	3,73,635 (3,71,689 individual and 1,946 community)	1,89,131 (1,88,692 individual and 439 community)
12.	Rajasthan	60,353 (60,019 individual and 334 community)	30,080 (30,038 individual and 42 community)
13.	Tamil Nadu	16,314	-
14.	Tripura	1,72,115 (1,71,838 individual and 277 community)	1,16,168
15.	Uttar Pradesh	91,077	10,092 (10,084 individual and 8 community)
16.	Uttarakhand	182	-
17.	West Bengal	1,37,117 (1,29,293 individual and 7,824 community)	26,061 (25,972 individual and 89 community)
	Total:	28,49,000	9,93,988

1.14 From the above statement the Committee observed that in the State of Bihar though a total number of 2179 (123 ST and 2056 OTFDS) claims had been received, not a single title deed had been distributed in the State. Similarly, in the States of Tamil Nadu and Uttarakhand as against 16314 and 182 claims received respectively at the Gram Sabha level not a single title deed had been distributed in these two States.

When the Committee enquired about the reasons for this, the Ministry informed the status in these States as under:-

Bihar	The number of claims filed in Bihar, as on 31.7.2010 is now 2179. The State Government has not intimated the reasons as to why they have not distributed any title deeds so far. They have been again persuaded to do so.
Tamil Nadu	The Government of Tamil Nadu has informed that, as on 31.7.2010, the State Government has received 21,013 claims under the Act and till date 3,163 title deeds are kept ready for distribution to the claimants. But due to stay orders of High Court of Madras, the distribution of title deeds is kept in abeyance till the stay is vacated in W.P. No.4533/2008. The Government of Tamil Nadu has already filed counter affidavit and the next hearing of the Court is in September, 2010.
Uttarakhand	As on 31.7.2010, the number of claims filed at Gram Sabha level in Uttarakhand is 182. The State Government has not distributed any title deed so far. The State Government has also not intimated the reasons for non-distribution of title deeds so far. They have been persuaded to do so.

1.15 When the Committee pointed out as to why many States are lagging behind and the progress of implementation of the Act has not been uniform throughout the country, the Secretary submitted before the Committee during the evidence as under :-

“I would like to place before you that it is totally true that the progress of implementation in a State has actually been related to the interest that has been shown by the States itself. xxxxx xxxxx the States which are actually contributing almost the entire portion of our success are just about five or six xxxxx xxxxx . These major contributors are States like Madhya Pradesh, Orissa, Chhatisgarh, etc. xxxxxx Here what has happened is that even before the Act was notified for operation they started planning for how they will create awareness. You mentioned about that. They converted the Act into the tribal languages. They engaged people to go to the villages, train the Gram Sabhas as to how to do their work to the sub-divisional level Committee and also in the

villages they verbally explained about the Act to the people who are not literate. All these steps were taken and in States like Madhya Pradesh, even the NGOs and the Press were a part of the team for creating awareness. So, these States which took this action progress better. xxxx xxxxxx. We have clubbed our assessment as those States who were expected to do well, did well and these are about five or six States. Next were those States who were expected to do well but did not do well, for example, Jharkhand and Bihar. Maharashtra has recently done well. xxxx xxxx. Now some States have reacted well and started, for instance, you mentioned about Karnataka. xxxx xxxxx Kerala also, for instance, we were expecting them to do much better, but they did not do it and in fact they are facing a kind of a stay.

1.16 On the progress of the implementation of the Act in the North Eastern States the Secretary, further added as follows:-

“North East is a separate case. Unlike the forest of other States where the forests are under the control of the Forest Department and in some States it is Forests and Revenue Department, in the North East, most of the forests are community owned and rights have been specified. In fact, the States have told us that they do not have this problem because people know their rights. They are specified in their traditional documents. This right does not apply in the case of Mizoram. Under the Constitution, for a Central Act to be made applicable, it has also to be passed by the State Legislature and till it is passed it would not be made applicable in the North East, though they are tribal States. But for them that is not a problem. When we go to North East, the Forest Right Act does not ever come from the people as an issue. States like Tripura which are in the North East are doing well and our results show that.”

1.17 The Committee undertook a study visit to Bengaluru on 14th June, 2010 and held discussion with the Chief Secretary and other officials of the Government of Karnataka regarding the implementation of the Act. The study group enquired about the number of claims (individual and community) for distribution of title deeds that were received under the Act and the claims distributed so far to which the Chief Secretary informed during the meeting that as on date 68778 claims were received out of which 666 titles had been distributed.

1.18 On having found the process of implementation of the Act to be rather slow the Committee desired to know the reasons as to why only a few number of title deeds had

been distributed in the State. To this, the Chief Secretary further informed the Committee that initially there was some resistance from the field level Forest Officers for distribution of titles in National Park/Wild Life Sanctuaries. Other reasons for slow implementation of the Act as pointed out by the Chief Secretary were delay in survey of the actual area of occupation, general elections to the State Assembly and also to the Lok Sabha during 2008 and 2009 respectively and elections to Gram Panchayats in 2010. The Chief Secretary also assured the Committee that by August, 2010 all the pending cases would be disposed of.

1.19 The Committee also visited the State of Andhra Pradesh and enquired from Chief Secretary about the number of claims (individual and community) for distribution of title deeds received and out of this the number of claims distributed so far, to which he informed that a total number of 329858 lakhs claims has been received out of which 323461 lakhs had been cleared.

1.20 The study group also enquired about the efforts made by the State Government to make the tribal people in the non-accessible interior areas aware of their rights under the Act to which it was stated that the Act and rules were translated into Telugu and also in local tribal dialects and were distributed to the tribals. Wide publicity was also given about the Act and Rules through pamphlets, posters, radio, electronic and print media. Kalajathas were also organized at shandies (weekly markets) and other important places of tribal habitations and also in non-accessible interior tribal areas. 15000 Social mobilizers and 3750 Paralegal/Animators were appointed to generate awareness in the interior areas and assist tribals in all stages of processing of claims. In addition to above, a state level workshop was conducted in February, 2008 at

Hyderabad for the District Collectors/Joint Collectors, Project Officers of ITDAs, Forest Officers, District Tribal Welfare Officers and Non Governmental organizations. Special workshop was also conducted for interaction of officials with Tribal MLAs/MPs and Hon'ble Chief Minister also participated in the workshop.

1.21 The study group further enquired about the type of complaints received from the beneficiaries/claimants with regard to conferment/distribution titles. It was brought to the notice of the Committee that the main complaints related to *Pattas* being given for lesser extent than what was under actual cultivation. Boundaries were also not fixed. The land being provided was not fit for cultivation and required mitigation and other facilities.

1.22 The Committee desired to know the total population (in percentage) of the Scheduled Tribes and other Traditional Forest Dwellers and out of this the percentage of population who have actually been conferred the ownership titles. To this, the Ministry in their written reply stated that demographic details in respect of the people residing in the forest areas in the country are maintained by the respective States/ Union Territory Governments. However, out of 27,99,190 claims received by the Gram Sabha, as on 30.04.2010, 9,03,116 title deeds have been distributed in the various States, which works out to be 32.36%.

1.23 Reacting to the Committee's observation on the slow pace of implementation of the Act, the Secretary deposed during evidence as under :-

“Originally, when this Act came up, there was no basis on which to know as to what is the number of people who can claim this. The estimate at that time was between three to four lakhs. Against that figure, we have now reached nearly 10 lakhs. If you take the average of about 2 hectares of land they have got, the total extent of land, if you take in terms of the total forest area in the country, this is quite a lot. This is not a land distribution programme. It is only giving the *de*

facto recognition for those are already residing there. So, that would depend on how many people are there”.

1.24 On the factors which are holding back the Ministry in achieving success in implementation of the Act, the Secretary further added during the evidence as under :-

“It is very difficult to give one major reason, but there are a number of reasons which are holding it back. Before we decide whether it is holding back or not, it would have helped us if at the beginning we knew what the problem was. As I explained, since the problem from the very beginning was uncertain, we do not know where is it that we compare our success with. If the issue at the beginning was only three lakh to four lakh applications and we have done nine, then we think, we have done well, but if the issue at the beginning itself was 29 and we have done nine, then we have not done well. This was one problem at the overall country level that there was no estimate of how many beneficiaries are going to be covered under this.”

A. Rejection of Claims

1.25 When asked to furnish State-wise details of the claims rejected alongwith reasons, the Ministry have furnished the following statement:-

Sl. No.	Name of the State	No. of Claims rejected	Reasons
1.	Andhra Pradesh	1,49,665	As per the Act, Gram Sabha is the authority for initiating the process of determination of the forest rights. The Rules notified on 1.1.2008 for implementing the provisions of the Act provide that the Gram Sabhas are to be assisted by a Forest Rights Committee, which shall call for claims, verify the same and submit its findings on the claims to the Gram Sabha. Gram Sabha shall then pass a Resolution on the claims and forward the same to the Sub-
2.	Assam	-	
3.	Bihar	13	
4.	Chhattisgarh	2,71,468	
5.	Gujarat	1,03,385	
6.	Jharkhand	3,036	
7.	Karnataka	18	
8.	Kerala	1,524	
9.	Madhya Pradesh	2,53,887	
10.	Maharashtra	1,74,334	
11.	Orissa	83,525	
12.	Rajasthan	30,182	

			Divisional Level Committee, which shall forward the same with the draft record of proposed forest rights through the Sub Divisional Officer to the District Level Committee for a final decision. The claims for recognition of forest rights under the Act are scrutinized and adjudicated at 3 levels as per the procedure laid down in the Rules, before a final decision for acceptance or rejection of a claim is taken. No specific reasons for rejection of the claims can be indicated.
13.	Tamil Nadu	-	
14.	Tripura	55,933	
15.	Uttar Pradesh	67,398	
16.	Uttarakhand	1	
17.	West Bengal	68,679	
	Total	12,67,928	

1.26 The Committee desired to know as to at what stage (Gram Sabha, Sub-Divisional level Committee or District level Committee) maximum number of claims have been rejected and what are the main reasons for rejection of these title deeds, to which the Ministry in their post evidence reply have stated that the break-up of 12,67,928 claims rejected at the level of Gram Sabha, Sub-Divisional level Committee or District level Committee, separately at each level, is not available. In order to find out the categories/reasons for rejection of claims by the Gram Sabha and at the Sub-Divisional level, the Ministry has recently addressed the State Governments on 15.7.2010 to initiate action, on a statistically acceptable sampling basis, at the level of Gram Sabha and Sub-Divisional level Committees for categorizing all rejections, with their numbers, like, (a) non-availability of written records; (b) non-availability of other criteria specified

in Rule 13; (c) non-possession of forest land; (d) non-occupation on the date relevant to the Act; (e) multiple claimants; (f) doubtful tribal status, etc. and to include this information in the monthly progress report being sent to this Ministry by the States.

1.27 With regard to the causes of rejection of claims, the Secretary informed the Committee during the evidence as under:-

“Till now we have had general causes of rejection. Now, we are starting an exercise to do sample surveys across States to find out what are the causes among the general causes of rejections.”

1.28 When asked as to how many cases of rejected claims have been reconsidered and steps taken to make the process of rejection of claims more transparent, the Ministry in a written submission have stated as under:-

“As per the Act and the Rules framed thereunder, the onus of implementation of the Act lies with the State Governments. The details of the cases of rejected claims that have been reconsidered are not available with the Ministry. As regards the steps for making the process of rejection of claims more transparent, any person aggrieved by the resolution of the Gram Sabha can prefer a petition to the Sub-Divisional Level Committee. Similarly any person aggrieved by the decision of the Sub-Divisional Level Committee can prefer a petition to the District Level Committee. The petitions of such aggrieved persons are to be disposed of only after giving them a reasonable opportunity to present their case. The Rules notified on 1.1.2008 to implement the provisions of the Act lay down the procedure to be followed by the Sub Divisional Level Committee and the District Level Committee for disposal of such petitions.

The Ministry has recently addressed the State Governments on 20.7.2010 to ensure that the resolution (or the decision) of the Gram Sabha (or the SDLC) is communicated to the claimant on the day the resolution has been passed. Likewise, the rejection of a claim by the District Level Committee is communicated to the claimant so that the aggrieved person could seek redressal as provided in the Act.”

1.29 On this issue, the Secretary further added:-

“As you correctly pointed out, the rejection rates are high. But this rejection rate hike is through the process that means, the process itself allows that those who have been adversely affected through rejection can claim and it can be reconsidered. So now we are again thinking of making it more transparent. It

means we are going to find out why rejection rate is like this. But one of the points which I mentioned is that people have applied thinking that they will get some land. Otherwise, if there are genuine reasons why people have not been able to support their claims with documents, we will revisit them at appropriate time. But we have to do a little survey to actually know this and we are on the job.”

B. Time Schedule for Distribution of Title Deeds

1.30 Hon’ble President of India in her joint Address to the Parliament on 4th June, 2009 had emphasized the need to ensure the distribution of title deeds to all the eligible claimants under the Act by end of December, 2009. Soon after the enactment of the Act, the Prime Minister had also written to the Chief Ministers of all the States seeking their cooperation and commitment to ensure the speedy and effective implementation of the Act.

1.31 In this background, the Committee desired to know as to whether the Ministry have fixed any target date for complete distribution of title deeds in all the States. To this, the Ministry in their written reply informed the Committee that since the Act does not prescribe any time limit for recognition and vesting of forest rights in the eligible forest dwelling Scheduled Tribes and other traditional forest dwellers, a target date for completing the distribution of title deeds can not be fixed.

