



FRA, 2006

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Sec 3(2)

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Preamble

नं० ०४ एल—(एन)०४/०००७/२००६—०८

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

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PUBLISHED BY AUTHORITY

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No. 2]

NEW DELHI, TUESDAY, JANUARY 2, 2007 / PAUSA 12, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd January, 2007/Pausa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 29th December, 2006, and is hereby published for general information:—

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

No. 2 of 2007

[29th December, 2006]

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An Act to recognise 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; 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.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation and maintenance of ecological balance and thereby while ensuring livelihood and food

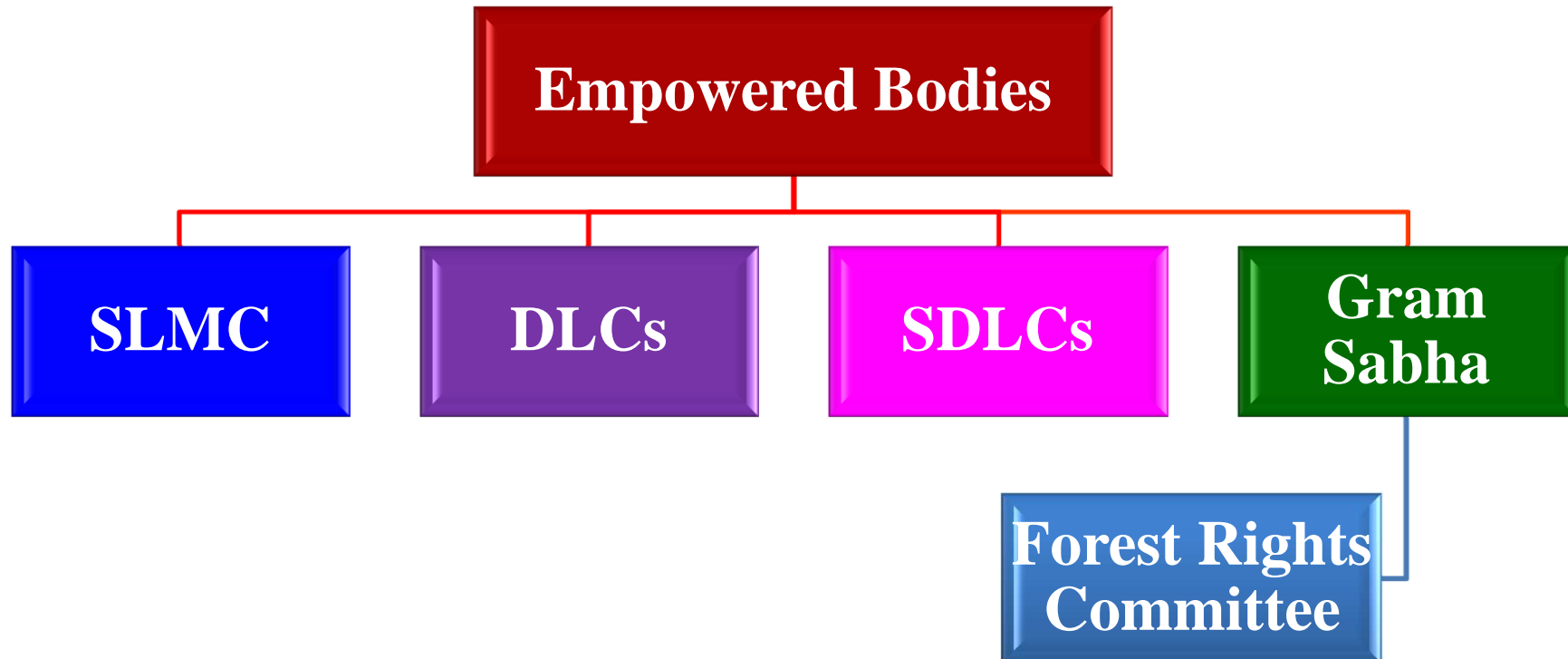
Spirit of FRA

- Recognition of Forest dwelling STs and OTFD whose rights could not be recognized during consolidation of state forests
- Those who are residing primarily in forests and have dependence on forests for their bonafide livelihood
- Along with responsibility of conservation of biological resource
- Rights (Occupation and Habitation)

Basic Feature

- **Tenurial Security to live and cultivate**
- **Tenurial security to the Community based**
Forest Governance
- **Tenurial security to access to forest produce**

Constitution of Empowered Bodies



National Forest Policy

- Ecological security of Nation is prime objective (Ecosystem Services)
- People's involvement in the management, conservation and protection of forests
- Sustenance needs and livelihood of the people living in and around forests have the first charge on forests
- Economic derivatives and other objectives are subordinate to prime objective.

