

**Synergy in Various Institutions in Implementation of the Scheduled Tribes and other
Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 to Ensure
Improved Livelihood Support as also Sustainable Forest Management
Final Report**



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**By
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List of Abbreviations

BD	Biodiversity
BMC	Biodiversity Management Committee
CAF	Compensatory Afforestation Fund
CAMPA	Compensatory Afforestation Fund Management and Planning Authority
CFC	Common Facility Centre
CFM	Community Forest Management
CFR	Community Forest Resource
CNTA	Chota Nagpur Tenancy Act, 1908
CoFR	Community Forest Right
CTH	Critical Tiger Habitat
CWH	Critical Wildlife Habitat
DFO	Divisional Forest Officer
EDC	Eco Developing Committee
EPA	Environment Protection Act, 1986
FAO	Food and Agriculture Organisation
FDA	Forest Development Agency
FPC	Forest Protection Committee
FRA	The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
GIM	Green India Mission
GIS	Geographical Information System
GO	Government Order
GPS	Global Positioning System
ICFRE	Indian Council for Forest Research and Education
IFA	Indian Forest Act, 1927
JFM	Joint Forest Management
JFMC	Joint Forest Management Committee

MFP	Minor Forest Produce
MNREGA	Mahatma Gandhi National Rural Employment Guarantee Act, 2005
MoEF	Ministry of Environment and Forest
MoPR	Ministry of Panchayati Raj
MoTA	Ministry of Tribal Affairs
MoU	Memorandum of Understanding
NABARD	National Bank for Agricultural and Rural Development
NBA	National Biodiversity Authority
NBWL	National Board of Wildlife
NPV	Net Present Value
NRM	National Resource Management
NTFP	Non Timber Forest Produce
OTFD	Other Traditional Forest Dweller
PESA	Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996
PFM	Participatory Forest Management
PRI	Panchayati Raj Institution
PTG	Primitive Tribal Group
RoR	Record of Rights
SBB	State Biodiversity Board
SBWL	State Board for Wildlife
SDLC	Sub Division Level Committee
SLMC	State Level Monitoring Committee
ST	Schedule Tribe
TRTI	Tribal Research and Training Institute
VFC	Village Forest Committee
WLPA	Wildlife (Protection) Act, 1972

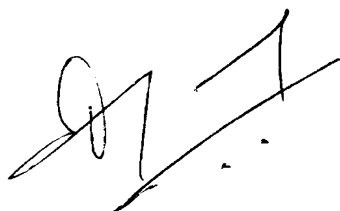
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Regards,



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Synergy in Various Institutions in Implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 to Ensure Improved Livelihood Support as also Sustainable Forest Management

By

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Executive Summary

The study aims at building synergies in various institutions in implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 to ensure improved livelihood support and also sustainable forest management. To achieve this objective, the study attempts to explore certain key assumptions such as long term sustainability of individual and communal land rights will directly depend on the prudent exercise of community usufruct rights or community forest rights (CoFR); delineation of Community Forest Resource (CFR) and the institutional arrangements over the protection, management and regeneration of such CFRs; the assumption that secured tenure going to strengthen the conservation regime; and last but not the least, whether synergies can be built to ensure that conservation regime and the right regime coexist and what the institutional innovations are required to achieve this delicate balance. The above issues have been studied in detail in the context of five forest and tribal dominated states of India- Assam, Chhattisgarh, Jharkhand, Madhya Pradesh and Maharashtra.

Forest governance in India dates back to prehistoric times when tribal communities who were dependent on the forests for sustenance were preserving and managing these natural resources through a robust system of customs and practices.¹ However, at the time of the British rule, these customary practices were overlooked and the government introduced a codified system of law for forest management. The key legislation regulating the use of forest was the Indian Forest Act, 1927 (hereinafter IFA) which is still in force. Besides this, several

¹ Dietrich Brandis, "Forestry in India: Origin and Early Development", 1st. rep. 1994.

forest policies were also drafted where precedence was given to the use of forest for promoting national interest over the customary rights of the people.

It is only recently that forest management regimes have in their policy processes realised that forests have the best chance to survive if forest dwelling communities who are dependent on forests participate in its conservation and regeneration measures. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is one of the important steps towards recognition of forest rights through a due process and securing tenure over forest land for sustenance and usufructs from forest based resources. The Act also reinforces the rich conservation ethos that tribal communities have traditionally shown and cautions against any form of unsustainable or destructive practice. One of the preambular emphases of this legislation is that a secured tenure is going to strengthen the conservation regime. The report debates on whether there can be synergies built to ensure that conservation regime and the right regime can coexist? The answer is in the affirmative. Moreover, whether the existing institutions, advisory committees created under numerous legislations such as the National Board of Wildlife and the Standing Committees created under the Wildlife Protection Act, 1972, Forest Advisory Committee under the Forest Conservation Act, 1980, Committee of infrastructure at the Central Government level, the State Environment Impact Assessment Authority and the State Environment Appraisal Committee under the Environment Protection Act, 1986 and National Biodiversity Authority, State Biodiversity Boards and Biodiversity Management Committees formed under the Biodiversity Act, 2002 at the national level and Panchayat legislations at the state level (including the village level) to executive initiated as well as self initiated institutions or those created by the Courts having a bearing on conservation of forest resources are efficient enough to achieve this delicate balance or new institutions are required? The old redundant administrative arrangement such as Forest Villages and the statutory arrangements such as Village forests whose potential have not yet been fully explored are also analysed. The report also points out many examples of weak, ad-hoc institutional arrangements that have not been able to satisfactorily address conservation and livelihood challenges. There is a need not only to create robust institutions with a fresh mandate and approach but also to strengthening self initiated and traditional community initiatives by giving them legal recognition. However, it is also important to take into account the existing institutions, such as Joint Forest Management, Eco Development committees (*in Protected Areas*) among others, its strengths

and weaknesses and the potential conflicts that are going to arise by the presence of old and the newly created institutions. This is important for devising effective strategies for harmonising the powers and functions of these parallel institutions.

The concept of Community Forest Resource (CFR) and the right to the Gram Sabha to conserve, protect, manage and regenerate a CFR granted under FRA is one such example of a legal space available for creating such fresh institutions at the village level. In the absence of a due process to implement this right, the report points out certain constraints and opportunities in the meaningful exercise of the right such as definition of community forest resource also includes seasonal land use by pastoralist communities. Besides, there are difficulties in implementation of these provisions as there is neither a formal documentation of CFR nor any claim or any title that is required or envisaged under the Act or the Rules. Therefore, it can be assumed that since the CFR is the area where community had traditional access, Gram Sabha being the custodian of traditions and practices of the community becomes the most appropriate authority to delineate CFR, taking into account the evidences² given in FRA. ***In fact in Maharashtra, the problem of lack of reference in the title form in the Community Rights has been obviated by using the residuary clause where any other traditional right has been recognised. The title to a CFR has been therefore conferred under this residuary clause. Clearly this needs urgent attention from the Central Government.***

Another important aspect of FRA that needs to be delved into for livelihood security and conservation of resource is the post claim strategy. It rests on the premise that mere recognition of Forest Rights will not be enough to attain these objectives. Therefore, to attain conservation objectives of FRA in a holistic manner, FRA implementation needs to go beyond the recognition and vesting of forest rights. The report explores the possibilities and the manner in which communities can be helped and strengthened by converging the mandate of different departments- Agriculture, Horticulture, fisheries, irrigation, social welfare, Forest among others and also highlights the need to tailor the existing schemes for promotion of agriculture, land development, rural housing, loans, subsidies, seed distribution, water supply, training and capacity building among others to take under its wings the title holders under FRA. Department of Tribal Welfare could be the nodal agency to facilitate

² Rule 13(2), FRA.

convergence, use of CAMPA funds for supporting title holders are some of the suggestions that the report brings out for debate.

Another important aspect dealt with in the report is the constraints and impact of recognition of rights process under FRA on conservation.

Some of the issues learnt from the field include lack of clarity on distinguishing community forest resource and community forest rights (CoFR), regarding delineation of CFR; the operational mechanism is missing and communities are confused between traditional boundaries and legal boundaries, confusion on community tenure or habitat of PTGs as there are no handholding or clear instructions from the nodal department of the manner in which such vulnerable communities would exercise their rights; New categories such as Critical Wildlife Habitat (CWH), Critical Tiger Habitat (CTH) and Ecologically sensitive areas have been introduced by FRA. However on the ground the study reveals that the link between CTH and CWH on both process and management is not understood at all.

Further *the link between CTH, buffer areas of tiger reserves and Conservation reserves-, including land use regulation is not yet clear. Similarly the link between CWH and Community Forest resource is not clear either in the FRA or otherwise.* Besides, there are certain *state specific constraints* such as confusion on the legal status of Orange Areas in Chhattisgarh and Madhya Pradesh, the strong tenancy tenures, Mundari Kuntkatti in Jharkhand bring its own complexity for the FRA implementation both from the rights perspective as well as the conservation perspective, Other Traditional Forest Dwellers (OTFD) have not been identified and rejection of their claims due to difficulty in providing 75 years of occupation of forest land by them, case of claim of community forest resource under Section 3 (i) in Mendha Lekha, Gadchiroli in Maharashtra where the community was still struggling to establish their genuine community forest rights especially over bamboo which is the most important MFP in the region.

Apart from this, *certain innovative practices in states* to implement FRA are also such as highlighted such as in Maharashtra, the Tribal Research and Training Institute, Pune was notified as the nodal agency for the implementation of FRA in the state. The TRTI, Pune

undertook the translation of the Act in different tribal dialects like Gondi, Bhili etc which were uploaded on the website of the institute to disseminate the legislation amongst the communities. Another method adopted was to play jingles on radio providing information on the Act has proven to be a step in the right direction having a substantial outreach. Another good example from Maharashtra is the use of GPS and satellite technology to document and determine the legitimacy of land claims. This has enabled decision makers to take appropriate action based on unbiased evidence through ensuring transparency. Additionally, it has discouraged illegal diversion of forest land for non-forestry purposes through the possible improper use of the provisions of the Forest Rights Act. Public money of over an estimated 100 crores has been saved through the use of technology.

As is clear from above there are numerous institutions that cover various aspect of conservation from policy to implementation to process issues. ***The Gram Sabha under the FRA is the foremost statutory authority responsible for conservation, use, management and regeneration of resource. The Role of the Gram Sabha as the basic unit then need to be integrated with the mandate of other statutory institutions and this could be weaved into the Rules of engagement under the FRA.*** Finally, the deficiencies in existing intuitions on conservation have to be removed by strengthening new institutions under FRA while building on the strengths and uniqueness of existing institutions, programmes and schemes.

FINDINGS AND RECOMMENDATIONS / ACTIONABLE POINTS

1. The modern conservation approaches hitherto advocated exclusion rather than integration. It is only recently that forest management regimes have in their policy processes realised that integration of tribal and other forest dwelling communities who depend primarily on the forest resource cannot but be integrated in their designed management processes. It underlines that forests have the best chance to survive if communities participate in its conservation and regeneration measures. Insecurity of tenure and fear of eviction from these land where they have lived and thrived for generations are perhaps the biggest reasons why tribal communities feel emotionally as well as physically alienated from forests and forest lands.

2. The FRA addresses a long standing and genuine felt need of granting a secure and inalienable right to those communities whose right to life depend on right to forests. It is time to reconcile to its existence and use its strength for both conservation and livelihood.
3. Based on global trends and developments within the country and reinforced by the enactments of FRA that the long term sustainability of individual and communal land rights will directly depend on the prudent exercise of community usufruct rights or community forest rights (CoFR) which are also granted under the FRA.
4. The tribal communities in India are largely dependent on forests including its produce and environment. The just implementation of FRA would therefore go a long way in securing forests and livelihoods.
5. While the extent of dependence on forest resources is quite well known what is less understood is the numerous institutional arrangements that have been made through various statutes for the conservation of such resources. It's important to understand them before we can draw up strategy for synergies between them and the current institutional arrangements under FRA.
6. The current institutional arrangements on conservation range from statutory institutions created under numerous legislations at the national level and Panchayat Legislations at the state level (including the village level) to executive initiated as well as self initiated institutions that also have a bearing on conservation of forest resources on the ground. Then there are also advisory committees to assist in meeting conservation objectives. Further, numerous committees and commissions are created by the Government or the courts on specific issues relating to conservation aspects while meeting developmental challenges.
 - a) The Ecodevelopment Committees have not yet emerged as strong institutional mechanisms around Protected Areas to elicit peoples' involvement and more importantly are without any sanctity in law. ***The EDCs need urgent attention as they are appropriate bodies around PAs who could reduce pressure off the pristine forest if given adequate support in terms of both resources and skills and legal sanctity.***

- b) The National Board of Wildlife and Standing Committee under the Wildlife Act are under strict supervision of the Supreme Court. The State Boards of Wildlife have yet to emerge as a strong institution with binding mandate. ***The process under the NBWL as well as SBWL needs to be more clear with enabling Rules and procedure in order to instil confidence in the judiciary of the robust process where they can rely on their expertise and rigour.***
- c) The Conservation Reserve Management Committee; Community Reserve Management Committee and Advisory Committee under the Wildlife Act have drawn a weak response from both state and communities so far. ***These participatory committees needs to be created quickly and a process be set in place for their smooth functioning in order to strengthen the conservation regime.***
- d) The Clearance House Statutory Institutions that exist have not been able to balance the conservation objectives perhaps due to a weak regulatory arrangements and with too much executive discretion. Some non official members have expressed their helplessness in public. ***It's time that a clear, transparent and robust process be put in place in order that such clearances are tested on rigour and within the purview of law.***
- e) Although, there are numerous evidence of self initiated and traditional and community initiatives, they lack legal recognition. ***It's therefore necessary that legal recognition is granted to self initiated process of conservation and also such initiatives must be hand held and provided resources for such efforts.***
- f) ***The uniqueness of Autonomous Hill Councils and Regional Councils in Assam has to be taken advantage of by the FRA under the VIth Schedule Areas context. Some of the archaic approaches of traditional systems such as inadequate recognition of women must be overcome by synergising FRA with the constitutional institutions such as the Hill Councils.***
- g) The National Biodiversity Authority, State Biodiversity Boards and Biodiversity Management Committees under the Biodiversity Act are less explored options for conservation. ***While the first two are still functional, the local area institutions are***

least developed and needs urgent attention. Their weaving with the Committees that are to be created under the FRA can then be more clear and useful.

- h) The Joint Forest Management Committees stand on weak legal footing and attempts to formalise under the Societies Act is inappropriate. ***JFM needs to be strengthened from the legal standpoint and infact the Committees that are statutory under FRA needs to benefit from the JFMCs of the past.***
- i) The legal and policy regime relating to both PRIs and JFM lacks clarity in terms of their respective jurisdictions, areas of operations, exact functions and powers. Add to it the differential allocation of financial resources in these structures which has given rise to a differently financially empowered structure at the lowest level of governance. ***Such anomalies must be urgently removed.***
- j) The national perspective on the relationship between PRIs and JFM is completely blurred as different ministries and state departments are divided in their views. Since ‘Panchayats’ is a state subject and ‘forests’ a concurrent subject under the Constitution, States are competent to legislate on both. As a result different states have taken a different approach towards involvement of PRIs in forests management generally and participatory forest management in particular. The recent attempts by the MoEF in clarifying that JFMCs will act as an arm of the Gram Sabha and the JFMCs will function under the overall supervision of the gram Sabha will hopefully shed some light on the role of the JFMC and Gram Sabha. ***What is more crucial is the amendment in the PRI law as well as the forest law applicable in the respective state for total clarity of this integration.***
- k) The key provision of Village Forests and under which there could be assignment to local communities has never or very minimally used except in a couple of states. *The legal concept of village forest is an innovative provision under the Indian forest Act where a great opportunity has been lost and needs to be revived urgently.*
- l) ***The erstwhile concepts of “Forest villages” ‘Forest Colonies’ and ‘Forest Settlements have lost their relevance in the modern arrangement and corrective measures need***

to be taken up immediately to integrate them in mainstream management where both conservation and livelihoods objectives are fulfilled.

7. The Forest Rights Act has ushered in a new concept of Community Forest Resource (CFR) along with a community right to the Gram Sabha to protect and manage their CFR. *As legal spaces will be explored for a meaningful implementation of the right to community forest resource, this also gives an opportunity to review and strengthen our participatory forest management regime.*
8. Since Gram Sabha has the authority and responsibility of protection, regeneration, conservation and management of a CFR, and it can also form committees from among its members for this purpose, this may conflict with existing approaches such as inconsistency between the plans/procedures of both the bodies; Conflict with other Statutory Bodies framed under State Forest Laws; conflicting mandate of Forest Department and Ministry of Tribal Affairs'. *There is therefore a need to devise a new modus operandi of forest management which synergizes FRA along with its nodal ministry i.e. the MoTA with the existing participatory forest management system where the Forest department is the nodal ministry and accordingly modify the allocation of business rules.*
9. Though FRA provides a right to the Gram Sabha to protect and manage its CFR and also to ensure protection of wildlife, forest and biodiversity, adjoining catchment areas, it does not lay down procedure for exercising this right. In the absence of such a framework or an express provision it may be assumed that the Gram Sabha has also the power to regulate conservation and management activities such as collection of forest produce, protection of forest from fire, grazing, illegal encroachment, management of water bodies and catchment areas, levy of fines and punishment to the offenders, plantations and regeneration of the forest, protection of wildlife and biodiversity, working of the committees among others. *However, enabling directions from the Nodal ministry in concurrence with MOEF is an essential pre requisite.*
10. The most significant and underlying principle of FRA is that security of tenure will strengthen conservation regime and secure livelihoods, however one needs to go beyond

the principle and demonstrate that *there are more pressing actions required such as developing a 'Post Claim Strategy' on Forest Rights, for ensuring conservation and sustainable management of forest by forest dependent people ; for understanding climate variations and its impact on agriculture where there is a clear need to protect subsistence means of vulnerable communities especially forest dwellers. A clear and unambiguous Government direction is required from the Ministry of Tribal Affairs in consultation with the MoEF in this regard.*

11. While the recognition process is underway, its important to understand that the recognition process itself has impact on the conservation regime. There are several concerns that may have adverse impact on conservation under the new regime of FRA and therefore needs to be urgently corrected. These include lack of clarity on distinguishing Community Forest Resource (CFR) and Community Forest Rights; regarding delineation of CFR- the operational mechanism is missing and communities are confused between traditional boundaries and legal boundaries; Same confusion persists on community tenure or habitat of PTGs; numerous new categories such as Critical wildlife habitat and critical tiger habitat linkage, Conservation reserve, ecologically sensitive areas but few who understands them; the legacy on disputed settlements such as orange areas in M.P. and Chhattisgarh has huge impact on conservation. *It is therefore recommended that clear instructions be issued on delineating the Community forest resource where the interplay of traditional and legal boundaries is clearly demarcated. Similarly, operational mechanism of delineating the habitat of PTGs or vulnerable Tribal Groups be put in place immediately through an enabling government order. Specific disputes such orange areas which involve several lacks land which are disputed between forest and revenue department be immediately resolved through the court process as they are sub judice.*

12. The strong tenancy tenures in some states such as Jharkhand bring its own complexity for the FRA implementation both from the rights perspective as well as the conservation perspective. Customary law and strong tenancy laws need to be utilised for the benefit of FRA implementation. *A clear linkage between existing tenurial rights and the current recognition process needs to be established.*

- 13. Dissemination of information on FRA is necessary to get the message across both on rights and resource conservation. Innovative practices such as in Maharashtra may be seen and emulated.**
14. Procedural illegality may mar the substantive process under FRA. The Role of Gram Sevak (Panchayat Secretary) in Forest Rights Committee in Maharashtra is a case in point where it mars the very spirit of FRA. ***The Role of the Panchayat Secretary needs more clarity. The role and mandatory responsibilities of the Panchayat secretary vis-a-vis the recognition process needs to be put in place so that the Forest Rights Committee as well as the Gram Sabha is facilitated in the process of recognition. Also enough safeguards have to be put in place so that the Panchayat Secretary does not misuse his/her position.***
15. ***Use of satellite imageries and other GIS based platforms to establish the veracity of claims may serve as an important tool to assess rights and resources under the FRA implementation regime. This should be made mandatory in the mapping and delineating process.***
16. Discrepancies between the STs and OTFDs especially with regard to evidence of 75 years, findings from M.P suggest that such discrepancies may have direct bearing on conservation. ***A further clarification in this regard is now necessary that its not necessary that only written records are adduced as evidence. Physical structures and other visible evidence along with statement of elders are good enough evidences to establish the residential proof of OTFDs. Also there should be absolute clarity that 75 years refers to the residence and not occupation of the forest land for OTFDs.***
17. The Gram Sabha under the FRA is the foremost statutory authority responsible for conservation, use, management and regeneration of resource. There could be several mechanisms of synergies between the conservation regime and the numerous and varied institutions.
18. There is an urgent need to delineate the thematic focus of the conservation regime which not only sustains the resource but also secures their livelihoods of the marginalised communities. ***The Role of the Gram Sabha as the basic unit then need to be integrated***

with the mandate of other statutory institutions and this could be weaved into the Rules of engagement under the FRA. This approach will also be in line with the FRA which clearly states that the FRA has to be read is not in derogation of but in addition to other laws.

19. Thematic delineation necessary integration could be as follows:

a) Conservation of wildlife resources:

While the Gram Sabha under FRA has the nodal responsibility of conserving the wildlife resources under their jurisdiction the strengths of the wildlife Act should also be used to strengthen the conservation regime. A massive awareness program regarding the strengths of these legislations have to be carried out by the Forest Department in order that communities know about these conservation laws and how they can use it for conservation.

b) Conservation of biodiversity: using the strengths of BD Act and WL Act

The Gram Sabha and the FPC under FRA should also use the strength of Biodiversity Management Committee as well as the provisions on conservation and regulation of biodiversity under the Biodiversity Act.

c) Collection of MFP, its conservation and sustainable use including their marketing- Involving MFP Federations

While both FRA and PESA grant ownership of MFP to the Gram Sabha as well as the right holders under FRA it would not be prudent to ignore the lessons and strengths of existing mechanisms that regulate or deal with MFP related activities. *The rules or bylaws framed for the FPC under FRA must incorporate the linkages of such valuable experience of NTFP federations and other such institutional experiences of the past. This will not only obligate the existing institutional support but also give legal sanctity to such integration.*

d) Conserving, managing, regulating and regenerating forests: Drawing strength from lessons learnt in JFM/CFM and ensuring a robust planning process

The advent of JFM pursuant to 1988 policy and the transition to CFM in states such as Andhra Pradesh with both internal and external support including the FDA

mechanism of the central government have valuable lessons that cannot be lost. **The forest protection committees (FPCs) under FRA need to build on strengths of the existing JFMCs and remove the deficiencies of such JFMCs in the new role.**

e) Capacity building and adding to the human resource for conservation activities

The capacity building of the members of Gram Sabha is a prerequisite for any strong institutional arrangements at the grass roots. A focused attention on improving skills and capacities of gram Sabha members and right holders will go a long way in ensuring conservation values and increase livelihood opportunities.

f) Monitoring Diversion of forest land:

Numerous forest lands are been diverted for various infrastructure and development projects in the rush for high economic growth. *There is hardly any existing institutional arrangement that monitor the numerous conditions that are ordinarily imposed on such clearances. The gram Sabha along with the support of state agencies are the best and most appropriate bodies to monitor such projects provided their skills are upgraded and necessary facilitation is done through resources and capacity building measures.*

g) Linking with traditional institutions especially for conservation

Numerous traditional institutions exist in such ecologically fragile areas whose conservation ethos is much superior and robust. The sacred forests, deobani, religious forests and forests under temple trusts are few such examples. *The gram Sabha must statutorily link these processes of traditional institutions especially which have innovative conservation practices and frame it within their bylaws.*

h) Protecting traditional knowledge: Especially Community Intellectual Property

The gram Sabha should be the front runner in recognising community intellectual property by creatively using the Biodiversity Act and the FRA. This will go a long way in not only protecting traditional knowledge but also

ensuring flow of benefits to the community who rightly deserve the benefits of such knowledge.

