

Operationalisation of the Forest Rights Act



1. Project Background

The project was conceptualized to constitute a cross geographical study in partnership with the previously established LEAD Advocacy Network Under support from CALPI-Intercooperation. This LEAD network had the LAN Partner NGOs as follows-

- WOTR, Maharashtra
- Sampark, MP
- CEE, Gujarat
- WASSAN, AP
- OUTREACH, Karnataka
- Seva Mandir, Rajasthan

Out of these project Partners, Wassan and Outreach agreed to partner in a project that would process document the progress of the Forest Rights Act 2006 and also help in capacity building of the communities in implementing the same (in the form of best practices) in a few villages in each of these regions i.e Karnataka, Andhra Pradesh and Rajasthan.

- Rajasthan-Seva Mandir
- Andhra Pradesh- WASSAN
- Karnataka-OUTREACH

2. PROJECT GOALS

As mentioned in the project document major reasons for this project being conceptualized were

- To support the implementers of the Act for its right interpretation and execution
- Making people aware of the provisions of the Act
- Assist Gram Sabhas to take decisions which do equal justice to livelihoods and ecology
- Leveraging earlier community initiatives of forest conservation to protect forests as CPRs.

2.1 Objectives Of The Study

- To Operationalise Test the tribal Rights Bill
- To Evolve best practices for capacity building of the villagers.
- To establish a more transparent and participatory approach towards implementation of the Forest Rights Act.

2.2 Project Objectives – Thus the project objectives as broadly envisaged were as follows -

- Evolving Best Practices for Engaging with the Communities/Forest Rights Committee
- Evolving a roadmap
- Planning for future land use
- Process Documentation

2.3. Time frame

The time frame of the project was from 1st August 2008 to 30 November 2008 but later on extended to 25th December 2008.

RAJASTHAN CASE STUDY

3. PROJECT CONTEXT

3.1 Land Ownership Profile In Udaipur

Common Land		Total
Forest Land	- 42.7%	
Pastures	- 5.6 %	
Others	- 25.1%	72.7%
Private Land	-	27.3%

3.2 Some other salient features of the region

- Arid to semi-arid, drought prone.
- Dispersed settlements.
- Mostly tribal; poor peasants living below poverty line.
- Poorly developed economy and infrastructure.
- Ranks low in terms indicators of health and education.
- 70% of total land under state control and is largely privatized.

3.3 Seva Mandir`s Engagement

- Seva Mandir had been working in the field of Natural Resource Management on CPRs and forest land (JFM) since last 20 years and we have been grappling these issues since last 20 years.
- Efforts aimed at persuading community to decolonize and develop commons have been continuing in order to bring in natural resource development for livelihood and ecological security. The efforts include Watershed Development, Afforestation on Private and Pasturelands, Joint Forest Management that aim towards common land development through institutions.
- Most of such institutions have been formalized in the form of either the Gram Vikas Committees or the Forest Protection Committees. Federating community efforts at larger discourse has also helped in the form of the *Van Utthan Sangh*.

3.4 Study Villages

- Village Som,
 - Previous study/ data available. Som has been the site of earlier studies as well on the issue and therefore some baseline data was available.
 - Som has a proposed JFM site where the site survey has been conducted and is work in progress.
 - One of the favorable factors was the positive attitude and receptivity of the villagers towards this issue.
- Shyampura - Intensive Program and JFM was done in the year 1991. The village has also witnessed vigorous capacity building initiatives and some of the members of executive of the federation of the forest protection committees also belong to this village.
- Ambavi - Protected Area (*Phulwari Ki Nal Sanctuary*) - As per the project design one of the three villages chosen should be a kind of protected area.

4. METHODOLOGY FOR THE STUDY

The study involved building upon the previous experience of dealing with such issues and capacity building of the villagers in dealing with the issues of verification of the claims so that they can distinguish between the various legitimate and illegitimate claims through

- Planning
- Rapport Building
- Capacity Building of the Forest Rights Committee for the Study

4.1 Project Activities conducted

- ⇒ Two meetings held in each of the villages.
- ⇒ One overall training held in each of the villages to sensitize people and train people about the provisions of the FRA.
- ⇒ People were also engaged in pilot of the FRA in one of the trainings. It was found that estimation of area of encroachment was difficult for the members of the FRCs.
- ⇒ List of claimants was prepared for all the villages but the verification could not be done as the process was dependant upon the initiatives of the *Gram Sabhas*. A small committee of sarpanch, Forester and Patwari (village land record officer) is being formed at the village level to guide the people regarding the verification. This has been pending for a while.