Status of FRA Implementation As on 30.04.2013

- 3242766 claims filed
- 2817748 claims disposed(86.89%)
- 1298582 claims recognized
- **18,99,538.81** ha
- 8498 Community Rights
- Progress only in AP, Assam, Gujarat, MP, Chattisgarh, JHK, Karnataka, Kerala, Tripura Rajasthan, WB, Odisha and UP. In Tamilnadu 3723 titles are ready for distribution. As the High Court of Madras has not yet vacated the stay, distribution of titles deeds could not be executed.

Clarifications

Whether a Committee other than the Forest Right Committee and comprising persons other than the members of the Gram Sabha can be formed for assisting the Gram Sabha in discharge of its functions relating to recognition and vesting of forest rights under the Act.

Formation of committee other than FRC would be violation of the Act

Key Questions

Whether OTFDs who do not fulfil the condition of occupation of forest land for three generations (75 years) prior to 13th December 2005 would be eligible for recognition of forest rights under FRA?

Ans: To qualify as OTFD and be eligible for recognition of rights under FRA, three conditions need to be fulfilled- 1) Primarily resided in forest or forests land for three generations (75 years) prior to 13-12-2005 2) depend on the forest or forests land for bonafide livelihood needs 3) occupied forest land prior to 13-12-2005.

Key Questions

Primarily resided in does not mean occupation. Proof of residence in the village for 75 years where claim has been filed and dependence on forest land will suffice for being considered as OTFD. As clarified in an earlier letter No.17014/02/2007-PC&V(Vol.VII) dated 17.06.2008, regarding the phrase “primarily resided in”, “such Scheduled tribes and other traditional forest dwellers who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs would be covered under the definitions of forest dwelling scheduled tribes and other traditional forest dwellers given in Section 2(c) and 2 (o) of the Act.

Key Questions

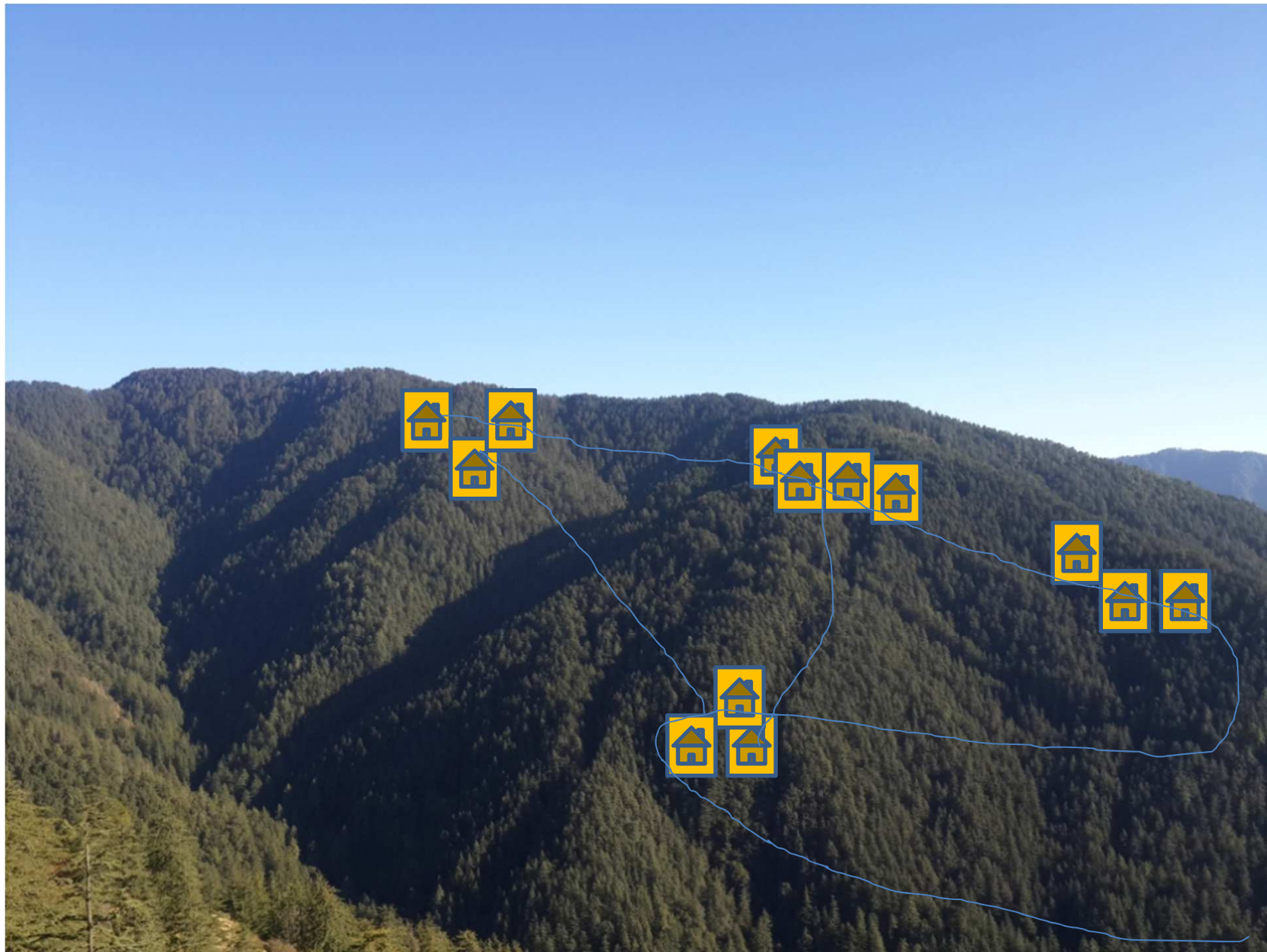
Does Development right under section 3(2) which involve land use changes need to be referred under the Forest Conservation Act 1980?