1.32 On being enquired as to what efforts were made to complete the process of distribution of title deeds in a time bound manner, the Ministry in their written submission stated that consequent upon the pronouncement of Her Excellency, the President of India, in June, 2009, emphasizing the need for ensuring the distribution of title deeds to all the eligible claimants under the Act by end of December 2009, and the letter written by the Hon’ble Prime Minister to the Chief Ministers of all the States/ UTs on 13.7.2009, the Ministry have intensified its contact with State Governments through

one to one interactions, meetings, frequent telephonic calls, visits, etc. The Minister (Tribal Affairs), Cabinet Secretary and Secretary (Tribal Affairs) also wrote letters to the State/ UT Governments on 28.8.2009, 31.8.2009, 9.9.2009, 19.11.2009, 29.12.2009, 28.1.2010 and 18.2.2010 to deal with this matter on priority and to ensure distribution of title deeds to all eligible claimants at the earliest. A Conference of Chief Ministers was also held on 4th and 5th November, 2009 in which the Hon'ble Prime Minister addressed the State Governments regarding speedy implementation of the Forest Rights Act. Minister (Tribal Affairs) and MOS (TA) have also been visiting the State Governments together with the Secretary (TA) and other officers to review the progress of implementation of the Act. Cabinet Secretary also held video conferences with State Governments and issued letters to the States urging them to effectively implement the Act.

1.33 Asked about the reasons for the delay by some States to implement the Act in letter and spirit though the Act was notified in the year 2007, the Ministry have informed the Committee as under:-

“The Act was notified for operation on December 2007; Rules on 1st January 2008. Administrative preparedness, situations and requirements for implementation of the Act vary from State to State. The vesting of forest rights in the eligible claimants under the Act is a quasi-judicial process and the various Committees have to go into details of records, claims, evidences etc. before a decision is taken on the claims. No specific reasons can be specified for the delay by some States to implement the Act.”

1.34 On being asked as to by what time title deeds for all the valid claims will be distributed, the Ministry have stated that the Act does not prescribe any time limit for receiving applications from the eligible forest dwelling Scheduled Tribes and other traditional forest dwellers for recognition and vesting of forest rights under the Act and

the receipt of claims and their processing culminating in the issue of title deeds is a continuing process. Hence, no target can be fixed for the States for disposal of all the pending claims. The States are, however, urged from time to time to complete the process of implementation of the Act and ensure distribution of title deeds to all the eligible claimants at the earliest.

C. Status of Court Cases Challenging the Vires of the Act

1.35 According to the Ministry, the process of distribution of title deeds under the Act is a quasi judicial process and at present, 14 Writ Petitions – 12 in different High Court and 2 in the Supreme Court – have been filed challenging the vires of the Act. Counter affidavits in all the cases, except in 5 cases, including 2 Writ Petitions filed recently, have been filed. The Ministry has filed two Transfer Petitions on 5.4.2008 and 19.1.2009 for transferring the Writ Petitions filed in the High Courts at Andhra Pradesh, Chennai, Madurai Bench of the Madras High Court, Bombay, Karnataka and Orissa for combined hearing along with the Writ Petition filed in the Supreme Court. The Ministry has also written to Central Agency Section, Ministry of Law & Justice for filing another Transfer Petition in the Supreme Court for transferring 3 new Writ Petitions filed before the Principal Bench of MP High Court at Jabalpur against the Act for combined hearing along with the Writ Petition filed in the Supreme Court.

1.36 It was also informed to the Committee that for defending the Government of India in the Writ Petitions filed in the Supreme Court, the Ministry of Tribal Affairs has engaged Sh. Fali.S.Nariman, the eminent lawyer, in pursuance of a decision taken by the Committee of Secretaries.

1.37 On the status of court case in Tamil Nadu the Ministry have informed that in the Writ Petition No. 4533/2008 filed by Sh. V. Sambasivam in High Court of Judicature at Chennai, the High Court had passed an interim order on 30.4.2008 directing that the process of verification of the claims shall go on, but before the certificate of title is actually issued, orders shall be obtained from the Court. Subsequently, similar interim orders were passed by the Andhra Pradesh High Court on 19.8.2008 and Orissa High Court on 2.9.2008. As a result, distribution of certificates of titles or *pattas* for the forest rights in Tamil Nadu, Andhra Pradesh and Orissa could be made only after permission was granted by the respective High Courts. The Ministry advised the concerned State Governments to file Stay Vacation Petitions in these High Courts and also filed SLPs in the Supreme Court for vacation of the stays.

1.38 On the slow progress of Implementation of the Act in the State of Tamil Nadu the Ministry informed the Committee that in the State of Tamil Nadu, 16,314 Forest Rights Claims were received, out of which 2,312 Forest Rights Titles were ready for distribution till 30.4.2010. These title deeds could not be distributed due to the restrictive order of the Madras High Court. The High Court of Madras has now passed orders on 22.4.2010 in W.P. No. 4533 of 2008, 2762 and 2839 of 2009 and M.P. Nos 1 & 3/08 & M.P. No. 1/2009 in W.P. No. 2762/09 and formed a Committee to verify the correctness of beneficiaries numbering 2312 by visiting the districts before 8th June 2010. The Government of Tamil Nadu has also assured that that they are taking steps for vacation of the interim order passed by the Madras High Court, on the basis of the judgment of the Andhra Pradesh High Court.

1.39 It was further informed that the Government of Andhra Pradesh filed an impleading petition in the High Court of Andhra Pradesh, and the Hon'ble High Court, vide its order dated 1.5.2009, permitted the State Government to issue certificates of title to the eligible forest dwelling Scheduled Tribes and other traditional forest dwellers under the Act. As a result, the State Government has been able to distribute more than 1.73 lakh titles to the eligible claimants under the Act. In the case of Orissa also, the Hon'ble High Court of Orissa, vide its order dated 12.8.2009, has vacated its interim order dated 23.08.2008, passed in Writ Petition (C) No. 4933 of 2008, and the State Government has been advised to take immediate steps for distributing all the titles approved by the District Level Committee.

1.40 On the status of cases pending in various courts, the Secretary informed during the evidence as under:-

“Regarding all the cases which are in the respective High Courts, we have filed a Special Leave Petition in the Supreme Court requesting it to bring them all together so that we could fight the cases at one place rather than fighting at different places.”

1.41 The Committee are unhappy to note the dismal/tardy progress of implementation of the Act where out of a total number of 28,49,000 claims received so far only 9,93,988 title deeds have been distributed in various States which works out to be a mere 32.36%. In this regard the Secretary during the evidence before the Committee sounded much contented with the achievement of the Ministry by saying that originally when the Act came into operation, the Ministry had expected only about three to four lakh claims to be distributed, against which they have distributed almost 10,00,000 claims which far exceeds

the expectation. The Committee, however, observe that in many of the States though claims have been received in large numbers, the number of certificates of title deeds actually distributed is far less than the claims filed. The Committee also observe that the implementation of the Act has not been uniform in all the States. While the progress in some States has been satisfactory and palpable, in many other States, the Act does not seem to have made much headway. The contention of the Ministry that the onus of implementation of the Act lies squarely on the States does not seem to be convincing because though the States have to implement the Act, the ultimate responsibility for ensuring the effective implementation of the Act throughout the country lies with the Central Government. The Act being a Government of India Act enacted by the Union Government, it is the Ministry of Tribal Affairs which has to see that States are respecting the Act and progressing well in it's implementation. Therefore, the Committee recommend the Ministry, apart from persuading the States, should proactively involve itself in the implementation process, orient, assist and guide appropriately the States for gearing them up for implementation of the Act. Emphasis should be given to non-performing States where the implementation has been insignificant and negligible by taking up specific steps and reviewing their progress at regular intervals.

1.42 The Committee note with concern the extremely slow progress of implementation of the Act in the States of Tamil Nadu, Bihar and Uttarakhand where out of a total number of 16314, 2179 and 182 claims received respectively, not a single title deed has been distributed so far in these States. The Committee

take a serious view of less number of claims received in these States as well as the non-distribution of any title deeds in these States and the consequent denial of inherent rights of the Scheduled Tribes and other Traditional Forest Dwellers. While the Committee understand the slow progress of the Act in the State of Tamil Nadu due to the interim Court order, they are not at all convinced by the reasons cited by the Ministry with regard to the States of Bihar and Uttarakhand where it has simply been stated by the Ministry that these States have not intimated the reasons for slow progress of implementation of the Act. The Committee are apprehensive there might be some underlying reasons for which these States in spite of having innumerable Scheduled Tribe population are reluctant and not showing any interest in implementing the Act. Therefore, the Committee recommend the Ministry instead of routinely persuading these States to implement the Act should take up the matter at the highest level for identifying and sorting out the impediments/hurdles in way of implementation of the Act in these States. State Governments of these States should be sensitized about their obligation towards the Act and persuaded to initiate action at the earliest so that the work of distribution of title deeds takes off in these States without further delay. The Committee may be apprised of the progress made in these States within three months of presentation of this Report.

1.43 The Committee observe that though 'individual rights' under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 have been recognized in large number, the recognition of 'community rights' have been minimal under the Act. The Committee also observe that not even a

single claim under community rights has been received in many States such as Tamil Nadu, Maharashtra, Uttar Pradesh and Uttarakhand. In other States where the claims have been received under the category of 'community rights' these are not in sufficient number. The Committee are of the view that the Act is not solely about individual land claims and many of the rights under the Act such as right to Minor Forest Produce, grazing and rights of nomadic people are to be exercised as a community. Since the most powerful sections/clauses of the Act concern community's right to manage, protect and conserve forests – the first step towards a genuinely democratic system of forest management, the Central and State Governments should make every effort to recognize the 'community rights'. Therefore, the Committee recommend the Ministry not to reject the community claims on insufficient grounds, expeditiously process all the pending community claims, and take necessary steps for conferment of more number *pattas* to communities who have filed the claims.

1.44 The Committee note that there is a '75 years/three generations' stipulation kept in the Forest Rights Act as an eligibility criteria for the Other Traditional Forest Dwellers. However, many tribals who are living in and are dependant on the forest land for their livelihood are being deprived of applying for title deeds/*pattas* due to the above criteria since it is extremely difficult on their part to produce documentary evidence/proof of their existence for three consecutive generations. The Committee also observe that a lot of governmental institutions will have to be involved for ascertaining the veracity of 'three generations' of existence of these people. As such, there are potential beneficiaries who are left

out of the recognition of the rights process. Therefore, in order to do justice to these people and provide the rights due to them the Committee recommend the Ministry to co-ordinate with all concerned agencies, take adequate steps in facilitating their claims and extend all kinds of assistance needed so that rights of these people are recognized in a smooth and hassle-free manner bringing minimum trouble to them.

1.45 The Committee are constrained to note that out of a total number of 28,49,000 claims received from 17 States as many as 12,67,928 claims have been rejected after initial verification and scrutiny. The Committee also observe that the Ministry do not have the information as to at which level i. e., Gram Sabha, Sub-Divisional level or District level the rejections are more. The Ministry have maintained that many people have mistook the Act as a land distribution drive and have applied in a large number which is the main cause for rejection of these applications. On the rejection of genuine claims under the Act though the Ministry have maintained that adequate safeguards are in- built in the procedure itself and there is little scope for rejection of genuine claims, the Committee are apprehensive that large number of rejections may have occurred due to procedural reasons where genuine claims of genuine beneficiaries might have been overlooked and rejected on ground of not fulfilling the requirements in the claim procedure such as non-filling of the claim forms properly, non-furnishing of relevant documents etc. Large scale rejections at the Gram Sabha level only where the Gram Sabha takes a decision in an improper way without further hearing of the case at next levels of Committees is totally against the spirit of the

Act.. The Committee, therefore, recommend the Ministry to instruct the States to review the rejected cases on their merit so that any genuine claimant is not debarred from recognition of his rights. The Committee desire that a sample survey of the rejected claims should also be undertaken at once to ascertain the specific causes for rejections at such a large scale which will enable the Ministry to streamline the procedure and make it transparent as far as possible.

1.46 The Committee are pained to note that though the Act was notified in the year 2007 and three years have since elapsed the implementation of the Act is still far from satisfactory. Hon'ble President of India had emphasized the need to ensure the distribution of all title deeds to all eligible claimants by end of December, 2009 and though nearly a year has passed since the above direction of the Hon'ble President, the process of distribution of titles is not completed even 50 percent. The Ministry's plea that the Act does not prescribe any time limit for recognition and vesting of forest rights and hence a target date for completion of distribution of title deeds can not be fixed is not acceptable to the Committee since in the opinion of the Committee the success of implementation of the Act is absolutely dependent on working within a time schedule. Also, the Committee are of the opinion that when the Act had come into force, at the initial stage the Ministry did not have any idea as to how many claims would actually be filed and title deeds to be distributed. However, having completed three years in the implementation process, the Ministry now have a fair idea about the magnitude of number of claims which have to be processed and cleared. Therefore, the Committee recommend the Ministry to fix achievable targets with timeline and

chalk out clear-cut and definite strategy for completion of different stages of implementation such as constitution of committees, processing of claims, declaration of Critical Wild Life Habitats, planning for developmental initiatives etc. and put forth the same before the States to achieve. In this effort, the Ministry in stead of simply maintaining the data on States' progress on paper, the progress on the ground/field should also be reviewed and corrective steps be taken to remove the deficiencies in the States. The Committee may be apprised of the steps taken in this direction within three months of presentation of the Report.

1.47 The Committee observe that as many as 14 cases challenging the vires of the Act are at present pending in different High Courts which has stalled the process of distribution of title deeds. The Committee find that filing of writ petitions in the States of Tamil Nadu, Andhra Pradesh, Karnataka, Orissa, Himachal Pradesh and Kerala etc. had a damaging effect on the progress of the Act in these States. The Committee view the non-implementation of the Act due to restrictive court orders is a deprivation of the rights of Scheduled Tribes and Other Traditional Forest Dwellers and there is an urgent need to dispose the court orders at the earliest. Therefore, while endorsing the decision of the Ministry for filing a special leave petition in the Supreme Court to fight the cases at one place, the Committee strongly feel that the Ministry may also take up the matter of constituting special courts/tribunals for speedy disposal of the cases to bring relief to the STs and other Traditional Forest Dwellers in those States where the court cases are pending.