- ⇒ PRA and resource mapping done in all the villages. Areas under encroachment found out through
 - ⇒ Forest Mapping Exercises
 - ⇒ Mapping of the Encroachments.
- ⇒ Sample Survey conducted in all the three villages. Results analysed for livelihood mapping of the encroachers
 - Total HHs - Surveyed-Claimants
 - Som - 400 - **103** - 51
 - Shyampura -115 - **32** - 18
 - Ambavi - 223 - **113** - 38
- ⇒ Final consultation held at Jaipur where the presentation of the findings of the project and of the status papers were done.
- ⇒ Microplan and Road Map Being finalised - This can only take place once the process of verification of the claims is done by the concerned authorities

5. DATA SOURCES

5.1 Primary Data Sources -

The project involved following exercises

- PRA (Participatory Rural Appraisal) Exercises
- Resource Mapping
- Inventorizing claimants
- Forest Cover Mapping
- Focus Group Discussions
- Interviews with the various stakeholders
- Claimants,
 - The forest department staff,
 - PRI and Revenue Officials,
 - People's representatives
 - Forest Rights Committee members,
 - Village Para workers working in the area. etc.
- Multiple Village Transects have been conducted.
 - Across the village area
 - Forest areas Adjoining Villages and Phulwari Ki Nal Sanctuary
 - Encroached upon areas

5.2 Secondary Data Sources

1. Forest Department Maps
2. Land Records

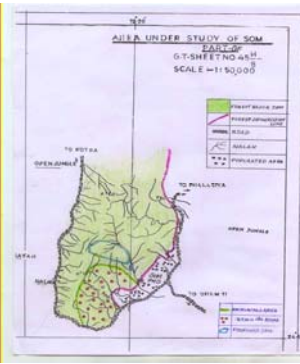
5.3 Identification Of The Encroachments

1. Forest mapping exercises
2. Mapping of the encroachments
3. PRA for Encroached Upon Areas

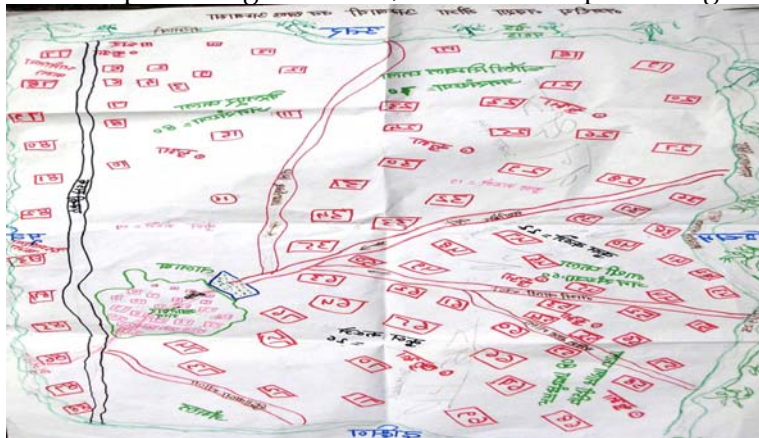
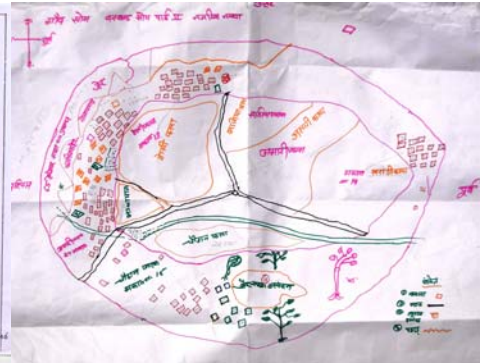
PRA Map of Village Som