No permission is needed under FCA, since the Forest Rights Act frees the rights of all encumbrances and procedural requirement of the Forest Conservation Act through Section 4(7). However such conditions must fulfill the conditions under Section 3(2) of the Act namely diversion of less than one hectare, cutting of not more than seventy five trees, recommendation of the Gram Sabha and limited to the thirteen items listed under Section 3(2) of the Act. Procedure for diversion of forest land under Section 3(2) of FRA has been laid down by the Ministry of Tribal Affairs vide Annexure to letter No-23011/15/2008-SG.II, dated- May 18, 2009.

FCA vis a vis FRA



FCA vis a vis FRA



FCA, 1980

- Sec 3(2); 4(7) FRA

- MoEF 18 May 2009
(Procedure, Form A & B)

FRO-DFO-DLC

30 July 2009, 3 August 2009 (Certificate of FRA compliance)

5 Feb 2013

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:—

- (a) schools;
- (b) dispensary or hospital;
- (c) anganwadis;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres:

Provided that such diversion of forest land shall be allowed only if,—

- (i) the forest land to be diverted for the purposes mentioned in this 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.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

What act says:

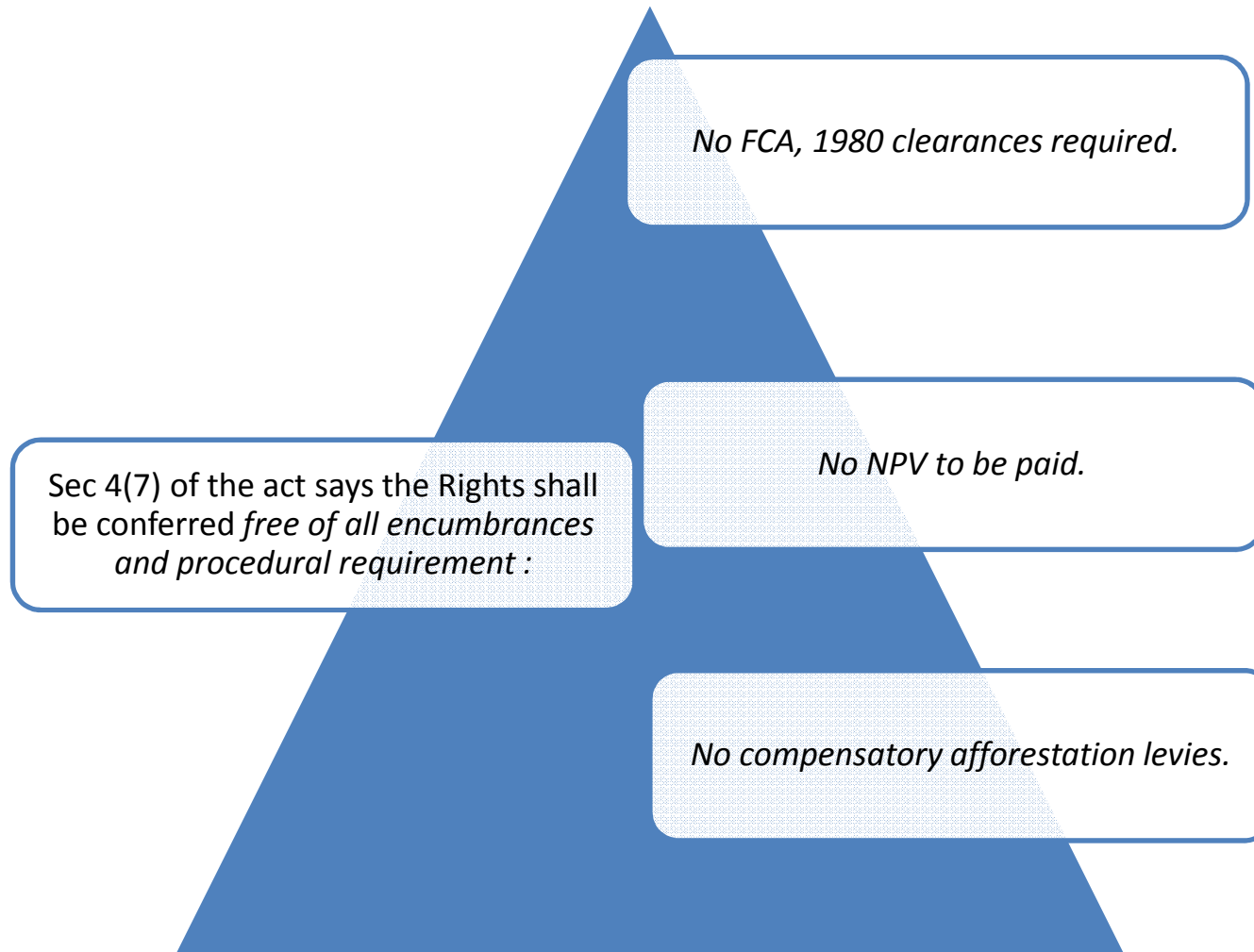
(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:— 69 of 1980.