III. PROCEDURE FOR IMPLEMENTATION OF THE ACT

1.48 When the Committee enquired about the number of States which have established the prescribed structure and procedure involved in distribution of title deeds, the Ministry have informed the Committee that thirteen States i.e. (1) Andhra Pradesh, (2) Assam, (3) Chhattisgarh, (4) Gujarat, (5) Jharkhand, (6) Kerala, (7) Madhya Pradesh, (8) Maharashtra, (9) Orissa, (10) Rajasthan, (11) Tripura, (12) Uttar Pradesh, and (13) West Bengal have established the prescribed structure. Other States because of various reasons are still to catch up.

1.49 When asked about the present status of formation/constitution of various Committees, viz Sub-Divisional Level Committee (SDLC), District Level Committee (DLC) and State Level Monitoring Committee (SLMC) and whether all the States have constituted the above Committees, the Ministry have replied that the following States/UTs have constituted the requisite Committees:-

S. No	State/ UT	S. No	State/ UT
1.	Andhra Pradesh	13.	Meghalaya
2.	Arunachal Pradesh	14.	Mizoram
3.	Assam	15.	Orissa
4.	Bihar	16.	Rajasthan
5.	Chhattisgarh	17.	Sikkim
6.	Gujarat	18.	Tamil Nadu
7.	Himachal Pradesh	19.	Tripura
8.	Jharkhand	20.	Uttar Pradesh
9.	Karnataka	21.	Uttarakhand
10.	Kerala	22.	West Bengal

11.	Madhya Pradesh	23.	A & N Islands *
12.	Maharashtra	24.	Dadra & Nagar Haveli

* A & N Islands have constituted SDLC and DLC only. SLMC is being constituted.

1.50 The Committee were also informed that the States of Goa, Manipur, Daman & Diu have not constituted the prescribed Committees and the Ministry has been urging the State Governments from time to time to implement the Act, including constitution of the prescribed Committees, expeditiously but the State Governments have not shown any progress.

1.51 The Ministry further informed the Committee that in respect of Goa 90 Forest Rights Committees have been constituted. Further detailed report regarding constitution of Forest Rights Committee is awaited from the Directorate of Panchayats. The proposal for constitution of Sub-Divisional Level Committee, District Level Committee and State Level Monitoring Committee is under submission. The Committees are expected to be constituted within four months. In the State of Manipur the Ministry has been urging the State Government from time to time to appoint the nodal officer and to constitute the prescribed Committees for implementation of the Act, but the State Government has not sent any status report so far. The State Government has, however, informed that in tribal communities, the tribal chiefs are already holding ownership of forest land as their ancestral land in non- reserved forest area and therefore the implementation of the Act is perceived minimal in Manipur. In case of UT of Daman & Diu as per the information received from the administration there is no forest village. However, Chief Executive Officer District Panchayat, Daman & Diu and

Collector of both Daman & Diu district have been requested to give publicity to the provision of the Scheduled Tribes and Other Traditional Forest Rights (Recognition of Forest Rights) Act, 2006.

1.52 When asked as to what specific steps are being taken by the Ministry for early constitution of Committees in the States & whether the Ministry propose to take any action against the State Governments which are showing reluctance to implement the Act, the Ministry replied that as per the Act and Rules framed there under, the onus of implementation of the Act lies squarely at the level of State/UTs Governments. The Ministry can only persuade the State/UTs Governments to implement the Act at the earliest.

1.53 Constitution of Forest Rights Committees for the scrutiny of claims at the Gram Sabha level is an important aspect of the Forest Rights Act. In this context, the Committee desired to know whether all the Gram Sabhas have constituted the Forest Rights Committees to which the Ministry in their written reply stated that claims have been filed in all the States/ UTs, except Arunachal Pradesh, Goa, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim, Andaman & Nicobar Island, Daman & Diu and Dadra & Nagar Haveli. It may, therefore, be inferred that in these States where the claims have been filed, the Gram Sabhas have constituted the Forest Rights Committees.

1.54 On being asked as to whether all the States have appointed nodal officers to look into the issues relating to the implementation of the Act, the Ministry informed the Committee that excepting Arunachal Pradesh, Manipur, Sikkim and Daman & Diu, all other States/ UTs have appointed the nodal officers for implementation of the Act. In

Arunachal Pradesh, Department of Social Welfare has been selected as the nodal Department. Ministry has been pursuing with Manipur, Sikkim and Daman & Diu to place proper structure for the implementation of the Act.

1.55 When asked to outline the specific problems being faced by the States in implementation of the Act and efforts being made to overcome these, the Ministry informed the Committee that the problems in implementation of the Act as reported by the States relate to (i) land records, (ii) receipt of false claims under the category of “other traditional forest dwellers”, (iii) forest areas being affected by left wing extremism, (iv) submission of claims without the requisite evidences, (v) inadequate manpower and funds, (vi) promulgation of Model Code of Conduct in the wake of Elections, (vii) restrictive Court orders, (viii) manual survey due to high density of forest, (xi) forest land being un-surveyed and non-availability of detailed maps/ records etc. The problem being faced by the State Governments in implementation of the Act have to be overcome by the State Governments only as the responsibility for implementing the Act lies with them.

1.56 To a query as to how best the Ministry are helping and facilitating States to cope with the above problems, the Ministry intimated the Committee as under:-

“As per Rule 4(3) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, the Gram Sabha is to be provided with all necessary assistance by the authorities in the States in the discharge of its functions. The Ministry has recently issued instructions to the State Government on 20.7.2010 that in order to (a) overcome the difficulties experienced by the claimants in accessing the requisite evidence in support of their claims; (b) avoid the delays in preparation of a map delineating the area of each recommended claim; (c) facilitate claims, especially those of Primitive Tribal Groups (PTGs); (d) enhance capacity building of the Forest Rights Committees constituted by the Gram Sabha for assisting the Gram Sabha, etc., the State Government may provide the Gram Sabhas with the assistance of facilitators. Similarly, as in the case of the Gram Sabhas, the State Government may provide

the Sub-Divisional Level Committees also with the assistance of facilitators for capacity building of these Committees for discharge of functions assigned to them under Rule 6. These facilitators may be engaged with the approval of the District Collector. The assistance of local Tribal Research Institute (TRI) can also be sought. The expenses on the engagement of facilitators can be made out of the grants under Article 275(1) proviso, as communicated to the States in early 2009.”

1.57 In reply to a question on whether any case of mis-utilization of the provisions of the Act has taken place where vested interests/people who are not the actual beneficiaries have claimed and got the ownership rights and what follow up actions were taken to curb the mis-utilization of the provisions of the Act, the Committee were informed that no such cases of mis-utilization of the provisions of the Act have come to the notice of the Ministry.

1.58 On curbing the mis-utilization of the provisions of the Act, the Secretary stated during the evidence as under:-

“You would kindly see that unlike most other legislations where the responsibility of proper implementation of the Act is given to a Ministry or a Department – most laws are like that – this is the only law where they have brought people’s organizations together. In bringing together people’s organizations and the Government machinery, the legislators thought that there would be a good check and balance”.

He further added:-

“You also wanted to know how we check that there has not been any indiscretion in allocating or diverting lands. The Gram Sabhas and Sub-divisional Committees have been entrusted with the task of checking it at the field level. Beyond that we could not think how the Government of India would go in and see. That is not possible. So, it is again left to the local organizations to do it. I do not think anyone of us can say with a great degree of certainty that misuse has not taken place. But the general impression is that things have worked okay”.

1.59 The Ministry further informed the Committee that recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over

forest land in the National Parks and Sanctuaries and convergence of the Government programmes are two important areas which need co-operation and co-ordination among the Ministries of Tribal Affairs, Environment of Forests and Rural Development.

A. Convergence of Welfare and Developmental Initiatives under the Scheme

1.60 The Hon'ble Prime Minister, in his inaugural address at the two-day Conference of Chief Ministers and State Ministers (Tribal/Social Welfare and Forest Department), convened by this Ministry on 4th and 5th November, 2009 had urged the States to dovetail all development and welfare programmes in tribal areas, with priority to education, health, improvement of agricultural productivity to bring about socio-economic development and livelihood security to all the beneficiaries under the Act.

The Hon'ble Prime Minister had *inter alia* made the following observations:-

“Those whose lives are dependent on the forests should be made essential partners in the process of natural resource planning, conservation and protection”;

“The livelihood concerns of forest dwellers should be central to the development agenda in forest areas. It is important to dovetail all development and welfare programmes in tribal areas so that our strategy is coherent and there is a coordinated approach involving all Departments. Education and health need priority attention. It is equally important to pay adequate attention to improvement of agricultural productivity in tribal areas.”

1.61 In this background, the Committee wanted to know what follow up actions have been taken by the Ministry in this direction to achieve convergence of welfare and development initiatives. To this, the Ministry in their written reply stated that immediately after the Conference, the Hon'ble Minister of Tribal Affairs, *vide* his letter dated 19.11.2009, had brought the observations of the Hon'ble Prime Minister to the notice of the State Chief Ministers for necessary follow up. Subsequently, the Secretary, Tribal Affairs, *vide* his letter dated 5.1.2010 had also brought the directives of the

Hon'ble Prime Minister to the notice of the Ministries of Environment & Forests and Rural Development for necessary action. Further, after reviewing the performance of the major States, from which the Ministry expected the maximum response to the implementation of the Act till December, 2009, the Cabinet Secretary also wrote a letter on 28.01.2010 to the Chief Secretaries concerned to accord high priority to the disposal of the claims and to plan for and take all measures necessary for converging development and welfare programmes for the title holders as was stressed by Hon'ble Prime Minister in the two-day Conference.

1.62 When asked as to whether the Ministry have formulated any action plan to achieve convergence of existing welfare and developmental initiatives for multi sectoral development strategy, the Ministry in their written reply have stated as under:-

“The responsibility for implementing the Act lies with the State/UT Governments. The Ministry has advised the State/UT Governments to plan convergence of existing welfare and development initiatives for the potential title holders in the forest land under the Act so that their conditions improve and they are weaned away from the timber related activities. The Ministry is also advising the State Governments constantly to dovetail the funding under the programme of Special Central Assistance to Tribal Sub Plan with other State/Central schemes. It may be stated that the Ministry of Rural Development has established a Task Force for the convergence of programmes concerning Education, Health and Agriculture sectors with MGNREGA. The Ministry has requested the Ministry of Rural Development also to keep in view the directions of the Hon'ble Prime Minister for dovetailing development/welfare programmes in tribal areas.”

B. Diversion of Forest Land for Developmental Activities under Section 3(2) of the Act

1.63 Sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the

Government, as specified in that Section, which involve felling of trees not exceeding seventy-five trees per hectare, provided that such diversion of forest land shall be allowed only if, -

- (i) the forest land to be diverted for the purposes mentioned in the said sub-section is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

1.64 The Committee were informed that the Ministry issued the procedure for considering and approving proposals for diversion of forest land for non-forest purposes under Section 3(2) of the Act on 18.5.2009 and advised the State/UT Governments to take necessary steps immediately for giving wide publicity to the procedure and to bring the same to the notice of all the Gram Sabhas in their States (**Annexure - IV**). However, they have not so far received any information from the State/UT Governments regarding the steps/action taken by them for implementing the provisions of Section 3(2) of the Act and the status of proposals, if any, received for provision of developmental facilities specified in that Section.

1.65 During the Study Visit of the Standing Committee on Social Justice and Empowerment to the State of Karnataka it was brought to the notice of the Committee that beneficiaries were denied diversion of forest land for developmental activities such as schools, community centres, etc. though such a provision exists under Section 3(2) of the Act. When the Committee asked for the comments of the Ministry on this, it was informed that the Government of Karnataka has issued instructions to the implementing officers to sanction eligible community rights on priority basis. This programme is being reviewed by Chief Secretary, Government of Karnataka regularly at the State Level

Monitoring Committee and he has assured the Cabinet Secretary, Government of India that the process of issue of titles would be completed by the end of August, 2010. Action is being taken for speedy disposal.

C. Determination and Notification of “Critical Wildlife Habitats” in the National Parks and Sanctuaries under Section 2(b) of the Act

1.66 As per Section 2(b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Ministry of Environment & Forests is required to determine and notify “critical wildlife habitats” in the National Parks and Sanctuaries as per the procedure laid down in the said Section.

1.67 On the determination and notification of “Critical Wildlife Habitats” in the National Parks and Sanctuaries under Section 2(b) of the Act, the Secretary elucidated during the evidence as under :-

“Once my application has been accepted, then, my right has to be first given in the form of *patta*. Simultaneously, the Environment Ministry have started this exercise to locate which are the areas where continuance of people may not be desirable from the bio-diversity point of view, it could be any bio-diversity. That is the Act, the Critical wildlife Habitats Act. If ‘x’ area has to be the critical wildlife habitat, on that basis, they have to design in consultation with the Gram Sabha. The rehabilitation package for these people to be shifted is to be drawn. Then, only, they can be shifted. If the Ministry decides that no, let people and animals co-exist, then, this exercise does not happen. But we have not reached that stage. Critical wildlife habitats have not been declared. Ministry of Environment has not taken in view in which area you have to rehabilitate.”