- i) Carrying out developmental activities through the development rights regime while ensuring conservation objectives**

Section 3(2) of the FRA enumerates thirteen set of development rights where the Gram Sabha should take the pivotal role in ensuring that such developmental needs are ensured at the Gram Sabha level. Requisite support from the states especially the Panchayats is necessary to instil confidence in such gram sabhas. The enhanced role of gram Sabha would therefore have more legitimacy in eliciting people's participation in conservation and securing livelihood.

- j) Identification of conservation and livelihood priorities**

The Gram Sabha is also best placed along with the right holders to identify conservation and livelihood practices within their region. Any planning process at the village level must necessarily involve the gram sabha and their consent in order to facilitate conservation and livelihood objectives.

- k) Increasing land productivity**

The post claim strategy must be a priority for every gram Sabha and the facilitative line department for ensuring a long term strategy for securing rights and ensuring livelihoods.

- l) Securing financial support from micro and macro financial institutions and raising resources for conservation and livelihoods**

The nodal department of FRA i.e. MoTA must issue necessary instructions under its authority to all financial institutions especially the scheduled and cooperative banks to ensure that the forest rights titles can be used as collateral for securing loans and credits for such rights holders with perpetual titles. Such advisories and instructions would go a long way in strengthening the communities at the grass roots who can then perform a pivotal role in conservation while their livelihood is ensured.

Synergy in Various Institutions in Implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 to Ensure Improved Livelihood Support as also Sustainable Forest Management

Enviro Legal Defence Firm³

Introduction:

At the outset, it is indeed heart worthy to note that the Indian Council for Forest Research and Education (ICFRE) has granted this opportunity on a very contemporary and needed subject to give our views through a field based approach where the synergies between various institutions who have been engaged in the implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 especially to ensure improved livelihood support as well as address the concerns of sustainable forest management has been explored/. This study has granted us an opportunity to examine a less treaded path where the entire nation has been debating the correctness of the law or the appropriateness of the law while it's being implemented, the ICFRE has moved beyond to a futuristic scenario and rightly so., to explore the strengths of the law and see how various synergies may be built which addresses both livelihoods and sustainability concerns.

In view of the above and as per terms of reference (**Annex – 1**) the study was carried out through a detailed methodology and work plan which was agreed and accepted through internal processes of ICFRE. (**Annex – 2**).

The proposed outputs/ outcomes of the study were as follows:

- ▶ Suggest policy interventions for institutional synergy in implementing FRA with a special focus on community forest resource and community forest rights regime with the overarching objective of poverty alleviation and conservation of natural resources.
- ▶ Suggest institutional mechanisms to link existing natural resource management institutions and those under FRA, for better natural resource management and improved livelihood support.
- ▶ Evolve models of holistic approaches to forests and natural resources management
- ▶ Best Practices during the course of study.

³ This paper is a team effort of Enviro Legal Defence Firm led by Sanjay Upadhyay and includes Shilpa Chohan; (now independent) Shawahiq Siddiqui (now independent), Geetanjali Dhankhar Advocates, ELDF

Approaches of the Study- Building Synergies through FRA

In addressing the above outputs and outcomes the Consultants approach was as follows:

- ▶ long term sustainability of individual and communal land rights will directly depend on the prudent exercise of community usufruct rights or community forest rights (CoFR)
- ▶ Delineation of Community Forest Resource (CFR) and the institutional arrangements over the protection, management and regeneration of such CFRs
- ▶ The assumption that secured tenure going to strengthen the conservation regime.
- ▶ Last but not the least, to understand whether there can be synergies built to ensure that conservation regime and the right regime coexist and what the institutional innovations are required to achieve this delicate balance.

The experience of five states- Assam, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra were collated for the above purpose which represents not only forest rich states but also the myriad of communities and livelihood dependence on forests.

Components of the study

For the above the study has been broadly divided into the following components:

- ▶ Institutional arrangements on conservation on NRM prior to FRA - Strengths and Weaknesses
- ▶ Assessing the institutional arrangements specifically created under FRA- The concept of community forest resource and their management regime- Exploring synergies
- ▶ Understanding individual land rights, land productivity, land use and exploring new institutional mechanisms post recognition process under FRA for a more secure and sustainable forest management
- ▶ Implementation status on FRA from conservation perspective- what impedes or enables conservation
- ▶ Going Beyond synergies- evolving models of holistic approaches- where rights and resources co exist under an enabling frame.

The Project involved several field visits including field visit reports, meetings, interviews with key informants, in house legal analysis; extension programs, focused group discussions,

experts opinion, in-house peer review, questionnaires guided interviews (See Annex - 3) to arrive at the analysis and conclusions.

A typical village meeting in Progress in Chanhoo Block, Jharkhand



Chapter - 1

Background

The notion of conservation of ecological resources by forest dwelling tribal communities have been referred to by most ancient manuscripts and scriptures that modern humanity knows. The colonial rule somehow ignored this reality for more economic gains and perhaps for justified reasons prevalent at that time. Post independence, in our enthusiasm to protect natural resources we continued with colonial legislations and adopted more modern international notions of conservation rather than learning from our rich traditions where conservation is embedded in the ethos of tribal life. The reservation processes for creating wilderness and forest areas for production forestry somehow left the bonafide interests of the tribal community much to be desired in the legislative frame that we enacted in the regions where tribal communities primarily inhabit. The simplicity of tribals and their general ignorance of modern regulatory frameworks precluded them from asserting genuine claims to resources where they belonged and depended upon. The modern conservation approaches also advocate exclusion rather than integration. It is only recently that forest management regimes have in their policy processes realised that integration of tribal and other forest dwelling communities who depend primarily on the forest resource cannot but be integrated in their designed management processes. It underlines that forests have the best chance to survive if communities participate in its conservation and regeneration measures. Insecurity of tenure and fear of eviction from these land where they have lived and thrived for generations are perhaps the biggest reasons why tribal communities feel emotionally as well as physically alienated from forests and forest lands. This historical anomaly needed correction.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is one of the most important steps to correct this historical wrong. The recognition of forest rights which includes both bonafide needs of forest land for sustenance and usufructs from forest based resources are the fundamental bases on which this legislation stands. The Act reinforces the rich conservation ethos that tribal communities have traditionally shown and cautions against any form of unsustainable or destructive practice. It further describes a procedure so that rights which stand vested in forest dwelling tribal communities as well as other traditional forest dwellers become legally sound through

corrective measures in the formal recording system of the executive machinery. This Act hopes to address a long standing and genuine felt need of granting a secure and inalienable right to those communities whose right to life depend on right to forests.

As the process of recognition of forest rights is under way, the focus seems to be shifting only towards land rights - one amongst the thirteen sets of rights granted under the Act (FRA). It is our contention and belief based on global trends and developments within the country⁴ and reinforced by the FRA⁵ that the long term sustainability of individual and communal land rights will directly depend on the prudent exercise of community usufruct rights or community forest rights (CoFR) which are also granted under the FRA. And more importantly, it is the determination of the traditional customary boundaries of the forest resource, legally termed as “community forest resource” (CFR), and the institutional arrangements over the protection, management and regeneration of such CFRs which will hold the key to long term use of forest rights without adversely impacting the resource itself.⁶

It is this principal assumption where this study is located. It’s therefore important to look at the conservation regime on forest resources that has been put in place in the past and how the advent of the FRA will now impact their management. One of the preambular emphases of this legislation is that a secured tenure is going to strengthen the conservation regime. It is therefore important to assess whether this globally tested principle also holds true in our case. Five states overview is being undertaken with some specific district level assessment to understand whether there can be synergies built to ensure that conservation regime and the right regime can coexist and what institutional innovations are required to achieve this delicate balance. It is here where lies the success of this historic legislation else it will go down in history as a valiant attempt but a poor end where the marginalised and the voiceless

⁴ The emerging global trends on recognizing indigenous people’s rights such as the Indigenous People’s Rights Act in Philippines, native titles recognition in Australia, the advent of Joint Forest Management, Community Forest Management in India after the Forest Policy of 1988 are clear indications that security of tenure is key to a successful and sustainable forest management.

⁵ Ibid. Para 2: ... Whereas the recognized rights of forest dwelling scheduled tribes and Other Traditional Forest Dwellers include the responsibility and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other Traditional Forest Dwellers”

⁶ Upadhyay S. et al ; 2009; Community Forest Resource and Community Forest Rights: Implementation and Institutional Challenges under Forest Rights Act, 2006 – A Forest Governance Learning Group India Initiative ; FGLG India and IIED

could have won! Before we examine this further and test the strength of the existing institutional regime on forests it would be useful to assess the extent of the dependence of the marginalised tribal communities on forests resources across the study states.

1.1 Extent of Dependence on Forests and forest based livelihoods in the study states

It is well known that the tribal communities as well as other forest dwelling communities in India are largely dependent on forests including its produce and environment. The just implementation of FRA would therefore go a long way in securing forests and livelihoods. Several studies have demonstrated that the extent of dependence is quite unique in the world where the economy is growing so rapidly. According to an FAO guesstimate of numbers of forest dependent people in selected countries in Asia-Pacific, in India there are 275 million people who are directly dependent on forest resources and about 100 million people who are living on land classified as forest land⁷.

In the state of Madhya Pradesh for example, of the total 52,739 villages in the state, 22,600 villages are located in or near forest areas. Being away from the mainstream of development, most of the villagers are dependent on forests for their livelihood⁸. Statistical analyses of the data in Maharashtra too suggest that dependency on forest resources, and especially fuel wood, is substantial and cuts across income groups⁹. The dependence on forest resource for livelihood and sustenance is a reality in the identified regions of the State. Based on a baseline survey conducted by ECONET in collaboration with Maharashtra NTFP Forum in 2005 it emerges that almost 30-40 % dependence is on forest resources for self consumption and sale. In Jharkhand, the Tribes have been dependent on land for livelihood for generations. It has become an integral part of their socio-cultural consciousness. The two major components of land use are agriculture and gathering forest produce. Out of 79.71 lakh ha of total geographical area of Jharkhand, 28.4 per cent is under forest (23.2 lakh ha) and 24 per cent is under agriculture (18.6 lakh ha cropped area)¹⁰. In Jharkhand, broadly, tribal livelihood system can be classified into three types. First forest dependent upland systems (approx. 20%) are usually located in upper catchments areas and comprising most PTG villages/tolas. Amongst the PTGs such as Birhors, Pahari Korwa and Sawar women play an

⁷ Lynch and Talbott (1995) (<http://www.fao.org/docrep/w7732e/w7732e04.htm>)

⁸ (<http://www.mpforest.org/forest.html>)

⁹ This was a limited but symptomatic study done in Maharashtra (Excerpts from **Firooza Pavri**; Assistant Professor, Department of Geography, Emporia State University, 4032 Plumb Hall, Emporia, Kansas 66801)

¹⁰ **Source:** [http://jharenvis.nic.in/files/socio-economic%20upliftment\(107-113\).pdf](http://jharenvis.nic.in/files/socio-economic%20upliftment(107-113).pdf)

important role in (i) food gathering from the forest; (ii) rope making from the bark of trees & sabai grass; (iii) honey collection; (iv) herbal medicinal plant collection, processing & sale; (v) hunting & trapping, (vi) basket making; (vii) shifting cultivation; (viii) labour; and (ix) fishing. Second, mixed systems (approx. 65%), which are usually located in the middle, watersheds and these are partially hilly areas, where communities depend less on forest and place added reliance on agriculture. Farming is mainly single crop with some paddy and vegetable cultivation. Food security extends to three to four months. Third lowland systems (approx. 15%) are located in lower watershed. These communities extend into the lower plains and may have relatively little forest access. They tend to be more multiethnic, have smaller but more intensively farmed land holdings and own more cattle. Double cropping is more common. There is a greater reliance on paddy, vegetables are cultivated nearly year round and overall food security can extend from five to seven months¹¹. The extent of dependence on MFP and other forest resource in other study states of Assam, and Chhattisgarh is not too different.

While the extent of dependence on forest resources is quite well known what is less understood is the numerous institutional arrangements that have been made through various statutes for the conservation of such resources. It's important to understand them before we can draw up strategy for synergies between them and the current institutional arrangements under FRA.

1.2 Institutional arrangements on conservation on Natural Resource Management prior to FRA - Strengths and Weaknesses

The current institutional arrangements on conservation range from statutory institutions created under numerous legislations such as the Wildlife Protection Act, 1972, Forest Conservation Act, 1980, Environment Protection Act, 1986 and Biodiversity Act, 2002 at the national level and Panchayat Legislations at the state level (including the village level) to executive initiated as well as self initiated institutions that also have a bearing on conservation of forest resources on the ground. Then there are also advisory committees such as those under the Wildlife Act which can assist in meeting conservation objectives. Further, numerous committees and commissions are created by the Government or the courts on specific issues relating to conservation aspects while meeting developmental challenges. It is

¹¹ Ibid.

important to understand some of these institutions, their implications in law and more importantly their specific role in conservation of forest resources.

1.2.1 National Parks and Sanctuaries and Eco-development Committees: Weak Institutional mechanism around Protected Areas to elicit peoples' involvement:

The most important categories are protected areas especially national parks and sanctuaries where ordinarily for Sanctuaries and National Parks a Directorate is created for their management in accordance with an approved management plan. Note that such a management plan has no legal sanctity as such. More often than not more than one sanctuary is managed by one Officer. The only institutional arrangement within and around national parks and sanctuaries to elicit people's participation or rather wean people off the national parks and sanctuaries that has been created or the model institution that is available is the Eco-development Committee (EDC). Even these, some argue is an imported concept from the World Bank initiatives which haven't shown desired results. The fact that the Government has never recognised in its formal frame is a testimony to that. At best there are guidelines which again are not enforceable! Such institutional arrangements therefore must be given legal sanctity and a strong people based institution would help promote a people based conservation around PAs. ***The EDCs need urgent attention as they are appropriate bodies around PAs who could reduce pressure off the pristine forest if given adequate support in terms of both resources and skills and legal sanctity.***

Further, there are a few statutory institutions created under the Wildlife Act through recent amendments that must be examined.

1.2.2 National Board of Wildlife and Standing Committee under the Wildlife Act: Under Strict supervision of the Supreme Court

The highest and perhaps the most important body on wildlife conservation matters is the National Board of Wildlife and the Standing Committee that has been constituted under it. While the NBWL is headed by the Prime Minister, the Standing Committee is headed by the Minister in charge of Environment and Forest. While the former is more of a Policy Body, it is the Standing Committee that gets into the daily scrutiny of wildlife management issues including clearance procedures aided by a group of official and non official members. Although no criteria have been laid out for such membership, it is the executive wish that governs the selection. It is important to underline that the NBWL has graduated from being an advisory body to a statutory body only in 2003. It was infact the Supreme Court that

started referring the cases on wildlife related issues to this body for its advice around the same time.¹² The Wildlife Act then converted the apex body to a statutory apex body through an amendment in the Wildlife Act¹³.

1.2.3 State Board of Wildlife: Yet to emerge as a strong Institution with binding mandate

Similar to the NBWL, the states too have to constitute the State Board of Wildlife which again was an advisory body prior to 2002. It has similar functions to the NBWL at the state level and it's the highest body at the state level on policy matters on wildlife conservation. It's concurrence in any proposal for diversion of protected area land is often considered mandatory.

It is clear from the above that the process under the NBWL as well as SBWL needs to be more clear with enabling Rules and procedure in order to instil confidence in the judiciary of the robust process where they can rely on their expertise and rigour.

1.2.4 Conservation Reserve Management Committee; Community Reserve Management Committee and Advisory Committee under the Wildlife Act: A weak response so far

The Wildlife Act introduced two more categories of PAs in 2002 and created an institutional arrangement for the same. The conservation reserve and its management committee¹⁴ and the community reserve with its management committee¹⁵. The former is required to be created on government lands as a connect to two PAs or more under the buffer zone concept and the latter gives the community to create a protected area on their own land. The last eight to nine years has seen little or no response on the above two categories or their institutional arrangements. It's imperative to get into the reasons of the above. Preliminary interactions with communities suggest that no community wants their land to come under the purview of control of the state under the wildlife regime. They fear subsequent acquisition of such areas. (Kerala is a good example where through the Ecologically Fragile Lands Act, 2003 a number of private plantations have been brought under state control through automatic vesting and that too without compensation on the pretext of biodiversity conservation.) There is hardly any example in the country where a functional Conservation Reserve Management

¹² See order dated 9.5.2002 for example in CEL-WWF India vs Union of India in C.W.P. No 337 of 1995

¹³ Vide Amendment Act No 2002-2003

¹⁴ See Sectionof the WLPA

¹⁵ See Sectionof the WLPA

Committee or a Community Reserve Committee exists even after nine years of the passing of the amendment Act in the Wildlife law. It's time to get into the depth of it and assess the reasons of such as weak institutional response. ***These participatory committees needs to be created quickly and a process be set in place for their smooth functioning in order to strengthen the conservation regime.***

Further the WLPA also provides for an Advisory Committee¹⁶ which currently exists only on paper. It must be inquired from the state governments as to why such potential avenues of synergies have not been explored under the legal regime.

1.2.5 Clearance House Statutory Institutions and Impact on conservation: Weak Regulatory arrangements with too much executive discretion

Numerous Institutional arrangements have been created which actually scrutinises applications of infrastructure projects in ecologically sensitive areas including forests. These include the Forest Advisory Committee under the Forest Conservation Act, 1980 and Rules; Committee of infrastructure at the Central Government level, the State Environment Impact Assessment Authority and the State Environment Appraisal Committee under the Environment Protection Act, 1986 read with the Environment Impact Assessment Notification first issued in 1994 and amended nineteen times since then, latest being in 2009. Similarly for infrastructure development in the coastal areas there is the National Coastal Management Authority and the State Coastal Management Authorities again created under the Environment Protection Act, 1986 (EPA) and the Coastal Regulation Zone Notification first issued in 1991 under the EPA and since then amended twenty six times. What the above points out is that these are weak, ad-hoc institutional arrangements and are susceptible to constant change under executive fiat and ad-hocism. It's time that a robust institutional arrangement is put in place to create a stronger judicial scrutiny process. One such attempt is the recently enacted National Green Tribunal which replaces the earlier two redundant institutional arrangements -the National Environment Tribunal (which never saw the light of the day) and the National Environment Appellate Authority which ran headless for nine years. The irony is that while the earlier institution has been disbanded, the new institution is yet to be functional. A case in the Supreme Court for the same reasons clearly points out that this is also a non starter so far despite the initial euphoria. The courts too have stepped in and created institutions clearly indicating the lack of faith in the executive. The Centrally

¹⁶ See Sectionof the WLPA

Empowered Committee created by the Supreme Court in the ongoing Godavarman Case¹⁷ is another example of an unheard court initiated institution which has been functional for nine years now at the order of the Supreme Court which itself has been hearing forest matters on a continuous mandamus perhaps no were in judicial history around the world. *It's therefore time that a clear, transparent and robust process be put in place in order that such clearances are tested on rigour and within the purview of law.*

1.2.6 Self Initiated and Traditional and Community Initiatives: Lacks legal recognition

Then there are self initiated and traditional community initiatives which do not have legal recognition as of now. Although the newly enacted FRA does provide for a space for such community spaces to be integrated in the legal framework under the community forest resource regime for which the Forest Dwelling and Other Traditional Forest Dwellers now have a right to conserve, protect, manage and regenerate. One of the specific cases studied in the current program is the case of “Hunter Committee” in the District of Sarguja in Chhattisgarh. [See Box 1]

Box 1: Hunter Committee- Protecting Community Forest Resource Maheshpur Village, Maheshpur Panchayat, District Sarguja, Chhattisgarh

An area of about 400 hectares adjoining the Maheshpur Village, Maheshpur Panchayat, District Sarguja, Chhattisgarh where plantation has been undertaken by the youth of the village by forming a ‘Hunter Committee’ even though a forest protection committee was in existence within the village primarily as a response to a dysfunctional JFM body. The plantation has been carried over an area of 400 hectares of reserved forest land. The plantation undertaken over this land consists of bamboo, *amla*, *palash*, *lac*, eucalyptus trees etc. This area was a degraded forest under encroachment by villagers and outsiders in connivance with some of the villagers. The members of the ‘hunter committee’ took the initiative of removing the encroachers from the forest land and with the voluntary effort of the villagers conducted large scale plantation over this area. The bamboo, lac collected from this plantation is bought by traders from the village itself. One of the concerns of the villagers is that there are no facilities for storing or processing the forest produce generated from this plantation. This is a good example of a self initiated process.

Key Proposal and Outcomes

It has been proposed to delineate this area as Community Forest Resource (CFR) for further conservation and protection of this area. Several management prescriptions have been issued voluntarily. These include a resolution constituting the hunter committee; A resolution passed by gram Sabha imposing fine on grazing by livestock. Also a number of persons have paid fine pursuant to the resolution of the gram Sabha.

It has further been proposed to set up a Common Facility Centre (CFC) in the area for storing and processing of forest produce utilizing CAMPA funds for linking alternative livelihood options with sustainable forest management practices. Further there is a request for construction of a check dam as source of water for the plantation area utilizing CAMPA funds.

¹⁷ C.W.P. No 202 of 1995



Meeting at PTG village of Pahari Korba at Kholipara, Gram Panchayat Jori, District Sarguja



Its therefore necessary that legal recognition is granted to self initiated process of conservation and also such initiatives must be hand held and provided resources for such efforts.