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- (b) dispensary or hospital;
- (c) *anganwadis*;
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What is so special ?



Some clarifications

- No of trees: 75/ha

it is pro rata .

Eg: if 0.1 ha area is required the trees will not be more than 7.

for 0.5 ha, no of trees would not be more than 37

All saplings/ poles will be counted towards the no of trees.

CHC Julog and IGMCC centre at Chamiyana had to be re aligned to new location.

clarifications

- **Area**: in each case less than **1 ha**, *not even a hectare*.
- **Role of Gram Sabha** : The project should be recommended by Gram sabha.(simple majority).
- **What Activities** : Those managed by Government.
- **Who/User agency(UA)?**: Department of the centre or state govt.

Protagonists



Procedure

- Quorum of at least 50% members is mandatory.

UA will make a proposal in form A ([procedure FRA.pdf](#)) to the general assembly of the concerned Gram

50% quorum is mandatory

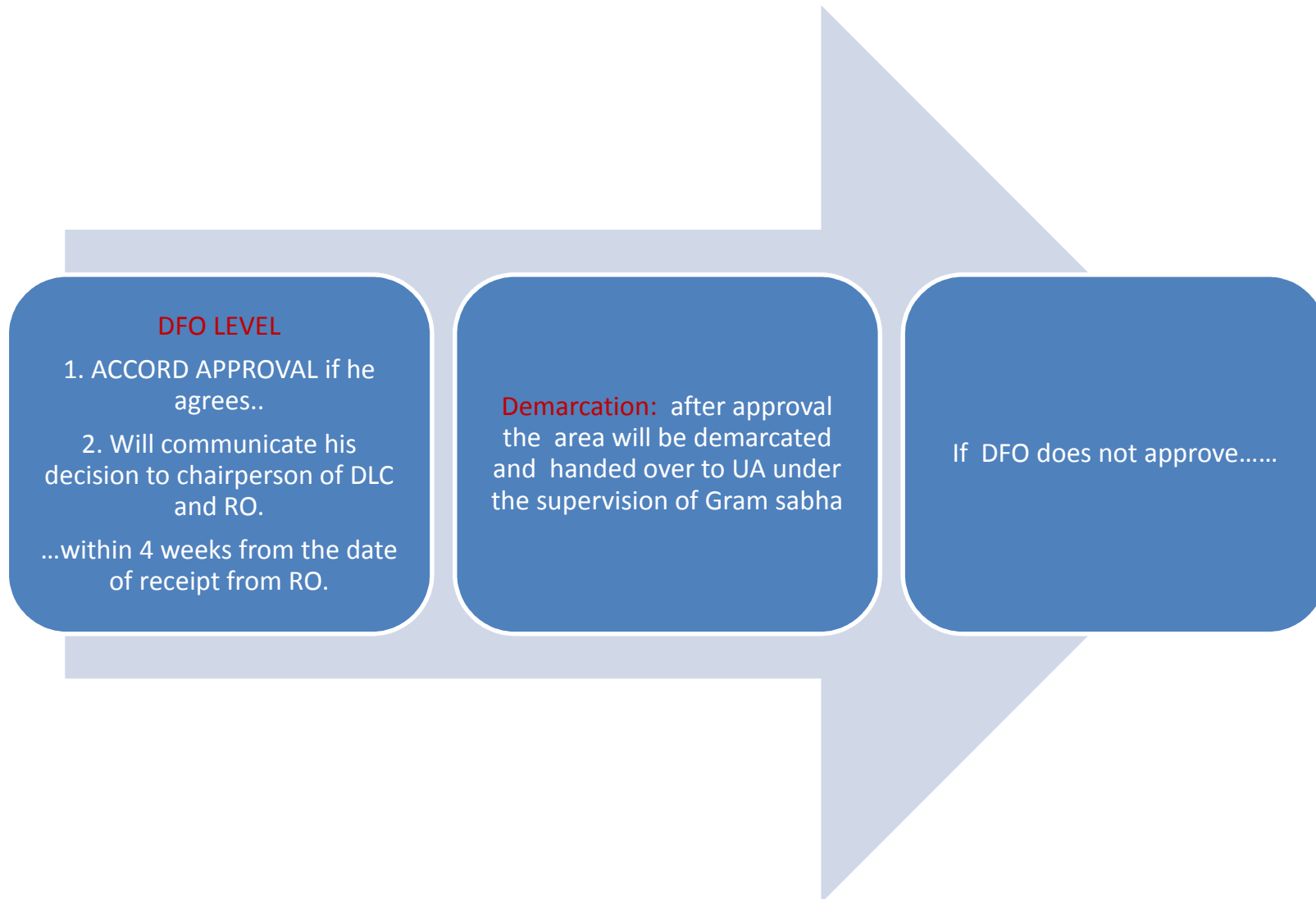
RO level

1. UA will submit proposal to concerned RO.
2. Along with Gram Sabha Resolution.

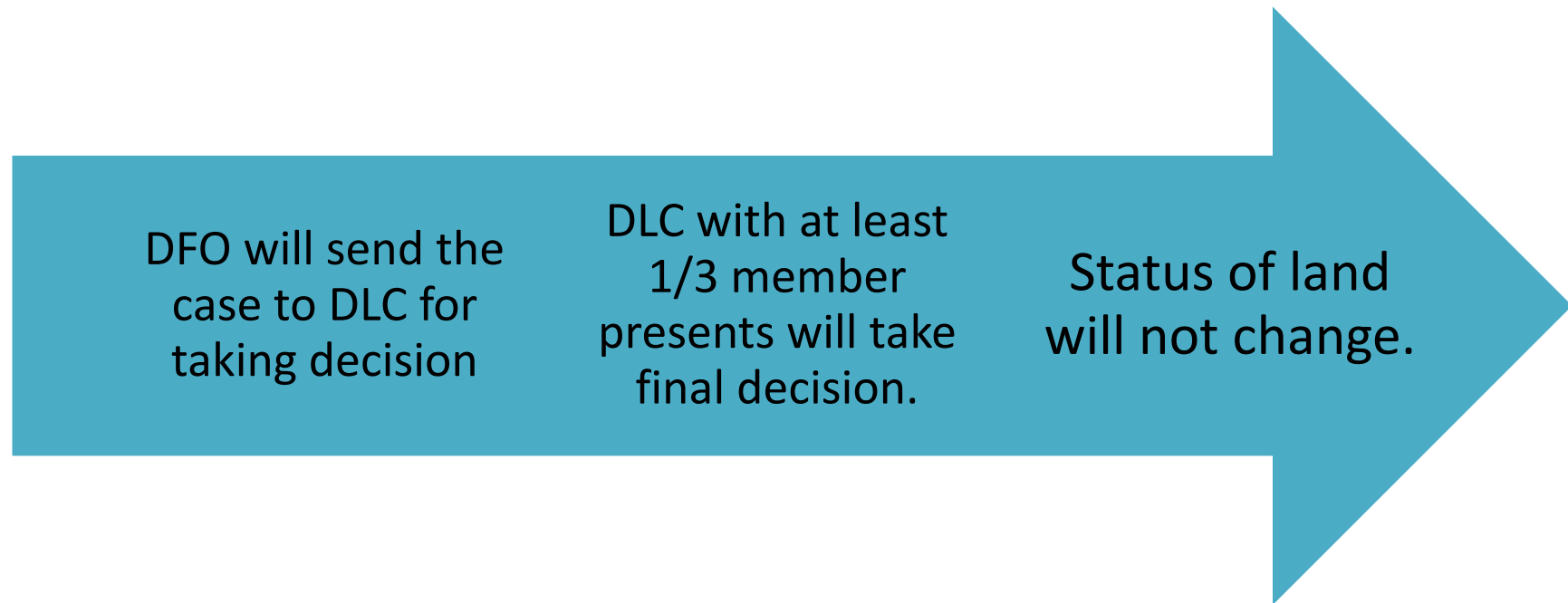
RO level

1. RO will conduct site inspection of the area.
2. Will submit the proposal to DFO in from B([procedure FRA.pdf](#)) along with site inspection report with in **3 weeks** from the date of receipt of proposal from UA.