PRA Map of Village Ambawi,



PRA Map of Village Shyampura



6. CONSTRAINTS

Some of the constraints faced with the project were as follows

- Lukewarm response of different stakeholders especially elected representatives and grassroots functionaries of Revenue Department although response of the people in general, FRCs and Gram Sabh members was good in all the three villages.
- Lack of awareness as many of them saw it as an exercise to either encourage or discourage in certain directions while we saw it more as an exercise to bring in more prudence towards land use in the village.
- Lack of Procedural clarity on part of the tribal affairs department (nodal agency). This makes it difficult to find out who is supposed to take the first initiative.
- Process at Initial Stages at Government Level and the Process of verification of claims yet not kicked off in the project villages.
- Area estimation and verification requires skill and capacity building which most of the villagers lack.
- Populist & conflicting agencies working in the same area leading to predecided notions and expectations amongst the villagers about them.

7. PROJECT FINDINGS FROM RAJASTHAN

7.1 Survey Results

7.1.1 Number of claims

The Study Villages

Sl. No.	Part	Shyampura	Ambavi	Som
1	Total households	115	223	400
3	Claims	32	113	103
4	Surveyed Households	28	38	51

As per the list obtained during the PRAs, the number of claims seem to be on the higher side and this might also have been because of the increased sensitization amongst the project villages. The data shown from point 7.1.2 to 7.1.7 is related to sample households out of the total claims. i.e 28, 28 and 51 in Shyampura, Ambavi and Som respectively.

7.1.2 Survey Results – Landholding and Livestock Profile

Sl. No.	Part	Shyampura, 32, 28	Ambavi, 113, 38	Som, 103, 51
1	Average / Capita Landholding	.982	0.37	1.44
2	Total Encroacher owned Landholding in Bighas	90.5	69	221
3	% age Irrigated	.61	.55	.27
4	Cows (Avg No./HH)	1.04	1.11	1.63
5	Buffalo ""	0.82	0.45	1.41
6	Goats ""	4.14	3.26	8.31
7	Sheeps ""	0.00	0.00	0.00
8	Bullocks ""	1.46	2.08	2.33
9	Camel ""	0.04	0.00	0.04
10	Others ""	1.04	0.29	0.31

Livestock population									
Village	Households	Bullocks	Cows	Buffalo	Goat	Sheep	Camel	Donkeys	Total
Som	400	370	350	140	1390	0	8	4	2662
Ambavi	223	260	700	800	2000	60	5	10	4058
Shyampura	115	172	345	245	500	0	0	0	1377
	738	802	1395	1185	3890	60	13	14	8097

Out of the villages chosen for the study, while Som seems to have a well endowed landownership profile while

- The previous study in Som pointed to better landholdings meaning that some of the new claim-filing villagers seem to have divided landholdings amongst themselves, though of poor quality (less irrigation 27%) while 61 % in relatively better developed Shyampura have access to irrigated land. Thus we can safely conclude that lack of access to irrigation resources might lead to people grabbing more of forest lands.
- Interestingly most of the households with unirrigated lands also have high number of ruminants, which require feeding space which can also be considered a reason for people encroaching upon forest lands.

7.1.3 Survey Results - Livestock based Livelihood

SI No.	Part	Shyampura	Ambavi	Som
1	Utility of Livestock	In percentage		
2	Milk selling	0.75	0.32	0.04
3	Ghee	0.14	0.00	0.00
4	Sale of goat	0.79	0.50	0.61
5	Selling wool	0.04	0.00	0.00
6	Wood Selling	0.00	0.00	0.00
7	Others	0.00	0.00	0.00

- Most of the encroachers highly dependant upon livestock rearing but surprisingly while non-forested village witnesses higher incidence of selling of milk and goat and we can safely say that input obtained from forest is only sufficient enough for weight increase of goat but not for high-input requiring dairying.

SL No.	Part	Shyampura	Ambavi	Som
1	Earnings from	In percentage		
2	Government job	0.00	0.00	0.27
3	Private Job	0.00	0.00	0.24
4	Migration	0.68	0.74	0.29
5	Drought Relief	0.43	0.29	0.94

- Very high number of people claim to be dependant upon migration and drought relief proving that most of the encroachers are not able to grow enough on the encroached upon forest lands.