1.2.7 Autonomous Hill Councils and Regional Councils in Assam and FRA: Uniqueness of VIth Schedule Areas:

In hill states such as Assam, there are different constitutional entities such as the Autonomous Hill Councils and Regional Councils. They have their own impact on conservation as they have the legislative mandate too on forest areas other than reserve forests. Here again interactions with numerous stakeholders through personal interviews suggest that there is

little understanding of such constitutionally mandated institutions in the implementation of FRA or their integration in conservation of forest areas. Clearly there is a need for such constitutionally backed institutions to respond to new legal developments. *Some of the archaic approaches of traditional systems such as inadequate recognition of women must be overcome by synergising FRA with the constitutional institutions such as the Hill Councils.*

1.2.8 National Biodiversity Authority, State Biodiversity Boards and Biodiversity Management Committees: Less explored options for conservation:

Conservation of biological diversity is the main focus area under the Biological Diversity Act, 2002 too. For achieving this objective, the Act provides for an institutional mechanism consisting the National Biodiversity Authority (NBA) at the central level and State Biodiversity Boards at the state level. At the district and local level the conservation efforts are to be made by the Biodiversity Management Committees. NBA performs number of functions relating to conservation of biological diversity including the advisory to the states, declaration of biodiversity heritage sites in the official Gazette and suggests the measures to be taken for the management of such heritage sites¹⁸, the SBB is required to perform number of functions for the conservation of BD including the consultation with local bodies, disapproval of any activity which is detrimental to the protection of biodiversity¹⁹. The National Biodiversity Fund²⁰ and the State Biodiversity Fund under the Biodiversity Act provide financial support for conservation and promotion of biodiversity. The Act also provides for the restriction of activities that may be detrimental to the conservation of biological diversity²¹. Further, the Biodiversity Act also provides for the mandatory environmental clearance of the projects that may be detrimental to the biological diversity of an area. At the local level the Act provides for the constitution of Biodiversity Management Committee for the purpose of promoting conservation including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms.²² *While the first two are still functional, the local area institutions are least developed and needs urgent attention. Their weaving with the Committees that are to be created under the FRA can then be more clear and useful. The*

¹⁸ Section 18

¹⁹ Section 24

²⁰ Section 27 of the BD Act, 2002

²¹ Section 36

²² Section 41

Biodiversity Act also need to be read now with the advent of FRA especially on issues of access, conservation and most importantly on community intellectual property under FRA which has still not been elaborated and linked with the Biodiversity Act.

For an elaboration of this important point it will be useful to understand the case of the Pando tribe in Chhattisgarh on potential of operationalising community intellectual property.

Box - 2:

Community Right to Intellectual Property related to traditional and cultural knowledge under Forest Rights Act and the legal regime for the grant of intellectual property under the Biodiversity Act -yet another area of conflict and ambiguity.

Forest Rights Act (FRA), 2006 provides that forest dependent communities have the right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity²³. Distinct from any other community right under the Act where the expanse of right is clearly provided, the scope of this right is not clearly mentioned under the Act. Thus for example the expanse of community right of uses and entitlements is clear and the same can be claimed over fish and other products of water bodies, grazing and traditional seasonal resources. Similarly, expanse of community rights of usufruct over customary communal resources such as *Nistar* is clearly mentioned. But the expanse of the community right to intellectual property is not known. There are two essential components of this unique provision, the first aspect related to access to biological diversity under both the legislations has been dealt with in some detail above. The second and the most important issue pertain to intellectual property rights. Intellectual property related to traditional knowledge as a matter of community right throws a host of issues that need in depth analysis of the legal regime for the protection of intellectual property related to biological diversity. Also, a number of international legal instruments also become applicable.

Under the Biological Diversity Act, *No person* is allowed to obtain intellectual property rights except with the prior permission of the National Biodiversity Authority²⁴. Further, the NBA is empowered to decide the benefit sharing mechanism between communities and it may grant joint ownership of intellectual property to the communities. While the FRA recognises the pre-existing right to access biological diversity and community right to intellectual property (Section 3(1)(k) and a recognition process under the Rules, what is lacking is the institutional synergy with arrangements under the Biodiversity Act. This needs urgent correction and modification. One possibility is to define and broaden the scope of intellectual property to include Community Intellectual property in the Biodiversity Act or alternatively link the process under the Biodiversity Rules to the recognition and vesting process under FRA, by using the provision on “in addition to but not in derogation or other laws”.

²³ Section 3 (1) (k), Forest Rights Act, 2006

²⁴ Section 3, Biological Diversity Act, 2002

Box - 3:

Traditonal Medicinal Knowledge of Pando community (PTG) and the need for its protection- A case study from Murma Village in Chhattisgarh.

Murma Village in Korea District, Chhattisgarh is a Scheduled Area with the dominant tribal population. Pando, Pahari Korba and Gond Primitive Tribal Groups are present in the region. Basic medical facilities such as the primary health centers have not been estbalished in the area. However, Tribes in the region are known to possess certain valuable traditonal medicinal knowledge which they have been using since centuries.

One such example is the knowledge about “chumuk” as antipoision. (shown in the picture below).



Chumuk sticks to the body and does not fall down when held towards gravity, therefore the name Chumuk derived from Chumbak in Hindi meaning magnet. Tribes know that Chumuk possess unique anti-poison properties. When any member of the community is bitten by a scorpion, poisonous snake or any other insect Chumuk is made to stick to the body of the person and it takes 8-10 hrs for the person to get completely cured. It is observed that members of the Tribe generally carry Chumuk along with them while at work.

This unique traditional medicinal knowledge has not been documented by the Biodiversity Management Committee in the area. However it can be potentially claimed under the FRA. Although, till date, there is no evidence to show that there has been misappropriation of this knowledge, there is a potential that this TK of the Pando tribes could be misused if adequate protection is not provided for the same. The FRA and the Biodiversity Act needs to be creatively used to prevent this misuse.

1.2.9 Joint Forest Management Committees: Weak Legal footing and attempts to formalise under the Societies Act is inappropriate

The recent history of social forestry, joint forestry and now commonly used community forestry has also been a soft attempt to address a more secure regime for the communities participating in the resource management initiatives of the various states. The Central Government Circular on JFM of 1990²⁵ titled “Involvement of Village Communities & Voluntary Agencies in Regeneration of Degraded Forests” is the policy attempt which emphasised the role of NGO’s as an interface between user groups and the Forest Departments. The June 1990 Circular is a clear indicator of a shift to a more decentralised and de-bureaucratized process of empowerment to forest-dependent communities which are among the most disadvantaged sections of Indian society. JFM, no doubt, is the largest intervention in the context of participatory management and perhaps its implications are the most potent of latent conflicts that can emerge in case of forestry management especially relating to common usage. As of today, barring few States such as Jammu & Kashmir, Uttar Pradesh and Karnataka most of the initiatives of JFM are under Government Orders which are based on a Circular issued in 1990. It is pertinent to mention that a circular does not have a force of law and thus the premise of JFM is on a weak legal footing. Some of the glaring concerns of JFM especially from the institutional stand point are as follows. In case of termination of a JFM agreement, there is no clarity on the accountability of the Forest Department and this need to be made clear in absolute terms to win the confidence of the participants in JFM activities. While the various G.Os on JFM mandates benefits only to those who contribute to the activities under JFM, it is still unclear whether the JFM order can accommodate the customary or traditional rights of people in the same area.

Further and most importantly the JFMCs have been given legal sanctity in some cases under the Societies Act.

1.2.9.1 Effect of registration of JFMCs under the Societies Registration Act, 1860

To understand the impact of registration of JFMCs under the Societies Act as mandated by the amendment to the JFM Circular it is imperative to understand the objectives of the Societies Act as well as the aims of the JFM Circular. The preamble to the Societies Act clearly states that it is an Act for improving the legal condition of Societies for the promotion of literature, science, or the fine arts or for the diffusion of useful knowledge as well as

²⁵ Circular No. 6.21/89-F.P;

charitable purposes. This seems to be fundamentally at variance with the objective of the JFM Circular, which is an incentive-based approach to conservation of forest resources subject to sustainable harvesting. Under the Societies Registration Act there are certain provisions such as those relating to the property of the society, the power to amend or abridge the purposes of the society, provision relating to dissolution of the society which seems to be in contravention of the objectives of the JFM Circular. Under the JFM circular the programme is implemented under an agreement between the village community, the voluntary agency and the state forests department and there is no ownership or lease rights over the forest land that accrue to the beneficiaries or the NGOs. The state resolutions and the Memorandum of Understanding is required to list in detail the constitution of the village forests committee, the managing committee the duties and responsibilities of the village forest committee, the powers of the village forest committee, the duties and responsibilities of the managing committee, the functions and the responsibilities of the forest departments, the usufructory rights and other regulations. The power to rescind or supersede the JFMC is vested with the Divisional Forest Officer (DFO) after the approval of the District Forestry Committee. Under the MoU the DFO also has the discretion of certifying that the usufruct as well as the benefits would accrue to the Village Forest Committee only after the ‘satisfactory’ performance of the duties and functions by the JFMC along with the satisfactory observance of the duties and functions of the managing committee²⁶. On the other hand, when such JFMC is desired to be registered under the Societies Act it is unclear whether the property of any such VFC so registered would belong to the managing committee or the entire VFC. These are some of the institutional concerns which have still not been resolved and needs urgent attention.

JFM needs to be strengthened from the legal standpoint and infact the Committees that are statutory under FRA needs to benefit from the JFMCs of the past.

1.2.10 Panchayati Raj Institutions and forestry:

The nineties marked the beginning of a change in government’s approach towards community involvement in the management of natural resources in rural India. This approach envisaged two different arrangements, one being decentralization of governance by

²⁶ The above example is in the case of Andhra Pradesh which in an indication to the manner in which state resolutions is drafted.

empowering local self governments in the form of Panchayati Raj Institutions (PRIs), and the other was creation of specific resource management institutions, i.e., user groups, functioning under the resource specific government departments such as Forests, Water Resources etc. The 73rd Amendment to the constitution in 1992 mandating establishment of PRIs in rural India and its subsequent extension to the fifth schedule areas by virtue of Provisions of *Panchayats (Extension to Schedule Areas) Act, 1996 (PESA)* clearly mandated the PRIs in the overall village development, including and significantly the management of natural resources. Simultaneously a mandate for specific user groups in natural resource management in general and forest management in particular also emerged subsequent to enactment of National Forest Policy 1988 and specific guidelines on JFM in 1990 (MoEF). While the underlying idea of both these developments was to empower and involve the community at the lower level in decision making and management of resources that impact them the most, the institutional structures envisaged for them- serve different purposes. It is here that these structures and their purposes throw new challenges in the participatory governance of natural resources and especially in participatory forest management. Thus while PRIs are elected representatives of the village populations as mandated by the Constitution to be empowered on certain aspects of forests management, the user groups, (JFMCs in this case) are created specifically to give effect to the concept of participatory or joint forest management, working under the respective state forest departments. Notably the Panchayati system has been existing in the rural India even before the independence, having a marginal role in forest management; similarly the JFM was conceived and initiated on an experimental basis around 1970s and was formalized only in 1990.

The development of these two different approaches has resulted in duplication of roles, jurisdictional overlaps and conflicting powers & functions. This was coupled with the fact that the legal and policy regime relating to both PRIs and JFM lacked clarity in terms of their respective jurisdictions, areas of operations, exact functions and powers. Add to it the differential allocation of financial resources in these structures which has given rise to a differently financially empowered structure at the lowest level of governance. The complexities enumerated above have raised one fundamental question relating to the PRIs and JFMCs. Which institution is more suited for participatory forest management? While there is one school of thought that advocates vesting all functions relating to forest management at the village level in PRIs mainly arguing on the constitutional supremacy of

the institution²⁷, while on the other there are arguments that specific user groups are better equipped to deal with the complexities of forest management due to the specialist skill requirements and also which are more financially empowered. In recent years there is an emphasis on bridging the gap between both PRIs and JFMCs, by clarifying their respective roles and responsibilities in PFM on one hand and creating inter linkages between the two institutions on the other.

The national perspective on the issue is completely blurred as different ministries and state departments are divided in their views. Since ‘Panchayats’ is a state subject²⁸ and ‘forests’ a concurrent subject²⁹ under the Constitution, States are competent to legislate on both. As a result different states have taken a different approach towards involvement of PRIs in forests management generally and participatory forest management in particular.

The recent attempts by the MoEF in clarifying that JFMCs will act as an arm of the Gram Sabha and the JFMCs will function under the overall supervision of the gram Sabha will hopefully shed some light on the role of the JFMC and Gram Sabha³⁰. ***What is more crucial is the amendment in the PRI law as well as the forest law applicable in the respective state for total clarity of this integration.***

1.2.11 Village Forests: Assignment to local communities: A provision never used throughout the country

A third classification is "village forests" in which the state government may assign to "any village-community the rights of Government to or over any land which has been constituted as a reserved forest."³¹ The State Government may also make rules for regulating the management of such forests. Little use has been made of this provision. This had the potential for taking care of communities within forests as early as 1927 but the inability to use this, perhaps by design has resulted in a lot of heart burn within such forest areas. . It is pertinent to mention here that the terms ‘village forest’ and ‘forest village’ is interchangeably used. However, village forest’ need to be distinguished from ‘forest village’. While village forest is a legal category under the Indian

²⁷ For example see Guhathakurta Prabir et.al., JFM in West Bengal-A Critique, WWF, Upadhyay Videh; 2003; Beyond the Buzz; JNU, Delhi

²⁸ See list II to Seventh Schedule to Constitution of India. It enlists the subject areas on which the State legislature can legislate. (Article 246)

See list III to Seventh Schedule to Constitution of India. It enlists the subject areas on which both the Central and the State legislature can legislate. (Article 246)

³⁰ See letter dated 29th October, 2010 issued by the Minister of Environment and Forest

³¹ Indian Forest Act, Section 28.

Forest Act, forest village is an administrative category. Although forest village is recognised by the forest department the revenue benefits cannot accrue to such villages as they are not technically under the revenue departments. This has caused numerous conflicts at the field level. Hence there is an urgent need to bring such forest villages under a legal definition either under the Indian Forest Act or recognised as revenue villages depending on the circumstances. It's important to understand this special category and assess the recent attempts under FRA as well as other attempts including the courts. ***The legal concept of village forest is an innovative provision under the Indian forest Act where a great opportunity has been lost and needs to be revived urgently.***

1.2.12. “Forest villages” ‘Forest Colonies’ and ‘Forest Settlements’ - Their relevance in the modern arrangement and corrective measures.

a. Forest Villages: A Background

Forest villages were historically established within the limits of reserve forests for the purposes of providing a source of suitable local labour and for forming and maintaining plantations. A forest villager has no legal right and ordinarily the Conservator of Forests and DFO is the executive authority to whom the entrants in forest villages are accountable to. The DFO in fact has been empowered to evict summarily from a forest village, without payment of compensation, anyone who does not comply with his/her order. The general principle that was adopted in the forest villages was that a forest villager should be employed as far as possible in the vicinity of their villages and the forest department and its contractor would have the first claim to the labor of the forest villager. With minor variations the status of Forest Villages continues on similar lines with or without Rules or prescriptions throughout the country. The establishment of forest village served a purpose during colonial era of providing cheap labour for timber working such forest labour camps without any security of tenure and basic Constitutional rights; they should not find any place in the current forest administration of this country.

Unlike popular belief it was not always that people were brought from outside to be settled as Forest Labourers in Camps for Forest Coup operations. There are numerous cases where a Revenue Village existed prior to the creation of Reserve Forest under the first comprehensive Indian Forest Act of 1878. It is the creation of Reserve Forest which converted such Revenue

Villages and recorded them as Forest Village in the forest records while the Revenue authorities merely announced that such villages now ceased to be Revenue Villages³².

The fact that the existence of forest villages itself is unconstitutional has been recognised in the Commissioner's Report of Scheduled Casts and Scheduled Tribes in its 29th Report (1987-1989). The said report emphatically stated that Forest Villages were created either by declaring the earlier inhabited villages or by bringing labourers from outside in forest areas. In the present context both such categories of forest villages are unconstitutional. In fact, in a significant Kerala High Court decision restriction on forest village members through Hillmens Rules were declared unconstitutional. Post this decision the Central Government formally advised all the State Governments in 1974 that such forest villages are against the provisions of the Constitution and hence such forest villages need to be converted into Revenue Villages. In spite of the advice of the central government there still exist between 2500 to 3000 forest villages in the country.³³

It is clear from the above that the erstwhile concepts of Forest villages” ‘Forest Colonies’ and ‘Forest Settlements have lost their relevance in the modern arrangement and corrective measures need to be taken up immediately to integrate them in mainstream management where both conservation and livelihoods objectives are fulfilled.

b. Conversion of forest villages into revenue villages: Developments at the National Level

i. Circular of 1990: Mandating conversion of forest villages into revenue villages

One of the earliest initiatives of Ministry of environment and forest (MoEF) was issuance of a specific circular in 1990 regarding conversion of Forest Villages into revenue Villages and settlement of other old habitations among others. It clearly brought out their lack of relevance in the modern context and specifically mandated their conversion into revenue villages. A scheme was also proposed where the applicability of Forest Conservation Act was also made mandatory including the parameters within which they need to be converted as revenue lands.

³²Betul Division is one example from Madhya Pradesh where there is ample evidence in this regard

³³ Circular No. 13-1/90-FP of Government of India, Ministry of Environment & Forests, Department of Environment, and Forests & Wildlife dated 18.9.90 addressed to the Secretaries of Forest Departments of all States/UTs.

Certain conditions were also sought to be imposed and proposals were sought from state Governments in this regard.

ii. Circular of 2004 on conversion of forest villages into revenue villages

Another circular was issued on 3.2.2000 by the Central Government to the Chief Secretaries and Principal Secretaries for “setting up of a process for conversion of forest villages into revenue villages. Ironically it clubbed the regularization of encroachment of forest villagers of forest land within this circular. A detailed procedure was outlined and year 1980 was set as a cut-off date for existing pattas in forest villages which would be considered to be eligible for conversion. Year 1980 was taken as the cut off date as the forest conservation act was enacted in 1980. Specific conditions were also put for those forest villages which were in National Parks and Sanctuaries where prior permission of the National Board of Wildlife was mandated. It has been further stated that the State of Maharashtra on the basis of the recommendations have converted the forest villages to revenue villages. However, certain states such as Chhattisgarh remain to take action in this regard.

iii. Judicial View on conversion of forest villages into revenue villages and payment of Net Present Value³⁴

The Supreme Court in the *National Parks and sanctuaries case*³⁵ passed an order³⁶ staying de-reservation of forests / National Parks / Sanctuaries without the order of the Supreme Court. Further, on 09.02.2004, the Hon'ble Court rejected the appeal of the Government of India praying for deletion of the word "forests" from the above mentioned order. Therefore, this order is still operative. In view of the above mentioned orders, all the approvals, including conversion of forest villages into revenue villages and regularisation of encroachments, stand modified to the extent that the legal status of the diverted forest land shall remain unchanged.

³⁴ Net Present Value of NPV is a concept evolved by the Supreme Court in its judgment dated 25.09.2005 in WP (C) No. 202/1995 in the case of T.N Godavarman to mean payment of value of the forest that is being diverted for non-forest purposes under the Forest Conservation Act, 1980. NPV is payable in addition to moneys payable towards compensatory afforestation and catchment treatment plan.

³⁵ CEL-WWF- India vs. Union of India and ors WP (C) no. 337/1995

³⁶ Order dated 13.11.2000 "Pending further orders, no de-reservation of forests / National Parks / Sanctuaries shall be effected."

The Supreme Court in *Godavarman Case*³⁷ had earlier stated³⁸ that, the User Agency seeking diversion of forest land for non-forest purposes shall deposit the Net Present Value of the diverted forest land including conversion of forest villages into revenue villages and regularization of encroachments, after 30.10.2002 under Forest (Conservation) Act, 1980. This order has been subsequently been modified³⁹ and user agency seeking conversion of forest villages into revenue villages is exempted from payment of NPV.

iv. Coming of Forest Rights Act: Implications on conversion of forest villages to revenue villages

FRA confers thirteen forest rights and one of them specifically confers rights with regard to conversion of forest villages to revenue villages. The Forest Rights Act for the first time defines forest villages to mean “*the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and include lands for cultivation and other uses permitted by the Government*”.⁴⁰ As noted earlier, for the first time any Central Act has recognized the practical difficulties of forest dwellers in forest villages and confers as a matter of right to Forest dwelling Scheduled Tribes and Other traditional forest dwellers “*the right of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages*”.⁴¹ It is clear that a right has been vested with the Forest dwelling Scheduled Tribes and Other traditional forest dwellers for conversion of forest villages to revenue villages.

v. Process for grant of ‘forest right’ under the FRA

While the above right of conversion of forest villages to revenue villages is now vested with the forest dwelling community as outlined above a due process that has been envisaged under the Forest Rights Rules, 2007 has to be followed. This means that the resolution by the Gram Sabha of the concerned forest village needs to be passed, verified by the Sub Division Level

³⁷ WP (C) No 202/1995

³⁸ order dated 30.10.2002 and 01.08.2003 in IA No. 566 in Writ Petition (C) No. 202 of 1995

³⁹ Order dated 28.03. 2008 and 09.05.2008

⁴⁰ Section 2 (f) of the Forest Rights Act

⁴¹ See Section 3 (h) of the Forest Rights Act

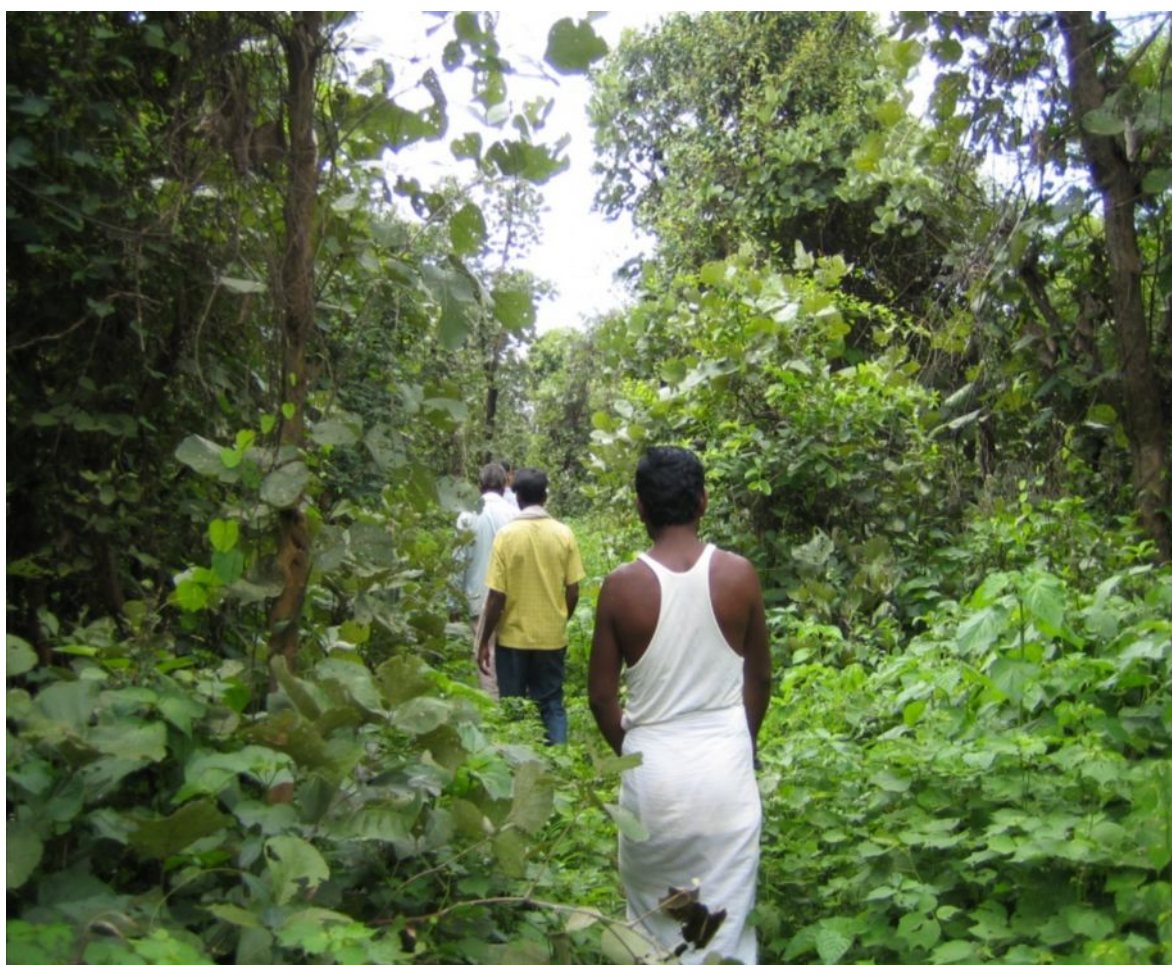
Committee and considered and finalized by the District Level Committee and formally recorded in both the forest and revenue record of the effected change as per the Forest Rights Rules. While the above process of the right to conversion of forest village to revenue village needs to be urgently carried out, one of the most significant aspects with regard to net present value and conformity to Forest Conservation Act, 1980 which has been a deterrent to most state governments, has been relaxed under the Forest Rights Act. The Act clearly states that *“The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980 (69 of (1980), requirement of paying the ‘net present value’ and ‘compensatory afforestation’ for diversion of forest land, except those specified in this Act”*.⁴²

vi. Way Forward to sustainable forest management

It is now clear that any process for conversion of forest village to revenue village can be done without seeking permission under the Forest Conservation Act or payment of NPV or compensatory afforestation, though a due process should be followed under the Forest Rights Act which has to be ably facilitated by the district administration and the state government so that benefits of development accrue to the dwellers of these forest villages. There is substantial dependence on the forest for food, including honey, roots, and fruits by the residents of these forest villages. These forest villages are out of the purview of revenue administration and are located in forested areas. In these villages, very little development has taken place. The forest villagers have over a period of time been denied the fruits of development as they exist on forest land where such activities are restricted. The tribal's who resided in these villages were used for forestry purposes, but with prohibition on green felling the need for their labour decreased. In order to fulfil their livelihood needs the dependence on minor forest produce increased and this was heightened by denial of agricultural loans as they had no title to land that they occupied. This has impacted agricultural productivity and increased pressure on the adjoining forest. The conversion process would result in increased economic well being of the residents of these forest villages ensuring ecological considerations are met resulting in conservation and sustainable management of forests. The conversion process would bring these villages within the ambit of revenue administration. The village common property resources can be managed in a more effective manner in terms of the provisions of the land revenue code and further help in codifying the management uses

⁴² Section 4(7) FRA

of the land within their villages to reduce dependence upon forests and increase the livelihood support for these communities. This would result in increased empowerment of the communities. The only caveat to this conversion is that such conversions must take a pragmatic view and not result in honeycombing. There are enough provisions in the FRA especially regarding development rights under Section 3(2) that can take care of those villages that are deep inside. What is important is the pragmatic stand on such conversion where livelihoods and conservation both do not suffer. The good news is that both are possible under FRA. A good example is a community protected forest area in Sarguja.