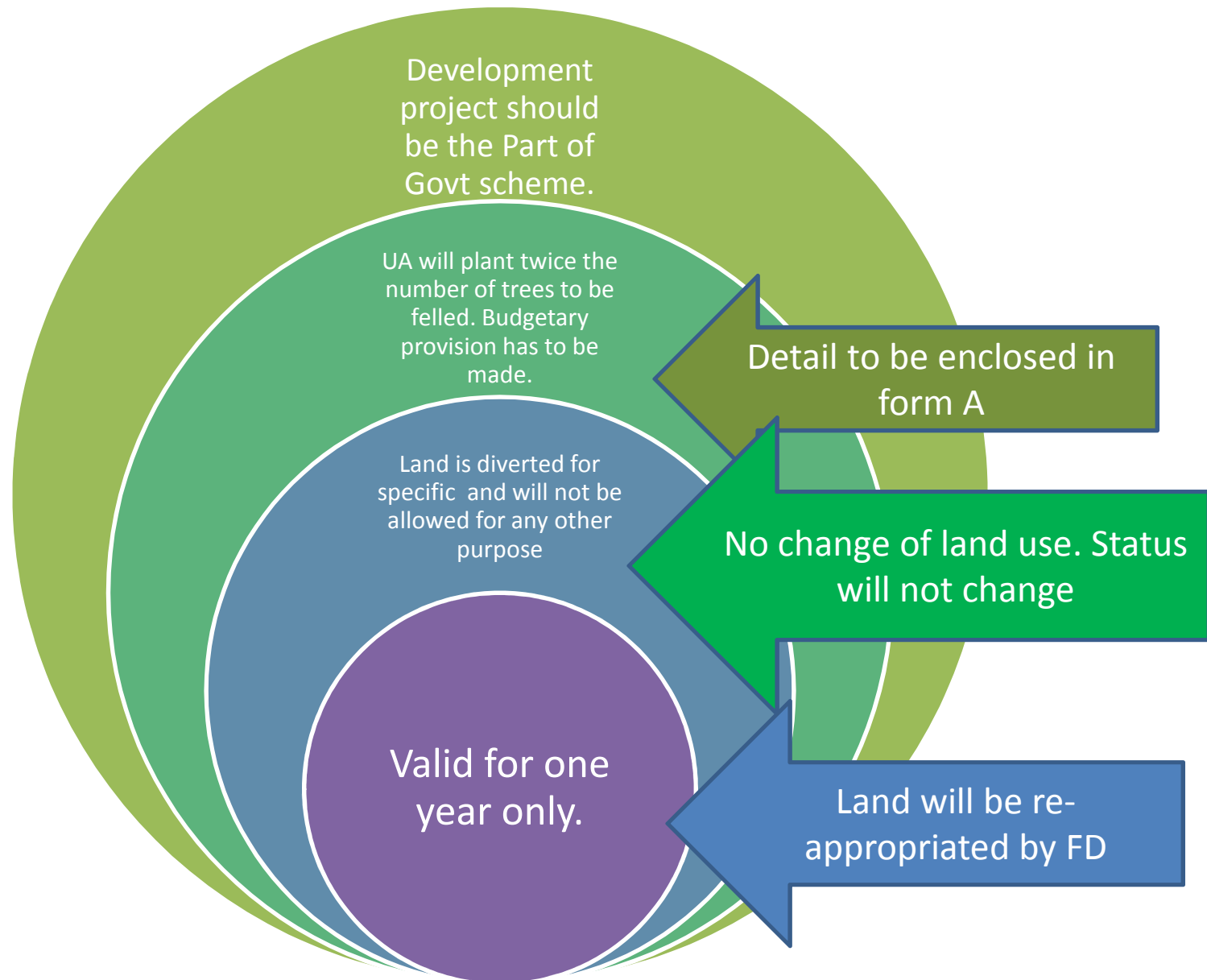
Procedure



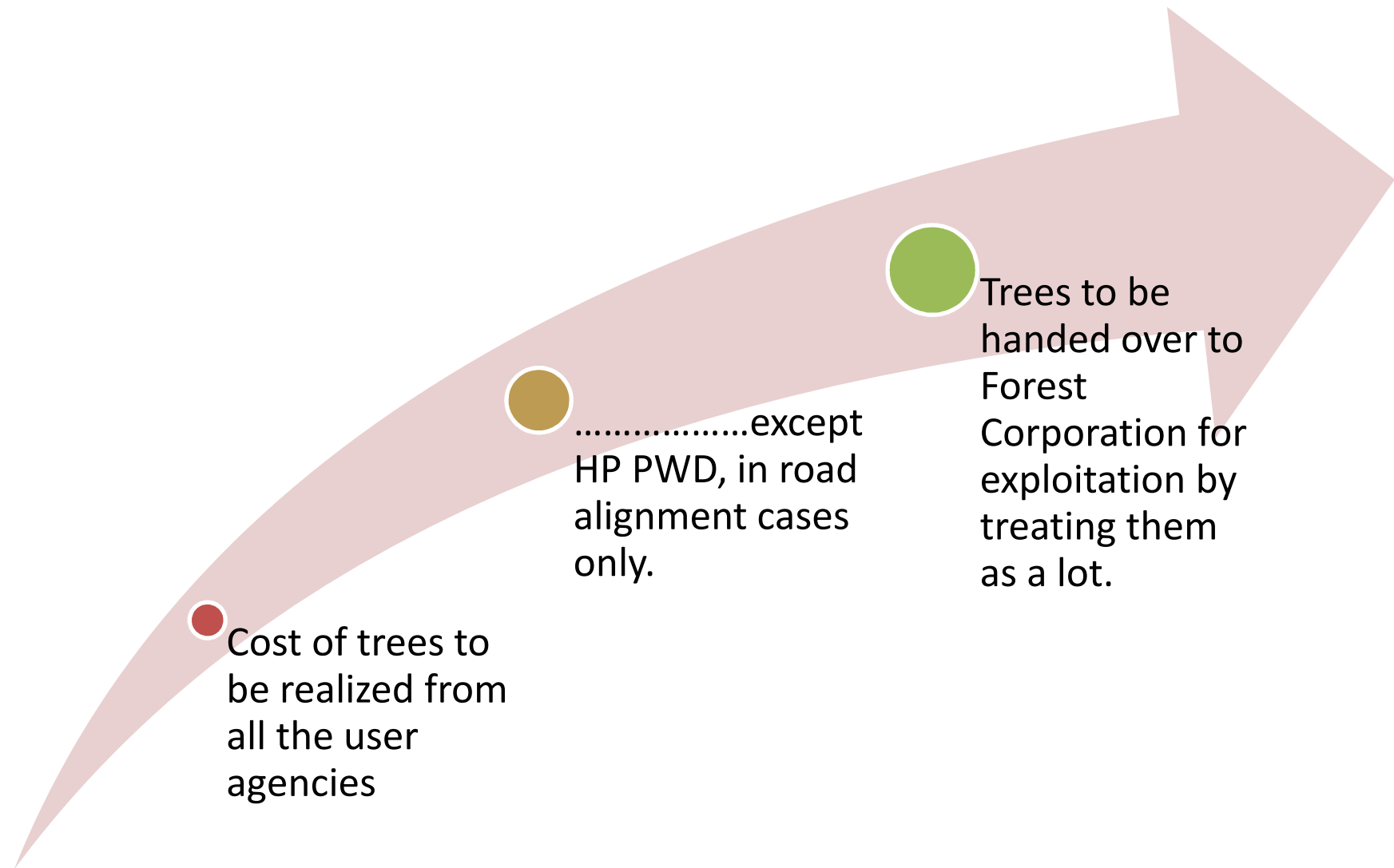
procedure



Other conditions



Procedure for disposal of trees.



Besides.....

- Land be properly demarcated, most importantly at the time of joint inspection.
- No harm will be caused to flora and fauna in the area.
- No tree will be felled other than the sanctioned.
- Muck disposal plan/ building plan and disposal of muck has to be scientific. No spillage will be allowed.
- Twice the number of trees will have to be planted and maintained for 7 years and budgetary provisions have to be made for the same. Undertaking to this effect have to be furnished by the UA that they will plant X no. of plants and will maintain them for 7 years with funds to the tune of RS.....

Sample

- [Sanctioned](#) case.
- Undertaking.

Why worry?

- Proxy names.
 - Mis-use.
 - Large fragmentation of forest areas.
 - Increased wild animal conflict.
 - Road construction in piecemeal.
-
- Etc..

really worrying

Forest rights and wrongs

Social activists and wildlife groups must acknowledge that no rights can be championed, nor wildlife saved, if the forests at the centre of the tussle vanish



BITTU SAHGAL

DON AFTER daybreak, driving through the forests of Sonitpur district in Assam in late 2005 we made a quick U-turn when a herd of around 15-20 elephants, young ones in tow, emerged from the forest to forage right next to the road leading to the fishing camp in the Nameri Tiger Reserve. The night before, we watched as elephants raided paddy fields in a village near Balipara, unafraid of the *mashaals* (fire torches), drums and yells of the distressed villagers. Even as we turned, the matriarch followed our vehicle for 20 metres or so, trumpeting protectively from around 30 metres to make sure we got her message loud and clear.

I know this part of India well and before my eyes, I have seen some of India's most precious forests sacrificed to satiate political expediency using mistaken notions of tribal rights as a fig leaf to exchange land for votes. A site visit to the same area 10 years later, I found myself speechless at the sheer deduction. In a decade, virtually the entire standing forest on the right bank of the Jiyra Arolu river had vanished. In its place were mustard fields and scattered tree stumps that spoke of once-tall hardwoods whose trunk girth would have been three or four metres at the very least.