1.68 In reply to a query on the status/progress of Critical Wildlife Habitats, National Parks, Sanctuaries identified and determined under the above Act so far, the Committee were informed that as on date, only 18 States, viz; Andhra Pradesh, Arunachal Pradesh, Himachal Pradesh, Madhya Pradesh Gujarat, Goa, Jharkhand, Karnataka, Kerala, Tamil Nadu, Orissa, Maharashtra, Manipur, Mizoram, Tripura, Sikkim,

Uttarakhand and West Bengal and Two Union Territories, viz Andaman & Nicobar Islands and Dadra & Nagar Haveli have constituted State Level Committee. The Union Territory of Chandigarh and Lakshadweep have mentioned that there was no need to constitute State Level Committees. Two States, viz, Jammu & Kashmir and Uttar Pradesh have informed that the matter is under process in their State(s). The Union Territory of Andaman & Nicobar has forwarded the minutes of the meeting of the State Level Committee wherein they have identified the Critical Wildlife Habitats. However, formal proposal with maps, etc, is awaited.

1.69 The Ministry have also informed that the State Government of Orissa has forwarded proposal pertaining to notification of Gahirmatha Critical Wildlife habitat, Chilka Nalabana Critical Wildlife Habitat and Chandaka Damapara Sanctuary to the Ministry. This proposal was considered during the meeting of the Central Committee on identification of Critical Wildlife Habitats, held on 22nd January 2010 under the Chairmanship of ADG (WL). The State Government has been requested for additional information with respect to the above areas for declaration as Critical Wildlife Habitats. The DGF & SS has written letters to the Secretaries, Forest Department of all States & UTs dated 12th May 2010 requesting for constitution of State Level Committee and identification of critical wildlife habitats and forwarding proposals to the Ministry.

1.70 Asked as to why only one State i.e. the State of Orissa has forwarded the proposal and what specific steps are being taken for making other States aware of the provision relating to identification and determination of wildlife habitats so that these States also send proposals for notification and declaration of Critical Wildlife Habitats, the Ministry in their post evidence reply stated that as per the information received from

the Ministry of Environment of Forests, States/UTs are being requested time and again about the need to constitute State level Committees and thereafter expedite the identification of critical wildlife habitats.

1.71 On the status of declaration of 'critical wild life habitats', the Secretary informed the Committee during the evidence as follows :-

“Section 2 of the Act specifies what is critical wildlife habitat and it also lays down the procedure for deciding what is a critical wildlife habitat. Now, as per the information available with us, about 18 States have already formed the Committee and they are supposed to do a scientific study to prove the case that this needs to be declared as a critical wildlife habitat but they have formally not done it except, may be, one or two. What we have done is, because this particular responsibility lies squarely with the MoEF, from our Ministry we have been constantly in touch with the MoEF.”

1.72 In this connection, the representative of the Ministry of Environment and Forests (MoEF) submitted during the evidence as under:-

“The Ministry of Environment and Forest has been seized of this matter and we had taken up the matter with the State Governments and the Union Territories at our level. xxxx xxxxx There has to be Committee at various levels like we have a National Park. I will submit to you that this is a time consuming process because the State Government has to be dependent upon the recommendation of the expert Committee.”

D. Creating Marketing Facilities for Minor Forest Produce

1.73 On the measures taken by the Ministry for creating marketing facilities for minor forest produce, the Ministry have informed that the right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries is a forest right of the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, recognized under the Act. According to the Act, the forest dwelling Scheduled Tribes and other traditional forest dwellers become owner of the minor forest produce if they can establish their claims through the

procedure laid down. They then have the option to either sell the minor forest produce to the Forest Corporation in the State or to any other agency.

1.74 The Committee observe that as on date only 13 States have established the prescribed structure and procedure for implementation of the Act. Similarly the formation/constitution of Sub Divisional Level Committees (SDLCs), District Level Committees (DLCs) and State Level Monitoring Committees (SLMCs) are not complete in all the States. Many States also don't have the Forest Rights Committees resulting in non-implementation of the Act in these States. Since the constitution of requisite Committees is the first step towards implementation of the Act and without these, the implementation process of the Act can not inch/move forward, the Committee recommend the Ministry to impress upon all the States to constitute the Sub Divisional Level Committees (SDLCs), District Level Committees (DLCs) and State Level Monitoring Committees (SLMCs) as well as the Forest Rights Committees wherever these have not yet been constituted. The Committee also recommend the Ministry to prepare a comprehensive plan for skill capacity development of the Gram Sabhas, Forest Rights Committees and the SDLCs, DLCs and SLMCs within a time frame so that these function most efficiently. Skill development and capacity building of the implementation agencies connected with implementation of the Act should be enhanced on a repeated and continuous basis.

1.75 The Committee note that the States of Manipur, Sikkim and Daman & Diu have not appointed any nodal officers to look into the issues relating to implementation of the Act. As per the Ministry's submission because of the

peculiar situation of holding of ownership of forest land and ancestral land in the State of Manipur and Scheduled Tribes already holding revenue land in their own name in the State of Sikkim, the Act does not seem to be of much importance and relevance in these two States. However, the Committee are of the view that in the present circumstances though the implementation of the Act seems to be irrelevant and not much of importance in these States, the existence and pre-eminence of the tribal groups in all these States essentially require the appointment of nodal officers to look after the issues relating to their living in forest areas. The nodal officers may be assigned the responsibility of mitigating and addressing issues concerning the settlement and livelihood needs of these people in future also in case these arise. Therefore, the Committee recommend the Ministry to direct the above State Governments/UT Administrations to appoint their respective nodal officer during the ongoing process of implementation of the Act only, so that there is an authority at place to address the present as well as future concerns/needs of the tribal people in the domain of the Act in these States/UTs.

1.76 The Committee observe that while implementing the Act many States are facing problems *viz* relating to land records, un-surveyed forest land, non-availability of detailed maps/records, inadequate manpower & funds and forest areas being affected by left wing extremism, etc. The Committee are also given to understand that for capacity building of Gram Sabhas and Forest Rights Committees, the State Governments as per the provision under Rule 4 & 6 of the Act, may provide the assistance of facilitators, the expenses of which can be

made out of Grants under Article 275 (1). However, the Committee observe that while some States such as Andhra Pradesh, Orissa have made good use of the above provision to avail the facilities of facilitator, many states are still ignorant of the provisions and hence lagging behind due to the above problems in their States. States are also not able to use the advanced technologies such as GPS for survey of the forest areas because of resource/funds constraints due to which the progress of implementation of the Act in many States has been tardy and not so phenomenal. Therefore, the Committee recommend the Government to urgently identify the States where the implementation has been affected due to above problems/constraints and persuade these States to come forward and take the benefits of funds under Article 275 (1) for implementing the Act in their States.

1.77 On the mis-utilization of the Act where vested interests/non-tribal people claiming and getting the rights and the harassment of the tribal people, though the Ministry have maintained that no such case has come to their notice, the Committee during their on-the-spot study visit to some States found many beneficiaries complaining about harassment by the forest officials. The Committee are also aware of deliberate attempts being made in many States by the vested interests to influence the decisions at Gram Sabhas and Committees constituted under the Act and cases of non-tribal people swallowing all the benefits in the name of tribals. Considering the fact that the main target group of the Act are the innocent native tribes who are naïve and prone to be easily harassed, the Committee strongly feel that such an Act needs to be strictly protected from misuse by vested interests and Mafias and the influence of Forest

Department. Therefore, to avoid any kind of misuse of the Act, efforts should be made to deal with the vested interests with tough hands and keep them out of the recognition process. Counter verification have to be made by field officials as far as possible to ensure that title deeds/*pattas* are conferred only to genuine beneficiaries. Strict punitive action may also be taken against the people/ forest officials who are found to be flouting with the provisions of the Act and also harassing the innocent tribals.

1.78 During their on-the-spot study visit to some States while interacting with the beneficiaries, the Committee have noticed that *pattas* are being given to the Scheduled Tribes and Other Traditional Forest Dwellers to a lesser extent than what is under actual cultivation, boundaries are not being fixed properly and the land being recognized are not fit for cultivation. The Committee are not happy with the above situation because in the opinion of the Committee unless the above concerns are suitably addressed and land made cultivable, the very thrust/purpose of the Act relating to rights of Schedules Tribes and Other Traditional Forest Dwellers to hold and live in forest for habitation or self-cultivation for livelihood is defeated. Therefore, the Committee recommend the Ministry to take urgent necessary steps such as deputation of trained officials, surveyors and expert staff for demarcation and survey of land and field inspection in approachable areas to remedy the above situation. The Ministry should also draw an action plan for the States for taking measures to associate their land recognition programmes with the on-going as well as future rural development schemes. Funds under different schemes should be pooled,

converged and utilized for development of land distributed to the Scheduled Tribes and Other Traditional Forest Dwellers beneficiaries under the Act. Agro-forest based activities for income generation should be encouraged and undertaken to enable the beneficiaries a respectable livelihood. Action taken in this direction may be communicated within three months of presentation of this Report.

1.79 The Committee observe that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 envisages convergence of welfare and developmental initiatives where all the development and welfare programmes of other Ministries have to be coordinated and synergized so as to achieve planned development for tribal areas. However, the Committee are constrained to note that even after Prime Minister's direction emphasizing the need for such a synergy/coordinated approach and the establishment of the Task Force by the Ministry of Rural Development for convergence of programmes concerning Education, Health and Agriculture sectors with MGNREGA, coordination among the Ministries/Departments pertaining to tribal development programmes is hardly forthcoming/happening as Ministries/Departments continue to work in total isolation to each other resulting in detachment of tribal pockets from developmental mainstream. The Committee are of the strong view that the present Act has been brought in with the specific purpose of elevating the livelihood of the Scheduled Tribes and Other Traditional Forest Dwellers who have been neglected and underprivileged for years. In order to do justice to this provision and achieve this crucial objective enshrined in the Act, the Committee

recommend the ministry to make special provisions/steps for developmental initiatives in the tribal areas in the fields of education, health, basic infrastructure and also keep a close watch on the working of other Ministries by formulating an action plan for achieving convergence of welfare and developmental initiatives. For this, the Committee also direct the Ministry of Tribal Affairs to immediately put in place a national level coordinating Committee with top officials of all concerned Ministries as members who should meet at regular intervals to review the progress/status of various schemes on areas outlined above and identify critical gaps in developmental initiatives for taking suitable remedial actions.

1.80 The Committee observe that under Section 3(2) of the Act relating to provision of the diversion of the forest land for developmental activities/facilities such as schools, dispensaries, hospitals, roads, community centres and minor irrigation canals etc. though the procedure has been issued on 18.5.2009, neither the Ministry of Tribal Affairs nor the Ministry of Environment and Forests have received any information from the State Governments and there are no details of such diversion available with both these Ministries. The Committee, however, during their study visit to the States of Karnataka and Andhra Pradesh in June, 2010 interacted with many beneficiaries who complained the Committee about the authorities not allowing/permitting the diversion of land for these activities. The Committee further observed that the key functionaries responsible for implementation of the Act were not even aware of the provision/procedure for diversion of land due to lack of information passed on to them and the inadequate publicity of the Act. Therefore, the Committee strongly feel that the

functionaries responsible for implementation need to be informed and made aware of the provision and advised to strictly follow the procedure laid down for diversion of land so that the tribal people who face re-location elsewhere due to such diversion are adequately compensated and rehabilitated and also their rights in the new forest areas respected and recognized under the Act.

1.81 On the declaration of Critical Wild Life Habitats, National Parks and Sanctuaries under Section 2(b) of the Act, the Committee observe that as on date not a single Critical Wild Life Habitat has been declared. On this issue while the Ministry of Tribal Affairs have tried to put the onus on the Ministry of Environment and Forests by saying that it is they who have to take a decision on the matter, the Ministry of Environment and Forests have tried to justify the delay by saying that the scientific/expert Committees required for the purpose have not yet been constituted in all the States and the whole thing is a time consuming process. While expressing their dissatisfaction on the inordinate delay in declaring the protected area or Critical Wild Life Habitats, the Committee are of the view that in the absence of clear demarcation of areas protected for wild life habitats, undue advantage/ leverage is given to the Forest Department for forceful eviction and harassment of the tribes in the name of protected areas/Critical Wild Life Habitats. Since the Act clearly provides that no eviction and re-location of villagers from protected areas should be allowed to take place till the completion of the process of Forest Rights Committee formation, receipt and verification of claims and recognition of rights, the Committee recommend the Ministry to act swiftly in the matter, put a time frame for the States and direct the States to

identify and list out the protected areas within that time frame. The Ministry should also co-ordinate with the Ministry of Environment and Forests for an early decision on the declaration of Critical Wild Life Habitats preferably within a period of six months.

1.82 The Committee are happy to note that the State of Orissa has responded well to the provision relating to declaration of 'Critical Wildlife Habitats' and sent proposals pertaining to Gahirmatha Critical Wildlife Habitat, Chilika Nalaban Critical Wild Life Habitats and Chandaka Damapara Sanctuary to the Ministry for notification under the Act. The Committee desire that the Ministry of Tribal Affairs in coordination with the Ministry of Environment and Forests should consider these proposals on their merit and an early decision is taken on declaration of these protected areas in the State. The Committee feel that while there is an urgent need to conserve the forests along with its flora and fauna, the principle of co-existence and co-habitation of the tribal people with nature and its resources should be given utmost priority and efforts should be made not to evict/re-locate the tribal forcefully from the forests. Since many of our critical wildlife are becoming extinct due to lack of their proper preservation and this particular provision under the Act gives an opportunity to do so, the Committee advise the Ministry to impress upon other States also to follow the footsteps of Orissa and take necessary action in identifying and locating the protected areas by sending their proposals to the Government for an early declaration of Critical Wild Life Habitats.