Visit to the plantation at Maheshpur Village, Maheshpur Panchayat, District Sarguja

1.2.13 Forest Colony- a unique presence in Chhattisgarh?

Another interesting classification found in Chhattisgarh state which cannot be strictly classified as forest villages are ‘forest colonies’. There are 13 forest colonies in District of

Sarguja in Chhattisgarh existing on forest land. A case of one such forest colony of ‘Barni Jhiriya, is explained below in Box: 4

Box - 4: Barni Jhiriya: What is a ‘forest colony’?

Barni Jhiriya is a hamlet inhabited by the Pando tribe (Primitive Tribal Group) existing in the South Sarguja forest division, Chhattisgarh. The hamlet exists over a reserved forest constituted on 1948.⁴³ The pando tribe was traditional practitioner of shifting cultivation and of lac cultivation in the area of Sarguja district. In 1952-1953 in order to discourage Pando and Pahari korba tribe from exercising shifting cultivation they were settled over the reserved forest in the Sarguja Forest division and these were 13 such ‘forest colonies’. One such forest colony is of Barni Jhiriya inhabited by Pando tribe.

In the first five years members of the tribe were provided with agricultural implements, seeds, fertilizers, construction material for making houses etc free of cost to aid them in settling down in the area and practice cultivation. After that no developmental efforts were undertaken due to the categorization of the land as reserved forest land. The members of Pando tribe rely on minor forest produce (MFP). They are not able to a secure loan for agriculture against the land that they inhabit and cultivate as it is not found in revenue records.

The state government before 24.10.1980 sent proposal for grant of ‘pattas’ to the members of Pando tribe but while they were being processed Forest Conservation Act, 1980 was enacted and as per FCA such an action required diversion of forest land for non-forest purpose and prior permission of Central government. This situation led to members of Pando tribe being denied ‘pattas’ and all development grants as they exist on forest land. The forest colony of Barni Jhiriya is a classic example of habitations of PTGs settled by state government and then forgotten. The ambiguity as to its classification has added another dimension to the plight of Barni Jhiriya. The conversion of this ‘forest colony’ to a revenue village under provisions of FRA would provide its tribal residents the much needed access to livelihood options that were denied to them earlier.

⁴³ In conversation with DFO, South Sarguja Division, Ambikapur, Sarguja, Chhattisgarh

Chapter – 2

Assessing the institutional arrangements specifically created under FRA- The concept of community forest resource and their management regime- Exploring synergies

2.1. Regime of protection and management of Community Forest Resource under FRA:

The Forest Rights Act has ushered in a new concept of Community Forest Resource (CFR) along with a community right to the Gram Sabha to protect and manage their CFR. As legal spaces will be explored for a meaningful implementation of this right, this also gives an opportunity to review and strengthen our participatory forest management regime. Let us take a quick glance at the enabling provisions of FRA. As mentioned earlier, FRA promises the forest dwelling communities, a right to conserve, protect, regenerate and manage a Community Forest Resource (CFR) which they have been traditionally protecting and conserving for sustainable use (as defined in Biological Diversity Act). For a prudent exercise of this right it is important to understand the concept of CFR.

Community Forest Resource has been defined as⁴⁴ follows:

Customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access.

A plain understanding of customary common forest land where the communities had traditional access, or which could be construed to be customary boundaries of a village, would therefore mean that they are only those areas where communities can demonstrate their traditional access overlapped with these legal categories under various legislations that would qualify to be community forest resource. The definition of community forest resource also includes seasonal land use by pastoralist communities. This seasonality of land use has never yet been taken into account by any forest legislation. It is a niche area to unravel the complexities in the exercise of this right by pastoralists and nomadic communities such as in the process of demarcation of the community lands for them and devising a suitable mechanism for the protection and management of the CFR. It is therefore, essential to unravel

⁴⁴ Section 2(a), FRA

this complexity and carry out a more rigorous study on the types of community resources used, exact forest areas (location, area) from where resources are used in order to help the community to get their rights recognized. It is also true that the same resources are also used by the local settlers in the same forest area. Who will have precedence or preference needs to be further clarified in the Rules including the process of such recognition between local settlers and migratory community. This needs further enquiry and debate, both from the legal standpoint and from the resource management perspective.

The concept of CFR has also been linked to duties of the right holders, the Gram Sabha or the village institutions where they have been empowered to ensure the decisions of the Gram Sabha to regulate access to the CFR and prohibit any activity that adversely affects the wild animals, forests and biodiversity⁴⁵. It is thus clear that the Act not only gives a *right* to protect, conserve and manage the CFR, but also lays down certain *duties* for protecting the CFR.

But there are difficulties in implementation of these provisions as there is neither a formal documentation of CFR nor any claim or any title that is required or envisaged under the Act or the Rules. Therefore, in the absence of a clear mechanism it can be assumed that the FRA does not intend to expressly recognize this right through a due process, rather the right is vested in the Gram Sabha, because of the obvious reason that the existence of CFR is crucial to the continued exercise of other rights promised in FRA. Since the CFR is the area where community had traditional access, Gram Sabha being the custodian of traditions and practices of the community becomes the most appropriate authority to delineate CFR, taking into account the evidences⁴⁶ given in FRA.

The next huge challenge is creating an enabling framework for the implementation of the new regime under FRA and balancing it with the existing forest management practices in India. A review of the existing PFM regimes in the study states do point towards certain inconsistencies. A flavour is presented below.

⁴⁵ Section 5(d) of the FRA.

⁴⁶ Rule 13(2), FRA.

2.2. Potential conflicts of FRA with other participatory approaches:

Since Gram Sabha has the authority and responsibility of protection, regeneration, conservation and management of a CFR, it performs all acts for protecting the forests from fire, grazing and illegal encroachment, prevent theft of forest produce, carry out silviculture operations and manage water bodies among others. It can also form committees from among its members for this purpose.⁴⁷ However, if a Joint Forest management Committee or any other body such as an Eco Development Committee is functioning in a forest area and later a Forest Protection Committee is also formed under FRA to conserve and manage a community forest resource within that forest area, conflicts are bound to arise in the functioning of both the committees. Some of the issues that can arise largely pertain to the working of parallel institutions created under two different regimes. Thus for example:

2.2.1. Inconsistency between the plans/procedures of both the bodies:

Under JFM a micro plan is prepared by a JFMC with the help of forest department that highlights the objectives of the program, benefit sharing mechanism, duties of the JFMC regarding conservation and management of forest, prohibited activities such as grazing, illegal encroachment and penal provisions among others.

To carry out its right to protect, regenerate and conserve and manage a CFR and duty to protect forest wildlife and biodiversity, catchment areas, habitat of forest dwellers, Gram Sabha has to formulate a framework under the Rules. These rules may regulate forestry activities, collection of minor forest produce, plantation of species, upkeep of CFR boundary, illegal encroachments, grazing, management of water bodies, protection of animals or any other practice that adversely impacts the wildlife, forest and biodiversity. Thus, for example, the benefit sharing mechanism in micro plan of a JFMC may be different from that of the Gram Sabha or the penalties meted out to the offenders for the theft of forest produce or illegal grazing may be different.

2.2.2. Conflict with other Statutory Bodies Framed under State Forest Laws:

Similarly, FPCs can also come in conflict with other forest management bodies constituted under state statutes especially where JFM has been formalised such as in Uttar Pradesh, Karnataka, J&K, Himachal Pradesh or under laws of Autonomous Districts of North Eastern

⁴⁷ Rule 4(e), FRA

States such as Assam especially in the Hill districts such as North Kachar Hills, Karbi Anglong and the Bodo Territorial Council as mentioned earlier.

2.2.3. Role of Forest Department: Integrating Ministry of Tribal Affairs' mandate

Under the existing arrangement the Forest Department spearheads the entire JFM/CFM program. It constitutes JFMCs or EDCs, from among the village community which also includes officers of the forest department, controls the process of preparation of micro-plan, ensures its consistency with the working plan of the forest division, resolves disputes among two JFMCs, and manages accounts of JFMCs among others. On the other hand, FRA visualizes the Gram Sabha as the central authority, ultimately accountable to the Ministry of Tribal Affairs, to conserve and manage its forest resources while the role of forest department and other authorities is only to assist the Gram and its committees and enhance their capacity in meaningful exercise of its rights and duties.⁴⁸

Hence, there is a need to devise a new *modus operandi* of forest management which synergizes FRA along with its nodal ministry with the existing participatory forest management system where the Forest department is the nodal ministry and accordingly modify the allocation of business rules.

2.2.4. Some suggestions:

Though FRA provides a right to the Gram Sabha to protect and manage its CFR and also to ensure protection of wildlife, forest and biodiversity, adjoining catchment areas, it does not lay down procedure for exercising this right. In the absence of such a framework or an express provision it may be assumed that the Gram Sabha has also the power to regulate conservation and management activities such as collection of forest produce, protection of forest from fire, grazing, illegal encroachment, management of water bodies and catchment areas, levy of fines and punishment to the offenders, plantations and regeneration of the forest, protection of wildlife and biodiversity, working of the committees among others. FRA gives the power to the Central Government to issue directions to any authority under the Act which includes the Gram Sabha⁴⁹. Thus, to ensure a robust regime of forest management the Central Government can issue enabling directions on each of the following aspects (inclusive):

⁴⁸ Rule 4(3), FRA, "The Gram Sabha shall be provided with necessary assistance by the authorities in the State".

⁴⁹ Section 11 and 12, FRA.

- a) *Formation and working of Forest Protection Committees:* Framework for the constitution and membership of the FPC, ensuring participation of women and youth in the meetings, conducting Meetings, duties of the members, penal provisions in case of violation of duty, seeking assistance from the forest department and other government bodies in carrying out their functions at the behest of the Gram Sabha.
- b) *Meeting the livelihood needs of the Community:* Provisions can be made for a pre-assessment of the livelihood needs of each family in the village, collection of usufruct such as the quantity of MFP to be collected by each family, time of collection, ensuring increase in yield of the forest, creating suitable mechanism for increasing returns on marketing of MFP and capacity building of the Gram Sabha in collection, storage, processing and marketing of MFP.
- c) *Regeneration and Conservation of CFR:* Gram Sabha may make rules on species to be planted in the CFR, their upkeep and management, seeking assistance of the Forest Department.
- d) *Flow of funds:* Provisions can be made for ensuring a smooth flow of funds to the Gram Sabha to carry out its activities.
- e) *Existence of other Community Rights in a CFR:* Other community rights such as access to collect Minor Forest Produce, grazing among others are available in a CFR. Gram Sabha must take into account these rights before framing conservation and management rules for CFR.
- f) *Recognition of Self Initiated Groups:* Any group of the village which is already working for the conservation of the forest resources can be involved by the Gram Sabha.
- g) *Pastoralist and conservation of CFR:* The law is silent on how will the right to conserve and manage CFR be exercised by the pastoralist communities. There is a need for an in-depth analysis and operational mechanism on this aspect.

Besides, this there is also a need to strengthen the Gram Sabha by disseminating information about its rights and how to exercise them, in clear and simple language. It is the responsibility of the Subdivision Level Committee (SDLC) to inform the Gram Sabha and right holders

about their duties towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which needs to be conserved and protected. Besides this, there is a need to closely monitor the process of conservation led by the Gram Sabha and take appropriate action to deal with emerging issues.

Section 5(c) empowers the Gram Sabha, forest right holders and village institutions to ensure that the habitat of forest dwelling scheduled tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage. However, the Act does not provide a mechanism to carry out the duty except under rule 4(e) Gram Sabha can form its own committee to carry out its duties, and also to ensure that the decisions taken in the Gram Sabha to regulate access and stop any activity that destroys a community forest resource are complied with. Therefore, in the absence of any legal mechanism to operationalise the right/duty regime, it can be assumed that the Gram Sabha can evolve its own procedure.

However, enabling directions from the Nodal ministry in concurrence with MOEF is a more appropriate strategy.

2.3. Some Flavours of Exercise of rights under Section 5 and the challenges within

2.3.1. Choice of species – Who has the right? – A Strategy to Strengthen Conservation

The Case of Bangawan village in Burmoo block in Ranchi, Jharkhand

Forest Rights Act attempts to balance the two longstanding and conflicting objectives of livelihood security and conservation. It vests tenurial and access rights over forest resources along with an authority and responsibility for sustainable use, conservation of biodiversity and maintenance of ecological balance on forest dwelling scheduled tribes and other traditional forest dwellers.⁵⁰ This new approach to forest governance envisages a key role of these forest dwelling communities in preservation and management of forest to ensure its long term sustainability. Also, the relevance of the FRA becomes more as the past attempts of the forest department to elicit active cooperation and involvement of the forest dependent communities through Joint Forest Management, community forest management and other

⁵⁰ Preamble, FRA, 2006

participatory initiatives remain not so successful. One of the reasons accounted for their failure is lack of livelihood security for the village communities involved in the program.⁵¹

Since forests are the main source of sustenance of millions of marginalized and tribal population living in and around them, it is our contention that ensuring livelihood security can become a key factor in eliciting their participation in forest protection and management. Thus for example communities living in and around the forest area can be consulted before planting species of trees by the forest department. In other words those species may be planted which are of local use.

Our belief is strengthened by several incidences where communities have fiercely protested against the move of the forest department to plant trees which are of no use to them in the adjoining forest land. Thus for example during a community interaction in village Bangawan, Burmoo Panchayat, Burmoo Block, Ranchi the inhabitants raised a concern that forest department has planted *Chakoria* trees on the degraded land in the village (this land earlier had sal trees). This species is less useful for the village for meeting their livelihood requirements, for example the trees don't bear fruits and no grass grows under it which could have been used as fodder. The villagers on the other hand demand that those species should be planted which are useful in meeting the livelihood needs of the village. Besides in Changhara Panchayat of Burmoo Block also the village community pointed out that the Forest Department is planting Bamboo trees in the village against the wishes of the inhabitants. However, the village community wants that instead fruit trees be planted.

This is per se not an illegality in law, as a forest land is managed according to a working plan prepared by the Forest Department. A working plan describes the forestry operation to be undertaken by the forest department to conserve, protect, regenerate and manage forests. It is prepared for every forest divisions on the lines of a National Working Plan Code. The National Working Plan Code does not mandate that the Gram Sabha has to be consulted in the management of the forest, except in case of participatory forest management, the provisions of micro plan prepared by the Joint Forest Management Committee are included in the working plan.⁵² However, FRA empowers the Gram Sabha with the right/duty⁵³ to

⁵¹ Add reference

⁵² See National Working Plan Code, <http://envfor.nic.in/divisions/forcon/forcon.html>

protect, conserve, regenerate and manage their community forest resource which they have been traditionally protecting for sustainable use.

Further, the FRA empowers the gram sabha to form committees to carry out its duties under Section 5. Therefore, the Gram Sabha can make provisions for conservation and management of community forest such as resource such as planting trees, protecting the forest from encroachment, fire, grazing, and collection of NTFP among others. This obviously needs a clarification from MOTA in concurrence with MoEF. The underlying point therefore is that the working plans at least in such areas where communities had traditional access and are eligible to be called as community forest resource, they need to be integrated both in the Working Plan Code as well as through directions by the MoTA.

***2.3.2. Challenges within: A case of Chama Panchayat in Chanho Block, Ranchi:
The legitimacy of authority***

It was informed to the team that the women of the Village Chama, Tola – Chatniapani are cutting small bamboo plants and selling them. Due to which the bamboo plantation is being adversely affected. They have been warned many times by the Gram Sabha, but the cutting hasn't stopped. Such aberrations are often used to question the legitimacy of the village unit themselves and there needs to be internal checks and balances to deal with such issues through a procedure devised by the Gram Sabha itself with the threat of taking it up to the higher authorities and disincentives for such perverse acts.

***2.3.3. Instances of the Village Community Protecting and Managing the Forest:
Need for a formal recognition***

Several experiences were shared by the Gram Pradhan and the village youth present at the meeting about the efforts of the community to protect, conserve and manage the forest land. Thus for example, in Chamranga Village in Chanho block village community has organized themselves into protecting the nearby forest land. Rs. 100 has been collected from every family for conserving forest. Every night one member of the village does a night duty in the forest area. Fine is levied on anyone who grazes cattle in that area or cuts timber or carries out any activity that harms the resource. There is a need to strengthen and grant formal recognition to such efforts of the community under FRA by handholding the Gram Sabha or other voluntary groups in creating a structured framework to conserve and protect forest,

⁵³ Section 3(i) read with section 5 and Rule 4(e).

wildlife and biodiversity, catchment areas and habitat of forest dwellers from destruction among others.

2.4 Community Rights and the challenges to conservation and livelihood:

At the outset it is important to point out that the Community Forest Rights have although not been specifically defined in FRA, on a careful reading of the thirteen sets of forest rights given in section 3 of the Act, eight out of them may be construed as community rights. See Box - 5 below:

Box - 5: Community Forest Rights:

1. Community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes; (Section 3(1) (b))
2. Right of ownership, access to collect use and dispose off Minor Forest Produce which has been traditionally collected within or outside village boundaries.(section 3(1)(c))
3. Other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities; (Section 3(1) (d))
4. Rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities; (Section 3(1) (e))
5. Right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use. (Section 3(1) (i))
6. Rights which are recognized under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State; (Section 3(1) (j))
7. Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity; (Section 3(1) (k))
8. Any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal (Section 3(1) (l))

A cursory look at the trends in the recognition of rights process across the country reveal that the individual rights particularly, right to hold land for habitation or self cultivation have overshadowed community forest rights. Thus for example in Jharkhand only 454 community claims have been filed as against 29,097 individual claims.⁵⁴ Studies have also highlighted several challenges faced in the recognition of community forest rights such as lack of awareness among the community and authorities involved in the recognition of rights process

⁵⁴ Status Report on Implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for the period ending June 2010, Ministry of Tribal Affairs, Government of India.

about what constitutes community forest rights. Besides, in most states no enabling instructions have been issued by the state governments on the recognition of community rights resulting in several inconsistencies in the recognition process.

2.4.1. Limiting the Right of ownership over minor forest produce: Example from Jharkhand

In Godda district (Santhal Pargana) of Jharkhand, Santhal community got patta for the collective right of ownership over non timber forest produce. However, MFP described in the patta granted to the Santhal community is limited to “*tendu patta and phool beej etc*”⁵⁵

As mentioned above, FRA vests the ownership of MFP in the forest dwelling scheduled tribes and other traditional forest dwellers and also the right to collect, use and dispose of MFP⁵⁶ which was traditionally collected within or outside village boundaries. Minor Forest Produce as defined in FRA includes all NTFP of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu and kendu leaves, medicinal plants and herbs, roots, tubers and the like.⁵⁷

Clearly, MFP described in the patta granted to the Santhals is restrictive in its scope as compared to the (inclusive) definition given in FRA and is also unclear as to what are the kinds of minor forest produce that the community has rights over. Since the Act specifically grants ownership over all kinds of MFP that were “traditionally collected within or outside the village”, the title document should describe the MFP over which the community has been given rights and also the names of the title holders.

To set the correct process in motion the role of State Level Monitoring Committee (SLMC)⁵⁸ as a monitoring and evaluating body becomes crucial. SLMC submits a half yearly report to the Ministry of Tribal Affairs (nodal agency) on the status of implementation of FRA in the state. MoTA can on receipt of the report from the SLMC, issue specific directions or orders⁵⁹ to District Level Committee (the final body to adjudicate on claims) to correct the process.

⁵⁵ Findings of the community interaction as shared by Jharkhand Jungle Bachao Andolan (Local Partner Organisation assisting the ELDF in the present project in Jharkhand).

⁵⁶ Rule 2(d), FRA Rules, Disposal of MFP includes, local level processing, value addition, transportation in the forest area through headloads, bicycle and handcarts for use of such produce or sale by the gatherer or the community for livelihood.”

⁵⁷ Section 2(i), Forest Rights Act, 2006.

⁵⁸ State Level Monitoring Committee is formed under Rule 9 of FRA Rules for monitoring the process of recognition, verification and vesting of forest rights in the state.