Similar stories unfold across vast areas of the country. We had predicted such disaster when the Forest Rights Bill was being debated way back in 2004-05. We asked, at the very least, a consensus be arrived at that individual rights not be included. A leading tribal leader, Kalpavriksh, amongst the most vocal supporters of the flawed FRA, agreed with us in principle but went forward with the groups who threw such suggestions to the wind. Today, much too late, Kalpavriksh agrees that a site-specific amendment to section 3 (1) of the Forest Rights Act (FRA), which should have been made in Sonitpur to



CR Sasikuma

September 30, 2015, approximately 44 lakh claims for recognition of the rights under the above-mentioned Act and grant of pattas came to be filed before the authorities competent to deal with those claims in various states out of which some of the claims were accepted and some were rejected. From the information placed before this court by the petitioners, it appears, approximately 20.5 lakh claims were rejected in the above-mentioned 44 lakh claims. Obviously, a claim in the context of the above-mentioned Act is based on an assertion that a claimant has been in possession of a certain parcel of land located in the forest areas. If the claim is found to be not tenable by the competent authority, the result would be that the claimant is not entitled for the grant of any patta or any other right under the Act but such a claimant is also either required to be evicted from that parcel of land or some other action

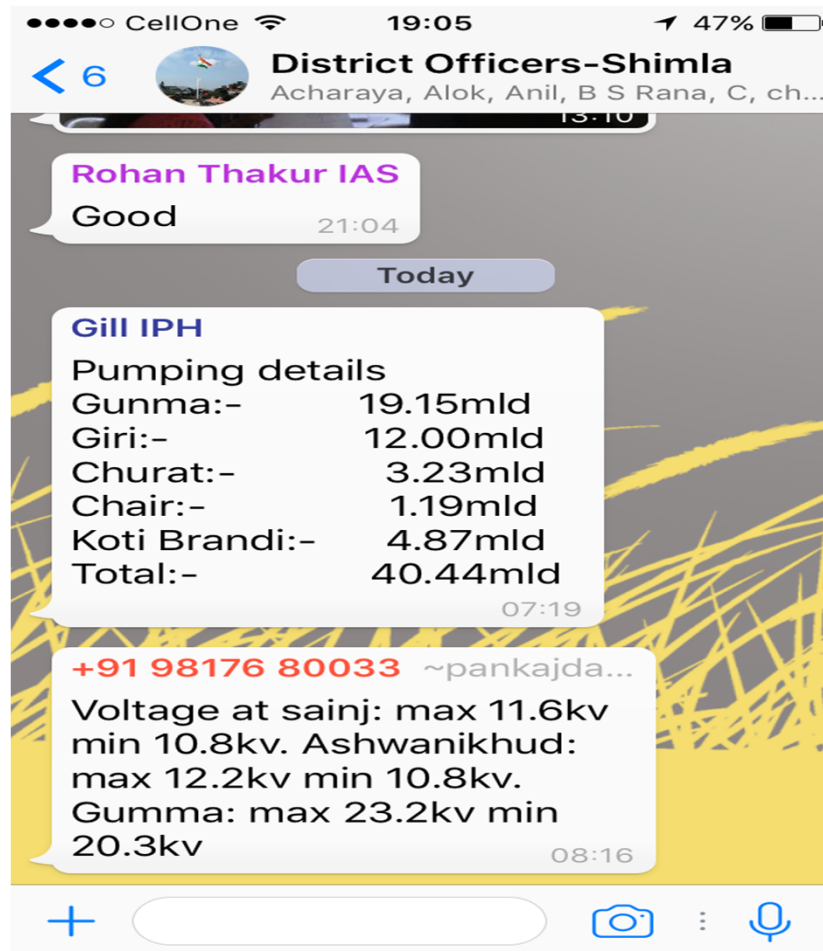
main. But, because the vast bulk of the forest nutrients are quickly washed or blown away, such farms are incapable of offering anything more than borderline livelihoods to farmers. This is precisely what gave rise to "marginal farming", coined by economists to describe millions condemned to penury. Far from creating self-sufficiency, this has ended up eroding India's food security, in part because downstream farms find themselves deprived of the flood, drought-control and nutrient-spread gifted by upstream forests.

As I write, the discussion seems Daliesque. The FRA provides a 90-day limit for filing claims. The Act was passed in 2005 (Rules in 2007). Can we seriously be discussing new claims even today? Surely we should collectively agree that no limits be allowed or extended under any circumstances? Remember, that our protected area network barely covers three per cent of our land and

Really worrying.....



?????



More worrying....

