

**Status of Implementation of the Scheduled Tribes
and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Act, 2006,
Amendment Rule, 2012 in the States of Odisha**



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PREFACE

The ecological dependence of the forest dwelling tribes in terms of their exploitation of such forest terrains for water, minor forest produce, traditional herbs, grazing grounds and provision of habitat for domesticated animals and other wild life in contiguity has been a well documented fact. Such chronic socio-economic dependence of forest-dweller tribes has not only ensured their food security and sustainable livelihoods on the one hand, but also have enabled development of traditional cultural practices of utilizing natural resources from the standpoint of environmental preservation in the long-run. While this fact had been widely acknowledged and institutionalized in terms of the customary rights over such common land and forest resources in contiguity; such rights were neither recognized nor accorded legal sanction by the State both in the colonial period as well as in independent India as well. Thus tribes in those regions remained in the periphery; always in fear of the prospect of modern civil society onslaught over their existential status. These groups were subjected to various episodes of harassment, extortion for pecuniary gains, physical and sexual exploitation and threats of evictions etc. by different authorities inflicting irreparable injustice to the forest dwellers at large. The enactment of the 'Forest Rights Act 2006' is a policy endeavor towards amelioration of historical injustice inflicted upon the indigenous tribes via the promulgation and enforcement of Acts viz. WLPA, 1972 and FCA, 1980 that had identified environmental protection and recognition of the rights of tribal communities as mutually irreconcilable. FRA, 2006 provides for systematic vesting of individual and community rights. Unfortunately though, the existence of certain other

rules/regulations in force in certain states has undermined endeavors in the above regard.

The present study report titled “Status of Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers-Recognition of Forest Rights Act (FRA), 2006, Amendment Rule, 2012 in the States of Odisha” discusses the performance, reasons of poor implementation of FRA, and also the way ahead. The study methodology included qualitative methods that focused on the recent district-level proceedings of DLCs, SDLCs, and FRCs along with those of the Tribal Advisory Council for the period (2011 to 2018) and quantitative methods that included use of relevant statistical data compiled from both primary and secondary sources viz. progress reports accessed from the Ministry of Tribal Affairs, Govt. of India & the ST and SC Development Department, Govt. of Odisha apart from appropriate statistical evidence obtained from district-level nodal agencies. These evidences were assessed for ascertaining progress on the implementation of FRA (2006) in the state. Methodology in regard to compilation of field-level feedback from key stakeholders was procured using different schedules via field visits by NGOs. A sample size of 160 households (with 40 households in each of the two blocks selected per district) from the two districts of Sundergarh and Kandhamal were selected for the empirical study using pre-tested household schedules that provided for compilation of both qualitative (like, use of the forest land prior to the claim and after the entitlement) as well as quantitative (like, area/extent of forest land recognized) information.

The study observed that while the progress of recognition and vesting of rights with the forest dwellers as per FRA has been relatively better in Odisha as compared to other States; but has

been far meager in absolute sense when compared to potential coverage of households that remain still excluded despite eight years into implementation of the Act. For an illustration, as of July 2016; more than 2.01 lakh households out of the projected 7.35 lakh potential households (i.e. about 27.3 percent) are yet to be covered under FRA, 2006 despite their eligibility and evidence in regard to their ancestral legacy linkages in regard for such entitlements.

Factors for such continued exclusion of such households from the purview of the FRA, 2006 as observed under study include reservations on part of local forest department to ignore / reject individual claims that have not been forwarded by the Gram Sabha, delay in progress of conversion of forest / un-surveyed villages into revenue villages due to lack of data and unwillingness of sub-ordinate authorities to provide a list on such villages; villages are yet to be identified by the DFOs etc. Individual claims on entitlement were also found to be rejected on the grounds including 'claims on non-forest land'; 'inability of OTFD applicants to prove 75 years occupation; 'lack of evidence as prescribed under section 13 of FR Rules 2008', 'multiple claimants' and 'non forest kisam land'; encroachment of forest land (post after 13-12-2005), claims from minors or multiple claimants, and lack of sufficient evidence; whereas community claims have been rejected or remanded for reconsideration on grounds like inadequate resolution, lack of required signatures in the joint verification report, lack of boundary demarcation etc.

Also the study observed that civil society organizations have emphasized the cause of community forest rights (CFRs) over individual forest rights (IFRs) with the intent that grant of CFRs would grant the entire village can access the forest resources

notwithstanding the fact that people were more interested in the recognition of IFRs. Convergence of FRA with different on-going programs has the potential to usher sustainable livelihood and food security in the lands of FRA title holders; not been adequately explored. Such convergence of programmes has been mostly limited to IAY and MGNREGS only.

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Saroj Arora

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INTRODUCTION

1.1 Background to the Forest Rights Act

The relationship between forest dwelling scheduled tribes and other traditional forest dwellers is historically characterized by co-existence and is considered integral to the very survival and sustainability of the forest ecosystems. Forests provide sustenance in minor forest produce, water, grazing grounds, medicines and habitat for shifting cultivation, etc. They have been widely depending upon the forestland and forest resources to derive their livelihoods, food security and socio-cultural traditions for generations. It is known that there exists a spatial relationship between the forest dwelling tribes and the biological resources in India. This symbiotic relationship has been acknowledged and crystallized as customary rights over land and forest resources. However, these rights were neither recognized nor recorded by the State in the consolidation of State forests during the colonial period as well as in independent India¹. As a result, they were subject to deprivation and susceptible to harassment, threat of evictions, extortion of money by different authorities, etc causing injustice to the forest dwellers. These processes of exclusion have severely affected their immediate resource base leading to tenurial and livelihood insecurity in their ancestral land.

History has witnessed the gradual process of exclusion and marginalization of the forest dependent and dwelling population in India. The colonial State considered forest as state property and a source of revenue, therefore, massively exploited for commercial purpose without any legislative framework to make forest available for meeting local livelihood needs of the forest dwellers. The forest estate named Imperial Forest Service was established by the British in 1864 for managing the strategic concern of the exploitation of timber, as a critical juncture of

¹The Scheduled Tribes And Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, "<http://www.tribal.nic.in/writereaddata/mainlink/File/File1033.pdf>"

exclusion and separation of local people's customary forest use from valued forests through policy enforcement amounted to gradual 'ethnic cleansing' in many cases². The customary use of forest by the villager was only treated as 'privilege' and not 'right'. The absolute control and ownership right vests with the state... (Guha 1984). Community lands and forests were reserved as State forests to extract revenue. The priorities of the new system of forest management and control, imposed by the colonial state, conflicted sharply with customary and traditional rights, local systems of forest use and control, community conservation and governance systems. In this process, the rights of the village communities on forests were progressively eroded³. It marked the beginning of a forest governance system that was alien, induced, and most importantly excluded the forest-dependent communities in the name of scientific forestry, public interest, national development, conservation, and industrial growth.