⁵⁹ See Section 12, FRA.

2.4.2. Community Forest Rights in Mendhalekha: The struggle with bamboo⁶⁰

One of the first community forest resource claims under Section 3 (i) was recognized in Mendha Lekha, Gadchiroli in Maharashtra. Despite the initial euphoria, the community was still struggling to establish their genuine community forest rights especially over bamboo clearly the most important MFP in the region. Although the FRA clearly defines MFP to include bamboo and the communities have gone through the process of the FRA to secure their rights over bamboo as a community forest right, they were not able to trade in them for their bonafide livelihood due to the procedural inadequacy. The two polarised positions being that such community rights relate only to subsistence and not for sale while the act not only defines bonafide livelihood but also allows sale and disposal of MFPs, the contention of the communities. One specific request from the communities was to delegate to them the permission of granting transit permit which they believe is a normal practice which the forest department often delegates to others too. This would help them in improving the trade and help them in self sufficiency. This is also necessary to instill confidence in the buyers in the market who would only understand the conventional process of Transit permits and perhaps will take a longer time to know the value of a Gram Sabha resolution which also has statutory binding. But the Forest Department allegedly has taken a different view and insists that they are still regulated by the forest department through the provisions of transit permit especially for bamboo. Further the community has no right to sell bamboo as the right is only for subsistence. This is a classic case of grant right from one hand and losing it from the other. While this tussle continued a new letter has been issued by the Minister of Environment and Forest, on MFP, Bamboo and the role of the state, to obviate and reduce such anomalies⁶¹. Another recent event marked the presence of the Minister at the site along with other activities and village leaders and symbolic buying of bamboo from the Gram Sabha through a transit permit issued by the Gram Sabha may send a strong signal that the ownership of MFP now vests with the village assembly. The real challenge is to take corrective measures in the forest rules as well as issue directions under the FRA to set process which takes care of the polarized views of sustaining both rights and resources.

⁶⁰ Based on personal interaction with Mohan Hirabai Hiralal an eminent social activists in the region.

⁶¹ See letter dated 21st March 2011 of Minister of State Environment and Forest regarding MFP, Bamboo and Gram Sabha .

A meeting in progress in Assam with experts



Chapter - 3

Understanding individual land rights, land productivity, land use and exploring new institutional mechanisms post recognition process under FRA for a more secure and sustainable forest management

3.1. Security of tenure will strengthen conservation regime and secure livelihoods: Going beyond the principle:

The preambular emphasis of the FRA advocates five basic principles and steps that cannot be ignored during the implementation of FRA. While the first step is recording unrecorded rights through a due process, the second provides a framework for such recognition, thirdly there is ample evidence to show that settlement processes have been inadequate, fourthly, the rights conferred has an inherent authority and responsibility. But the underlying principle and the fifth most important aspect is that security of tenure will strengthen the conservation regime as well as secure livelihoods. It is this aspect that will dominate the future of conservation strategies on recognised forest lands under FRA. Some states such as Andhra Pradesh and Madhya Pradesh have shown positive initiatives in this regard. Let us look at Madhya Pradesh in some more detail as its one of our case study states. Further it also offers a good example.

3.2. ‘Post Claim Strategy’ on Forest Rights, - for ensuring conservation and sustainable management of forest by forest dependent people-An example from Madhya Pradesh

3.2.1. An introduction to the Post Claim Strategy:

One of the important objectives of the Forest Rights Act (FRA) is to promote conservation, protection and sustainable management of forest and forest resources by way of recognizing individual and community rights of people dependent on these forest resources. An in-depth understanding of these objectives based on the field based experiences and interaction with communities and FRA implementation agencies in one of the target Districts, Umaria in Madhya Pradesh reveals that mere recognition of Forest Rights will not be enough to attain these objectives. Therefore, to attain conservation objectives of FRA in a holistic manner, FRA implementation needs to go beyond the recognition and vesting of forest rights. The manner in which communities can be helped and strengthened with government support for

carrying out an important role in conservation is formulated to be called Post Claim Strategy⁶².

3.2.2. Why is Post Claim Strategy required? -The Need assessment

It is well understood that FRA Title holders are marginalized communities that have faced historical injustice in the past. They have been dependent on forest resources for subsistence and would not necessarily have means to carry sustainable agricultural and conservation activities even after they have received their individual or community claim. Given the nature and extent of rights under the FRA, the need is felt to support Title Holders with means that may help them to use the land and conserve and manage Community Forest Resource. Clearly, two streams that need to merge in this regard are the agencies responsible for supporting agriculture and agency responsible for conservation and sustainable management of forest- the forest department.

3.2.3. Climate variations and its impact on agriculture-Need to protect subsistence means of vulnerable communities

The current state of agriculture being in flux⁶³ due to frequent droughts and unprecedented rains⁶⁴, possibly as a result of climate change, both the Central and State Governments need to extend supportive measures to FRA Title holders with various schemes and programs. Technically, agricultural schemes have their own criteria which may not cover FRA Title Holders under their conventional schemes⁶⁵. For example in Uttar Pradesh, “Beej Vitran” is a scheme to provide support to farmers having less than two *bigha* (0.66 acres) of land which is recorded as such in the revenue records. Clearly, a forest right holder having more than two *bigha* is not entitled for seed support under this Scheme. Therefore, there is a need for handholding so that FRA title holders might be able to sustain themselves when faced with extreme adverse climatic variations.

3.2.4. Need for creative use of existing Schemes and Programs

In Umaria District Madhya Pradesh, the District Administration as the implementation agency for FRA is of the view that the FRA title will become meaningless if the title holder is

⁶² The term- Post Claim Strategy has not been extracted from any government or secondary source. It is coined based on the understanding of the ELDF team carrying FRA -ICFRE work in Madhya Pradesh

⁶³ <http://agricoop.nic.in/Agristatistics.htm>

⁶⁴ Maharashtra for example experienced unprecedented rains this year spoiling the onion crop leading to price hike

⁶⁵ In a personal conversation with Pradhan, Gram Sunaye, Tehsil, Konch, District Urai, Uttar Pradesh

not able to use the land for his/her bonafide livelihood purposes for which the initial support and handholding is necessary. The District Administration realizes that for sustainable and conservation based agriculture, title holders under FRA would require seed support, support for boundaries of agricultural land (*med bandhan*) so that there is no soil erosion, water shed or water source for agriculture in the form of wells, canals, or artificial reservoir or water tank, diesel or solar pump sets to pump water to their fields, requirement of biogas plants to meet the energy needs so that they do not use traditional methods of cooking and thus minimizing carbon emissions especially in areas that are proximate to ecologically sensitive areas and buffer zones. Clearly, these requirements may be felt everywhere in the country wherever forest rights have been recognized and vested. .

Accordingly, central and state government schemes or programs may be used for handholding with the FRA title holders. Schemes such as Mahatma Gandhi Rural Employment Guarantee Scheme, run by the Central Government and implemented by state departments of rural development, Haldhar Yojna-run by the state agriculture department, Nandan Falo-udyan-to provide benefits under horticulture schemes , policies by the state fishery departments, state schemes for Med Bandhan, Schemes for distribution of seeds carried by the state agriculture departments, Kapildhara Koop- a scheme for installing water pumps, Nirmal Vatika, State Scheme for distributing Diesel Pumps, Scheme for distributing Tradel Pump, Swarna Jayanti Gram Swarojgar, Indira Awas Yojna -to provide loans for constructing the houses, Scheme for Biogasification in villages by the State Renewable Energy Development Agencies can be used for fulfilling energy requirements of the FRA title holders⁶⁶.

3.2.5. Illustrative Institutional Framework for implementing post claim strategy

In order to provide benefits to the Title holders under above mentioned and other central government or state specific schemes , synergies between different institutions carrying out different schemes and programs need to be explored. Preliminary findings reveal that following departments are involved in implementing the above mentioned schemes-

⁶⁶ These Schemes and programs are only illustrative, more central or state government schemes may be applicable in other states .

- (i) Ministry of Rural Development through state rural development departments for implementing MNREGA work specially related to Med Bandhan
- (ii) State Department of Agriculture to implement schemes such as distribution of Seed Mini kit, Haldhar Yojna. Scheme for Distribution of Beej Mini kit and Sabji Beej
- (iii) State Department of Animal Husbandry to distribute a pair of oxen
- (iv) Department of Fisheries-to aid fisheries ponds in the villages where titles have been distributed
- (v) Department of Horticulture to carry out the schemes such as Nirmal Vatika, Falu-uddyan, Kapildhara koop
- (vi) State Renewable Development Agencies for sanctioning small scale biogas plants in the villages where claims have been distributed

A coordinating unit at the Department of Tribal Welfare where such schemes are integrated as per the need of the title holder will go a long way in not only securing livelihoods to the vulnerable forest dependent communities but also reduce pressure on the existing forest resource. ***In this regard a clear and unambiguous Government direction is required from the Ministry of Tribal Affairs in consultation with the MoEF in this regard.***

3.2.6. Creative use of Orders of the Supreme Court of India on CAMPA as well as GIM for supporting the Post Claim phase:

In a significant ongoing case in the Supreme Court of India, namely T.N Godavarman vs. Union of India⁶⁷, the Supreme has created a fund in 2004 by the name Compensatory Afforestation Fund (CAF) to ensure that industrial units using forest lands for setting up units must deposit the net present value of the diverted forestland with state governments for taking up afforestation and management of forest. To allocate the funds an Authority by the name Compensatory Afforestation Authority (CAMPA) has also been created. The CAF is one of the biggest ever financial resource pools for afforestation in the country and can potentially be used by states for the benefit of title holders at the post claim stage.

Further, programs carried out by Forest Development Agencies (FDA) under the modified JFM program under the aegis of National Afforestation Program of the Central Government can also be useful for supporting title holders in the post claim process. The Green India Mission too needs to look into this aspect especially from the titleholder's standpoint.

⁶⁷ W.P (C) 202/1995

Chapter - 4

Implementation status on FRA from conservation perspective- what impedes or enables conservation

While the recognition process is underway, it's important to recognise that the recognition process itself has impact on the conservation regime. It is set to change the rules in the conservation arena. It would be worthwhile to document some of the learning from the study states in that regard. Note that this section has not delved into information already available on the public domain in terms of number of claims on individual and community rights and the numeric results but delved into some core issues around implementation concerns. For the numeric results please refer to **Annex – 4** for Status of Implementation as per the Nodal Ministry.

It is our belief that these issues if resolved will go a long way in a smooth implementation of the FRA. In the study states some of the common themes that impact implementation and that run through are the following:

4.1. Lack of clarity on distinguishing Community Forest Resource (CFR) and Community Forest Rights.

At the field level there is a lot of confusion between Community forest resource and community forest rights. Often they are used and understood or misunderstood interchangeably. There should be some clarity in this regard. On a careful reading, there are atleast eight of the thirteen rights granted under the FRA that may qualify as community forest rights. Some argue there are only seven. Be that as it may, what is important is that the title deeds need to be more explicit reflecting the same and especially regarding the CFR. This has a huge bearing on the conservation regime in such forest areas.

4.2. Delineation of CFR

Further, regarding delineation of CFR- the operational mechanism is missing and communities are confused between traditional boundaries and legal boundaries. The reason is because the term was added through a political negotiation without backing up of legal drafting. This is playing out in the field too and barring few states such as Andhra Pradesh, very little evidence of delineating CFR and exercising of community forest rights.

4.3. Habitat of PTGs or more suitably Vulnerable Tribal Groups

Same confusion persists on community tenure or habitat of PTGs. There are no handholding or clear instructions from the nodal department of the manner in which such vulnerable communities would exercise their rights. It should be the responsibility of the nodal department along with the other concerned departments to make the record correction and the onus should be on the implementing authorities.

4.4. Critical wildlife habitat and critical tiger habitat linkage, Conservation reserve, ecologically sensitive areas- categories galore but who understands them

It is now clear that after the advent of the FRA and the amendments in the Wildlife Protection Act in 2006, National Parks and Sanctuaries are going to become increasingly insignificant. The crucial terms now would be Critical Wildlife Habitat, Critical Tiger Habitat and Community Forest Resource and Ecologically sensitive areas especially from the conservation standpoint. However on the ground the study reveals that the link between CTH and CWH on both process and management is not understood at all. Further the link between CTH, buffer areas of tiger reserves and Conservation reserves-, including land use regulation is not yet clear. Similarly the link between CWH and Community Forest resource is not clear either in the FRA or otherwise. Further declaration of CTH and making them inviolate are two different processes. Very little evidence on that. The techno legal issue of co-existence, irreversible damage, bonafide needs need to be further clarified and perhaps defined in both the amendments to the WLPA as well as the FRA. It is becoming clear that the authority and responsibilities on CFR needs to be further elaborated. There is still a lot of confusion between Settlement of rights and Recognition of forest rights synergies in protected areas.

4.5. Legacy on disputed settlement: Huge impact on conservation- A Case of orange areas in M.P. and Chhattisgarh

Some of the historical legacy also manifests itself in some study states which has a direct bearing on not only the implementation of FRA but also deeply on conservation. The case of orange areas in erstwhile Madhya Pradesh or current Madhya Pradesh and Chhattisgarh is a classic case in point. **See Box - 6.**

Box – 6: The Big Land Conflict in MP and Chhattisgarh:

The Orange Areas Dispute after abolition of intermediaries The abolition of intermediaries in the Central Provinces and Berar area (present day Central India including Madhya Pradesh and Chhattisgarh) resulted in huge areas of forest areas to be vested in the state. The settlement process of the erstwhile princely lands which included a number of forestland and which were acquired after the *Zamindari Abolition Act in 1950* has been far from satisfactory. Huge chunks of such lands were demarcated as proposed reserved forests and the remaining were termed as left out areas or *Orange Areas* where settlement would be jointly done in consultation with the forest department. The settlement records namely the *Missal Bandobast and the Adhikar Abhilekh* (Record of rights) and working plans of the Forest Department points towards the fact that the exact title of several pieces of land is still unclear in the State of Madhya Pradesh and Chhattisgarh. There is ample evidence that there are huge areas of lands that have been doubly entered in both revenue and forest records. Infact the statistics of the forest department places the forest area as 1, 54, 505.09 square kms and the revenue department and commissioner land records claim that the total forest area in the State is 1, 42, 110.32 square kms. This in effect means that the status of an area of 12, 394.77 square kms (approximately 30, 62,871. 6 acre) is not clear at the highest level of the Government in the State⁶⁸. In fact several such lands have been transferred from forest department to revenue department, which have not been found fit to be reserved albeit on paper⁶⁹. Further, on several such disputed lands, valid leases (*patta*) have been given by both revenue and forest department through various schemes. Wherever these leases have expired or where the family has grown such the additional members have remained in these places for want of better options. These people are formally dubbed as one of the several categories of “encroachers”. The biggest fall out of such uncertainty is that fact that these areas that were transferred were used as commons and with the legal uncertainty as many as fifteen lacs families have been affected in the state of M.P. and Chhattisgarh who were dependent on these common resources. Although technically the FRA is supposed to look into such claims, the issue of orange areas is far from resolved.

⁶⁸ Figures sourced from the Petition on Orange Areas filed by Enviro Legal Defence Firm before the Centrally Empowered Committee and the Supreme Court. See IA No. 2000 and 2000A in CWP No. 202 of 1995.

⁶⁹ In fact a people’s organization has approached the Supreme Court through the Consultant with a view to enforce the State to take a stand and consequent actions to put an end to the Orange Areas dispute. The case is sub-judice i.e pending in the Court.

A meeting in Korea, Chhattisgarh in progress to elicit views from the ground



It is therefore recommended that clear instructions be issued on delineating the Community forest resource where the interplay of traditional and legal boundaries is clearly demarcated. Similarly, operational mechanism of delineating the habitat of PTGs or vulnerable Tribal Groups be put in place immediately through an enabling government order. Specific disputes such orange areas which involve several lacks land which are disputed between forest and revenue department be immediately resolved through the court process as they are sub-judice.

4.6. Existing strong Tenancy laws and implications on FRA on rights and resources: A Case of Jharkhand

The strong tenancy tenures in some states such as Jharkhand bring its own complexity for the FRA implementation both from the rights perspective as well as the conservation perspective. It would be worthwhile to examine specifically the Mundari-Khuntkatti system under Chota Nagpur Tenancy Act and especially their record of rights system under the Khatian Part II to examine the premise stated above.

4.6.1. The changing right regime on Forests in Jharkhand: A shift from Community Control to State Control:

The State of Jharkhand abounds in natural resources with a predominance of tribal population whose social, cultural and economic milieu is closely linked with the forest.⁷⁰ Jharkhand is divided into two broad regions- Chota Nagpur and Santhal Pargana. Chota Nagpur covers the major part of the state in north, west and south whereas Santhal Pargana spans over the eastern side of the State. Presently, the State has primarily reserved and protected forests which are under the control and management of the Government and the rights of the people are heavily regulated. Whereas, in the earlier times, forests of Jharkhand were governed by customary tenure system which defined the rights and obligations of landlord and tenants, fixation of rents, transfer of rights, restricting alienation of land among others. These customary rights and obligations were later codified in Chota Nagpur Tenancy Act, 1908 (hereinafter CNTA) and Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949⁷¹. Thus for example, in Chota Nagpur area the tenants were allowed to reclaim land for agriculture, collect forest produce or graze their cattle on the payment of a specific amount of rent to the landlord. A *raiyyat* (i.e. a tenant who holds the land for the purpose of cultivation) on the land under his occupancy may plant trees and bamboo on it, cut down and appropriate the same, appropriate the flowers, fruits and other products of any trees or bamboo standing on such land, rear lac and cocoon on such trees and appropriate the same⁷². The Act also restricts a Raiyyat from transferring his land by mortgage or lease for a period of more than five years. Further, a Raiyyat who is a member of a Scheduled Tribe can sell, exchange, mortgage or lease his land only to another scheduled tribe and can only do so with the permission of the Deputy Commissioner. All such rights of the tenants and landlords on every village are recorded in a record of rights prepared under section 80 of CNTA called Khaityan Part II⁷³. The records comprise of name and class of tenant, situation and boundary of the land held by him, name of the each tenant's landlord, rent payable, rights and obligations of each tenant in respect of water for agricultural purposes, whether obtained

⁷⁰ Working Plan, Ranchi East Forest Division.

⁷¹ See section 13 of Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949 and section 21 of Chota Nagpur Tenancy Act 1908, wherein the Raiyyat (tenant holding the land for cultivation) is given the right to use the land comprised in holding in any manner permitted by the local usage or customs or in any way which does not make the land unfit for cultivation.

⁷² Section 21-A Chota Nagpur Tenancy Act, 1908.

⁷³ Three settlements have taken place: 1902-1910; 1912- 1920 and the Revisional Settlement: 1927-1935 for preparation and updating record of rights. Khaityan Part II emerged during second the settlement and survey process, between 1912-1920, for recording community rights. Part I of the Khaityan records the individual rights and tenures.

form a river, *jhil*, tank or well of other sources, maintenance and repair of water source, easement attached to tenancy, existence, nature and rights of tenant and landlord to take forest produce from forest land or waste land, to graze cattle, to take fish from water or any similar right in any village.

However with the passing of Bihar Private Forest Act in 1947, the state government was given the right to constitute any private forest⁷⁴ into a private protected forest after settling the claims by a due process and preparing a record of rights containing the nature, extent of the right allowed regarding collecting of forest produce, grazing cattle, agriculture etc to the claimants.⁷⁵ Consequently forests which belonged to zamindars and khutkattidars, were constituted as Private Protected Forests and later with the advent of the Land Reforms Act, 1950 all these Private Protected Forests excepting those in the Mundari Khutkatti villages were vested in Government.⁷⁶ These have now been constituted Protected Forests under Sec. 29(3) of Indian Forest Act, 1927 subject to the existing rights and privileges.⁷⁷

Presently, Jharkhand has 29.61% of the State Geographical Area as forests which is divided into Reserved Forest, Protected Forest and Unclassed state forests, out of these, the maximum area being that of protected forests.⁷⁸ However, it is important to know if settlement process were completed and records of rights prepared by the government before issuing the final notifications declaring private protected forests and later protected forests in Jharkhand. As stated earlier the security of tenure is key to strengthening the conservation regime.

4.6.2. Coming of the Forest Rights Act and Recognition of Rights:

FRA is watershed legislation on forest tribal interface. It presents an opportunity 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 forests for generation but whose rights could not be recorded.⁷⁹ The Act provides a framework and process of recognition, vesting and recording of thirteen sets of individual and community rights over forest land.

⁷⁴ Section 3(9), Bihar Private Forests Act, 1947- “Private Forest” means “any forest which is not the property of the government or over which government does not have proprietary rights or to whole or any part of the forest produce over which the government is not entitled.”

⁷⁵ Section 13-30, Bihar Private Forests Act, 1947.

⁷⁶ <http://www.jharkhandforest.com/files/jharkhand%20Forests.pdf>

⁷⁷ <http://www.jharkhandforest.com/files/jharkhand%20Forests.pdf>

⁷⁸ <http://www.jharkhandforest.com/files/jharkhand%20Forests.pdf>

⁷⁹ Preamble, FRA

FRA is only applicable to those traditional rights over forest lands which were not recorded when the State Governments took over the control and management of forest land and created legal categories such as Reserved Forest, Protected forests and Protected Areas. Therefore, in Jharkhand those rights are already recorded in the Khatiyan Part II as mentioned earlier or in the record of Forest Department during the settlement process (assuming that the settlement process were completed) prior to creation of private protected forests under Bihar Private Forest Act, 1947 or protected forests under Indian Forest Act, 1927. Therefore, those rights which could not be recorded during any of the above mentioned process can be recognized and vested after a due process under FRA. The field interactions suggest however the ROR is not updated and hence there is no true reflection of the right holders. An updation of Khatiyan Part II may reflect the correct position of RoR. It is in this light that the FRA assumes importance.

4.6.3. Relevance of Customary law on Tenancy:

As seen from above, the individual and community rights over forest land codified in CNTA and Santhal Pargana Tenancy laws have been taken away with the creation of protected forests and private protected forests. Nonetheless, Khatiyan Part II and other records of rights prepared under CNTA and Santhal Pargana Tenancy Act becomes relevant to know the nature and extent of the customary rights that were enjoyed by the forest dependent communities and can be used as evidence in claiming these rights under FRA. Such records also become extremely relevant in conservation strategies over such lands and lays down a strong framework for conservation and management of such areas recognised under FRA.

A meeting within forest dwellers in Burmoo block in Ranchi District in progress



4.7 Innovative practices in Maharashtra: Dissemination of information on FRA necessary to get the message across both on rights and resource conservation

The state of Maharashtra initiated the implementation of the FRA after the rules were notified. The Tribal Research and Training Institute, Pune was notified as the nodal agency for the implementation of FRA in the state. The TRTI, Pune undertook the translation of the act in different Tribal dialects like Gondi, Bhili etc which were uploaded on the website of the institute is considered as an innovative practice to disseminate the legislation amongst the communities. Another method adopted was to play jingles on radio providing information on the act was a step in the right direction having a substantial outreach. Though copies of the legislation were not distributed and it was left to the district administration to undertake this exercise. The difference in implementation on this aspect is seen from the example of district of Pune and Gadchiroli. In Gadchiroli district the District administration undertook the distribution of the legislation and forms proactively and it was a contrasting situation in the adjoining Pune district where such action was not undertaken.