1.83 The Committee note that Minor Forest Produce is central to the existence of tribal communities and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is an important milestone which recognizes the ownership rights of these people of Minor Forest Produce for the purpose of access, processing and trade. After the enactment of the Act, the Right of Scheduled Tribes and Other Traditional Forest Dwellers to procure and process Minor Forest produce has now become an indispensable part of the Act and accordingly the Ministry should have redoubled their efforts in ensuring the protection of this primary right of the Scheduled Tribes and Other Traditional Forest Dwellers. The Committee are, however, distressed to note that in addition to the existing efforts which are grossly inadequate, the Ministry have hardly taken any additional initiatives/steps in the area of Minor Forest Produce in the aftermath of the enactment of the Act. The Committee are of the view that the existing potential of Minor Forest Produce needs to be exploited economically and scientifically so that they continue to remain as a sustainable and renewable source of income/livelihood for the tribal families; more so after the enactment of the Act, the Ministry have become morally obligated and duty bound to ensure that this is done more effectively so that benefits accrue to the needy tribals. The Committee, therefore, recommend the Ministry should pursue with the States to prepare specific action plans under the above Act for harnessing the existing potential in their respective States in a scientific manner, providing technical assistance for value addition to Minor Forest Produce and undertaking procurement activities with improved and up-to-date methods. The Committee

further desire that the Ministry should take concrete steps in the direction of creating facilities in the form of Cooperative Societies in States where maximum number of title deeds have been distributed so that the tribal people in these States get assistance/support relating to procurement and marketing of their Minor Forest Produce for which they have been given rights under the Act.

IV. MONITORING OF THE IMPLEMENTATION OF THE ACT

1.84 For monitoring the progress of implementation of the Act, the Ministry have informed the Committee that they have addressed the State/UT Governments on 25.2.2008 to furnish information, on monthly basis, relating to (i) status of formation of various Committees under the Act, (ii) status of translation of the Act and the Rules in the regional languages and arrangements made for their distribution to the Gram Sabhas, Forest Rights Committees, concerned Departments of the State Governments, (iii) steps taken to create awareness about the objectives, provisions and procedures laid down under the Act and the Rules, (iv) arrangements made for the training of PRI officials, SDLC, DLC members by the State nodal agency at State, District and Sub-Divisional levels, (v) number of claims filed at Gram Sabha level, number recommended by the Gram Sabha to SDLC, number approved by DLC for title, number of titles distributed, (vi) number of claims rejected and the level of rejection, etc.

A. Review Meetings with the States and visits to the States/UTs by the officers of the Ministry

1.85 According to the Ministry they have been reviewing the progress periodically by convening review meetings of State Secretaries/Commissioners of Tribal Welfare/Development Departments. So far five such review meetings have been held

on 18/19.2.2008, 16.5.2008, 27.6.2008, 11.11.2008 and 04/05.11.2009. The Committee were also informed that the senior officers of the Ministry have been visiting the States/UTs to assess and guide the phase of implementation. The details on the number of such visits undertaken by senior officers of the Ministry to States/UTs during the last one year as furnished by the Ministry is given at **Annexure – V**.

B. Monthly Progress Reports

1.86 As per the information provided to the Committee, the Ministry has been monitoring the implementation of the Act through monthly progress reports from the States/UTs and furnishing the same to the Prime Minister's Office, Cabinet Secretariat and Planning Commission, who are also monitoring the progress. When the Committee desired to know whether all the States are sending monthly Progress Report on the implementation of the Act and what follow up actions are being taken for the slow implementing States, the Ministry in their written reply stated as under :-

“The progress reports are being received from all the States/UTs, except Arunachal Pradesh, Bihar, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim, Uttarakhand, A & N Islands, Daman & Diu and Dadra & Nagar Haveli. As mentioned above, this Ministry has been urging all these States/UTs periodically to accord priority to the implementation of the Act and to ensure distribution of title deeds to all the eligible claimants at the earliest.”

C. Web based Monitoring and Video Conferencing with the States

1.87 According to the Ministry a Web based M.I.S. for online monitoring of the implementation of the Act has been made operational on website <http://forestrights.gov.in>. On being asked as to how many States have been regularly uploading the information on the implementation of the Act on the above website, the Ministry informed the Committee that at present only nine States (Andhra Pradesh,

Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, Rajasthan and Tripura) are uploading the information on the website. <http://forestrights.gov.in>. The Ministry has been persuading the States/UTs to populate the web-site for the effective monitoring of the implementation of the Act. Towards this end, the Ministry held Video Conferencing at NIC Headquarters on 28.9.2008, 21.10.2008, 21.8.2009 and 2.3.2010 with the concerned officers of the States for population of the web-site and for uploading the necessary inputs relating to implementation of the Act at different levels.

D. Clarifications on the Issues Raised by the States

1.88 The Ministry informed the Committee that after the operationalisation of the Act, a number of States had sought clarifications on certain issues with reference to the provisions of the Act. These issues were examined by the Ministry and the requisite clarifications were issued to the State Governments at the earliest to facilitate expeditious implementation of the Act. Some of the important issues raised by the States and the clarifications given thereto are at **Annexure – VI**.

1.90 As per the information provided by the Ministry a meeting of the Consultative Committee was held on 17.2.2010 to review the progress of implementation of the Act.

E. Creating Awareness About the Act and Training of PRI Officials, SDLC, DLC Members

1.89 On the efforts made by the Ministry to make the tribal people in the non-accessible interior tribal areas aware of their rights, the Ministry have stated that the onus of the implementation of the Forest Rights Act lies squarely at the level of the State Governments. Immediately after the enactment of the Act by the Parliament and pending finalization of the Rules for the implementation of the same, the Ministry had

nominated the Secretary in charge of the Tribal Welfare/ Social Welfare Departments in the various States to be the nodal agency under section 11 of the Act for implementation of the provisions of the Act.

1.90 The Ministry further informed that after the operationalisation of the Act with effect from 31.12.2007 and notification of the Rules on 1.1.2008, the Ministry had addressed the State/UT Governments on 11.1.2008 to (i) constitute various Committees under the Act viz, the Sub Divisional Level Committee, District Level Committee and the State Level Monitoring Committee, (ii) direct the nodal agency nominated in the States to (a) ensure that awareness is created about the objectives, provisions and procedures of the Act and the rules through various measures including awareness programmes and printed material such as posters in the regional language; (b) ensure the translation and publication of the Act and the rules in all the regional languages and arrange to distribute to all Gram Sabhas, Forest Rights Committees and also departments of the Government including Panchayati Raj, Rural Development, Tribal and Social Welfare and Forest Departments; (c) undertake the orientation of officials, civilian representatives and non-Government organizations in the State, who can then be called upon to assist as resource persons in the awareness programmes; (d) sensitise the District Level Committee on the objectives, provisions and procedures of the Act and the Rules.

1.91 On being asked as to whether the Ministry have undertaken any awareness campaign for creating awareness about the provision of the Act and the rules and what sort of training is being given/imparted to PRI officials SDLC, DLC Members for

equipping them to tackle the issues relating to the Act, the Ministry informed the Committee as follows:-

“The State Governments were also requested to advise the District Level Committees in their State to undertake awareness campaigns on the objectives, provisions and procedures of the Act and the rules through traditional and others means and ensure that the Act and the rules are printed in regional languages and distributed in the offices and prominent places at the village, block and sub divisional level and special efforts are taken in particular to ensure that the information reaches the settlements located in remote areas. These Committees may also raise awareness through workshops and other means to sensitize members of the Sub-Divisional Level Committee, officials of Panchayati Raj, Rural Development, Agriculture, Education, Forest, Tribal and Social Welfare Departments, on the objectives, provisions and procedures of the Act and the rules. Like wise, the Sub-Divisional Level Committee may be advised to organize for each tehsil or block in the sub-division, one or more awareness camps to sensitize members of the Gram Sabhas including Forest Rights Committees, civilian representatives including teachers, women’s group, political leaders, social workers activists and lawyers to acquaint them with the objectives, provisions and procedures of the Act and the rules.”

F. Redressal of Grievances

1.92 When the Committee enquired about the type of complaints received from the beneficiaries/claimants with regard to conferment/distribution of titles, the Ministry informed the Committee that complaints received generally relate to denial of rights, harassment by the Forest Department officials, eviction of tribals from forests etc. As the onus of implementation of the Act lies with the State Governments, these complaints were sent to the respective States/UTs for taking necessary action.

1.93 When asked as to how many such cases have come to the notice of the Ministry actions taken thereby the Ministry furnished a statement indicating the details of the complaints which is reproduced at **Annexure - VII.**

1.94 On this issue, the Secretary further clarified during the evidence as under:-

“Sir, it is that we have been receiving complaints saying that certain things have happened which are against the provisions of the Act. Since we have no way of

verifying these, we have sent them to the State Governments including to the MoEF saying that you please go and do an enquiry and let us know. In some cases we have got the reports on that.”

1.95 Asked as to whether the Ministry have any grievance redressal mechanism to look into the grievances of the Traditional Forest Dwellers, the Ministry in their written submission stated as under:-

“There is a built-in provision in the Act itself for redressing the grievances of the forest dwelling Scheduled tribes and other traditional forest dwellers claiming recognition of forest rights under the Act. Any person aggrieved by the resolution of the Gram Sabha can prefer a petition to the Sub-Divisional Level Committee. Similarly any person aggrieved by the decision of the Sub-Divisional Level Committee can prefer a petition to the District Level Committee. The petitions of such aggrieved persons are to be disposed of only after giving them a reasonable opportunity to present their case. The Rules notified on 1.1.2008 to implement the provisions of the Act lay down the procedure to be followed by the Sub Divisional Level Committee and the District Level Committee for disposal of such petitions. The Ministry does not have any redressal mechanism as such in the Ministry to look into the grievances of the Traditional Forest Dwellers.”

1.96 The Committee express their concern over the fact that the States/UTs of Arunachal Pradesh, Bihar, Himachal Pradesh, Manipur, Mizoram, Meghalaya, Sikkim, Uttarakhand, Andman & Nicobar Islands, Daman & Diu and Dadra & Nagar Haveli are not sending any monthly progress on the status of the implementation of the Act in their respective States/UTs. Similarly, at present only 9 States are uploading the information on the implementation of the Act on the website <http://forestrights.gov.in> and not all the States are regularly uploading the information. Apart from giving a clear picture on the status of the Act in the States/UTs, sending of monthly progress reports and uploading the information on a regular basis would in a way act as a binding factor for these States/UTs to implement the Act in their areas. Therefore, the Committee desire the Ministry should earnestly pursue and urge the State Governments/UT Administrations of

the above States to send the monthly progress reports and also upload the information on the status of implementation of the Act in their respective States/UTs on a regular basis.

1.97 On the issue of monitoring of the Act, though the Ministry have maintained that monitoring of the implementation of the Act is being ensured by review meetings with the States and visit to States/UTs by high level officials, the Committee observe that these are not quite sufficient as is evident from the slow progress of the Act in many States. Therefore, the Committee, apart from advising the Ministry to insist all the States to strictly send their status of implementation every fortnight, should make the field visit of its officials to the low performing pockets more frequent with visible outcomes. The Ministry should think in the line of placing a standing monitoring cell for thorough and meticulous monitoring of the implementation of the Act at every stage which may review and monitor the progress of implementation of the Act and advise follow up actions to the Ministry. The Committee are also of the view that with the kind of staff the Ministry have at their disposal at present it is practically impossible to monitor the Act. Therefore, the Ministry should evolve a mechanism wherein they take the help of Officers from the State Governments to implement the Act. Apart from ensuring the translation of the Act in all regional languages and making available to States all information on the Act including Circulars, Letters, Guidelines, Orders, Memoranda of instruction concerning the Act in the form of a compounded volume, more and more training programmes, workshops and awareness campaigns should be conducted at various levels by involving all the

stake holders. In this effort, besides ensuring participation of NGOs and involvement of social activists, the Ministry should direct the States to also involve the State Tribal Institutes.

V. EVALUATION/IMPACT ASSESSMENT

1.98 On the evaluation/impact assessment of the Act, the Ministry informed the Committee that they had requested the Governments of Orissa & Madhya Pradesh on 9.6.2009 to initiate studies to get a feedback from independent sources on the performance/ impact of implementation of the Act and the Rules in the field, more importantly, the satisfaction/ un-satisfaction level of the beneficiaries for whom this legislation is meant. The Government of Orissa has got done a short term evaluation through the Scheduled Castes & Scheduled Tribes Research and Training Institute (SCSTRTI), Bhubaneswar, ST & SC Development Department, with the financial support of Orissa Tribal Empowerment and Livelihood Project (OTELP). It points out both the things that have gone on well and those that have not. It is now up to the State Governments to improve their programme implementation. Orissa's long term evaluation is likely to take another six months. Madhya Pradesh has yet to initiate the study.

1.99 On the evaluation/impact assessment of the scheme for getting feedback on the implementation of the Act, the Ministry have informed that they had requested the State Governments of Orissa and Madhya Pradesh to undertake studies on the Act. However, both the States are yet to initiate the study on the Act. In the meantime, only a short term study on the Act has been done in the State of Orissa which has revealed crucial facts/findings about the Act. The

Committee are of the view that both the States having a thick cover of forest with large density of population of Scheduled Tribes and other Traditional Forest Dwellers, the studies, if conducted, would provide deep insight into issues relating to implementation of the Act which, in turn, would help the Ministry to fill critical gaps in the implementation process in these States as well as the rest of the country. Therefore, the Committee desire that these studies should be completed at the earliest so that inconsistencies and lacunae in the implementation process are corrected and the Ministry is able to carry out the task of implementation more vigorously. Assistance, if any required, in way of funds/resources, logistics and technical input/support etc. should also be extended to these two States for conducting the above studies. Steps taken in this direction may be apprised to the Committee within three months of the presentation of the Report.