Independent India also, inherited the colonial worldview, established a mode of forest governance that imposed restrictions on local forest dwellers through a definition of forest as national property, which tried to acquire control of forests for commerce and “national development” at the cost of local forest-based livelihoods. It has also belaboured the non-existent incompatibility between conservation and livelihoods⁴. The classification of forests in the name of forest reservation and conservation has tactically imposed restriction on the customary use rights and free access of resources (land, forest produce, pasture, other traditional and cultural use, etc.) by the local forest dependent communities⁵.

²Redressing 'historical injustice' through the Indian Forest Rights Act 2006, A Historical Institutional analysis of contemporary forest rights reform* IPPG Discussion Paper Series no 27, at www.ippg.org.uk, p.10

³Gadgil M and Guha R, This fissured land: an ecological history of India, Oxford University Press

⁴Sanjoy Patnaik (2007) PESA, the Forest Rights Act, and Tribal Rights in India, Proceedings: International Conference on Poverty Reduction and Forests, Bangkok, September, 2007.

⁵Sricharan Behera (2010) History of Forest Governance, Land Tenure System and Rights Deprivation Scenario in Odisha (Unpublished article), Vasundhara,. p.1-2

The National Forest Policy of 1988 has adopted JFM as extension of forest administration, the impact of which adversely impacted on communities and their traditional systems and ended up creating more conflicts and rights deprivation⁶.

The process of marginalization of forest dwellers and their reduced access to forest resources by the State constructed legal instruments led to serious discontent and frustration. As a result, the growing agitations and unrest in forest areas emerged strongly in different parts of India against the continued exclusionary processes adopted by the state. It pushed the resource dependent poor into a state of serious marginalization. The movement against such alienation of customary rights in tribal regions became prominent after 1980s.

In response to the massive discontent, the Ministry of Rural Development, Government of India constituted Bhuria Committee to recommend the salient features of a law for extending provisions of Part IXA of the Constitution of India ('Panchayats') to Scheduled Areas (which are primarily tribal areas identified for special protection in the Fifth Schedule of the Constitution)⁷. The Committee had argued for the legal recognition of the Palli Sabha (or the village council) as the primary centre of tribal governance. It recommended that the long-standing demand of tribal control over productive land and forests should be conceded to and administrative interference in their affairs should be minimised. Based on the report, the Parliament enacted the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, which recognized the rights of tribals to self-governance. It empowered their Palli Sabhas to manage their community resources - land, forest & water – in

⁶ Sarin, M. 2001a. Disempowerment in the name of 'participatory' forestry - Village forests joint management in Uttarakhand India. *Forests, Trees and People, Newsletter*, No. 44. Uruguay: World Rainforest Movement, and 2001b. *De-democratisation in the name of devolution? Findings from three states in India*. Bogor: CIFOR.

⁷ 'Report of MPs and Experts – To Make Recommendations on the Salient Features of the Law for Extending Provisions of the Constitution (73rd) Amendment Act, 1992 to Scheduled Areas', available at "http://www.odi.org.uk/livelihoodoptions/forum/sched-areas/about/bhuria_report.htm"

accordance with their customs and traditions, but the actual implementation of the PESA has been far from satisfactory⁸.

The Commissioner for Scheduled Castes and Scheduled Tribes in his 29th report (1987–89) recommended a framework for resolving disputes related to forest land between tribal people and the state. Based on the recommendations, the MoEF issued a set of six circulars on 18th September 1990, asking the State government to resolve disputes related to forest lands arising out of incomplete or poor forest settlements, conversion of forest villages into revenue villages. It addresses other issues related to forest tenure. However, these circulars remained unimplemented leading to further unrest, alienation and deprivation in tribal heartlands (Kumar et. al, 2005, Sarin, 2005).

The issues of rights deprivation also became more acute with the change in the focus of development and economic liberalization that underwent a paradigm shift in the 1990s focusing on resource exploitation and extractive industries which resulted in increased displacement and loss of livelihoods in tribal and forest areas.

The forest rights issue reached a flashpoint in 2002 when the MoEF issued an order to the State governments to evict all “encroachers” on forest land in a time bound manner by misinterpreting the order of Supreme Court under Writ petition 202 of 1995 filed by TNGodavarman vs. Union of India⁹. In response to the most crucial Intervention Application 703 filed by Advocate Harish Salve, Amicus Curiae, the Supreme Court passed an interim order restraining “the Central government from regularising any encroachment without permission of the Court”. No order was passed regarding eviction of the “encroachers.”

⁸ Lovleen Bhullar, 'The Indian Forest Rights Act 2006: A Critical Appraisal', 4/1 *Law, Environment and Development Journal* (2008), available at "<http://www.lead-journal.org/content/08020.pdf>", p.22.

⁹The PIL petition filed by TN Godavarman, an estate owner in Tamil Nadu, was not concerned with tribal rights on forestland but expressing distress by the illicit felling of timber from forest nurtured by his family for generations, the order of which has caused immense collateral damage to the rights of tribals on forestland.

However, the MoEF by misinterpreting the order, its Inspector General of Forests issued an instruction on dated 3rd May 2002 “to evict the ineligible encroachers and all posts-1980 encroachers from forestland in a time bound manner” creating an impression that eviction was ordered by the Supreme Court. The eviction drive created immense hardship for tribal communities across the country. As per the statement of MoEF in Parliament on 16th August 2004 the “encroachers” are evicted from 1.5 lakh hectares of forestland, without mention of the number of families evicted. According to NCSD and other groups working among forest dwellers, about 300,000 families were evicted between 2002-06 by the Forest Dept to create new Protected Areas and to clear 'forest encroachments' to make way for plantations and wildlife areas. Since 1947, millions of people in the country were displaced due to creation of Protected Areas and development projects like large dams, mines, industries, roads and army cantonments. Planning Commission estimates suggest that 21.3 million people were displaced by development projects between 1951 and 1990 alone¹⁰. Millions were driven into destitution and starvation subjected to harassment, evictions, etc, on the pretext of being encroachers in their own ancestral home lands. In Madhya Pradesh alone, more than 125 villages have been burned to the ground¹¹.

This has created a milestone in the history of Forest Rights Campaign, in which peoples movements and organisations began to organised themselves to resists the evictions across the country. The gross violation of the democratic rights of adivasis and other communities by the forest department continued to be a matter of grave concern. A country-wide campaign launched against the MOEF order on eviction by mass tribal and civil society organizations demanded a comprehensive legislation to deal with the issues of unrecognised forest rights. Campaign for Survival

¹⁰ India: End of Forest Evictions? New Forest Bill by Soumitra Ghosh and C.R. Bijoy in *World Rainforest Movement Bulletin* No. 106, May 2006, "<http://www.wrm.org.uy/>"

¹¹ Endangered Symbiosis: Evictions and India's Forest Communities, Campaign for Survival and Dignity, New Delhi, p.6

and Dignity among others took a lead role in organizing and bringing large number of groups and people's organisations from State to national level together¹². The mass struggle and campaigns launched at national, state and regional level involving political leaders and parties, civil society networks, campaign groups, tribal rights activists, against the eviction and for making permanent legal solutions to these historical wrongs.