SI No.	Part	Shyampura	Ambavi	Som
1	Monthly income	In percentage		
2	0-1000	0.50	0.55	0.16
3	1000-2000	0.21	0.21	0.49
4	2000-3000	0.14	0.11	0.18

5	>3000	0.11	0.05	0.14
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- Encroachers represent extremely poor households with monthly income below <1000 in almost all the cases though it is difficult to ascertain the reason for their poverty.

SI No.	Part	Shyampura	Ambavi	Som
1	Cropping pattern	In percentage		
3	Only Kharif	0.36	0.08	1.00
4	Both Kharif and Rabi	0.68	0.71	0.94
5	Fruits and Vegetables	0.25	0.00	0.00
	Maize	330.36	317	467
	Wheat	75.00	-	400
	Pulses	-	267	926

Given the arid nature of the region people cannot take more than one crop if they do not have access to irrigation facilities.

- Most of the encroachers are cultivating two crops which points to the fact that some of them seem to have perpetuated the encroachments and it is being treated as revenue land. This can be said as they are also able to irrigate their crops (and are therefore taking two crops.). It is also surprising to note that people are cultivating pulses and second crops in sanctuary areas like Ambavi.

7.1.4 Claimant Profile

SI No.	Part	Shyampura	Ambavi	Som
Encroachment and land use in bighas				
	Total Encroachment	119	209	290.5
1	Avg Encroachment	4.25	5.65	5.81
2	Cultivated/Irrigated	0.64	0.79	0.88
3	Unirrigated	0.32	0.26	0.80
4	Wasteland	0.43	0.03	0.59
5	Other Usage	0.04	0.00	0.02

- Most of the encroachers seem to be using the encroached upon land for agriculture though some of the land seems like to be used just as a wasteland as in Shyampura.

SI No.	Part	Shyampura	Ambavi	Som
	Age of the Encroachments			
2	1-2	0.04	0.03	0.06
3	2-10	0.32	0.21	0.16
4	10-20	0.11	0.53	0.00
5	>20	0.57	0.24	0.73

- While the encroachments in Ambavi seem to be relatively newer, those in Som and Shyampura tend to be older and seem to be belonging to those living on revenue lands spilling over to forestland on the boundaries.

SI No.	Part	Shyampura	Ambavi	Som
1	Contribution to Agriculture Production			

2	0-10	0.04	0.03	0.63
3	10-50	0.43	0.03	0.20
4	50-100	0.50	0.89	0.00
5	(Landless)	0.00	0.05	0.00

7.1.5 Age Determination and Verification of Encroachments

- Two villages having substantial production from forests while in village Som, people have substantial lands in the village and therefore derive half of crop production from the revenue lands. Ambavi witness agricultural production coming almost entirely from encroached upon forestlands.

SI No.	Part	Shyampura	Ambavi	Som
Condition - Pre-Encroachments,				
1	Forests	0.25	0.97	0.96
2	Cultivable	0.36	0.58	0.57
3	Wasteland	0.43	0.32	0.33
4	Grazing Land	0.36	0.00	0.98

SI No.	Part	Shyampura	Ambavi	Som
Status - Post Encroachment				
1	Agriculture	0.82	0.97	0.76
2	Wasteland	0.29	0.00	0.31
3	Forests	0.21	0.05	0.67
4	Cattle Enclosure	0.04	0.87	0.88
5	Homestead	0.18	0.84	0.78
6	Unutilized	0.00	0.00	0.08

- Most of the encroachments have been done on forestlands, which have been traditionally used for grazing purposes. In village Som the good quality land has also been converted for agriculture while maximum area is being used for grazing purposes. Shyampura's encroached upon area was forests which as degraded and is lying fallow presently.
- Post encroachment most of such lands have been used for agriculture purposes as also for cattle rearing in the forest areas. Also in most of the encroachments in Som and Ambavi, people have also built homestead on encroachments.