VI. N.C. SAXENA COMMITTEE ON IMPLEMENTATION OF SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006.

1.100 The Committee after having found that a Joint Committee of the Ministry of Environment of Forests (MoEF) and Ministry of Tribal Affairs (MoTA) has been constituted under the Chairmanship of Dr. N.C. Saxena, Retd. Secretary, Planning with an intention to study in detail the implementation of the Act including factors that are aiding and impeding its implementation, desired to know details about the said Committee. To this, the Ministry through a written submission have informed the Committee that originally the Ministry of Environment and Forest had constituted a Committee under the Chairmanship of Dr. Devendra Pandey, former DG, Forest Survey

of India, to study and assess the impacts of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 with regard to Sustainable Management of Forest Resources, *vide* their notification dated 11.02.2010. The said Committee was subsequently reconstituted on 13.4.2010 with revised composition and revised terms of reference which are as follows:-

- (i) The Committee shall study in detail the implementation of the Forest Rights Act, 2006 including factors that are aiding and impeding its implementation.
- (ii) The Committee shall recommend necessary policy changes in the future management of the forestry sector in India which may be necessary as a consequence of implementation of Forest Rights Act.
- (iii) The Committee shall identify the role of various agencies (official and others) in facilitating forest-dwellers in carrying out their roles regarding conservation and management of forests as envisaged in the Act.
- (iv) The Committee shall identify opportunities for and recommend measures to ensure convergence of various beneficiary oriented programmes for the forest rights holders taken up by various line departments in the States.
- (v) The Committee shall, wherever possible, hold public consultations on all relevant issues soliciting the inputs of the concerned stakeholders.
- (vi) The Committee shall extend full support to the Ministry for Tribal Affairs in their efforts to enforce and implement the Forest Rights Act.
- (vii) The Committee shall define a new role for the Forest Department vis-à-vis the Gram Sabha for forest conservation and regeneration.
- (viii) Any other matter which the Committee feels is ancillary or incidental to the purposes of its establishment.
- (ix) The Committee shall have the power to co-opt any specialist that it may feel necessary and in furtherance of the purposes of its establishment.

1.101 The Committee were further informed that as per the revised terms of reference, the above Committee is required to submit its report within six months from the date of

its constitution. The report of the Committee is awaited and the findings/recommendations concerning the Ministry would be examined on the receipt of its report.

The Violation of Tribal Rights in the Niyamgiri Hills of Orissa due to the Proposed Bauxite Project

1.102 The Committee during the course of examination of the subject came across reports on violation of rights of *Dongaria Kandha* and the *Kutia Kandha* tribes in the Niyamgiri Hills of Orissa and a spate of events leading to the closure of the proposed Bauxite Mining Project by Vedanta. When the Committee wanted to know in more detail about the violation of Tribal Rights in the Niyamgiri hills of Orissa and the subsequent developments, the Ministry through a written submission informed the Committee that they have not received any report as such alleging violations of tribal rights in the Niyamgiri hills of Orissa due to the proposed Bauxite Project. The Ministry had received a letter dated 10.11.2009 from Shri D. Raja, Member of Parliament, alleging continued violation of rights of tribals and forest dwellers protected under the Forest Rights Act, 2006 by the Ministry of Environment and Forests by handing over forest land to corporate on a large scale. He had quoted examples of POSCO project in Jagatsinghpur, Orissa, and the Vedanta project in Niyamgiri Lanjigarh, Orissa, which had received in principle clearance from the Ministry of Environment and Forests. He had stated that these projects were not developmental and would only result in the hand over of the people's resources to multinationals for a pittance, displacing many while providing no benefits to India or the local people. He had requested for immediate cancellation of the "In principle" clearances of Vedanta, POSCO and similar projects. As the issues raised by Shri D. Raja concerned the Ministry of Environment and

Forests, a copy of said letter forwarded to that Ministry of necessary action. From an order dated 24.8.2010, recently issued by MoS (I/C) Environment and Forests **(Annexure-VIII)**, in connection with the proposal of the Government of Orissa for grant of forest clearance in Kalahandi and Rayagada districts in favour of Orissa Mining Corporation Ltd. (OMC) for Bauxite Mining in Lanjigarh Bauxite Mines, it is seen that the Ministry of Environment and Forests constituted a Committee on 29.8.2010, composed of specialists, including Dr. N.C. Saxena, for looking into (i) settlement of the rights for forest dwellers and the 'Primitive Tribal Groups' under the FRA, 2006; and (ii) impact on wildlife and biodiversity in the surrounding areas. The said Committee submitted its report to the Ministry of Environment and Forests on 16.8.2010 wherein it found serious violations of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights Act, 2006 Forest (Conservation) Act, 1980, Environment (Protection) Act, 1986 etc. by the OMC. As a result, the MoS (I/C) Environment and Forests, *vide* his order dated 24.8.2010, rejected the proposal of the State Government for forests clearance for the OMC and Sterlite bauxite mining project on the Niyamgiri Hills in Lanjigarh, Kalahandi and Rayagada districts of Orissa.

1.103 The Committee observe that a Joint Committee of the Ministry of Tribal Affairs and the Ministry of Environment and Forests has been constituted to study in detail the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. This Committee under the Chairmanship of Shri N.C. Saxena has already started the review of different aspects of implementation of the Act. Having observed the mandate of the Committee which includes recommending necessary policy changes in future

management of the forestry sector, identifying opportunities and recommending measures to ensure convergence of various beneficiary oriented programmes for forest rights holders, holding public consultation on all relevant issues etc., the Committee are of the opinion that formation of such as Committee is definitely a step forward in addressing the issues concerning the Scheduled Tribes and other Traditional Forest Dwellers. The above Committee may prove to be an ideal platform for the Ministry of Environment and Forest and the Ministry of Tribal Affairs to coordinate and mitigate the unresolved issues relating to the Act resulting in its smooth and effective implementation. Therefore, while welcoming the constitution of the above Committee, this Committee recommend the Ministry of Tribal Affairs to make best use of this forum for safeguarding and protecting the interests of the Scheduled Tribes and other Traditional Forest Dwellers. The Committee also direct the Ministry to place before themselves the Report of the 'Saxena Committee' as and when it is presented for their consideration.

1.104 The Committee take a strong objection to the displacement of the primitive tribal groups i.e. the *Dongoria Kandhas* and the *Kutia Kandhas* settled in the Niyamgiri Hills in the State of Orissa and destruction of undisturbed forest land endangering and harming their self sufficient forest livelihood due to the proposed Bauxite Mining Project. The Committee are given to understand that the project has been recalled at an advanced stage after uproars and objections from several quarters and also non-clearance of the project by the Ministry of Environment and Forests (MoEF) on grounds of violations of the Forest Rights Act, violations of Forest Conservation Act and violations of the Environment

Protection Act (EPA). The Committee, while deprecating the inaction on the part of the Ministry of Tribal Affairs in guarding the interests and rights of these aboriginal people due to which the project could move ahead to such an advanced stage, advise the Ministry to be watchful and keep a constant vigil in ensuring that rights and interests of such people are always looked after, safeguarded and protected.

NEW DELHI;

20 October, 2010
28 Asvina, 1932 (Saka)

DARA SINGH CHAUHAN
Chairman,
Standing Committee on
Social Justice and
Empowerment

**MINUTES OF THE SEVENTH SITTING OF THE STANDING COMMITTEE ON
SOCIAL JUSTICE AND EMPOWERMENT (2009-10) HELD ON FRIDAY, 25TH
FEBRUARY, 2010**

The Committee met from 1530 hrs. to 1700 hrs. in Committee Room 'D'
Parliament House Annexe, New Delhi.

PRESENT

SHRI DARA SINGH CHAUHAN - CHAIRMAN

**MEMBERS
LOK SABHA**

2. E.T. Mohamed Basheer
3. Smt. Rama Devi
4. Shir R. Dhruvanarayana
5. Shri Premchand Guddu
6. Shri Baliram Jadhav
7. Dr. Manda Jagannath
8. Shri Basori Singh Masram
9. Shri Kamlesh Paswan
10. Dr. N. Sivaprasad
11. Shri Lalit Mohan Suklabaidya
12. Shri Manohar Tirkey

**MEMBERS
RAJYA SABHA**

13. Shri Narayan Singh Kesari
14. Shri Ahmad Sayeed Malihabadi
15. Shri Abdul Wahab Peevee
16. Shri Nand Kishore Yadav

LOK SABHA SECRETARIAT

1. Shri A. Mukhophadhyay - Joint Secretary
2. Shri S.C. Kaliraman - Additional Director
3. Dr. (Smt.) Sagarika Dash - Under Secretary

was asked to outline what it has done to meet the PM's Directive that the Act be implemented by December, 2009.

4. The Members then raised queries and sought clarifications on certain issues which included *inter-alia* distribution of land/patta rights to the claimants, preparing guidelines and evolving proper mechanism for effective implementation of the Act, measures for checking the misuse of the Act by vested interests, notifications of the Government on critical wild life habitations and steps for improvement of health sector in tribal areas etc.

5. The Secretary, Ministry of Tribal Affairs responded to the queries put forth by the Members and was requested by the Committee to furnish expeditious replies to those points which could not be replied in the meeting.

6. Hon'ble Chairman thanked the Secretary and other officials of the Ministry for giving valuable information to the Committee on the subject and expressing their views in a free and frank manner.

7. A verbatim record of the proceedings has been kept.

The witnesses then withdrew.

The Committee then adjourned.

**MINUTES OF THE THIRTEENTH SITTING OF THE STANDING COMMITTEE
ON SOCIAL JUSTICE AND EMPOWERMENT (2009-10) HELD ON
THURSDAY, 8th JULY, 2010.**

The Committee met from 1430 hrs. to 1620 hrs. in Committee Room 'D'
Parliament House Annexe, New Delhi.

PRESENT

SHRI DARA SINGH CHAUHAN - CHAIRMAN

**MEMBERS
LOK SABHA**

2. Shri T.R. Baalu
3. Shri E.T. Mohamed Basheer
4. Shri Bhudeo Choudhary
5. Shri R. Dhruvanarayana
6. Shri Premchand Guddu
7. Shri Baliram Jadhav
8. Dr. Manda Jagannath
9. Shri Mohan Jena
10. Shri Lalit Mohan Suklabaidya

**MEMBERS
RAJYA SABHA**

11. Smt. Jharna Das Baidya

LOK SABHA SECRETARIAT

- | | | | |
|----|---------------------------|---|------------------|
| 1. | Shri A. Mukhophadhyay | - | Joint Secretary |
| 2. | Smt. Anita Jain | - | Director |
| 3. | Shri Sanjeev Kumar Mishra | - | Deputy Secretary |
| 4. | Dr.(Smt.) Sagarika Dash | - | Under Secretary |

REPRESENTATIVES OF THE MINISTRY OF TRIBAL AFFAIRS AND MINISTRY OF ENVIRONMENT AND FOREST

Sl. No.	Name of the Officer	Designation and Organization
1.	Shri G.B. Mukherjee	Secretary, M/o Tribal Affairs
2.	Dr. Bachittar Singh	Joint Secretary, M/o Tribal Affairs
3.	Shri A.K. Srivastava	IGF (WL), M/o Environment & Forests
4.	Shri A.M. Singh	DIG (SU), M/o Environment & Forests
5.	Shri S.P. Yadav	DIGF (NTCA), M/o Environment & Forests
6.	Shri C.D. Singh	AIGF (FC), M/o Environment & Forests
7.	Shri H.S. Hora	Technical Director, NIC, M/o Tribal Affairs

2. At the outset, Hon'ble Chairman welcomed the Members to the sitting of the Committee.

3. *****

4. *****

5. Thereafter, the Committee took up oral evidence of representatives of the Ministry of Tribal Affairs on the subject "Implementation of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006-rules made thereunder". Hon'ble Chairman welcomed the representatives of the Ministry and requested the Secretary, Ministry of Tribal Affairs to inform the Committee about the

progress made in the implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

6. Members then raised queries which included *inter-alia* the stages of progress in the implementation of the Act in various States, the status/progress of implementation of the Act in the States of Andhra Pradesh, Karnataka, Tamil Nadu stalled due to court cases and the need for setting up special courts/tribunals for speedy disposal of the cases, reasons for large scale rejection of claims under the Act, notification of classified wild life habitats under Section 2(b) of the Act in various States within a time frame, complaints on issues related to denial of Rights, harassment by Forest Department officials, eviction of tribals from forests and the action taken by the Ministry on these complaints, need for chalking out a time-bound action plan and streamlining the entire process of distribution of title deeds/pattas etc.

7. The representatives of the Ministry responded to the queries put forth by the Members to the extent possible. The Chairman directed them to furnish expeditious replies to those points which could not be replied in the meeting.

8. Hon'ble Chairman thanked the Secretary and other officials of the Ministry for giving valuable information to the Committee on the subject and expressing their views in a free and frank manner.

9. A verbatim record of the proceedings has been kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE SECOND SITTING OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT (2010-11) HELD ON WEDNESDAY, 20th OCTOBER, 2010.

The Committee met from 1100 hrs. to 1340 hrs. in Committee Room No. 'G.074', PLB, New Delhi.

PRESENT

SHRI DARA SINGH CHAUHAN - CHAIRMAN

MEMBERS
LOK SABHA

2. Smt. Bijoya Chakravarty
3. Shri R. Dhruvanarayana
4. Shri Premchand Guddu
5. Shri Baliram Jadhav
6. Dr. Manda Jagannath
7. Shri Mohan Jena
8. Shri G.V. Harsha Kumar
9. Shri Lalit Mohan Suklabaidya
10. Shri Manohar Tirkey

MEMBERS
RAJYA SABHA

11. Smt. Jharna Das Baidya
12. Shri Avtar Singh Karimpuri
13. Shri Narayan Singh Kesari
14. Shri Mahmood A. Madani
15. Shri Ahmad Sayeed Malihabadi
16. Dr. Ram Dayal Munda
17. Shri Baishnab Parida
18. Shri Shivpratap Singh

LOK SABHA SECRETARIAT

- | | | | |
|----|---------------------------|---|------------------|
| 1. | Smt. Anita Jain | - | Director |
| 2. | Shri Sanjeev Kumar Mishra | - | Deputy Secretary |
| 3. | Dr. Sagarika Dash | - | Under Secretary |

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2. At the outset, Hon'ble Chairman welcomed the Members to the sitting of the Committee.