Compelled by these protests, MoEF issued a clarification in October 2002 that its 1990 circulars remained valid and that not all forest-dwellers were encroachers. Indeed, the Ministry admitted in an affidavit filed in the Supreme Court in July 2004 that, during the consolidation of state forests, “the rural people, especially tribals who have been living in the forests since time immemorial, were deprived of their traditional rights and livelihood and consequently, these tribals have become encroachers in the eyes of law”. The affidavit continued that such rights needed to be recognized “to remedy a serious historical injustice” and that “(this) will also significantly lead to better forest conservation”.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 emerged as a legislative means for remedying a historical wrong through forest tenure reform, is the product and sacrifice of millions of people and their prolonged struggle by grassroots movements. It was a result of the polity responding to protracted struggles by tribal communities and movements to assert rights over the forestlands they were traditionally dependent on. The Act specifically aims at – (1) Recognizing and vesting forest rights and occupancy rights to those forest dwellers who have been living in such forests for generations but their rights were not recorded (2) Providing a framework for recording the forest rights (3) Including the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance – thereby strengthening the conservation regime of forests and (4) Ensuring

¹²Endangered Symbiosis: Evictions and India's Forest Communities, CSD, New Delhi, p.6

livelihood and food security of the Scheduled Tribes and other forest dwellers.

It also recognizes rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use and empowers right holders and their Palli Sabhas to protect forest, wildlife and biodiversity.

1.2 Understanding the Historical Injustice and the Indian Forest

India has a long history of forest and conservation legislations. Understandably these were tools in the hands of pre-colonial rulers and the colonial machinery, which had enacted these laws. They ensured that forests and wildlife including rich assets always belonged to the rulers and not to the communities that always lived with them. It ensured that there were constant and bitter battles fought between the local forest dwelling communities and the ruling classes¹³. The battles continued after independence as these communities, who fought for their rights over forests, were looked upon as encroachers in their ancestral (forests) lands and their access to forest resources was inadvertently treated as illegal inviting offence and penalty. 'This was not just a negation of forest dwellers and their inalienable rights, but a constitutional insult on people who had rights over forests'¹⁴.

To understand the historical injustice made to the Indian forest dwellers, it is essential to review the historicity of the enactment of different legislations, policies and regulations at different periods for the management and control of forests land and forest resources. Understanding, the process of codification of forests as legal land use category and classification of the

¹³ MANTHAN Report of National Committee on Forest Rights Act 2006, A joint Committee of Ministry of Environment and Forests and the Ministry of Tribal Affairs, Government of India, p.26

¹⁴ *ibid*, p. 26

typologies of forest users both by the British and Independent State, and their attitude towards forests and forest inhabitants would clearly locate the processes of marginalisation and deprivation of forest rights made by the State¹⁵.

The term 'forest', apart from signifying a type of land use, also has a legal meaning in various laws. This legal "forest" is a socially-constructed forest, framed by laws, policies, procedures and organisations, and implies specific rights regimes which are a product of historical processes¹⁶. The legal construction of forest influences the physical realities of forested landscapes and the relationships between people and forests. It deeply affects the livelihoods and wellbeing of people who live in and around the forests. While it categorizes certain elements of the landscapes as forests, it create varied regulations and enforcement mechanisms to define what is permissible and what is prohibited. This nexus of laws, policies and procedures have deeply and differentially impacted on the lives and wellbeing of large numbers of people¹⁷.

In India a large number of poor live in forest landscapes, with critical dependency over forests and forest resources, have been dispossessed and expropriated from those resources through various institutional circumstances as a major contributory factor in their poverty¹⁸. Their poverty reflects a history of institutionalised disenfranchisement; having their customary

¹⁵Springate-Baginski, Oliver and Piers Blaikie (ed.s) 2007 *Forests People and Power: The Political Ecology of Reform in India and Nepal* (Earthscan: London and Sterling VA)

¹⁶Kumar, Kundan, Sricharan Behera, Soumen Sarangi and Oliver Springate-Baginski 2008 '*Historical Injustice' The Creation of Poverty through Forest Tenure Deprivation in Odisha*, University of East Anglia and Vasundhara (UEA DEV Working Paper), p.6

¹⁷Kumar, Kundan et al, 2008 '*Historical Injustice' The Creation of Poverty through Forest Tenure Deprivation in Odisha*, p. 6

¹⁸Redressing 'historical injustice' through the Indian Forest Rights Act 2006, A Historical Institutional analysis of contemporary forest rights reform* O. Springate-Baginski, M. Sarin, S. Ghosh, P. Dasgupta, I. Bose, A. Banerjee, K. Sarap, P. Misra, S. Behera, M.G Reddy and P.T. Rao**Discussion Paper Series no 27, August 2009 IPPG Discussion Papers available at "<http://www.ippg.org.uk>", P.5

forest land expropriate, and use rights negated by the colonial state and subsequently by the independent Indian government.

Broadly, there have been four major processes of exclusion of the customarily enjoyed rights and entitlements of the scheduled tribes and other marginal forest dwellers through (1) The consolidation of State forests (2) Revenue survey and settlement (3) State development projects and (4) Conservation governance. The effect of these historical processes have generated the problems: (1) Resource degradation (2) Reduced access or exclusion of rights over the resources of the dependent communities, (3) Tenure insecurity over the resources leading to livelihood and food insecurity and (4) Undermined the conservation values and traditional institutions of the local communities in management and protection of forests¹⁹. Through such processes caused huge loss to the environment and the livelihood of the scheduled tribes and other traditional forest dwellers with massive alienation from their customarily cultivated lands and access to forest resources.

The aim of the colonial regime was to take direct control over and management of the resources (especially land and forests) and resource rich territories, which were customarily inhabited and critically dependent on by indigenous local communities, for revenue generation. It sought to appropriate the ownership of those resources by introducing an exclusive management regime, by entirely negating the age-old customary *sui generis* forest conservation and management practices of the local communities.

Various forest acts were created by British for creation of forest estate. The IFA 1865 empowered the colonial govt to constitute by notification government forests out of any wastelands or any other land covered with trees. The IFA 1878 included provisions for settlement and admitting of the rights and privileges of people, and provided for three major forest tenures

¹⁹ SricharanBehera(2010)History of Forest Governance, Land Tenure System and Rights Deprivation Scenario in Odisha (draft note} Vasundhara, p.1-2

i.e. Reserved Forests, Protected Forests and Village Forests, which was accepted in all British ruled areas. The Madras Presidency, which disagreed with the draconian powers, had developed its own law, the Madras Forest Act, 1882. In 1927 a new IFA was enacted which remains in force till date.