4.8. Role of Gram Sevak (Panchayat Secretary) in Forest Rights Committee in Maharashtra: Procedural Illegality may mar the substantive process

The Department of Tribal Development issued an order⁸⁰ providing guidelines to Chief Executive Officers of Zila Parishad, on the manner of implementation of various aspects of FRA. The order omitted to mention that the act is also applicable to unclassified forests, undemarcated forests, sanctuaries and national parks thereby depriving many members and communities belonging to ‘forest dwelling scheduled tribes’ and ‘other traditional forest dweller’ of their individual and community forest rights as envisaged under the Act. It specified that the gram Sabha for constituting a forest rights committee can be convened only by Gram Sevak, Gram Panchayat for the purposes of the Act which is an incorrect interpretation of the act. Further, it stated that the Gram Sevak would be the ex-officio secretary of the Forest Rights committee. This is in total violation of the Act and Rules which categorically specifies that it is the prerogative of the forest rights committee to decide on the Chairperson, secretary from amongst its members and not for the state department to stipulate the functionary to act as the secretary of the Forest rights Committee. The incorrect

⁸⁰ M.G.V.-2007/ P. S.N. 56/K-9 dated 05.03.2008 issued by Principal Secretary, Department of Tribal development

interpretation of the act prompted initiation of legal action to correct this situation⁸¹ as a result of which the State level Monitoring Committee took cognizance of the same and had ruled that all orders in violation of the Act should be cancelled for better and effective implementation of the Act. However the larger point that need not missed here is that a faulty procedural process may result in marring genuine and substantive claims and affect both rights and resources. This needs urgent correction.

It is clear from the above that the role of the Panchayat Secretary needs more clarity. The role and mandatory responsibilities of the Panchayat secretary vis-a-vis the recognition process needs to be put in place so that the Forest Rights Committee as well as the Gram Sabha is facilitated in the process of recognition. Also enough safeguards have to be put in place so that the Panchayat Secretary does not misuse his/her position.

4.9. Case of two districts in Maharashtra on implementation of FRA:

The case of Gadchiroli and Pune District presents a picture of contrast as far as implementation of FRA is concerned. The District collector's office at Gadchiroli proactively supplied the copy of the maps detailing the forest and revenue areas of the village, the *Nistar patrak* and *Wazibul Arz* documents relevant for FRA implementation. Such an initiative was missing vis-à-vis Pune District where the District Collector's office seemed to be the least interested in the implementation of the Act. The contrast is more startling as Gadchiroli happens to one of the 'least developed' Districts and Pune has the distinction of being one of the 'most developed' and secondly, Gadchiroli is a Naxalite affected District while Pune District has no such problem. The presence of strong people's movements and NGOs with better understanding of the Act has helped in better implementation of the Act.

In some areas the Joint Forest Management Committee are being designated as the FRC contrary to the act. The focus of implementation of the act has mainly been land oriented and this is so deeply ingrained that the legislation is a '*Zamini cha patta denara kayda*' (Land patta allotment Act). At the same time one also comes across instances of the two villages of Lekha (Mendha) and Marda were given Community Forest Right titles and in some villages that have received CFR titles have been given conditional titles which goes against the letter and spirit of FRA. As far as delineation of CFR is concerned the necessary documents required by the FRC have not been provided by SDLC.

⁸¹ Legal notice dated 18.01.2010 issued to Principal Secretary, Department of Tribal development by ELDF on behalf of Econet

The implementation of FRA in the two district of Maharashtra highlights the need for orientation of the line department functionaries involved in the implementation of the Act. There is also a need of clear, simple and in depth analytical interpretation of the FRA in light of other forest and Wildlife legislations like the Indian Forest Act and the Wildlife Protection Act. Simultaneously there is a need to understand the value of Fifth Schedule areas and application of PESA.

4.10. Use of satellite imageries and other GIS based platforms to establish the veracity of claims – An important tool to assess rights and resources

The impact of the Forest Rights Act will depend on its implementation which faces some critical challenges. For one, it is difficult to measure forest land in a timely manner because it is remote and the FRCs, who is made responsible for preparing maps under the Act, lacks the expertise. Evidence of cultivation or prior occupation is scarce and hard to come by. Even after the forest land is identified, it is often difficult to grant claims and reject others because evidence is not always straightforward. There are many stakeholders involved in forest land rights and hence it is also difficult to keep all involved actors informed to the extent needed.

The Tribal Research and Training Institute (TRTI), Pune has developed a GPS based system for forest land measurement and a software using satellite imagery for forest rights claim verification under the Act for the intended population in the state of Maharashtra. There are approximately 0.33 million claimants of Forest Rights in Maharashtra. By leveraging GPS and satellite technology to document and determine the legitimacy of land claims, TRTI has enabled decision makers to take appropriate action based on unbiased evidence. Through persuasive ICT-led evidence, the Maharashtra system provides valuable precursory information to plane table survey forest land plots, expediting and lowering the cost of the entire process. It also reduces unnecessary conflict and corruption in the field that have historically been connected to issues of land rights. The Geo-informatics for Forest Rights Act implementation programme has succeeded in more ways than one. It has enabled the Committees to take objective decisions through enhanced transparency. Additionally, it has discouraged illegal diversion of forest land for non-forestry purposes through the possible improper use of the provisions of the Forest Rights Act. Public money of over an estimated 100 crores has been saved through the use of technology in lieu of hiring official land surveyors and paying the Department of Land Records for surveying all forest lands on which forest rights were claimed. Coordination of various levels of government - tribal, forest, and

revenue departments, technology training, and conveyance of the credibility of the system to officials and claimants were crucial to achieving success. To date, out of 3.38 lakh claims state-wide, 1.6 lakh cases have been measured by GPS, and a total of 1.05 lakh cases have been decided in favour of the claimants. A website has also been developed for spreading awareness about the Forest Rights Act, the system of implementation, roles and responsibilities of stakeholders, management of on line information regarding claimants, land measurement, verification process of forest land under forest right's claims, monitoring of progress, and final decision making regarding claims.

Innovative technical partnerships were key to successfully working on this innovative and proactive practice which needs to be replicated as a mandate through the MOTA. Key Stakeholders for example the Tribal Research and Training Institute, Pune (TRTI) which conceived, implemented and monitors Geo-informatics for Forest Rights. Similarly the National Informatics Centre (NIC) which designed online data flow, monitoring and SMS System, the National Remote Sensing Agency (NRSA/NRSC) which provided satellite imagery system and more importantly the involvement of statutory authorities under the FRA that includes committees at three levels - village, sub-division and district and most importantly the District collector office staff which analyses GPS data in relation to satellite imagery and further the SDO office staff which is responsible for uploading digital field data and printing forest land measurement report and last but not the least the GPS field workers (Forest/DILR/Revenue Department/ NGO representatives/ village committees) who conducted GPS mapping by following standardised guidelines is a classic case of putting skills and resources together for the larger good for resources as well as rights. It is reiterated here that such system needs to be replicated and made more robust⁸².

In fact this should be made mandatory in the mapping and delineating process.

4.11. Discrepancies between the STs and OTFDs Evidence of 75 years: Findings from M.P- Such Discrepancies may have direct bearing on conservation

The higher percentage of rejection over acceptance of claims under the Forest Rights Act is one of the big hurdles in the successful implementation of Forest Rights Act. This has also been pointed out by the Ministry of Tribal Affairs, Government of India and various civil

⁸² Personal interaction with Tribal Commissioner Maharashtra and Documentation of Best Practice Geo-informatics for Forest Rights November 2010, OneWorld Foundation India

society organizations⁸³. The rejection rate being especially higher for OTFDs gives us to understand yet another discrepancy in the processing of claims. In Madhya Pradesh, interaction with the stakeholders and members of the FRCs revealed that there has been no attempt to identify OTFDs and disseminate information on the requirement to prove 75 years of existence on the claimed land. By and large Gram Sabha's have also recommended the claims of STs only. The information on the acceptability of oral evidence is totally missing. FRCs themselves are ignorant that law provides Oral Evidence is one of the categories of evidence that can be used to help the OTFDs in making their claim. Where ever civil society organizations have been able to inform OTFD members to make their claims through Gram Sabha, their claims have either been rejected at the Gram Sabha level itself or at best by the SDLC without citing any reason for such rejection. There are at least three important derivations from the ground situation in MP. First is the lack of information among OTFDs and the technical requirement of 75 years, which clearly points out that FRCs have not played active role in information dissemination. Second is the technical requirement of 75 years which is the communities find difficult to prove. Third is the procedure to make the oral evidence along with the claim form. Recorded statements by the village elders are being rejected by the SDLC at an alarming rate. The primary confusion is whether 75 years of occupation has to be proved or 75 years of residence that has to be proved. The law is fairly clear and enumerates three primary eligibility criteria. First, there should be proof of residence for 75 years, second, they should have occupied forest land prior to December 13.12.2005 and finally they should be in occupation of such land at the time of passing of Act. This clarity will help OTFDs in claiming their titles and also prevent heart burn which may have direct bearing on conservation

A further clarification in this regard is now necessary that it's not necessary that only written records are adduced as evidence. Physical structures and other visible evidence along with statement of elders are good enough evidences to establish the residential proof of OTFDs. Also there should be absolute clarity that 75 years refers to the residence and not occupation of the forest land for OTFDs.

⁸³ D.O. NO.23011/24/2009-FRA , dated 15th July 2010

An orientation program in Ambika Pur, Sarguja District in progress



Chapter - 5

Going Beyond synergies- evolving models of holistic approaches- where rights and resources co exist under an enabling frame

As is clear from above there are numerous institutions that cover various aspect of conservation from policy to implementation to process issues. The Gram Sabha under the FRA is the foremost statutory authority responsible for conservation, use, management and regeneration of resource. So what could be the mechanism of synergies between the conservation regime and the numerous and varied institutions?

There are clearly two possibilities:

1. Amending various acts under which different statutory institutions have been created and link them with each other. This may be a cumbersome and time consuming process.
2. Instead there is a second easier option. There is an urgent need to delineate the thematic focus of the conservation regime which not only sustains the resource but also secures their livelihoods of the marginalised communities. Thus the model holistic approaches have to be based on the conservation objectives. In this regard the Role of the Gram Sabha as the basic unit needs to be integrated with the mandate of other statutory institutions and this could be weaved into the Rules of engagement under the FRA. This model and approach will also be in line with the FRA which clearly states that the FRA has to be read is not in derogation of but in addition to other laws.

Thus for example the thematic delineation where specific models of holistic approaches could be as follows:

5.1 Conservation of wildlife resources: Gram Sabha using Wildlife Act, the BD Act, EPA and the FRA

While the Gram Sabha has the nodal responsibility of conserving the wildlife resources under their jurisdiction the strengths of the wildlife Act should also be used to strengthen the

conservation regime. The Gram Sabha along with the front line staff should creatively use the strengths of other statutory and non statutory institutions such as the State Board of Wildlife (SBWL), Community Reserve Management Committees, Eco-development Committees (EDCs) as well as Biodiversity Management Committees (BMCs) created under various Acts and also guidelines. The Gram Sabha through the forest protection committee under FRA can frame bylaws or rules for such institutional synergy under the Wildlife Protection Act (WLPA), Biodiversity Act and also the Environment Protection Act which has a power to create numerous authorities for protection of ecology and regulation of activities in ecologically sensitive areas. Then there are good examples in other states such as Andhra Pradesh where compounding fees on compoundable forest and wildlife offences are shared between the state and the communities to the tune of 50%. Such delegation would help elicit cooperation of local communities in the long term.

5.2 Conservation of biodiversity: using the strengths of BD Act and WL Act

The Gram Sabha and the FPC under FRA should also use the strength of Biodiversity Management Committee as well as the provisions on conservation and regulation of biodiversity under the Biodiversity Act as well as draw strength from the statutory institutions especially at the community level under the WLPA and conserve biodiversity for developing a frame for access and benefit sharing that is fair and equitable as underlined in the Biodiversity Act. The arrangement must form part of the bylaws or rules under which the FPCs under FRA must function.

5.3 Collection of MFP, its conservation and sustainable use including their marketing-Involving MFP Federations

While both FRA and PESA grant ownership of MFP to the Gram Sabha as well as the right holders under FRA it would not be prudent to ignore the lessons and strengths of existing mechanisms that regulate or deal with MFP related activities. Thus, for example, the MFP Federations such as those in Madhya Pradesh and Chhattisgarh or State Trading Corporation such as in Jharkhand and their lessons, the minimum support price for key valuable species, the upgradation of skills for value addition and marketing. The rules or bylaws framed for the FPC under FRA must incorporate the linkages of such valuable experience. This will not only obligate the existing institutional support but also give legal sanctity to such integration.

5.4 Conserving, managing, regulating and regenerating forests: Drawing strength from lessons learnt in JFM/CFM and ensuring a robust planning process

The advent of JFM pursuant to 1988 Forest policy and the transition to CFM in states such as Andhra Pradesh with both internal and external support including the FDA mechanism of the central government have valuable lessons that cannot be lost. The FPCs under FRA need to build on strengths of the existing JFMCs and remove the deficiencies of such JFMCs in the new role. The letter of the minister of environment clarifying the necessary integration of gram Sabha with such bodies should go a long way in building robust institutions at the grass roots. What is important is that the FPCs have inherent legal backing through the FRA where it flows through the Gram Sabha which also is a statutory authority. This sets a strong precedent of robust institution which can then draw upon lessons as enumerated above for conservation of resources and thereby securing livelihoods at the cutting edge level.

5.5. Capacity building and adding to the human resource for conservation activities

The capacity building of the members of Gram Sabha is a prerequisite for any strong institutional arrangements at the grass roots. A focus attention on improving skills and capacities of gram Sabha members and right holders will go a long way in ensuring conservation values and increase livelihood opportunities. Such measures should be part of a necessary obligation from the state using the FRA and other methods.

5.6 Monitoring Diversion of forest land:

Numerous forest lands are been diverted for various infrastructure and development projects in the rush for high economic growth. There is hardly any existing institutional arrangement that monitor the numerous conditions that are ordinarily imposed on such clearances. The gram Sabha along with the support of state agencies are the best and most appropriate bodies to monitor such projects provided their skills are upgraded and necessary facilitation is done through resources and capacity building measures. The gram Sabha should envisage and embrace this new role for the larger ecological and livelihood integrity within their jurisdiction.

5.7 Linking with traditional institutions especially for conservation

Numerous traditional institutions exist in such ecologically fragile areas whose conservation ethos is much superior and robust. The sacred forests, deobani, religious forests and forests under temple trusts are few such examples. The gram Sabha must statutorily link these processes and frame it within their bylaws.

5.8 Protecting traditional knowledge: Especially Community Intellectual Property

As stated earlier, the gram Sabha should be the front runner in recognising community intellectual property by creatively using the Biodiversity Act and the FRA. This will go a long way in not only protecting traditional knowledge but also ensuring flow of benefits to the community who rightly deserve the benefits of such knowledge.

5.9 Carrying out developmental activities through the development rights regime while ensuring conservation objectives

Section 3(2) of the FRA enumerates thirteen set of development rights where the Gram Sabha should take the pivotal role in ensuring that such developmental needs are ensured at the Gram Sabha level. Requisite support from the states especially the Panchayats is necessary to instil confidence in such gram sabhas. The enhanced role of gram Sabha would therefore have more legitimacy in eliciting people's participation in conservation and securing livelihood.

5.10 Identification of conservation and livelihood priorities

The Gram Sabha is also best placed along with the right holders to identity conservation and livelihood proprieties within their region. Any planning process at the village level must necessarily involve the gram sabha and their consent in order to facilitate conservation and livelihood objectives.

5.11 Increasing land productivity

The post claim strategy enumerated above must be a priority for every gram Sabha and the facilitative line department for ensuring a long term strategy for securing rights and ensuring livelihoods.

5.12 Securing financial support from micro and macro financial institutions and raising resources for conservation and livelihoods

The nodal department of FRA i.e. MoTA must issue necessary instructions under its authority to all financial institutions especially the scheduled and cooperative banks to ensure that the forest rights titles can be used as collateral for securing loans and credits for such rights holders with perpetual titles. Infact, there have been examples where states have pledged forest land for collaterals through undertakings for securing huge loans through institutions such as NABARD. Andhra Pradesh is a good example in this regard. Such advisories and instructions would go a long way in strengthening the communities at the grass roots who can then perform a pivotal role in conservation while their livelihood is ensured.



Concluding Remarks:

It is clear that the deficiencies in existing intuitions on conservation have to be removed by strengthening new institutions under FRA while building on the strengths and uniqueness of existing institutions, programmes and schemes. A root cause analyses of the dismal performance of a variety of institutions is necessary before building on new institutions. The anomalies in processes which defeat the substantive sprits of FRA, the lack of emphasis on post claim strategy have to be immediately changed and urgent corrections have to be put in place. The reorganising and strengthening of the nodal ministry itself along with necessary support with other primary stakeholder ministries such as MoEF and MoPR would go a long way in building synergies on conservation under FRA and other statutes. To conclude, a thematic delineation of functions at the grass roots with requisite support from line agencies and building on strengths on other functions and functionaries with requisite financial support is the key to long term conservation strategy under FRA without compromising the livelihood opportunities.

Annex 1

Terms of Reference:

Under this study the Consultant is expected to undertake the following:

1. Assessing the livelihood status and occupational patterns of Scheduled tribes and Forest dwelling communities in identified regions.
2. Undertake an appraisal of various grassroots level institutions available with regard to natural resource management.
3. Assessing the institutional mechanisms available and specifically created under The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 with respect to their roles, responsibility and functioning.
4. Assessing the implementation status of The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 in the country
5. Establishing linkages between existing natural resource management institutions and institutional mechanisms under The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, with the larger objective of developing synergistic strategies for better natural resource management and improved livelihood support.
6. Evolving models of holistic approaches to forests and natural resources management comparing, evaluating and linking the same to the livelihood initiatives.
7. Suggest policy interventions required for institutional synergy for implementing The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, for poverty alleviation of the identified communities, and ensuring conservation of natural resources.

Annex – 2

Details of Methodology and detailed Work Plan / Time Schedule

The present policy research study on The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (FRA) implementation through synergy of institutions ensuring livelihood support to communities as a sustainable forest management is unique of its kind and will require in-depth research and field understanding on various categories of communities, forests, forest – legal concepts, and formal and informal institutions. The study will require the following approaches as part of methodology:

1. Approaches

- ***Substantive and Procedural law Orientation of FRA, Rules and its linkage with other forest and wildlife conservation laws as well as laws that mandates decentralization of natural resource management***
 - *This will ascertain quality data from the field as well as the from the line functionaries who are engaged in the process of recognition under FRA.*
 - *Also several myths and perceptions will be clarified during these orientations.*
 - *These may be carried out as focused group discussions, interactions, Panchayat meetings.*
- ***Understanding the recognition process of both individual and community rights under FRA in various categories of forests and its impact on livelihood pattern. This is necessary as the erstwhile right regime or privileges or concessions in each of these categories are different and the nature of evidence that needs to be adduced may be different. These categories may include:***
 - Reserved Forest including Proposed Reserved Forest and Protected Forest;

- Undemarcated Protected Forest and Recorded Forest including un-classed State Forest / Bade Jhad Chote Jhad Ke Jungle / Jhudupi Jungle / other forest land holdings and forest settlements ; and
 - Protected Areas including National Parks, Sanctuaries, Conservation Reserves, Community Reserves and latest ecological sensitive categories such as Critical Tiger Habitats and Critical Wildlife Habitats.
- ***Understand the legal status of various communities impacted under FRA and their special requirements in the process -before and after recognition: These communities may have to be viewed differently procedurally and substantively. Such categories include:***
 - Forest Dwelling Scheduled Tribes (FDSTs) and Other Traditional Forest Dwellers (OTFDs) who are primarily dependent on forests with different legal status.
 - Pastoralists both Scheduled Tribes and Non-Scheduled Tribes.
 - Primitive Tribal Groups (PTGs) and Pre- Agriculture Communities who may be more vulnerable within the FDSTs
 - ***Understanding individual land rights, land productivity, land use and exploring new institutional mechanisms post recognition process under FRA for a more secure and sustainable forest management***
 - Assessing the livelihood status and occupational patterns of Scheduled tribes and Forest dwelling communities in identified regions
 - Identifying needs and support mechanism to keep the recognized land under FRA more productive in order that primary dependence on forest resource decreases resulting in reduced biotic pressure.
 - Ensuring compatible land uses that promote sustainable forest management in recognized land resources as well as community resources.
 - Exploring new institutional mechanisms or modifying existing institutions to ensure that the new right regime ensures the sustainability of the resource itself as well as engage in the participative process with a more secured tenure which is now a global trend in natural resource management.

- ***Special Focus on Community Forest Resource and Community Forest Rights***

- It is our contention and belief based on global trends and developments within the country⁸⁴ and reinforced by the FRA⁸⁵ that the long term sustainability of individual and communal land rights will directly depend on the prudent exercise of community usufruct rights or community forest rights (CoFR) which are also granted under the FRA.
- More importantly, it is the determination of the traditional customary boundaries of the forest resource, legally termed as “community forest resource” (CFR), and the institutional arrangements over the protection, management and regeneration of such CFRs which will hold the key to long term use of forest rights without adversely impacting the resource itself.
- The FRA and the Forests Rights Rules (FRR) provide a unique framework where all concerned line departments been put under one institutional arrangement to verify and eventually vest the forest rights. The recognition and vesting of community forest rights and the manner in which the community forest resource as defined under the FRA is delineated are the two most important areas of concern in relation of sustainable forest management in the areas where recognition of right under FRA is complete or where the community forest rights process recognition is under way

⁸⁴ The emerging global trends on recognizing indigenous people’s rights such as the Indigenous People’s Rights Act in Philippines, native titles recognition in Australia, the advent of Joint Forest Management, Community Forest Management in India after the Forest Policy of 1988 are clear indications that security of tenure is key to a successful and sustainable forest management.

⁸⁵ Ibid. Para 2: ... Whereas the recognized rights of forest dwelling scheduled tribes and Other Traditional Forest Dwellers include the responsibility and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other Traditional Forest Dwellers”

- ***Understanding various institutional arrangements of the past in varied geographic and legal contexts to build better and more robust institutions of the future for sustainable forest management under FRA. More specifically:***
 - Understanding and exploring the operational linkages with existing Community Forest Management (CFM) / Participatory Forest Management (PFM) / Joint Forest Management (JFM) institutional arrangements and its integration into forest protection committees as envisaged under FRA rules.
 - Special focus on eco-development initiated committees and the most recently biodiversity conservation – livelihood improvement landscapes approach and how they need to be integrated under FRA.
 - Focusing on ‘forest villages including erstwhile revenue villages converted to forest villages during reservation processes, ‘Forest Colonies’ and ‘Forest Settlements’ among others- their relevance in the modern arrangement and corrective measures.
 - Focus on Fifth schedule area institutional requirements and sixth schedule institutional obligation under the constitutional mandate and its linkage with FRA.
 - Apart from this, special attempt will also be made to examine whether any state has taken special initiatives for institutional synergy especially keeping the conservation objective in mind.
 - Undertake an appraisal of various grassroots level institutions including informal or traditional institutions which can be formally recognized to strengthen the conservation regime while ensuring livelihood opportunities.
 - Linking forest rights with responsibilities and more specifically “empowered duties” under FRA and exploring enabling institutional arrangements.

