You would kindly recall that in the initial stages of the implementation of the Forest Rights Act, 2006, opinions were expressed by some members of the fount that the Ministry of Tribal Affairs has not been actively persuading the governments to implement the Act, nor is it taking requisite measures for the various writs filed against the Act by retired forest service officers throughout the country. Subsequently, however, such opinions were expressed in the context of the large number of claims in the tribal-forest majority States and the high number of claims filed.

Lately, opinions have again started emerging from various civil organisations pointing out that the Act is not being implemented in the State in various States; that forest department is obstructing its implementation; that the Ministry of Tribal Affairs has not been effectively monitoring the cases filed in the courts; and that the Ministry is lukewarm in pushing States to properly deal with all the claims received. It is in this context that I would like to place before you the following facts.

The onus of implementation of the Forest Rights Act lies squarely at the level of the State Governments. The Ministry of Tribal Affairs can only persuade, and sort out operational problems by issuing guidelines if referred to by State Governments. As you are aware, with the pronouncement of Her Excellency, the President of India, in June, 2009, that all claims received as on that date should be disposed of by December, 2009, the Ministry intensified its contact with State Governments through one-to-one interactions, meetings, frequent telephonic calls, visits, etc. A Conference of Chief Ministers was also held on 3rd and 4th November, 2009 in which the Hon'ble Prime Minister addressed the State Governments regarding proper implementation of the Forest Rights Act and quick disposal of the claims received. Minister (Tribal Affairs) and MOS(TA) have also been visiting the State Governments together with the undersigned and other officers to review the progress of implementation of the Act. Cabinet Secretary may also kindly recall that he has held video
conferences with State Governments and has also issued letters to the States urging them to effectively implement the Act. Hence, in the aforesaid context, the Ministry can do little else in persuading the State Governments. All clarifications that were sought by States from the Ministry were quickly responded to and in the last couple of months, no new issues have been raised by them.

(b) When the Act was initially conceived, no assessment was possible of the number of beneficiaries likely to be covered. General guesstimate was that the number of titles to be distributed would be around 3-4 lakh. Against this, as on 30th April, 2010, more than 7.8 lakh titles were distributed with an average of about 2.1 ha per head! The process continues. The general impression in the Ministry as well as in the State Governments is that the result has been beyond expectation and the Cabinet Secretary has himself commended the States that have done very well. In the recent video conference held on 13th April, 2010 at the level of Cabinet Secretary, Maharashtra, one of the lagging States, assured that they would distribute more than one lakh titles by June, 2010! Though I personally have doubts about this commitment, I feel that the State Government may now improve its performance. A statement indicating State-wise performance as on 30th March, 2010 is attached for your perusal. The progress for the month of April, 2010 will be indicated in our next progress report.

(c) Opinions have been expressed that we have not been actively pursuing closure of all the writs filed against the implementation of the Act. While this is true, what has been overlooked in making such a statement is that we have managed to get stay orders lifted from 2 out of 3 States i.e. Andhra Pradesh and Orissa whose potential was the highest. Stay order continues only in the High Court of Madras, but for Tamil Nadu the number of claims involved is less than 11000. Andhra Pradesh distributed more than 1.54 lakh titles and Orissa 1.45 lakh.

(d) Another point that has been missed by those who have been expressing adverse opinions is that by not vigorously pressing for the closure of the cases in the Apex Court, we have managed to continue the implementation of the Act and at this stage, it would be difficult for any court to impose a stay when so many titles have already been distributed. Insisting on a closure and final disposal might have also resulted in a decision against the Act.

(e) The provisions of the Forest Rights Act and the processes to be followed from the receipt of claims to their final disposal are of a quasi judicial nature. There is a limit to which the established decision making Committee can be persuaded. To that effect, the persuasion can only be between Government of India and the State Governments. There are also
enough provisions in the Act and Rules to ensure that the mistakes are corrected and the aggrieved can appeal. So, if civil society expresses opinions that the law is not being implemented in the right spirit, it is open to them to facilitate the affected persons to lodge their appeals, if aggrieved. If NGOs chose not to do so and only make generalized statements about improper implementation of the Act, they are actually not helping the beneficiaries.

The Ministry feels that having achieved the primary aim of distributing titles, it should now attempt to bring about convergence of Government programmes so that the standard of living of the beneficiaries improves. The initiative taken by the Ministry of Environment and Forest, in consultation with this Ministry, to task the forest department to play a more active role vis-à-vis the beneficiaries of the Forest Rights Act and the Gram Sabhas may be seen in the terms of reference of the Committee notified (attached). This would not have been possible had the Committee been constituted and notified by the Ministry of Tribal Affairs.

Two States (Orissa and Madhya Pradesh) had been requested by this Ministry to get an independent evaluation done of the way the Act is being implemented. A short-term evaluation by Orissa is available (attached). It points out both the things that have gone on well and those that have not. It is now up to the State Government 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. They have been reminded.

The Ministry would not give up persuading State Governments that have lagged behind in the implementation of the Act. Indeed, it has already decided to visit such States immediately after the Parliament session is over. The Act, not having any deadline for the collection of claims, will continue to be implemented and what needs to be ensured is a quicker disposal of the claims received.

3. I had attended a workshop organized by the Council for Social Development, an NGO, on 27th April, 2010 on the express request of Shri K.B. Saxena. Shri B.N. Yugandhar and Shri S.R. Sankaran were also present. Many NGOs raised issues relating to the obstructive attitude of the forest department in the States, non-attention to issues like community rights, etc. In summing up, Shri B.N. Yugandhar felt the need for a social audit of the forest rights on the MGNREGA pattern, and also a forum at the national level where the civil society can express their views and give feedback in addition to the feedback that we are receiving from the State Governments. While we will take a view on these two suggestions, I would like to place before you another statement made by Shri Yugandhar to the civil society quoting a Telugu proverb “that a recently planted
mango tree's roots should not be frequently dug up to see its growth or else the tree will die." He advised the NGOs to support the Forest Rights Act and not demand issuance of additional operational guidelines so early in its implementation.

4. We would welcome to be guided by the Cabinet Secretary as to whether we need to do anything more than what we have been doing vis-à-vis the implementation of the Act by the State Governments. Cabinet Secretary may like to keep the Prime Minister apprised.

Yours sincerely

(G.B. Mukherji)

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