Both IFA 1927 and the MFA 1882 provided the legal basis for reservation of forests and 'settlement' (i.e. commuting or extinguishing) and notification of forest rights. In many cases these settlement processes take more than a decade and 'settling' rights has been treated as a once and for all process (unlike revenue settlements). In this way, though some (diluted) rights were conceded, many more were extinguished. Even these due processes were often circumvented by impatient settlement officers (see Kumar et al. 2009 for examples from Odisha where whole villages were left out of settlement process and therefore lost any rights whatsoever). Inevitably 'historical injustices' were created through forest acquisition by the state, both where the due process was neglected, and where it was followed.

The history of forest reservation involved, predictably, intense conflict and repeated agitations and uprisings (Arnold and Guha 1997, Grove et al. 1998, Sivaramakrishnan 1999, Pathak 2002). The areas of 76.52 million hectares of land (23.28 %) ²⁰ of India have been categorised as “legal forest” under various forest laws, which has been highly contested and problematic, led to rebellions and resistance. Reservation of forests and the restriction imposed on use of forests were important issues in the freedom struggle in the forested areas.

The tribal situation after Independence in many cases worsened due processes for settlement of rights as per IFA 1927 were often conveniently forgotten or circumvented. The post-colonial Government of West Bengal, for instance, took over feudal private forests (in which local people enjoyed use rights) without following the due legal process and so extinguished those

²⁰States of Forest Report, Forest Survey of India Dehradun, 1999

rights²¹. In Madhya Pradesh and Odisha, large areas of the lands of zamindars and princely states were declared 'deemed forests' (i.e. rights settlement anticipated). The required legal process of settlement of rights has not been widely taken therefore, no rights were accorded. Even community forests legally recognised by the colonial administration in Bastar were declared state protected forests without following due legal processes.

The processes of settlement and reservation of forests is lengthy and complex. Although currently 23.57% of the country's area (about 76.96 mha) consists of 'recorded forest area'²² it is a myth that all of this land is either legally notified as forest or is under control of Forest Dept. of the 'recorded forest area', 51.6% is Reserve Forest where no local people's rights exist (much of this forest not formally legally notified after the rights settlement process); 30.8% is Protected Forest (where some rights conceded), and the remaining 17.6% consists of 'unclassed forest' which is not legally notified but is simply put in govt record using the word forest (including about 10 million hectares of community shifting cultivation lands in the north-east). As per the estimate of FSI²³, of the total 67.71 million hectares of 'forest cover' (i.e. lands with standing trees) about 48 mha is considered 'good forest' (i.e. more than 40% canopy cover). The 'recorded forest (land) area' is not the same nor coincident with 'forest cover' because large areas of the legal 'forest estate' are not forested. This is due to an indeterminate combination of forest degradation and the appropriation and mis-categorisation of non-forest lands, including grazing meadows and mountainous land above the tree line in the Himalaya²⁴,

²¹Ghosh, Soumitra, NaboDutta, HadidaYasmin, Tarun Roy and Oliver Springate-Baginski (2009) Commons Lost and 'Gained'? Forest Tenures in the Jungle Mahals of South West Bengal, (School of International Development Working Paper: Norwich).

²²Forest Survey of India (2003), Dehradun

²³ Forest Survey of India (2005),

²⁴ Redressing 'historical injustice' through the Indian Forest Rights Act 2006, A Historical Institutional analysis of contemporary forest rights reform* Discussion Paper Series no 27, August 2009 IPPG Discussion Papers available at "<http://www.ippg.org.uk>", P.12-13.

The Wildlife Protection Act 1972 enacted for the creation of protected areas (PAs), (i) without consulting the inhabitants and user communities, (ii) ignoring the rights and the knowledge and conservation practices of the local communities, (iii) without a comprehensive settlement process that could recognize and vest customary rights and create a fair process of changing them where required, and (iv) with forcible or artificially induced displacement in many cases. This further created a wedge between communities and the FD as a result the local communities in many places turned enemy of wildlife. The Act giving primacy to conservation of Wildlife and justify curtailing legitimate daily survival activities of forest dependent people from wildlife habitats, evicting them forcibly without proper resettlement, and centralizing management of these habitats in the hands of indifferent bureaucracy. The blanket ban on all human activities except tourism is leading to considerable suffering of local people deprived of access to the forests. This led to the alienation of thousands of local communities who live within and outside PAs and depend mainly on forest resources for sustenance and survival.

The FCA, 1980 had expanded the categories of land defined as “legal forests” and made it more difficult to reclassify legal forests. It seeks to prohibit the diversion of forest land for non- forest purposes without the permission of Central Govt. Compounding the problems related to non-settlement of rights, had the effect of freezing the status of many forest-related rights deprivations. Any land is classified as forest of any sort, cannot be used for cultivation or any other purpose without MoEF's permission and ownership rights can't be given without permission of the Supreme Court²⁵. It has caused immense deprivation and suffering to millions of forest people all over the country. The forest and un-surveyed villages and old habitations not settled during forest settlement were routinely denied basic amenities and minimum access to service delivery system. At the same time diversion of huge areas of forestlands and protected

²⁵ Supreme Court's order dated 13-11-2000 in Center of Environmental Law, WWF India v. Union of India, WP© no 337 of 1995

areas for mining, quarrying, and building large dams²⁶, etc are also multiplying the extent of deprivation and sense of insecurity among the local forest inhabitants. The threat of eviction had loomed large over the forest people of this country ever since the promulgation of the WLPA, 1972 and FCA, 1980. Thus, historical injustice was perpetuated with the enforcement these two laws, which identified environmental protection and recognition of the rights of tribal communities as mutually irreconcilable.

Interpreting this act, the Supreme Court of India passed several interim orders to clear encroachment of forest lands. The latest of these orders (November 2001) was the most draconian, issued by the MoEF, which instructs the state governments and Union Territories to summarily evict all encroachers from forest land. As the Court and MoEF defined all land under the forest department as 'forest land', irrespective of the actual use of those lands, the order was used to evict even traditional settlements in forest areas including forest/Taungya villages. However, large scale industrialization and appropriation of forest land to industries and mining went unchecked displacing people from their homelands. The pace of diversion was stepped up since the 1990s. The FD has mostly been bulldozed into accepting such diversion. At no stage in the decision-making process regarding diversion, have communities living there been consulted.