- **Involvement of recognised field based organisations to bring ground understanding on law and more importantly community perception as to livelihood options linked with FRA and forest sector as a whole, towards a sustainable forest management. The details are as follows:**

S No.	Name of the Organization	State(s) Covered
1.	ELDF- Central India	Chhattisgarh
2.	ELDF- Central India	Madhya Pradesh
3.	ELDF Eastern India	Jharkhand
4.	Missing Link	Assam
5.	Econet	Maharashtra

- **The working team / technical and specialist group will also have the benefit of experts having deep knowledge and understanding on forest sector as advisory panel and peer review team members. Details are as follows:**

Technical / Working Group	Advisory Panel	Peer Review Team
1. Sanjay Upadhyay 2. Krishna Srinivasan 3. Amba Jamir 4. Shilpa Chohan 5. Vikram Srivastava 6. Geetanjali Dhankhar 7. Sourav Kumar Kesri	1. Dr. T.P. Singh 2. Patricia Moore 3. Sushil Saigal	1. Bhaskar Vira 2. Dhruvad Choudhary

Note:

The team has the benefit of at least two members who have been part of the Technical Support Group (the Drafting Committee) that conceived the Forest Rights Act as well as the Rules to bring the real intent of the law which balances the right regime with responsibility towards conservation of resource.

Sanjay Upadhyay, Advocate Supreme Court of India was in fact the only non official member who as part of both the Drafting Committees of the Forest Right Act as well as the Rules specially for his legal perspective and as the specialist on legal aspects of forestry-tribal interface. .

Dhrupad Choudhary was the Drafting Committees Member of the Act bringing the North Eastern Perspective as well as the forestry perspective.

2. Work Plan / Time Schedule

The Study will be conducted in five forest-tribal rich states of India with the help of partner organizations as stated above. The following **activities** will be undertaken (not necessarily in the same chronology):

Initial Brainstorm Session:

- Enviro Legal Defence Firm will organize a brainstorming session within the members from the partner organisation, technical group, advisory panel and peer review group⁸⁶ in Delhi and develop a detailed methodology for the study and will present it before Indian Council of Forestry Research & Education, by the end of 1st Month

Desk Based Research including assessment of Prior Research:

- Detailed desk research of primary and secondary data between 2nd and 3rd month and will be presented as **Inception Report**.

⁸⁶ Some members will join on teleconference or video conference to save cost.

Finalising Survey Formats and Research Questions: (A sample Research Question Format is appended as ANNEX I)

- Preparation of survey formats and research questions for field study and sample survey by end of 2nd month.
- Field study and sample survey will be undertaken with the help of local state partners under direct supervision of technical and specialist team members between 3rd to 5th month and draft outcomes will be presented as **Progress Report**

Field Study:

- Field study will be conducted in 5 forest rich states of India.
 - Two District in each 5 states, including the State Capital. Within districts 2 blocks and 2 Panchayats will be covered.
 - 10 district level consultation with stakeholders and concerned line functionaries in all the districts covered in 5 states
 - The sampling will be designed to include most categories of forests, as mention above.
 - Two members of the technical team will be part of every state study.
-
- Preparation of first Draft and presentation as **intermediate report** to ICFRE and organizing of Feedback sessions.
 - Consolidation of feedback and preparation of **Second Draft Report** to be presented by end of 9th month
 - Preparation and Submission of **Final Report** by end of 10th month or 30 days after getting feedback on the second draft report, whichever is earlier.
 - During the working period the following reports as mentioned above will be submitted inception, progress, intermediate (first draft), draft (second draft) and final

3. Time Sheet:

Activities / Months	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th
Initial Brainstorm Session												
Presentation of Detailed Methodology												
Desk Based Research including assessment of Prior Research												
Inception Report												
Preparation of survey formats and research questions												
Field study and sample survey												
Progress Report												
Preparation of first Draft Report												
Intermediate Report												
Five regional workshops												
Second Draft Report												
Final Report												

4. Outcome / Output

The present policy research study will examine the status of implementation of the recognition of community forest rights process as well as to ascertain the method which is being applied to delineated community forest resource and the mechanism to regenerate, control and conserve such Community Forest Rights (CFR). It will also identify the constraints and gaps in the implementation process of CoFR (Community Forest Rights), CFR as well as post recognition individual land rights in line with the above approaches, and will bring out the following as core outcomes:

- Suggest policy interventions required for institutional synergy for implementing The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, for poverty alleviation of the identified communities, and ensuring conservation of natural resources.
- Suggest institutional mechanisms to establish linkages between existing natural resource management institutions and institutional mechanisms under The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, with the larger objective of developing synergistic strategies for better natural resource management and improved livelihood support.
- Evolve models of holistic approaches to forests and natural resources management comparing, evaluating and linking the same to the livelihood initiatives.
- Suggest corrective measures to balance the exploitative tilt of certain rights in favour of sustainable management of the community forest resource.
- Any other findings during the course of study.

Annex - 3

A sample Research Question Format reflecting "Substantive and Procedural law Orientation of FRA, Rules and its linkage with other forest and wildlife conservation laws as well as laws that mandate decentralization of natural resource management

For Line department/CSO

1. What is the status of the settlement / recording of rights process in these categories of forest? Have all the rights been settled and a final notification issued?
2. How are the different plans (under JFM, working plan, management plan) being integrated with the performance of empowered duties under FRA?
3. Whether the information on the performance of duties for forest and wildlife conservation is being disseminated to the 'right holders' and village level institutions?
4. Where community forest resource traverses different legal categories like reserved forest and sanctuary and national park, then what would be management prescription for such an area?
5. Whether any community forest rights has been given? What is the type of community forest rights that have been granted under FRA?
6. Are there areas which have been notified as 'critical wildlife habitat'?
7. What would be source of funding for the committee formed under FR rules for protection of wildlife, forest and biodiversity and forest right under section 3(1)(i) (right to protect, regenerate or conserve or manage any community forest resource)?
8. Would the forest department or Tribal Welfare allocate funds for working of committees to carry out the purpose of the Act And Rules?
9. Does the committee formed under rule 4 (e) of the FR Rules have the power to levy fine?
10. How do you verify claims of pastoralists, nomadic communities, primitive tribal groups, pre-agricultural communities (how do you inform them, are they present during field verification by SDLCC)

11. What are the parameters followed when there are conflicting claims (two people claiming the same patch of land within a village)?
12. What are the parameters followed when there are conflicting claims on community forest right or community forest resource between different villages (inter village)?
13. Has the new titles to the forest land given to the FDSTs and OTFDs under FRA, being updated in the forest and revenue record?
14. FRA gives a right of ownership of MFP, access to collect use and dispose of MFP. What is the current view of the state on existing mechanisms of federations and their integration with FRA?
15. What provisions have been made for the forest villages that will be converted to revenue villages? How will the forest department provide for the rights of inhabitants of such forest villages such as title over land, grazing rights, right to collect MFP among others?

For community/members of gram sabha

1. Whether any plans have been drawn to act as a roadmap for carrying out the functions under section 5 of Forest Rights Act (FRA)?
2. Whether any resolution has been passed by Gram Sabha after the grant of 'forest rights' in exercise of powers under section 5 FRA?
3. Whether in any area Community forest resource (CFR) was delineated? If yes, what were the process followed and the evidences used for demarcating the CFR?
4. What are the difficulties faced in recognition of forest rights in protected areas?
5. Are there any restrictions imposed by village level institutions on the exercise of forest rights for sustainable forest management?
6. What are community claims under FRA?
7. How many community claims were preferred in the village? How many were granted and if not granted the reasons for rejection of claims?
8. Are you aware of the duties that are prescribed under FRA for right holders?
9. In an area where both individual and Community forest right has been granted there is destruction of resources who can intervene to prevent this destruction?
10. Are there any problems in access and collection of Minor Forest Produce?

11. Is there any verification done for forest rights claims? Who does the verification?
12. Are you intimated/ informed before the verification process begins?
13. Who informs the forest department that the verification process is to take place on a fixed date?
14. Does someone from the forest department accompany during verification?
15. How do you get to know that your area falls in RF, PF, NP or a Sanctuary?
16. Do you have Biodiversity Management Committee in your village? What does it do for the protection of Biodiversity in the area
17. Is there any officer of the SDLC present while making Gram Sabha Resolution on Forest Rights Claims?
18. Are you given some time before the gram sabha passes final resolution for individual or community claims? Is verification report prepared by FRC shared with you? **Rule 4 (c)**
19. Do you have Gram Raksha Samiti in your village? Who are its members⁸⁷? (Particular to Madhya Pradesh)
20. How are beneficiaries selected by the JFMC for different schemes? How do you decide when Gram Sabha has already selected beneficiaries? Is there some form of coordination?
21. Are any problems being faced in the exercise of such recognized forest rights?

Questions to the Forest Rights Committee of the Village

- 1) Before verification begins, how do you ensure that all claims have been received./ how do you disseminate information that all interested people who have not been able to file claims, may do so? (question to the president or secretary of the FRC)
- 2) Do you check all claim forms while or after they are submitted to you? Do you inform the claimant if correction is required or you make the correction yourself (to the FRC)
- 3) What do you do when additional evidence is required? How do you get to know this?

⁸⁷ The MP Panchayati Raj Act provides for the constitution of six special committees including the Raksha Samiti. Raksha Samiti is to be constituted for the purposes of plantation and preservation of village forest.



- 4) Do you have maps when you are doing the verification? From where do you get them?
- 5) Do you record your findings after the verification?
- 6) Do you share the findings/verification report with the Gram Sabha?
- 7) Do you share findings or verification report with applicants/interested persons and authorities concerned?

Annex - 4

Government of India Ministry of Tribal Affairs

Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 31st January, 2012]

1. Readiness of the States in the implementation of the Act:

- (i) An updated status of State-wise implementation of the Act is given in *Annexure-A*. As per the information collected till 31st January, 2012, more than 31.68 lakh claims have been filed and more than 12.51 lakh titles have been distributed. More than 16 thousand titles were ready for distribution. A total of 27, 24,162 claims have been disposed of (85.98%). A statement on claims received and distribution of title deeds in various states, as in *Annexure-B*, is being maintained by MOTA. (Uttar Pradesh has revised its figures).
- (ii) State wise details of claims received, titles distributed and the extent of forest land for which titles distributed (individual and community), as on 31.01.2012, in major States, is as indicated below:

States	No. of claims received	No. of titles distributed	Extent of forest land for which titles distributed (in acres)
Andhra Pradesh	3,30,479 (3,23,765 individual and 6,714 community)	1,67,797 (1,65,691 individual and 2,106 community)	14,51,223
Assam	1,31,911 (1,26,718 individual and 5,193 community)	36,267 (35,407 individual and 860 community)	77,609.17 for 34,286 titles [#]
Bihar*	2,343	22	Not Available
Chhattisgarh	4,92,068 (4,87,332 individual and 4,736 community)	2,15,443 (2,14,668 individual and 775 community)	5,38,076.38 (5,36,303.69 for individual and 1,772.69 for community) for 2,14,918 (2,14,668 individual and 250 community) titles [#]

Gujarat	1,91,592 (1,82,869 individual and 8,723 community)	39,784 (38,176 individual and 1,608 community)	43,097.79 for 37,923 titles [#]
Himachal Pradesh*	5,635	7 distributed	Not Available
Jharkhand	34,936	13,357	35,929.6
Karnataka	1,63,090 (1,60,305 individual and 2,785 community)	6,523 distributed (6,522 individual and 1 community)	8500.22 for 6,522 titles [#]
Kerala	37,509 (36,140 individual and 1,369 community)	20,821	25,880 for 20,712 titles
Madhya Pradesh	4,49,561 (4,40,644 individual and 8,917 community)	1,55,542 distributed and 9,819 ready	5,06,337.79 for 1,48,199 titles [#]
Maharashtra	3,39,689 (3,35,701 individual and 3988 community)	1,04,767 distributed (1,04,344 individual and 423 community)	2,45,305.47 (2,26,340.80 individual and 18,964.67 community)
Orissa	4,93,522 (4,91,203 individual and 2,319 community)	2,94,623 distributed (2,93,825 individual and 798 community)	5 , 2 8,034.36 (4,73,778.86 individual and 54,255.40 community)
Rajasthan	64,844 (64,510 individual and 334 community)	30,325 distributed (30,280 individual and 45 community)	45,311.73 (44,895.1 for individual and 416.63 for community)
Tripura	1,79,639 (1,79,362 individual and 277 community)	1,19,437 distributed (1,19,382 individual and 55 community)	4,16,555.58 (4,16,498.79 for individual and 56.79 for community) for 1,16,100 titles [#]
Uttar Pradesh	92,406 (91,271 individual and 1,135 community)	17,705 distributed (16,891 individual and 814 community)	1,39,777.87
West Bengal	1,37,278 [1,29,454 individual and 7,824 community]	29,070 distributed (28,962 individual and 108 community) and 3,163 ready	16,586.11 (16,535.82 for individual and 50.29 for community)

Total of 5 States [Chhattisgarh, Maharashtra, Orissa, Rajasthan and West Bengal]

Individual (6,72,873 titles) = 5,25,446.92 Hac (12,97,853.90 Acres)

Community (1,624 titles) = 30,550.48 Hac (75,459.68 Acres)

Total: 6,74,497 titles = 5,55,997.40 Hac (13,73,313.58 Acres)

Total of 9 States (Andhra Pradesh, Assam, Gujarat Jharkhand, Karnataka, Kerala, Madhya Pradesh, Tripura and Uttar Pradesh)

Individual + Community (5,62,601 titles) = 10,95,105.67 Hac (27,04,911.02 Acres)

Grand Total: 12,37,098 titles = 16,51,103,07 Hac (40,78,224.60 Acres)

**The Governments of Bihar and Himachal Pradesh have not yet furnished information regarding extent of forest land for which titles have been distributed*

The Governments of Assam, Chhattisgarh, Gujarat, Karnataka, Madhya Pradesh and Tripura have not yet furnished updated information regarding the extent of forest land in respect of all the titles that have been distributed.

(iii) Progress in implementation of the Act relating to the number of claims received and the number of titles distributed in the LWE affected States has separately been shown in ***Annexure-C***.

Annexure – A

Statement showing State-wise status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

(As on 31.01.2012)

Name of the State/UT	Activities	Status
Andhra Pradesh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	3,744
	7) No. of claims filed at Gram Sabha level	3,30,479 (3,23,765 individual and 6,714 community)
	8) No. of claims recommended by Gram Sabha to SDLC	2,30,476 (2,26,943 individual and 3,533 community)
	9) No. of claims recommended by SDLC to DLC	1,94,391
	10) No. of claims approved by DLC for title	1,74,693
	11) Number of titles distributed	1,67,797 (1,65,691 individual and 2,106 community)
	12) Extent of forest land for which title deeds issued (in acres)	14,51,223
	13) No. of claims rejected	1,53,438
	14) Projected date for distribution of title deeds	-
	15) <u>Problems/Remarks:</u> Land records	
Arunachal Pradesh	1) Appointment of a Nodal officer	No. However, Department of Social Welfare has been selected as the Nodal Department for implementation of the Act in the State.

	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	-
	4) Creation of Awareness about the provision of the Act and the Rules	-
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	-
	6) Constitution of Forest Rights Committees by the Gram Sabhas	-
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	-
	14) Projected date for distribution of title deeds	-
	15) <u>Problems/Remarks:</u> State Govt. has informed that though they have constituted the SDLC, DLC and SLMC under the Act but unlike the other States where the STs and other traditional forest dwellers are in minority, Arunachal Pradesh is wholly domiciled by various ethnic tribal groups whose land and forests are specifically identified with natural boundaries of hillocks, ranges, rivers and tributaries. Barring few pockets of land under wildlife sanctuaries, reserved forests, most of the land in entire State is community land. Territorial boundaries of land and forest belonging to different communities or tribes are also identified in the same line leaving no scope for any dispute over the possession of land, forest and water bodies among the tribes. Therefore, Forest Rights Act does not have much relevance in Arunachal Pradesh.	-
Assam	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes

	7) No. of claims filed at Gram Sabha level	1,31,911 (1,26,718 individual and 5,193 community)
	8) No. of claims recommended by Gram Sabha to SDLC	1,23,330 (1,18,535 individual and 4,795 community)
	9) No. of claims recommended by SDLC to DLC	72,891 (69,224 individual and 3,667 community)
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	36,267 (35,407 individual and 860 community)
	12) Extent of forest land for which title deeds issued (in acres)	77609.17 Acres for 34,286 titles
	13) No. of claims rejected	37,669
	14) Projected date for distribution of title deeds	31-12-2011
	15) Problems/Remarks: 1. Disputes in settling claims get converted into law and order problem which adversely affects the pace of implementation. 2. Claims from false claimants under the category of other traditional forest dwellers are being received.	-
Bihar	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	7 7 1
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	-
	4) Creation of Awareness about the provision of the Act and the Rules	Is being created in a limited way through advertisements in local newspapers
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Out of 390 Gram Sabhas, training has been completed in about 50 Gram Sabhas
	6) Constitution of Forest Rights Committees by the Gram Sabhas	151
	7) No. of claims filed at Gram Sabha level	2,343 (149 ST and 2,194 OTFDs)
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-

	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	22 (22 ST)
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	1,151
	14) Projected date for distribution of title deeds	-
	15) Problems / remarks	Not Reported
Chhattisgarh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Going on in a large scale
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No of claims filed at Gram Sabha level	4,92,068 (4,87,332 individual (3,49,976 ST and 1,37,356 OTFD) and 4,736 community)
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9)No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	Not Given
	11) Number of titles distributed	2,15,443 (2,14,668 individual and 775 community)
	12) Extent of forest land for which title deeds issued (in acres)	5,38,076.38 (536303.69 individual and 1772.69 community) for 2,14,918 titles
	13) No. of claims rejected	2,72,664
	14) Projected date for distribution of title deeds	31.12.2009 (over)
	15) Problems/Remarks: Out of 85 blocks, at least 40 blocks are affected by naxalism and this had slowed down the pace of implementation of Forest Rights Act.	-

Goa	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	
	(a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Work in progress
	4) Creation of Awareness about the provision of the Act and the Rules	Done
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Training to PRI Institutions has been imparted.
	6) Constitution of Forest Rights Committees by the Gram Sabhas	So far 91 FRCs have been constituted.
	7) No. of claims filed at Gram Sabha level	Nil
	8) No. of claims recommended by Gram Sabha to SDLC	Nil
	9) No. of claims recommended by SDLC to DLC	Nil
	10) No. of claims approved by DLC for title	Nil
	11) Number of titles distributed	Nil
	12) Extent of forest land for which title deeds issued (in acres)	-
Gujarat	13) No. of claims rejected	Nil
	14) Projected date for distribution of title deeds	
	15) Problems/Remarks: Claims in CRZ areas are to be processed. There are objections from OBC population. Progress, therefore, is lagging behind.	-
	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	
	(a) SDLC	18
	(b) DLC	12
	(c) SLMC	01
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	5,775 FRCs have been constituted.
	7) No. of claims filed at Gram Sabha level	1,91,592 (1,82,869 individual and 8,723 community

	8) No. of claims recommended by Gram Sabha to SDLC	1,86,898 (1,79,812 individual and 7,086 community)
	9) No. of claims recommended by SDLC to DLC	57,528 (45,704 individual and 1,824 community)
	10) No. of claims approved by DLC for title	39,784 (38,176 individual and 1,608 community)
	11) Number of titles distributed	39,784 (38,176 individual and 1,608 community)
	12) Extent of forest land for which title deeds issued (in acres)	43,097.79 Acres for 37,923 titles
	13) No. of claims rejected	17,840 (12,800 individual and 5,040 community)
	14) Projected date for distribution of title deeds	31.01.2012
	15) Problems/Remarks: 1. Member of Gujarat Tribal Advisory Council had raised concern over high rate of rejected claims and the matter was discussed in the meeting held on 01.06.2011 and it was decided to review all rejected claims at various level. Following the decision of GTAC, Government of Gujarat has created a special review cell on 01.08.2011 and circulated procedure to review all rejected claims. 2. As a result, number of claims disposed of has been reduced considerably.	
Haryana	The State Govt. has informed that there are no Scheduled Tribes and other traditional forest dwellers living in the forests of Haryana	
Himachal Pradesh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	No need
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes, in 142 Gram Sabhas out of 151 Gram Sabha (94%)

	7) No. of claims filed at Gram Sabha level	5,635
	8) No. of claims recommended by Gram Sabha to SDLC	2,446
	9) No. of claims recommended by SDLC to DLC	837
	10) No. of claims approved by DLC for title	346
	11) Number of titles distributed	7
	12) Extent of forest land for which title deeds issued (in acres)	
	13) No. of claims rejected	1,869
	14) Projected date for distribution of title deeds	The State Govt. had requested for extension for the completion of the implementation process since the tribal areas will remain cut off due to early snow in the winter till April /May, 2010 (over)
Jharkhand	15) Problems/Remarks: 1. Pace of implementation of Forest Rights Act in this State has been considerably affected by migration of tribal population from snow bound areas during winter season last year; 2. Promulgation of Model Code of Conduct from March to May last year for the Elections; 3. Sowing season in May and June.	
	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	20,349 FRCs have been constituted.
	7) No. of claims filed at Gram Sabha level	34,936
	8) No. of claims recommended by Gram Sabha to SDLC	21,325
	9) No. of claims recommended by SDLC to DLC	15,612
	10) No. of claims approved by DLC for title	14,980
	11) Number of titles distributed	13,357

	12) Extent of forest land for which title deeds issued (in acres)	35,929.6
	13) No. of claims rejected	15,143
	14) Projected date for distribution of title deeds	-
	15) <u>Problems/Remarks:</u> Forest areas are affected by left wing extremism.	-
Karnataka	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	Yes
	(a) SDLC	Yes
	(b) DLC (c)SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Has been undertaken
	6) Constitution of Forest Rights Committees by the Gram Sabhas	2,521 FRCs have been constituted
	7) No. of claims filed at Gram Sabha level	1,63,090 (1,60,305 individual (20,457 STs and 1,39,848 OTFDs) and 2,785 community)
	8) No. of claims recommended by Gram Sabha to SDLC	46,845
	9) No. of claims recommended by SDLC to DLC	11,163
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	6,523 (6,522 individual and 1 community)
	12) Extent of forest land for which title deeds issued (in acres)	8,500.22 for 6,522 titles
	13) No. of claims rejected	1,43,825
	14) Projected date for distribution of title deeds	31-12-2009 (over)
	15) Problems/Remarks:	Not reported
Kerala	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	
	(a) SDLC	Yes
	(b) DLC	Yes
	(c)SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes

	6) Constitution of Forest Rights Committees by the Gram Sabhas	511 FRCs have been constituted
	7) No. of claims filed at Gram Sabha level	37,509 (36,140 individual and 1,369 community)
	8) No. of claims recommended by Gram Sabha to SDLC	35,049 (34,821 individual and 228 community)
	9) No. of claims recommended by SDLC to DLC	25,292
	10) No. of claims approved by DLC for title	24,726
	11) Number of titles distributed	20,821
	12) Extent of forest land for which title deeds issued (in acres)	25,880 for 20,712 titles
	13) No. of claims rejected	4,252
	14) Projected date for distribution of title deeds	-
	15) <u>Problems/Remarks:/Remarks:</u> Due to high density in forest, only manual survey is feasible. This takes much time.	-
Madhya Pradesh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	4,49,561 (4,40,644 individual and 8,917 community)
	8) No. of claims recommended by Gram Sabha to SDLC	4,47,989
	9) No. of claims recommended by SDLC and sending to DLC	4,42,074
	10) No. of claims approved by DLC for title	1,65,361
	11) Number of titles distributed	1,55,542 distributed and 9,819 read
	12) Extent of forest land for which title deeds issued (in acres)	5,06,337.79 for 1,48,199 titles
	13) No. of claims rejected	2,68,560
	14) Projected date for distribution of title deeds	31.1.2012
	15) <u>Problems/Remarks:</u>	Not reported
Maharashtra	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Yes

	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	3,39,689 (3,35,701 individual and 3,988 community)
	8) No. of claims recommended by Gram Sabha to SDLC	2,84,113 (2,82,115 individual and 1,998 community)
	9) No. of claims recommended by SDLC to DLC	1,16,597 (1,15,914 individual and 423 community)
	10) No. of claims approved by DLC for title	1,04,767 (1,04,344 individual and 423 community)
	11) Number of titles distributed	1,04,767 (1,04,344 individual and 423 community)
	12) Extent of forest land for which title deeds issued (in acres)	2,45,305.47 (2,26,340.8 individual and 18,964.67 community)
	13) No. of claims rejected	2,21,795 (2,20,523 individual and 1,272 community)
	14) Projected date for distribution of title deeds	June 2010 (over)
	15) <u>Problems/Remarks:</u> Large numbers of false claimants have filed claims.	-
Manipur	Reasons why no action has been initiated for implementation of the Act are not available nor were they forthcoming in the Review Meeting held on 11.11.2008 and also during the Conference held on 4 th and 5 th November 2009. <u>Problems/ Remarks:</u> In tribal communities and 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 minimal in Manipur.	No. Response
Meghalaya	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Monitoring Committees at District and Sub-Divisional levels have been set up. The SLMC has been constituted.