7.1.6 Development done on encroachments

SI No.	Part	Shyampura	Ambavi	Som
Developments - Post Encroachment				
1	Agriculture	0.89	0.95	0.84
2	House	0.32	0.84	0.78
3	Well	0.14	0.39	0.10
4	Cattle Enclosure	0.07	0.74	0.82
5	Med-bundi	0.71	0.74	0.94
6	Fencing	0.04	0.00	0.02

Most of the people have also ended up doing substantial land development activities though boundaries are non-descript. Many a times it is difficult to make out where the revenue land ends and forestland starts as the *minaras* installed have been destroyed by the new dwellers. Major activities include land levelling and *medbundi* (*farm bundings*). Surprisingly not many people in Shyampura have admitted to erecting cattle enclosures or homesteads as against the other two villages.

7.1.7 Interactions with Government

Sl No.	Part	Shyampura	Ambavi	Som
Interactions with Government				
1	Receipts	0.10	0.08	0.41
2	Compounding done	0.07	0.00	0.22
3	Cases filed?	0	0.00	0.22
4	Vacated?	0.07	0.00	0.02
5	Repercussions of encroachments	0.01	0.05	0.02
6	Members of institutions like FPC	0.04	0.37	0.20

Most of the people do not have proofs/evidences of encroachment. Apart from a few cases in Som, in most of the cases there is a conspicuous lack of registration of forest related crimes and most of the encroachers have little proof of their cases making them susceptible to eviction. During the process of verification such cases which do not have evidences are bound to loose out and get delayed further restricting chances of getting secure tenures.

As per the previous government orders (as mentioned in the status papers) structures constructed like houses, wells, check dams have been considered to be evidences. Therefore we can say that such developments on forest lands shall be considered as evidences during the implementation of the Forest Rights Act and claim verification as well.

7.2 PRA Report

Ambavi

7.2.1 About Future trends

1. Land is indispensable for local livelihood. They have no other land other than the encroached upon land. This is especially true for sanctuary fringe villages as well.
2. But Livestock is imp. Livelihood asset and therefore we need forests as grazing avenues for livestock. The village grazing paths leading forests should also be protected.
3. Forests are also required to fulfill the timber needs, which is a critical component of the homesteads.
4. The drainage lines are important for hydrological cycle. These should be protected from encroachment so that the health of the watersheds is not disturbed.
5. The forest rights committee should discourage new encroachments.

7.2.2 Status of Implementation of FRA in Ambavi

The FRC has been selected and the villagers had received quite a few claim forms earlier. So far a few efforts have been made towards the capacity building of FRCs. Training for FRCs was organized by Panchayat Samiti, Jhadol at Manpur (Panerwa). Seva Mandir and the Van Uthan Sansthan also organized training for FRC at Karel.

So far 50 claims received for individual and 4 for collective claims. All the forms have been deposited to the Secretary Panchayat who in turn has forwarded the forms to BDO. However these have been returned back to the Secretary Panchayat. In the entire process, only secretary of the FRC was in contact with the government authorities. Most of the committee members were not aware of the developments. The new forms are being distributed to the claimants. The new forms are being distributed on production of Photo ID or Ration card. Previously the forms were distributed on the basis of penalty receipt issued by the FD (under the 1980 Forest Rights Act for non-forestry activities. But more often than not such receipts are of cutting trees etc or theft from forest areas rather than actual encroachments on forest lands. The committee would act as per the provisions mentioned in the prescribed format issued to them.

Shyampura

1.The people are of the opinion that the remaining forestland should be saved at any cost. 32 Claims have been received so far by FRC

Som (regarding repercussions of the act)

(a) Physical: All the households have small and large ruminants and Small ruminants represent almost half livestock population. Here the Forests serve as major common grazing avenues and the realization of rights under FRA would result in to reduction of grazing areas and routes as Small ruminants and camel would be affected negatively due to such changes. Notably the livestock density in Som is 1.5 ACU (adult cattle unit) per hectare against ideal 1.0 per ha.