The National Forest Policy 1988, introduced JFM and Eco-development, and individual innovations by many forest officials have attempted to change the above trends. However, it could not alter the fundamental problems of top-down governance, of alienation and dispossession of forest-dwelling communities, and of meeting the growing needs of such communities while ensuring sustainability and conservation. Rather, this was used as an instrument of deprivation of traditional rights through plantations over the lands traditionally cultivated by individuals and village community for long-time, promoting VSS. So there was need for legislation to create conditions for

²⁶ National Forum of Forest People & Forest Workers, *Voices from Forests*, Nagpur, 2002

such a change, moving away from the historical injustice outlined above, and responding to current conditions.

The above historical processes through which the rights of forest dwellers and forest adjacent populations, both tribal and non-tribal alike, to control, manage and use ancestral/ customary forest lands have been systematically and widely negated. The range of forest rights deprivation scenarios on the ground is very diverse and location specific, each with very complex circumstances, depending on the prior situations, the historical processes through which the state has extended its establishment. To sum up, following are the rights deprivation scenarios in India²⁷.

- * ***Rights deprived during the regular forest reservation/ settlement processes:*** Rights settlement processes as per law have hardly taken place. The actual implementation was extremely poor. Lack of literacy and awareness of the tribal population, as no special efforts were made to inform them properly, which meant that many of them could not claim their rights.
- * ***Improper or incomplete forest settlement/reservation processes:*** Improper or incomplete forest settlement process without people being notified have affected the rights of the forest dwellers. Large number of small habitations and villages were not surveyed so rights have not been recognised. Vast tracts of land as 'deemed' forests where the due legal process of settlement of rights was not subsequently followed and so, with no exercise to record the rights. All rights are extinguished by default.
- * ***Estate acquisition:*** State acquisition of private forest estates extinguished the rights of the pre-existing local users, which people were enjoying from the previous owners (West Bengal example).

²⁷ The typologies of rights deprivations drawn from Kundan Kumar et al. (2005, & 2008), Oliver Springate Baginski et al. (2009), Soumitra Ghosh, et al. (2009) Gadgil, M and Ramachandra Guha (1997) Kailas Sarap et al. (2009) (unpublished)).

- * ***Non-recognition of rights on land used for shifting cultivation:*** Shifting cultivation falls between the 'legitimate' land uses of forestry and sedentary agriculture but has not been accepted as a legitimate land use in settlements. For instance, in Odisha the estimated land for shifting cultivation on hill-slopes variously ranges from 5298 sq. kms. to 37,000 sq.kms., havenot been settled with tribal communities, which were categorized as State land, either Forests or revenue land²⁸. Most of the PTGs in India have been critically and solely surviving upon shifting cultivation. In the North East this has been a common land use practice. However, such practice has been treated as undesirable. It was banned and criminalised under existing laws.
- * ***Encroachment':*** (i) Lands which were declared state forests without right settlement, (ii) Displaced from ancestral land due to 'development' projects without rehabilitation, compelled to occupy new forest land, (iii) Occupied state forestlands due to scarcity of land or landlessness or moved to new places due to epidemic or socio-cultural belief.
- * ***Forest villages':*** Large number of pre-existing recorded and unrecorded forest and un-surveyed villages, habitations existing in forested landscape, the rights of which are not recorded. Even the villages established by Forest Dept for labour in forestry operations have been deprived of their basic rights and legitimate recognition of the rights over their critically dependent forest lands and resources.
- * ***Particularly Vulnerable Tribal Groups:*** The PTGs mostly from 'hunter-gatherers', shifting cultivators and other non-sedentary groups used shifting cultivation that has been part of the evolutionary process of human beings.

²⁸ A Socio-Economic and Legal Study of Scheduled Tribes' Land in Odisha (2005) By Kundan Kumar, PranabRanjanChoudhary, SoumendraSarangi, Pradeep Mishra and Sricharan Behera, (unpublished report) VASUNDHARA, Bhubaneswar, , p.4

- * ***Sacred groves:*** The widespread traditional practice of conserving local forests as sacred areas has no special provisions unlike other forests and often treated neglecting the community conservation potential through normal forestry operations.
- * ***National parks/sanctuaries:*** Rights of the inhabitant extinguished in protected areas without due legal process. Those who have inadvertently become residents of parks can also suffer from all sorts of service provision and access deprivations. As per information submitted to the Supreme Court, 60% of India's national parks and 62% of wildlife sanctuaries have not completed their process of rights settlement, subjecting hundreds of thousands of people to an extremely restrictive regime without acknowledging their rights.
- * ***Revenue & Forest boundary disputes:*** The revenue and forest departments' maintain separate land records for the areas under their respective jurisdictions. However, these records are full of anomalies in which both the Departments often have the same land in their respective records. The "forest area" in the country, in the records of the Revenue Department, is 7.66 million hectares less than that recorded as such by state Forest Departments. These 7.66 million hectares (an area twice the size of Kerala) are disputed between the two departments. The government has no idea whether these areas actually have any forests growth or not. Revenue departments have distributed leases/'pattas' on these lands, which the forest department terms illegal, after the enactment of the FCA 1980.
- * ***Joint Forest Management:*** There are now more than 100,000 ad hoc JFM committees formed based solely on administrative provisions with no legal basis. In some cases common forests and cultivated lands with unclear tenure have been brought under JFM by the Forest Department leading to evictions of cultivators and provoking conflict between villagers.
- * ***Self-initiated forest protection (CFM):*** Local CFM groups have sought to protect forests on which they depend, which

has often led to conflict with forest departments due to the protecting communities lacking legal rights over their forests.

- * ***Displacement/'diversion' of forest lands:*** Millions of forest dwelling and predominantly tribal households have been displaced from forest lands. They have received no proper compensation or rehabilitation simply because they lacked recognised tenure rights (Sarin 2005).
- * ***Loss of land through plantations:*** The plantations on government land cultivated by tribal is a prime reason for exclusion. For example, in Odisha during 2000-05 alone the plantation over 54,835 hectares area was carried out by Forest Department in Keonjhar, Koraput, Rayagada, Malkangiri and Nabarangpur district, which were actually cultivated by the people.

In this context the FRA has particular significance for the forested, tribal inhabited and mineral rich but most impoverished belt of India. About 23 per cent of the country's geographical area has been designated as forest, upon which about 275 million people depend for their livelihoods. About 100 million people live on land classified as forests. Forty percent of India's poor live in about 1.73 lakh forest-fringe villages. Poverty in forest areas is mainly because of insecurity of tenure and deprivation of access rights to forest resources – both pointing to the need for forest tenure and governance reforms.

1.3 The Forest Rights Act & its Key Provisions

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, has been enacted:

- (i) To vest forest rights and occupation in forestland in STs and OTFDs residing in forestland for generations. Their rights could not be recorded and provided a framework for recording the forest rights so vested on forestland.