3. The Committee then considered and adopted the draft Tenth Report on the subject "Implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006-Rules made thereunder" pertaining to the Ministry of Tribal Affairs without any modification/amendment.

4. The Committee then authorized the Chairman to finalize the draft Report and present the same to both Houses of Parliament.

5. XXXX XXXX XXXX XXXX

6. XXXX XXXX XXXX XXXX

7. XXXX XXXX XXXX XXXX

8. XXXX XXXX XXXX XXXX

9. A verbatim record of the proceedings has been kept.

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The Committee then adjourned.

STATEMENT OF OBSERVATIONS/RECOMMENDATIONS

Sl. No.	Para	Observations/Recommendations
1	2	3
1.	1.9	<p>The Committee are happy to note that after a long time an all encompassing Act i.e. the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been enacted to give recognition to the rights of the Scheduled Tribes and other Traditional Forest Dwellers whose rights could not be recognized for generations. With the enactment of the Act, the long felt needs and aspirations of these groups of people have been fulfilled. The Committee are given to understand that the Act, while making conservation of forests more effective and transparent, aims at providing tenurial security and legislative protection to the rights of the Scheduled Tribes and other Traditional Forest Dwellers. The Act with its multiple dimensions also aims at addressing several issues affecting these people. The Committee strongly feel that the Act, if implemented in letter and spirit, will go a long way in redressing the historical injustice meted out to the Scheduled Tribes and other Traditional Forest Dwellers. The Committee, therefore, recommend that the Ministry of Tribal Affairs being the nodal Ministry should accord topmost priority to implementation of the Act in the most effective manner. Concerted efforts, in close coordination with State Governments, should be made to implement every aspect/provision of the Act so as to achieve the objectives enshrined in Act and bring relief to the Scheduled Tribes and other Traditional Forest Dwellers. The momentum gathered around the Act should not be allowed to wither, the pace of its implementation expedited and no laxity in implementation of the Act either on the part of Central Government or the State Governments should be allowed. For this the Committee recommend the Ministry to take proactive steps by coordinating the activities of other Departments such as Environment and Forests, Revenue Departments, Panchayati Raj and Local Bodies apart from involving various Governmental Organizations and NGOs as well as People's Representatives.</p>
2.	1.41	<p>The Committee are unhappy to note the dismal/tardy progress of implementation of the Act where out of a total number of 28,49000 claims received so far only 9,93,988 title deeds have been distributed in various States which works out to be a mere 32.36%. In this regard the Secretary during the evidence before the Committee sounded much contended with the</p>

achievement of the Ministry by saying that originally when the Act came into operation, the Ministry had expected only about three to four lakh claims to be distributed, against which they have distributed almost 10,00,000 claims which far exceeds the expectation. The Committee, however, observe that in many of the States though claims have been received in large numbers, the number of certificates of title deeds actually distributed is far less than the claims filed. The Committee also observe that the implementation of the Act has not been uniform in all the States. While the progress in some States has been satisfactory and palpable, in many other States, the Act does not seem to have made much headway. The contention of the Ministry that the onus of implementation of the Act lies squarely on the States does not seem to be convincing because though the States have to implement the Act, the ultimate responsibility for ensuring the effective implementation of the Act throughout the country lies with the Central Government. The Act being a Government of India Act enacted by the Union Government, it is the Ministry of Tribal Affairs which has to see that States are respecting the Act and progressing well in its implementation. Therefore, the Committee recommend the Ministry, apart from persuading the States, should proactively involve itself in the implementation process, orient, assist and guide appropriately the States for gearing them up for implementation of the Act. Emphasis should be given to non-performing States where the implementation has been insignificant and negligible by taking up specific steps and reviewing their progress at regular intervals.

3. 1.42 The Committee note with concern the extremely slow progress of implementation of the Act in the States of Tamil Nadu, Bihar and Uttarakhand where out of a total number of 16314, 2179 and 182 claims received respectively, not a single title deed has been distributed so far in these States. The Committee take a serious view of less number of claims received in these States as well as the non-distribution of any title deeds in these States and the consequent denial of inherent rights of the Scheduled Tribes and other Traditional Forest Dwellers. While the Committee understand the slow progress of the Act in the State of Tamil Nadu due to the interim Court order, they are not at all convinced by the reasons cited by the Ministry with regard to the States of Bihar and Uttarakhand where it has simply been stated by the Ministry that these States have not intimated the reasons for slow progress of implementation of the Act. The Committee are apprehensive there might be some underlying reasons for which these States in spite of

having innumerable Scheduled Tribe population are reluctant and not showing any interest in implementing the Act. Therefore, the Committee recommend the Ministry instead of routinely persuading these States to implement the Act should take up the matter at the highest level for identifying and sorting out the impediments/hurdles in way of implementation of the Act in these States. State Governments of these States should be sensitized about their obligation towards the Act and persuaded to initiate action at the earliest so that the work of distribution of title deeds takes off in these States without further delay. The Committee may be apprised of the progress made in these States within three months of presentation of this Report.

4. 1.43

The Committee observe that though 'individual rights' under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 have been recognized in large number, the recognition of 'community rights' have been minimal under the Act. The Committee also observe that not even a single claim under community rights has been received in many States such as Tamil Nadu, Maharashtra, Uttar Pradesh and Uttarakhand. In other States where the claims have been received under the category of 'community rights' these are not in sufficient number. The Committee are of the view that the Act is not solely about individual land claims and many of the rights under the Act such as right to Minor Forest Produce, grazing and rights of nomadic people are to be exercised as a community. Since the most powerful sections/clauses of the Act concern community's right to manage, protect and conserve forests – the first step towards a genuinely democratic system of forest management, the Central and State Governments should make every effort to recognize the 'community rights'. Therefore, the Committee recommend the Ministry not to reject the community claims on insufficient grounds, expeditiously process all the pending community claims, and take necessary steps for conferment of more number *pattas* to communities who have filed the claims.

5. 1.44

The Committee note that there is a '75 years/three generations' stipulation kept in the Forest Rights Act as an eligibility criteria for the Other Traditional Forest Dwellers. However, many tribals who are living in and are dependant on the forest land for their livelihood are being deprived of applying for title deeds/*pattas* due to the above criteria since it is extremely difficult on their part to produce documentary evidence/proof of their existence for three consecutive generations. The Committee also observe that a lot of governmental institutions will have to be involved for

ascertaining the veracity of 'three generations' of existence of these people. As such, there are potential beneficiaries who are left out of the recognition of the rights process. Therefore, in order to do justice to these people and provide the rights due to them the Committee recommend the Ministry to co-ordinate with all concerned agencies, take adequate steps in facilitating their claims and extend all kinds of assistance needed so that rights of these people are recognized in a smooth and hassle-free manner bringing minimum trouble to them.

6. 1.45

The Committee are constrained to note that out of a total number of 28,49,000 claims received from 17 States as many as 12,67,928 claims have been rejected after initial verification and scrutiny. The Committee also observe that the Ministry do not have the information as to at which level i. e., Gram Sabha, Sub-Divisional level or District level the rejections are more. The Ministry have maintained that many people have mistook the Act as a land distribution drive and have applied in a large number which is the main cause for rejection of these applications. On the rejection of genuine claims under the Act though the Ministry have maintained that adequate safeguards are in-built in the procedure itself and there is little scope for rejection of genuine claims, the Committee are apprehensive that large number of rejections may have occurred due to procedural reasons where genuine claims of genuine beneficiaries might have been overlooked and rejected on ground of not fulfilling the requirements in the claim procedure such as non-filling of the claim forms properly, non-furnishing of relevant documents etc. Large scale rejections at the Gram Sabha level only where the Gram Sabha takes a decision in an improper way without further hearing of the case at next levels of Committees is totally against the spirit of the Act.. The Committee, therefore, recommend the Ministry to instruct the States to review the rejected cases on their merit so that any genuine claimant is not debarred from recognition of his rights. The Committee desire that a sample survey of the rejected claims should also be undertaken at once to ascertain the specific causes for rejections at such a large scale which will enable the Ministry to streamline the procedure and make it transparent as far as possible.

7. 1.46

The Committee are pained to note that though the Act was notified in the year 2007 and three years have since elapsed the implementation of the Act is still far from satisfactory. Hon'ble President of India had emphasized the need to ensure the distribution of all title deeds to all eligible claimants by end of December, 2009 and though nearly a year has passed since the above direction of the Hon'ble President, the process of

distribution of titles is not completed even 50 percent. The Ministry's plea that the Act does not prescribe any time limit for recognition and vesting of forest rights and hence a target date for completion of distribution of title deeds can not be fixed is not acceptable to the Committee since in the opinion of the Committee the success of implementation of the Act is absolutely dependent on working within a time schedule. Also, the Committee are of the opinion that when the Act had come into force, at the initial stage the Ministry did not have any idea as to how many claims would actually be filed and title deeds to be distributed. However, having completed three years in the implementation process, the Ministry now have a fair idea about the magnitude of number of claims which have to be processed and cleared. Therefore, the Committee recommend the Ministry to fix achievable targets with timeline and chalk out clear-cut and definite strategy for completion of different stages of implementation such as constitution of committees, processing of claims, declaration of Critical Wild Life Habitats, planning for developmental initiatives etc. and put forth the same before the States to achieve. In this effort, the Ministry in stead of simply maintaining the data on States' progress on paper, the progress on the ground/field should also be reviewed and corrective steps be taken to remove the deficiencies in the States. The Committee may be apprised of the steps taken in this direction within three months of presentation of the Report.

8. 1.47 The Committee observe that as many as 14 cases challenging the vires of the Act are at present pending in different High Courts which has stalled the process of distribution of title deeds. The Committee find that filing of writ petitions in the States of Tamil Nadu, Andhra Pradesh, Karnataka, Orissa, Himachal Pradesh and Kerala etc. had a damaging effect on the progress of the Act in these States. The Committee view the non-implementation of the Act due to restrictive court orders is a deprivation of the rights of Scheduled Tribes and Other Traditional Forest Dwellers and there is an urgent need to dispose the court orders at the earliest. Therefore, while endorsing the decision of the Ministry for filing a special leave petition in the Supreme Court to fight the cases at one place, the Committee strongly feel that the Ministry may also take up the matter of constituting special courts/tribunals for speedy disposal of the cases to bring relief to the STs and other Traditional Forest Dwellers in those States where the court cases are pending.

9. 1.74 The Committee observe that as on date only 13 States have established the prescribed structure and procedure for

implementation of the Act. Similarly the formation/constitution of Sub Divisional Level Committees (SDLCs), District Level Committees (DLCs) and State Level Monitoring Committees (SLMCs) are not complete in all the States. Many States also don't have the Forest Rights Committees resulting in non-implementation of the Act in these States. Since the constitution of requisite Committees is the first step towards implementation of the Act and without these, the implementation process of the Act can not inch/move forward, the Committee recommend the Ministry to impress upon all the States to constitute the Sub Divisional Level Committees (SDLCs), District Level Committees (DLCs) and State Level Monitoring Committees (SLMCs) as well as the Forest Rights Committees wherever these have not yet been constituted. The Committee also recommend the Ministry to prepare a comprehensive plan for skill capacity development of the Gram Sabhas, Forest Rights Committees and the SDLCs, DLCs and SLMCs within a time frame so that these function most efficiently. Skill development and capacity building of the implementation agencies connected with implementation of the Act should be enhanced on a repeated and continuous basis.

10. 1.75

The Committee note that the States of Manipur, Sikkim and Daman & Diu have not appointed any nodal officers to look into the issues relating to implementation of the Act. As per the Ministry's submission because of the peculiar situation of holding of ownership of forest land and ancestral land in the State of Manipur and Scheduled Tribes already holding revenue land in their own name in the State of Sikkim, the Act does not seem to be of much importance and relevance in these two States. However, the Committee are of the view that in the present circumstances though the implementation of the Act seems to be irrelevant and not much of importance in these States, the existence and pre-eminence of the tribal groups in all these States essentially require the appointment of nodal officers to look after the issues relating to their living in forest areas. The nodal officers may be assigned the responsibility of mitigating and addressing issues concerning the settlement and livelihood needs of these people in future also in case these arise. Therefore, the Committee recommend the Ministry to direct the above State Governments/UT Administrations to appoint their respective nodal officer during the ongoing process of implementation of the Act only, so that there is an authority at place to address the present as well as future concerns/needs of the tribal people in the domain of the Act in these States/UTs.

11. 1.76

The Committee observe that while implementing the Act many

States are facing problems viz relating to land records, un-surveyed forest land, non-availability of detailed maps/records, inadequate manpower & funds and forest areas being affected by left wing extremism, etc. The Committee are also given to understand that for capacity building of Gram Sabhas and Forest Rights Committees, the State Governments as per the provision under Rule 4 & 6 of the Act, may provide the assistance of facilitators, the expenses of which can be made out of Grants under Article 275 (1). However, the Committee observe that while some States such as Andhra Pradesh, Orissa have made good use of the above provision to avail the facilities of facilitator, many states are still ignorant of the provisions and hence lagging behind due to the above problems in their States. States are also not able to use the advanced technologies such as GPS for survey of the forest areas because of resource/funds constraints due to which the progress of implementation of the Act in many States has been tardy and not so phenomenal. Therefore, the Committee recommend the Government to urgently identify the States where the implementation has been affected due to above problems/constraints and persuade these States to come forward and take the benefits of funds under Article 275 (1) for implementing the Act in their States.