	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	No
	4) Creation of Awareness about the provision of the Act and the Rules	No information available
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	No information available
	6) Constitution of Forest Rights Committees by the Gram Sabhas	No information available
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	-
	14) Projected date for distribution of title deeds	No projected date fixed so far by the State Government.
	15) Problems/Remarks: 96% of forest land is owned by clan/community / individuals. Implementation of the Act has, therefore, limited scope.	
Mizorum	1) Appointment of a Nodal officer	No
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	No
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	No
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	-
	14) Projected date for distribution of title deeds	No projected date fixed so far by the State Government.

	<u>15) Problems/Remarks:</u> 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 also been notified by Govt. of Mizoram on 3.3.2010.	
Nagaland	Government of Nagaland has informed that the land holding system and the village system of the Naga people is peculiar in that the people are the landowners. There are no tribes or group of people or forest dwellers in the State of Nagaland. Hence, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 per se may not be applicable to the State of Nagaland. However, a committee has been constituted to examine the applicability of the Act in Nagaland as per provision of Art. 371(A) of Constitution of India	
Orissa	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	Yes
	a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	4,93,522 (4,91,203 individual and 2,319 community)
	8) No. of claims recommended by Gram Sabha to SDLC	4,06,751 (4,05,313 individual and 1,438 community)
	9) No. of claims recommended by SDLC to DLC	3,14,231 (3,13,242 individual and 989 community)
	10) No. of claims approved by DLC for title	3,06,656 (3,05,756 individual and 900 community)

	11) Number of titles distributed	2,94,623 (2,93,825 individual and 798 community)
	12) Extent of forest land for which title deeds issued (in acres)	5,28,034 (4,73,778.96 individual 54,255.40 community)
	13) No. of claims rejected	1,30,831 (1,30,222 individual and 609 community)
	14) Projected date for distribution of title deeds	Not given
	15) Problems/Remarks: Forest land in the State is un-surveyed & detailed maps/records are not available;	-
Rajasthan	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	Yes
	(a) SDLC	Yes
	(b) DLC	Yes
	(c)SLMC	
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	64,844 (64,510 individual and 334 community)
	8) No. of claims recommended by Gram Sabha to SDLC	41,495 (41,450 individual and 45 community)
	9) No. of claims recommended by SDLC to DLC	30,906
	10) No. of claims approved by DLC for title	30,325
	11) Number of titles distributed	30,325 (30,280 individual and 45 community)
	12) Extent of forest land for which title deeds issued (in acres)	45,311.73 (44,895.10 individual and 416.63 community)
	13) No. of claims rejected	30,150
	14) Projected date for distribution of title deeds	30.6.2010 (over)
	15) Problems/Remarks:	Not reported

Sikkim	<p>The Government of Sikkim has issued a notification dated 28.1.2008 regarding constitution of an Expert Committee for identification of Critical Wildlife habitats in Protected Areas (PAs) and have also constituted the various Committees under the Act namely SDLC, DLC and SLMC, but has not sent any report regarding the progress of implementation of the Act in the State so far.</p> <p><u>Problems/ Remarks:</u></p> <p>In Sikkim, there are no Forest Dwelling STs and Other Traditional Forest Dwellers in the true sense of the terms. Most of the STs of Sikkim hold revenue land in their own name and they are not solely dependent on the forests for their livelihood.</p>	
Tamil Nadu	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Has started in a limited way
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	-
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Work of setting up FRCs has started. Gram Sabha meetings convened on 15.08.2008
	7) No. of claims filed at Gram Sabha level	21,781 (18,420 individual and 3,361 community)
	8) No. of claims recommended by Gram Sabha to SDLC	Number not available
	9) No. of claims recommended by SDLC to DLC	Number not available
	10) No. of claims approved by DLC for title	3,723
	11) Number of titles distributed	3,723 ready
	12) Extent of forest land for which title deeds issued (in acres)	Not Available
	13) No. of claims rejected	-
	14) Projected date for distribution of title deeds	31-12-2009 (over)
	<p>15) Problems/Remarks:</p> <p>Title deeds would be distributed after the vacation of restrictive order of Madras High Court. As the High Court of Madras has not yet vacated the stay, distribution of titles deeds could not be</p>	

	executed. In fact, High Court of Madras have 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 8 th June 2010.	
Tripura	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Workshop organized for the officials of PRI/SDLC/DLC.
	6) Constitution of Forest Rights Committees by the Gram Sabhas	1,040
	7) No. of claims filed at Gram Sabha level	1,79,639 (1,79,362 individual and 277 community)
	8) No. of claims recommended by Gram Sabha to SDLC	1,48,812 (1,48,710 individual and 102 community)
	9) No. of claims recommended by SDLC to DLC	1,28,391 (1,28,295 individual and 96 community)
	10) No. of claims approved by DLC for title	1,19,437 (1,19,382 individual and 55 community)
	11) Number of title distributed	1,19,437 (1,19,382 individual and 55 community)
	12) Extent of forest land for which title deeds issued (in acres)	4,16,555.58 (4,16,498.79 individual and 56.79 community) for 1,16,100 titles
	13) No. of claims rejected	21,384
	14) Projected date for distribution of title deeds	Not Given
	15) Problems/Remarks:	Not reported

Uttar Pradesh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	43 17 01
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	No need
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	1107
	7)No. of claims filed at Gram Sabha level	92,406 (91,271 individual and 1,135 community)
	8) No. of claims recommended by Gram Sabha to SDLC	19,064 (18,208 individual and 856 community)
	9) No. of claims recommended by SDLC to DLC	17,705
	10) No. of claims approved by DLC for title	17,705
	11) Number of titles distributed	17,705 (16,891 individual and 814 community)
	12) Extent of forest land for which title deeds issued (in acres)	1,39,777.87
	13) No. of claims rejected	73,001
	14) Projected date for distribution of title deeds	31.3.2012
	15) Problems/Remarks:	Not reported
Uttarakhand	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	Yes Yes Yes
	3) translation of the Act and the rules into the regional languages and distribution to Gram Sabha, FRCs etc.	-
	4) Creation of Awareness about the provision of the Act and the Rules	-
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	182
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-

	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	1
	14) projected date for distribution of title deeds	31-12-2009 (over)
	15) <u>Problems/Remarks:</u> Formation of committees 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.	
West Bengal	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SLDC (b) DLC (c) SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) constitution of Forest Rights Committees by the Gram Sabhas	2,819 FRCs have been constituted
	7) No. of claims filed at Gram Sabha level	1,37,278 [1,29,454 individual (88,591 ST + 40,863 OTFDs) and 7,824 community (4,763 ST + 3,061 OTFDs)]
	8) No. of claims recommended by Gram Sabha to SDLC	44,945
	9) No. of claims recommended by SDLC to DLC	34,676
	10) No. of claims approved by DLC for title	32,241
	11) Number of titles distributed	29,070 distributed (28,962 individual and 108 community) and 3,163 ready
	12) Extent of forest land for which title deeds issued (in acres)	16,586.11 (16,535.82 individual and 50.29 community)
	13) No. of claims rejected	79,099

	14) Projected date for distribution of title deeds	State Govt. requires
		More time for completion of the process.
	<u>15) Problems/Remarks:</u> The State Government has informed that most of the claims have been filed in four districts namely Paschim Medinipur, Bankura, Purulia & Jalpaiguri. Due to law and order problem in these districts, the progress is very slow. Hence, more time is required for completion of the process.	
A & N Islands	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Being constituted
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Translation has been completed but publication of the translated version yet not done.
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Under process
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	-
	14) Projected date for distribution of title deeds	-
	<u>15) Problems/Remarks:</u> 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 is fully	-

	protected under the provision of the regulation. The tribal reserves have been notified as reserved or protected forest reserve.	
Daman & Diu	1) Appointment of a Nodal officer	Yes
	2) status of formation of various committees	
	(a)SDLC	02
	(b) DLC	02
	(c) SLMC	01
	3) translation of the Act and the Rules into the regional languages and distribution of Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Nil
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Nil
	7) No. of claims filed at Gram Sabha level	Nil
	8) No. of claims recommended by Gram Sabha to SDLC	Nil
	9) No. of claims recommended by SDLC to DLC	Nil
	10) No. of claims approved by DLC for title	Nil
	11) Number of titles distributed	Nil
	12) Extent of forest land for which title deeds issued (in acres)	Nil
Dadra & Nagar Haveli	13) No. of claims rejected	Nil
	14) Projected date for distribution of title deeds	Not Given
	15) Problem / Remarks: Administration of Daman & Diu has informed vide their letter no. TSP/533/2011-2012/183, dated: 17.1.2012 that the Chief Conservation of Forest, Daman and Diu, has reported that there is no forest village in U.T. of Daman & Diu, However, Chief Executive Officer Dist. Panchayat Daman & Diu & Collector of Both Daman & Diu Dist have been requested to give publicity to the provision of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Act, 2006.	
	1) Appointment of a Nodal officer	Yes
	2) status of formation of various committees	Yes
	(a)SDLC	
	(b) DLC	
	(c) SLMC	
	3) translation of the Act and the Rules into the regional languages and distribution of Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes

	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	-
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	-
	14) Projected date for distribution of title deeds	No projected date fixed so far by the UT Admin.
	15) <u>Problems/Remarks:</u> 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. Position in this regard will be known shortly.	
Lakshadweep	The UT Administration has intimated that there are no terrestrial forests and no forest tribes or traditional forest dwellers in Lakshadweep.	

Annexure - B

(A) Statement of claims and distribution of title deeds under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

(As on 31.01.2012)

SN	State	Total number of claims received up to 31.12.2011	Claims receive during the current month	Total number of claims received up to 31.01.2012	Total number of titles deeds distributed/ ready up to 31.12.2011	Title deeds distributed/ ready during the current month	Total number of titles deeds distributed/ ready up to 31.01.2012
1.	Andhra Pradesh	3,30,479 (3,23,765 individual and 6,714 community)	-	3,30,479 (3,23,765 individual and 6,714 community)	1,67,797 (1,65,691 individual and 2,106 community)	-	1,67,797 (1,65,691 individual and 2,106 community)
2.	Arunachal Pradesh	-	-	-	-	-	-
3.	Assam	1,31,911 (1,26,718 individual and 5,193 community)		1,31,911 (1,26,718 individual and 5,193 community)	36,267 (35,407 individual and 860 community)	-	36,267 (35,407 individual and 860 community)
4.	Bihar	2343	-	2343	22	-	22
5.	Chhattisgarh	4,92,068 (4,87,332 individual and 4,736 community)	-	4,92,068 (4,87,332 individual and 4,736 community)	2,15,443 (2,14,668 individual and 775 community)	-	2,15,443 (2,14,668 individual and 775 community)
6.	Goa	-	-	-	-	-	-
7.	Gujarat	1,91,592 (1,82,869 individual and 8,723 community)	-	1,91,592 (1,82,869 individual and 8,723 community)	39,784 (38,176 individual and 1,608 community)	-	39,784 (38,176 individual and 1,608 community)
8.	Himachal Pradesh	5,633 (5,355 individual and 278 community)	2	5,635	7	-	7
9.	Jharkhand	34,936	-	34,936	13,357	-	13,357
10.	Karnataka	1,63,090 (1,60,305 individual and 2,785 community)	-	1,63,090 (1,60,305 individual and 2,785 community)	6,523 (6,522 individual and 1 community)	-	6,523 (6,522 individual and 1 community)
11.	Kerala	37,509 (36,140 individual and 1,369 community)	-	37,509 (36,140 individual and 1,369 community)	20,712	109	20,821

12.	Madhya Pradesh	4,49,414 (4,40,497 individual and 8,917 community)	147	4,49,561 (4,40,644 individual and 8,917 community)	1,54,090 distributed and 10,718 ready)	1,452	1,55,542 distributed and 9,819 ready
13.	Maharashtra	3,39,689 (3,35,701 individual and 3,988 community)	-	3,39,689 (3,35,701 individual and 3,988 community)	1,04,767 (1,04,344 individual and 423 community)	-	1,04,767 (1,04,344 individual and 423 community)
14.	Manipur	-	-	-	-	-	-
15.	Meghalaya	-	-	-	-	-	-
16.	Mizoram	-	-	-	-	-	-
17.	Orissa	4,93,522 (4,91,203 individual and 2,319 community)	-	4,93,522 (4,91,203 individual and 2,319 community)	2,94,623 distributed (2,93,825 individual and 798 community)	-	2,94,623 distributed (2,93,825 individual and 798 community)
18.	Rajasthan	64,844 (64,510 individual and 334 community)	-	64,844 (64,510 individual and 334 community)	30,325 distributed (30,280 individual and 45 community)	-	30,325 distributed (30,280 individual and 45 community)
19.	Sikkim	-	-	-	-	-	-
20.	Tamil Nadu	21,781 (18,420 individual and 3,361 community)	-	21,781 (18,420 individual and 3,361 community)	3,723 ready#	-	3,723 ready#
<i># In the State of Tamil Nadu, titles could not be distributed due to restrictive High Court order</i>							
21.	Tripura	1,79,639 (1,79,362 individual and 277 community)	-	1,79,639 (1,79,362 individual and 277 community)	1,19,437 (1,19,382 individual and 55 community)	-	1,19,437 (1,19,382 individual and 55 community)
22.	Uttar Pradesh*	92,419 (91,298 individual and 1,121 community)	-	92,406 (91,271 individual and 1,135 community)	13,923 distributed (13,132 individual and 791 community)	3,782	17,705 distributed (16,891 individual and 814 community)
23.	Uttarakhand	182	-	182	-	-	-
24.	West Bengal	1,37,278 (1,29,454 individual and 7,824 community)	-	1,37,278 (1,29,454 individual and 7,824 community)	29,070 (28,962 individual and 108 community) and 3,163 ready for distribution	-	29,070 (28,962 individual and 108 community) and 3,163 ready for distribution

25.	A&N Islands	-	-	-	-	-	-
26.	Daman & Diu	-	-	-	-	-	-
27.	Dadra & Nagar Haveli	-	-	-	-	-	-
	Total	31,68,329	149	31,68,478	12,46,147 distributed and 17,604 ready for distribution.	5,343	12,51,490 distributed and 16,705 ready for distribution.

* Government of Uttar Pradesh has given the reduced number of claims filed compared to last month.

(B) Statement of claims and distribution of title deeds under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

(As on 31.01.2012)

SN	States	No. of Claims received	No. of Titles Distributed	No. of Claims Rejected	Total No. of Claims Disposed off / % respect of claims received
1.	Andhra Pradesh	3,30,479 (3,23,765 individual and 6,714 community)	1,67,797(1,65,691 individual and 2,106 community)	1,53,438	3,21,235 (97.20%)
2.	Arunachal Pradesh	-	-	-	-
3.	Assam	1,31,911 (1,26,718 individual and 5,193 community)	36,267 (35,407 individual and 860 community)	37,669	73,936 (56.04%)
4.	Bihar	2,343	22	1,151	1,173 (50.06%)
5.	Chhattisgarh	4,92,068 (4,87,332 individual and 4,736 community)	2,15,443 (2,14,668 individual and 775 community)	2,72,664	4,88,107 (99.19%)
6.	Goa	-	-	-	-
7.	Gujarat	1,91,592 (1,82,869 individual and 8,723 community)	39,784 (38,176 individual and 1,608 community)	17,840*	57,624 (30.07%)
8.	Himachal Pradesh	5,635	7	1,869	1,876 (33.30%)

9.	Jharkhand	34,936	13,357	15,143	28,500 (81.57%)
10.	Karnataka	1,63,090 (1,60,305 individual and 2,785 community)	6,523 (6,522 individual and 1 community)	1,43,825	1,50,348 (92.18%)
11.	Kerala	37,509 (36,140 individual and 1,369 community)	20,821	4,252	25,073 (66.84%)
12.	Madhya Pradesh	4,49,561 (4,40,644 individual and 8,917 community)	1,55,542 distributed and 9,819 are ready	2,68,560	4,24,102 (94.33%)
13.	Maharashtra	3,39,689 (3,35,701 individual and 3,988 community)	1,04,767 (1,04,344 individual and 423 community)	2,21,795 (2,20,523 individual and 1,272 community)	3,26,562 (96.13%)
14.	Manipur	-	-	-	-
15.	Meghalaya	-	-	-	-
16.	Mizoram	-	-	-	-
17.	Orissa	4,93,522 (4,91,203 individual and 2,319 community)	2,94,623 distributed (2,93,825 individual and 798 community)	1,30,831 (1,30,222 individual and 609 community)	4,25,454 (86.20%)
18.	Rajasthan	64,844 (64,510 individual and 334 community)	30,325 (30,280 individual and 45 community)	30,150	60,475 (93.26%)
19.	Sikkim	-	-	-	-
20.	Tamil Nadu	21,781 (18,420 individual and 3,361 community)	(3,723 titles are ready)	-	-
21.	Tripura	1,79,639 (1,79,362 individual and 277 community)	1,19,437 (1,19,382 individual and 55 community)	21,384	1,41,821 (78.39%)
22.	Uttar Pradesh	92,406 (91,271 Individual and 1,135 community)	17,705 (16,891 individual and 814 community)	73,001	90,706 (98.16%)
23.	Uttarakhand	182	-	1	1 (0.54 %)
24.	West Bengal	1,37,278 (1,29,454 individual and 7,824 community)	29,070 (28,962 individual and 108 community) and 3,163 titles are Ready	79,099	1,08,169 (78.79%)
25.	A & N Islands	-	-	-	-

26.	Daman & Diu	-	-	-	-
27.	Dadra & Nagar Haveli	-	-	-	-
	Total	31,68,478	12,51,490 distributed and 16,705 ready	14,72,672	27,24,162 (85.98%)

(C) Statement showing ranking in terms of percentage of titles distributed over number of claims received in each State under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

(As on 31.01.2012)

SN	State	Total number of claims received	Total number of titles deeds distributed / ready	% of titles distributed over number of claims received
1.	Tripura	1,79,639	1,19,437 distributed	66.48%
2.	Orissa	4,93,522	2,94,623	59.69%
3.	Kerala	37,509	20,821 distributed	55.50%
4.	Andhra Pradesh	3,30,479	1,67,792 distributed	50.77 %
5.	Rajasthan	64,844	30,325 distributed	46.76%
6.	Chhattisgarh	4,92,068	2,15,443 distributed	43.78%
7.	Madhya Pradesh	4,49,561	1,55,542 distributed and 9,819 ready	34.59%
8.	Jharkhand	34,936	13,357 distributed	33.87%
9.	Maharashtra	3,39,689	1,04,767 distributed	30.84%
10.	Assam	1,31,911	36,267 distributed	27.49 %
11.	Gujarat	1,91,592	39,784 distributed	20.76%
12.	West Bengal	1,37,278	29,070 distributed and 3,163 ready	21.17%
13.	Tamil Nadu#	21,781	3,723 ready#	17.04%#
14.	Uttar Pradesh	92,406	17,705 distributed	19.16%
15.	Karnataka	1,63,090	6,523 distributed	3.99%
16.	Bihar	2,343	22	0.93 %
17.	Himachal Pradesh	5,635	7	0.12%
18.	Uttarakhand	182	Nil	0.00%
19.	Arunachal Pradesh*	-	-	-
20.	Goa*	-	-	-
21.	Manipur*	-	-	-
22.	Meghalaya*	-	-	-
23.	Mizoram*	-	-	-

24.	Sikkim*	-	-	-
25.	A&N Islands*	-	-	-
26.	Daman & Diu*	-	-	-
27.	Dadra & Nagar Haveli*	-	-	-
	Total	31,68,478	12,51,490 distributed and 16,705 ready	39.49%

* No claims received.

Restrictive High Court's order

Status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the Left Wing Extremism (LWE) affected States

(As on 31.1.2012)

SN	State	No. of Claims received	No. of titles distributed	No. of claims rejected	Total No of Claims Disposed & %age of disposal
1.	Andhra Pradesh	3,30,479	1,67,797	1,53,438	3,21,235 (97.20%)
2	Bihar	2,343	22	1,151	1,173 (50.06%)
3.	Chhattisgarh	4,92,068	2,15,443	2,72,664	4, 88,107 (99.52%)
4.	Jharkhand	34,936	13,357	15,143	28,500 (81.57%)
5.	Madhya Pradesh	4,49,561	1,55,542	2,68,560	4,24,102 (94.33%)
6.	Maharashtra	3,39,689	1,04,767	2,21,795	3,26,562 (96.13%)
7.	Orissa	4,93,522	2,94,623	1,30,831	4,25,454 (86.20%)
8.	Uttar Pradesh	92,406	17,705	73,001	90,706 (98.16%)
9.	West Bengal	1,37,278	29,070	79,099	1,08,169 (78.79%)
	Total	23,72,282	9,98,326	12,15,682	22,14,008 (93.32%)