- (ii) To strengthen conservation regime of the forests by ensuring livelihood and food security of the forest dwelling STs and OTFDs including the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance.
- (iii) To address the historical injustice done to the forest dwelling STs & OTFDs on their ancestral lands and their habitat, which were not adequately recognized during consolidation of State forests in colonial as well as in independent India.
- (iv) To address the long standing tenurial insecurity and access rights STs and OTFDs including those who were forced to relocate their dwelling due to State development interventions.

Broadly, the law *recognizes the following types of rights*:

1. **Land rights** – To land they have been occupying for cultivation or habitation prior to December 13, 2005 (section 4(3)). Those who have pattas, leases or grants issued by the revenue or other government department but which is not recognized by the forest department due to the land also being recorded as forest land, or where land is the subject of a dispute between the occupant and the forest department. The later can claim titles to those lands (section 3(1) (f) and (g)). The land cannot be sold or transferred to anyone except by inheritance (section 4(4)).
2. **Community Forest rights** - The law also recognizes a range of community forest rights including the following: Right of ownership, access to collect, use and dispose of minor forest produce which includes all non-timber forest produce of plant origin including kendu patta and bamboo that has been traditionally collected (see section 3(1) (c)). Grazing grounds and water bodies (section 3(1) (d)) Traditional areas of use by nomadic or pastoralist communities "i.e. communities that move with their herds, as opposed to practicing settled agriculture".

3. **Right to protect and Conserve** - This law provides communities the right to protect, conserve and manage the forest, wildlife and biodiversity. Section 3(1)(i) provides the right to protect, conserve and manage community forest resources, while section 5 empowers right holders and their Palli Sabhas to protect wildlife, forests, etc. This is a crucial provision to support and strengthen thousands of village communities who are protecting their forests and wildlife in a state like Odisha.
4. **Developmental rights of the Gram Sabha:** The Act has envisaged the most critical need of a village for developing minimum service delivery infrastructure. In a suppressive legal and state apathetic environment, fighting and assertion of rights and entitlement for a less literate innocent tribals and dalits communities to get access to service delivery system, despite having legal back up, would be a hard some affairs. In this context, the provision for developmental rights under FRA is very crucial.

The provisions for diversion of forest land for developmental facilities managed by the government made for the following 13 types of development facilities in a village:

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

Nature of Forest Rights:

1. A right conferred u/s 3(1) shall be:
 - heritable but not alienable or transferable
 - Registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of household headed by a single person
 - In the absence of a direct heir, the heritable right shall pass on to the next of kin.
2. Save as otherwise provided, no member of a forest dwelling ST or OTFD shall be evicted or removed from forest land under occupation till the recognition and verification procedure is complete.

1.4 Forest Rights Deprivations in Odisha & Importance of FRA

The rights deprivation scenario in Odisha is not different to other States. In addition, it's rather more intense and more critical with their variations in typologies.

Odisha is located on the eastern coast of India and covers a total area of 15570700 ha. The state is well endowed with natural – mineral, marine, agricultural and forest – resources, but has a high level of poverty at 55 per cent of the population, compared with the national average of 21.9 per cent (NCAER, 1999).

The scheduled tribes (ST) and scheduled castes (SC) constitute respectively 22.85 and 16.53 per cent of the total population. 62 communities have been designated as Scheduled Tribes of which 13 have been recognized as particularly vulnerable tribal groups. Nearly half the State's area (44.70 %) is under Schedule V of the Indian constitution with a total population of 9,870,884 (2011 census), out of which 68% is tribal and 20 % is Scheduled Caste.

According to Unstarred Question No 466 of Rajya Sabha, 63.5% of the Scheduled Tribes in rural Odisha were below poverty line as compared to 55 % and 33 % respectively for Scheduled Castes and General Castes. Almost 8111.55 sq. km. (5%) of Odisha geographical area has been declared as protected areas (Sanctuaries and National Parks). The majority of these protected areas are located in the Scheduled V areas, where there is a large concentration of tribal population.

The land and forest tenure history of Odisha is very complex, inherited from its diverse political and administrative history inherent from three British provinces namely Central Provinces (Parts of western Odisha), Madras Presidency (South Odisha), and Bengal Province (coastal Odisha) with amalgamation of 24 princely states merged with Odisha in 1948 & 1949. In Odisha the parts of Central provinces were governed by the IFA, 1927, whereas parts of Madras Presidency were governed by MFA, 1882. Almost all of the princely states had their own forest acts or Rules based on IFA, 1927 or MFA, 1882. The Odisha Forest Act, 1972 was passed overriding both the Acts and became applicable all across Odisha.

An objective and empirical research on historical processes of forest governance reflects the intricacies relating to forest tenure issues in Odisha. The IFA 1927 has remained as central legislation is still operational and has legitimated the deprivation of customary rights of the local communities. Through this Act, any forest land or wasteland is the property of the State and the Government assert proprietary rights over them by issuing a notification as reserved forest. This Act enabled the Government to declare more and more land as reserve forests, without ascertaining the rights of the tribals and other forest dwellers.

Interestingly, majority of the forest areas of the erstwhile princely states and Zamindaries²⁹ were declared through blanket notifications without proper survey and settlement of rights or following due process of law. This had resulted in continuation of forestland cultivation and existence of forest villages within these forest areas. When transfer of all the forest areas from the erstwhile princely states and Zamindaries in Odisha to the state govt. took place in 1952 an amendment was made in IFA, 1927, by adding u/s 20 (A), in 1954 and no further survey was undertaken and they were designated as deemed forests. For example, in Bamra/ Bamanda state (the erstwhile Sambalpur and present Deogarh district) there was no distinction between waste land and *sadharana* jungle and all waste lands were part of *sadharana* jungle³⁰. Many *Sadharana Jungals* were lost during the process of construction of DP Canal, named after the Rajmata of Bamra State, in 1938. After the merger, all the reserve forest of the state was retained as reserve forest and all other category of forest were declared as deemed protected forest. According to section 20-A (4) of the IFA 1927, “*forests recognized in the merged territories as Khasora forests, village forests or protected forests or forests other than reserved forests, by whatever name designated or locally known, shall be deemed to be **protected forests** within the meaning of the Act.*” As a result, large number of tenants lost their reclaimed land from the *SadharanJungal* without compensation, which had the maximum impact on the tenurial history of Deogarh. All the rights and concession enjoyed by the people were taken away³¹. The user needed permission for any kind

²⁹ Odisha had 24 Princely states & several Zamindaries as intermediary tenures prior to Independence, which were abolished in 1952 through Estate Abolition Act, 1952. Most of these relatively autonomous states had varied forest laws and rules based on IFA, 1927 & Madras Forest Act, 1882, *A Socio-Economic and legal study of ST land in Odisha*, 2005, page, 46, *Forest Enquiry Report*, Govt. of Odisha, 1959.