People are of the opinion that the act would lead to reduction in forestland and forest cover. It may have following consequences; -

- (i) Less availability of fodder, fuel and other minor produce on collective basis.
 - (ii) Due to reduction in grazing avenues, the no. of livestock would go down (esp. Small ruminants) It would lead to reduction in availability of FYM (Farm Yard Manure)
 - (iii) Due to many encroachments coming in the way of natural drainage lines, it may change the drainage pattern and would adversely affect the overall watershed health.
- (b) Social: Due to inequality in distribution of the claims, the social harmony of the village would be adversely affected.
- (c) Political: The politics of patronage would increase

7.2.1 Remedial measures as suggested by people:

There is an urgent need to protect remaining forests and institutions should discourage regularization of encroachments on drainage lines. At the same time Grazing routes should be protected and preserved. For the same village leaders should have to be more responsible to dispense justice and their capacity building for land use planning is must.

Sample Output from PRA Exercises

S No.	Total forest land	Encroached	Remai ning	Community plans
Som	974	224 ha would be treated under watershed development for agro-forestry,	750	1.Currently 65 ha approved for JFM 2.additional 185 ha would be brought under JFM 3.300 ha is being protected as natural forest. 4.150 ha would be reserved grazing area.

		horticulture and other activities		The community would oppose new encroachments.
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8. PERCEPTION OF THE PEOPLE

- Forests as a community resource are under threat
- The regularization of encroachments would interfere with drainage lines and would be detrimental to watershed health of the region.
- Blockage of grazing paths would affect livestock based livelihoods.

9. IMPLICATIONS FOR LIVESTOCK FROM THE DATA COLLECTED

- ⇒ Most of the encroachers highly dependant upon livestock rearing. Most of the encroachers are cultivating two crops
- ⇒ Two villages i.e Ambavi and Shyampura having substantial production from encroachments in forest lands while in village Som, people have substantial revenue lands in the village.
- ⇒ Most of the encroachments have been done on forest lands which have been traditionally used for grazing purposes. In village Som the good quality land has also been converted for agriculture.
- ⇒ Post encroachment most of such lands have been used for agriculture purposes as also for cattle rearing in the forest areas.
- ⇒ Most of the people have also ended up doing substantial land development activities though boundaries are non-descript
- ⇒ Most of the people do not have documentary evidences of encroachment though the developments on the forest lands might be considered to be one form of evidence while physical verification.

10. ISSUES

At the end of the PRA exercises and the surveys we are left with certain key questions which we need to find answers for -

- There seems to be a distinct mismatch between Forest Department Records, people's perception and the actual on site condition.
- Should we look at this phenomenon of settling claims as a one-stop activity or an ongoing process??
- How to respond to changing macro-micro landscape - (forest land being used for cultivation)
- How to make balance between landuse changes and local hydro ecology and issues related to livestock and grazing.
- Are we (Community - State - Civil Society) prepared for planning ecologically sound land use and environmentally sustainable practices??

11. CONCLUSION

This project can be considered to be quite unique of its kind. Usually engagement of stake holders and their enthusiasm is overwhelming at the advocacy stage. The real challenge lies in the actualization of the policy provisions. This project could serve its purpose by sensitizing the community and other stakeholders towards their rights and responsibilities pertaining to forestlands.

The Forest rights Act is an opportunity which aims at conferring rights to the claimants over the forestland they were occupying for years. However, the process of submission of the claims and verification and allotment of land needs to be well understood at all the levels. The state, community and civil society organizations have to be vigilant to determine that it is done in a transparent manner. The project provided first hand experience to partner NGOs with operationalization of the Forest Rights Act at the ground level. The status papers highlighted historical aspects of forest settlements, management and community access to forests. These papers specifically mentioned about the progress made towards implementation of the FRA.

At the field level, the project on "Operationalization of Forest Rights Act" tried to address the complexities involved in realization of newly conferred rights to the tribal people. It was very important to notice that the community as a whole is more concerned about the conservation of local forest resources than ever before. The livelihood of the tribal people is still dependent to great extent on natural resources. As their farming systems are still under going a process of maturation from hunting gathering, forests resources are still of vital livelihood and ecological significance to them. Hence apart from individual claims, people strongly advocated plight of collective rights to preserve the sanctity of leftover forest patches.

In brief, under this project, the community was made aware of the provisions of the act. We were able to create space to make people understand, under which negotiation could be held to achieve equilibrium between ecology and livelihoods. Since the project support was available for a limited period, Seva Mandir has decided to continue their engagement with the study in future and try to fulfill the objectives of the study.