12. 1.77

On the mis-utilization of the Act where vested interests/non-tribal people claiming and getting the rights and the harassment of the tribal people, though the Ministry have maintained that no such case has come to their notice, the Committee during their on-the-spot study visit to some States found many beneficiaries complaining about harassment by the forest officials. The Committee are also aware of deliberate attempts being made in many States by the vested interests to influence the decisions at Gram Sabhas and Committees constituted under the Act and cases of non-tribal people swallowing all the benefits in the name of tribals. Considering the fact that the main target group of the Act are the innocent native tribes who are naïve and prone to be easily harassed, the Committee strongly feel that such an Act needs to be strictly protected from misuse by vested interests and Mafias and the influence of Forest Department. Therefore, to avoid any kind of misuse of the Act, efforts should be made to deal with the vested interests with tough hands and keep them out of the recognition process. Counter verification have to be made by field officials as far as possible to ensure that title deeds/*pattas* are conferred only to genuine beneficiaries. Strict punitive action may also be taken against the people/ forest officials who are found to be flouting with the provisions of the

- Act and also harassing the innocent tribals.
13. 1.78 During their on-the-spot study visit to some States while interacting with the beneficiaries, the Committee have noticed that *pattas* are being given to the Scheduled Tribes and Other Traditional Forest Dwellers to a lesser extent than what is under actual cultivation, boundaries are not being fixed properly and the land being recognized are not fit for cultivation. The Committee are not happy with the above situation because in the opinion of the Committee unless the above concerns are suitably addressed and land made cultivable, the very thrust/purpose of the Act relating to rights of Schedules Tribes and Other Traditional Forest Dwellers to hold and live in forest for habitation or self-cultivation for livelihood is defeated. Therefore, the Committee recommend the Ministry to take urgent necessary steps such as deputation of trained officials, surveyors and expert staff for demarcation and survey of land and field inspection in approachable areas to remedy the above situation. The Ministry should also draw an action plan for the States for taking measures to associate their land recognition programmes with the on-going as well as future rural development schemes. Funds under different schemes should be pooled, converged and utilized for development of land distributed to the Scheduled Tribes and Other Traditional Forest Dwellers beneficiaries under the Act. Agro-forest based activities for income generation should be encouraged and undertaken to enable the beneficiaries a respectable livelihood. Action taken in this direction may be communicated within three months of presentation of this Report.
14. 1.79 The Committee observe that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 envisages convergence of welfare and developmental initiatives where all the development and welfare programmes of other Ministries have to be coordinated and synergized so as to achieve planned development for tribal areas. However, the Committee are constrained to note that even after Prime Minister's direction emphasizing the need for such a synergy/coordinated approach and the establishment of the Task Force by the Ministry of Rural Development for convergence of programmes concerning Education, Health and Agriculture sectors with MGNREGA, coordination among the Ministries/Departments pertaining to tribal development programmes is hardly forthcoming/happening as Ministries/Departments continue to work in total isolation to each other resulting in detachment of tribal pockets from developmental mainstream. The Committee are of the strong

view that the present Act has been brought in with the specific purpose of elevating the livelihood of the Scheduled Tribes and Other Traditional Forest Dwellers who have been neglected and underprivileged for years. In order to do justice to this provision and achieve this crucial objective enshrined in the Act, the Committee recommend the ministry to make special provisions/steps for developmental initiatives in the tribal areas in the fields of education, health, basic infrastructure and also keep a close watch on the working of other Ministries by formulating an action plan for achieving convergence of welfare and developmental initiatives. For this, the Committee also direct the Ministry of Tribal Affairs to immediately put in place a national level coordinating Committee with top officials of all concerned Ministries as members who should meet at regular intervals to review the progress/status of various schemes on areas outlined above and identify critical gaps in developmental initiatives for taking suitable remedial actions.

15. 1.80

The Committee observe that under Section 3(2) of the Act relating to provision of the diversion of the forest land for developmental activities/facilities such as schools, dispensaries, hospitals, roads, community centres and minor irrigation canals etc. though the procedure has been issued on 18.5.2009, neither the Ministry of Tribal Affairs nor the Ministry of Environment and Forests have received any information from the State Governments and there are no details of such diversion available with both these Ministries. The Committee, however, during their study visit to the States of Karnataka and Andhra Pradesh in June, 2010 interacted with many beneficiaries who complained the Committee about the authorities not allowing/permitting the diversion of land for these activities. The Committee further observed that the key functionaries responsible for implementation of the Act were not even aware of the provision/procedure for diversion of land due to lack of information passed on to them and the inadequate publicity of the Act. Therefore, the Committee strongly feel that the functionaries responsible for implementation need to be informed and made aware of the provision and advised to strictly follow the procedure laid down for diversion of land so that the tribal people who face re-location elsewhere due to such diversion are adequately compensated and rehabilitated and also their rights in the new forest areas respected and recognized under the Act.

16. 1.81

On the declaration of Critical Wild Life Habitats, National Parks and Sanctuaries under Section 2(b) of the Act, the Committee observe that as on date not a single Critical Wild Life Habitat has been declared. On this issue while the Ministry of Tribal

Affairs have tried to put the onus on the Ministry of Environment and Forests by saying that it is they who have to take a decision on the matter, the Ministry of Environment and Forests have tried to justify the delay by saying that the scientific/expert Committees required for the purpose have not yet been constituted in all the States and the whole thing is a time consuming process. While expressing their dissatisfaction on the inordinate delay in declaring the protected area or Critical Wild Life Habitats, the Committee are of the view that in the absence of clear demarcation of areas protected for wild life habitats, undue advantage/ leverage is given to the Forest Department for forceful eviction and harassment of the tribes in the name of protected areas/Critical Wild Life Habitats. Since the Act clearly provides that no eviction and re-location of villagers from protected areas should be allowed to take place till the completion of the process of Forest Rights Committee formation, receipt and verification of claims and recognition of rights, the Committee recommend the Ministry to act swiftly in the matter, put a time frame for the States and direct the States to identify and list out the protected areas within that time frame. The Ministry should also co-ordinate with the Ministry of Environment and Forests for an early decision on the declaration of Critical Wild Life Habitats preferably within a period of six months.

17. 1.82

The Committee are happy to note that the State of Orissa has responded well to the provision relating to declaration of 'Critical Wildlife Habitats' and sent proposals pertaining to Gahirmatha Critical Wildlife Habitat, Chilika Nalaban Critical Wild Life Habitats and Chandaka Damapara Sanctuary to the Ministry for notification under the Act. The Committee desire that the Ministry of Tribal Affairs in coordination with the Ministry of Environment and Forests should consider these proposals on their merit and an early decision is taken on declaration of these protected areas in the State. The Committee feel that while there is an urgent need to conserve the forests along with its flora and fauna, the principle of co-existence and co-habitation of the tribal people with nature and its resources should be given utmost priority and efforts should be made not to evict/re-locate the tribal forcefully from the forests. Since many of our critical wildlife are becoming extinct due to lack of their proper preservation and this particular provision under the Act gives an opportunity to do so, the Committee advise the Ministry to impress upon other States also to follow the footsteps of Orissa and take necessary action in identifying and locating the protected areas by sending their proposals to the Government for an early declaration of Critical

18. 1.83 Wild Life Habitats. The Committee note that Minor Forest Produce is central to the existence of tribal communities and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is an important milestone which recognizes the ownership rights of these people of Minor Forest Produce for the purpose of access, processing and trade. After the enactment of the Act, the Right of Scheduled Tribes and Other Traditional Forest Dwellers to procure and process Minor Forest produce has now become an indispensable part of the Act and accordingly the Ministry should have redoubled their efforts in ensuring the protection of this primary right of the Scheduled Tribes and Other Traditional Forest Dwellers. The Committee are, however, distressed to note that in addition to the existing efforts which are grossly inadequate, the Ministry have hardly taken any additional initiatives/steps in the area of Minor Forest Produce in the aftermath of the enactment of the Act. The Committee are of the view that the existing potential of Minor Forest Produce needs to be exploited economically and scientifically so that they continue to remain as a sustainable and renewable source of income/livelihood for the tribal families; more so after the enactment of the Act, the Ministry have become morally obligated and duty bound to ensure that this is done more effectively so that benefits accrue to the needy tribals. The Committee, therefore, recommend the Ministry should pursue with the States to prepare specific action plans under the above Act for harnessing the existing potential in their respective States in a scientific manner, providing technical assistance for value addition to Minor Forest Produce and undertaking procurement activities with improved and up-to-date methods. The Committee further desire that the Ministry should take concrete steps in the direction of creating facilities in the form of Cooperative Societies in States where maximum number of title deeds have been distributed so that the tribal people in these States get assistance/support relating to procurement and marketing of their Minor Forest Produce for which they have been given rights under the Act.
19. 1.96 The Committee express their concern over the fact that the States/UTs of Arunachal Pradesh, Bihar, Himachal Pradesh, Manipur, Mizoram, Meghalaya, Sikkim, Uttarakhand, Andman & Nicobar Islands, Daman & Diu and Dadra & Nagar Haveli are not sending any monthly progress on the status of the implementation of the Act in their respective States/UTs. Similarly, at present only 9 States are uploading the information on the implementation of the Act on the website

<http://forestrights.gov.in> and not all the States are regularly uploading the information. Apart from giving a clear picture on the status of the Act in the States/UTs, sending of monthly progress reports and uploading the information on a regular basis would in a way act as a binding factor for these States/UTs to implement the Act in their areas. Therefore, the Committee desire the Ministry should earnestly pursue and urge the State Governments/UT Administrations of the above States to send the monthly progress reports and also upload the information on the status of implementation of the Act in their respective States/UTs on a regular basis.

20. 1.97 On the issue of monitoring of the Act, though the Ministry have maintained that monitoring of the implementation of the Act is being ensured by review meetings with the States and visit to States/UTs by high level officials, the Committee observe that these are not quite sufficient as is evident from the slow progress of the Act in many States. Therefore, the Committee, apart from advising the Ministry to insist all the States to strictly send their status of implementation every fortnight, should make the field visit of its officials to the low performing pockets more frequent with visible outcomes. The Ministry should think in the line of placing a standing monitoring cell for thorough and meticulous monitoring of the implementation of the Act at every stage which may review and monitor the progress of implementation of the Act and advise follow up actions to the Ministry. The Committee are also of the view that with the kind of staff the Ministry have at their disposal at present it is practically impossible to monitor the Act. Therefore, the Ministry should evolve a mechanism wherein they take the help of Officers from the State Governments to implement the Act. Apart from ensuring the translation of the Act in all regional languages and making available to States all information on the Act including Circulars, Letters, Guidelines, Orders, Memoranda of instruction concerning the Act in the form of a compounded volume, more and more training programmes, workshops and awareness campaigns should be conducted at various levels by involving all the stake holders. In this effort, besides ensuring participation of NGOs and involvement of social activists, the Ministry should direct the States to also involve the State Tribal Institutes.

21. 1.99 On the evaluation/impact assessment of the scheme for getting feedback on the implementation of the Act, the Ministry have informed that they had requested the State Governments of Orissa and Madhya Pradesh to undertake studies on the Act. However, both the States are yet to initiate the study on the Act. In the meantime, only a short term study on the Act has

been done in the State of Orissa which has revealed crucial facts/findings about the Act. The Committee are of the view that both the States having a thick cover of forest with large density of population of Scheduled Tribes and other Traditional Forest Dwellers, the studies, if conducted, would provide deep insight into issues relating to implementation of the Act which, in turn, would help the Ministry to fill critical gaps in the implementation process in these States as well as the rest of the country. Therefore, the Committee desire that these studies should be completed at the earliest so that inconsistencies and lacunae in the implementation process are corrected and the Ministry is able to carry out the task of implementation more vigorously. Assistance, if any required, in way of funds/resources, logistics and technical input/support etc. should also be extended to these two States for conducting the above studies. Steps taken in this direction may be apprised to the Committee within three months of the presentation of the Report.

22. 1.103

The Committee observe that a Joint Committee of the Ministry of Tribal Affairs and the Ministry of Environment and Forests has been constituted to study in detail the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. This Committee under the Chairmanship of Shri N.C. Saxena has already started the review of different aspects of implementation of the Act. Having observed the mandate of the Committee which includes recommending necessary policy changes in future management of the forestry sector, identifying opportunities and recommending measures to ensure convergence of various beneficiary oriented programmes for forest rights holders, holding public consultation on all relevant issues etc., the Committee are of the opinion that formation of such a Committee is definitely a step forward in addressing the issues concerning the Scheduled Tribes and other Traditional Forest Dwellers. The above Committee may prove to be an ideal platform for the Ministry of Environment and Forest and the Ministry of Tribal Affairs to coordinate and mitigate the unresolved issues relating to the Act resulting in its smooth and effective implementation. Therefore, while welcoming the constitution of the above Committee, this Committee recommend the Ministry of Tribal Affairs to make best use of this forum for safeguarding and protecting the interests of the Scheduled Tribes and other Traditional Forest Dwellers. The Committee also direct the Ministry to place before themselves the Report of the 'Saxena Committee' as and when it is presented for their consideration.

23. 1.104 The Committee take a strong objection to the displacement of the primitive tribal groups i.e. the *Dongoria Kandhas* and the *Kutia Kandhas* settled in the Niyamgiri Hills in the State of Orissa and destruction of undisturbed forest land endangering and harming their self sufficient forest livelihood due to the proposed Bauxite Mining Project. The Committee are given to understand that the project has been recalled at an advanced stage after uproars and objections from several quarters and also non-clearance of the project by the Ministry of Environment and Forests (MoEF) on grounds of violations of the Forest Rights Act, violations of Forest Conservation Act and violations of the Environment Protection Act (EPA). The Committee, while deprecating the inaction on the part of the Ministry of Tribal Affairs in guarding the interests and rights of these aboriginal people due to which the project could move ahead to such an advanced stage, advise the Ministry to be watchful and keep a constant vigil in ensuring that rights and interests of such people are always looked after, safeguarded and protected.