³⁰ *Sadharana* jungle includes that forest which by law is not declared as reserved forest of the state. Precisely the territory of *sadharana* jungle was far more as it includes all land other than land settled against individuals, habitation, orchid, tank, road, burial ground, land earmarked for future settlement or reserve forest. It included *Khesra*, *Patita* and *Abad* land.

³¹ R.K. Ramadhyani, *Report on Land Tenures and the Revenue System of the Odisha and Chhatisgarh States*, Volume III-The Individual Sates, Indian Law Publication, Berhampur, p.19.

of use of the forest. Even now, there are serious disputes regarding legal status of these deemed forests due to lack of final notification and incomplete rights settlement process of forest dwelling communities.

The most critical issue of the forest dwelling communities in Odisha is their right over the forestland and forest resources, upon which they have been critically depending for their survival. The availability of per capita cultivated land has reduced from 0.39 hectare in 1950-51 to 0.13 hectare in 2007-08³². The major proportion of land in the backward regions of the State³³ have been classified as govt land-forest and revenue wasteland, during revenue and forest settlement processes, ignoring customary rights of the people. Thus, the dependency on forestland cultivation is much higher in these regions. In the economic, socio-cultural and religious life of these populations forests played a pivotal role. In the Scheduled districts, the landless and marginal landholders have very high dependency over MFPs. Nearly 6-8 months in a year, the rural people living in and around forests critical depends on forests for their survival. It creates more than 300 million man-days for collection of MFPs³⁴. The other critical uses such as medicines, fruits and roots, fuel wood, burial and grazing grounds, religious and sacred places, water stream, etc are also derived from the forest.

It is estimated that 78% of the total population is critically dependent on primary sectors consisting of Agriculture³⁵, forestry

³² Economic Survey of Odisha, 2008-09, Govt. of Odisha.

³³ Analysis of data from Agriculture Census of Odisha 1995 by Vasundhara (the govt. land include all revenue waste land and forest land in the District e.g. Koraput-69.13%, Rayagada-81%, Nawarangpur-68.13%, Malkangiri-82.12%, Gajapati-84.61%, Kandhamal-85.53%, Sundergarh-78.13%, etc).

³⁴ Ojha, N., (2006) Strengthening forest-based livelihood in the new governance system: examples from Odisha, India, "[http://www.ntfp.org /sub.phpgosub/exchangenews-art&page](http://www.ntfp.org/sub.phpgosub/exchangenews-art&page)"

³⁵ The primary sector provides livelihood to 77.48% of total workforce. Apart from this, the dependence on primary sector in under-developed Kalahandi, Bolangir & Koraput region covering 8 districts has marginally declined from 85% in 1971 to 84% in 1991. Odisha Development Report, Planning Commission, page, 85 & 118

etc. for livelihood sustenance and forest based resources alone constitute nearly 40% of the total income of forest dwellers. So, governance of forest areas covering nearly 40% of the total geographical area of the state holds significant implication for livelihood and food security of forest dependent poor³⁶. Most of the forested landscapes are located in schedule Vth areas which constitute nearly 44% of the total geographical area of the state³⁷, where access to forests resources is very poor despite high dependency. According to an estimate, nearly 40% of the forest areas in Odisha still lack final notification and settlement of land and forest rights within these areas remain disputed³⁸. Many such forest areas contain large number of forest villages, which lack basic facilities due to non-conferment of status of revenue village. As per 2001 Census, 526 villages are located within Reserve Forest. The working plans also show existence of many more villages in RFs, PRFs, and Demarcated Protected Forests etc. These villages and dwellings constantly face the threat of eviction and exist under perpetual tenure insecurity. Apart from the procedural irregularities, widespread displacement of Tribal from forestland has also taken place due to development projects.

The MFA 1882 and IFA 1927 had specific provisions for declaring “Reserve Forests” and “protected forests³⁹” only after a process of rights settlement was carried out. The Odisha Forest Act, 1972, which is primarily based on IFA, 1927 also defines two categories of forests- Reserved Forest and Protected Forests. It follows the similar processes of settlement of rights before

³⁶ Report of Forest Survey of India (2003), 37.34% of total geographical area of Odisha is recorded forest area.

³⁷ In scheduled areas the proportion of tribal population is more than 50% of the total population, which are included in schedule Vth of the constitution having special laws for protection land and forest rights of tribal. There are six fully scheduled districts (Koraput, Rayagada, Malkangiri, Nawarangpur, and Mayurbhanj & Sundargarh) and several other Tehsil & blocks of other Tribal districts coming under scheduled area.

³⁸ Note on Survey and Settlement of forest land in Odisha, M.S.Sarin, 2002

³⁹ The MFA, 1882, also had provisions for declaration of Reserve Land, Protected Land and Unreserved Lands, which were extensively used in the Madras Presidency areas of Odisha.

declaration of Reserve Forest&says that the Government can declare any land which is the property of the Government as Protected Forest only:

“If the nature and extents of rights of Government and of private persons and village communities in or over the land comprised therein has been inquired into and recorded at a Survey and Settlement or in such other matters as prescribed”.

Prima facie, the forest laws provide protection for settlement of rights of the local people and communities before declaration of any land as forests. This covers a vast number of cases where the forest settlement process has either not been properly conducted, according to the due process, not been completed or people were not notified, or where all areas were not checked. A particular issue here is the declaration of vast tracts of land as 'deemed' forests, without any ecological or social surveys, and where the process of settlement of rights was circumvented. These include declaration of “deemed” Reserved Forests and Protected Forests, non-recognition of rights on land used for shifting cultivation and improper settlement of rights on forest lands. These factors have ensured that large areas of land have been categorized as forest lands without recognizing the rights of local communities on these lands⁴⁰.

In the previous section detailed mention has been made about the main effect of FCA 1980 and the legal constraints it had created and aggravated in the settlement of rights over the lands categorized as forestland. In Odisha due to improper revenue and forest settlement process large areas of lands have been wrongly classified as forestland without having any forests cover. These cannot be settled or recorded in the name of cultivators. Even those lands were given lease for cultivation before 1980. In Scheduled of Odisha the areas of forestland varies from 50 to 85

⁴⁰ A Socio-Economic and legal study of ST land in Odisha, By Kundan Kumar, PR Choudhary, Soumendra Sarangi, Pradeep Mishra, Sricharan Behera, Vasundhara, Bhubaneswar (2005).

%. In some of the villages 95 % of the lands within the revenue boundary belong to forest category.

This implies that once a land is classified as forest of any sort, it cannot be used for cultivation or any other purpose without MoEF's permission and ownership rights cannot be given without Supreme Court's permission. This all-encompassing law doesn't take into account the unique situations in different parts of the country, and assumes that categorization of land as forest has been done as per law and with justice (Kumar et al, 2005). It totally ignores the confusion that exists in land and forest records in various parts of India, including Odisha.

The extreme poverty prevalent across forest peoples in Odisha is closely linked to their systematic marginalization since colonial times. They have experienced deprivation of customary rights to practice their traditional livelihoods, and to own control and use forests and other common property resources⁴¹. Odisha has experienced all types of rights deprivation since colonial times. The box below presents those typologies of rights deprivations historically made on the forest dwelling communities.

The continued rights deprivations of the Scheduled tribes and traditional forest dwellers over their own ancestral lands have led to massive unrest and conflicts in those backward districts of Odisha. The growing extremism in those regions are said to be the result of such historical processes of exclusion in Odisha. In comparison to other States, the forest dwellers in Odisha face serious threat to complex deprivation issues and have been more vulnerable by losing their resources and homes. Therefore, FRA is very relevant in Odisha to address such long standing issue of deprivation.

⁴¹Kailas Sarap, Sricharan Behera, Pradip Mishra & Oliver Springate-Banginski (2009) *Forest Peoples, Rights Deprivations and the Forest Rights Act 2006: Pro poor institutional reform in Odisha*, page .3, Kundan Kumar, Pranab Ranjan Choudhary, Soumendra Sarangi, Pradeep Mishra and Sricharan Behera (2005) *A Socio-Economic and Legal Study of Scheduled Tribes' Land in Odisha*, page. 4

1.5 Context of the Study: Based on state wise data across the country on the recognition of IFR and CFR claims, the states can be categorized into five broad categories:

- The first categories of the states are those, which have either not started implementing FRA or have barely made a beginning. A large number of states fall in this category.
- In the second category are states like Tripura and Uttar Pradesh, which have focused only on IFR implementation.
- Third, are states that have recognized IFRs and CRts instead of CFR rights; Madhya Pradesh is an example.
- Fourth, are "low CFR performing" states that have implemented CFR rights but are at a very low level of implementation compared to their potential (less than 2%).
- Last or the fifth categories are States which are performing better. Four states fall in the better performing category as they show substantial efforts in implementing both IFRs and CFRs. These States are Gujarat, Kerala, Maharashtra and Odisha. Maharashtra stands out as the state with the highest achievement in recognizing CFRs though even Maharashtra has only achieved 18% of its potential. Similarly, Odisha has achieved only 6% of its CFR potential. This shows that the potential of F'RA is still not tapped properly (Kundan Kumar, Neera M. Singh, Y. Giri Rao). 2017: 40-43). The states that have made good progress in the recognition of CFRs have done so due to constant mobilization from civil society organizations who have convinced the political and bureaucratic leadership of the benefits of recognizing CFR rights. It has pushed the nodal agencies, district administrations, and the political leadership to take actions. Some progressive bureaucrats, especially officials from the tribal departments and district collectors have actively sought civil society support for CFR rights recognition. The examples are Gadchiroli in Maharashtra and Mayurbanj in Odisha. In Maharashtra, the governor's office has intervened and using its special powers for Schedule V areas to promote CFR rights (Kundan Kumar, Neera M. Singh, Y. Giri Rao. 2017: 42).

There have been serious flaws in many states about the constitution of the Forest Rights Committee (FRC) which is empowered to take decision at the grassroots level. FRC has a crucial role in assisting the Gram Sabha (GS) in determining the claims from individuals by receiving, consolidating and verifying them on the ground. In most states GSs have been recognized at the panchayat level, instead of the revenue village or as defined under PESA. Panchayats usually consist of more than one revenue village and several habitations/ hamlets. With this size, convening GS to reach a quorum in its meetings and forming FRCs to function effectively has been very difficult. In addition FRCs in some of the States have not been formed in a fair manner; for example, women and STs/OTFDs have not been adequately represented whereas government officials have been included, which is in violation of the Act/ Rules. SDLCs and DLCs, have often been issuing rejection letters without adequate grounds. This has been one of the biggest reasons for the inadequate implementation of the FRA in most of the States. Monitoring in some States has been very poor, due to infrequent monitoring meetings of the SLMC and absence of necessary clarification and guidelines to the implementing agencies as well as the non involvement of members of civil society. Several SLMCs or state nodal agencies have issued summary deadlines, or guidelines and directives. These have caused distortions such as not measuring the land before issuing titles, or giving predominant weight age to satellite imagery at the time of assessment.

1.6 Major Concerns in the Implementation of FRA, 2006:

Some of the major challenges coming in the way of effective implementation of FRA programme are as below:

1. In many states rates of claim rejections are very high. Claimants are not even informed about the reasons of rejection. A large numbers of applications are being rejected by the implementing agencies without any valid ground.
2. Lack of awareness among the claimants about the kind of documents required to provide proof of 75 years of residence or the agencies which can provide those documents. Sometime even officials are also not aware of the provisions of the Act and Rules.

3. Lack of awareness of the procedure to be followed for ensuring individual and community land rights, issuance of certificates under the FRA and its entry in the record of rights, land settlement and forest settlement records which are a requisite for taking loans from the bank.
4. Almost in every state the implementation of the CFRt under FRA has not initiated. Also, no information is maintained state wise on the extent of area over which CFRt have been claimed or vested.
5. Where agencies have approved the CFRt claims, there are two major lacunae in the titles given (a) Often titles are being issued in the name of a group of individuals rather than Gram Sabha, and (b) There is lack of clarity as to how these titles are to be entered in the RoRts and other government land records.
6. Poor land records maintenance has led to a large number of land disputes. Maintaining various rights vested under the FRA is a big challenge.
7. The FRA provides for systematic vesting of individual and community rights. But there are other Rules/Regulations in force in some states which work contrary to this. For instance, working plans/management plans are being prepared by the Forest Department for management of forest and wildlife. These plans specify certain rules and regulations for access and enjoyment of rights in the areas covered under them, for example, grazing rights, collection of fuel wood and MFP, etc. Similarly, JFM programme claims to have covered 55 million acres in the country. Joint Forest Management Committees (JFMC) have been constituted in various villages by the Forest Department for the protection and management of the forest areas. Community is given access and enjoyment of the rights including rotational grazing, fishing rights, collection of fuel wood and minor forest produce etc. The area covered under JFM conflicts with the area under CFR. Until March 2006, JFM committees have formed involving more than 100,000 villages covering more than 22 million ha of forests across the country. Similarly, the institution of Van Panchayat in Uttarakhand (which has a legal sanctity) already has

provision for the community forest. However, it seems that the whole state is not covered by van panchayat. In Garhwal region, community conserves and manage forest on Civil Soyam Land. Thus, there are pre-existing legally recognized rights under Van Panchayats. How FRC will functions in areas where van panchayats are functioning is still an unresolved issue?

8. In case, if no Community Forest Resource Rights (CFRRt) are recognized in a village (either due to JFM or van panchayat) the reasons for the same are not recorded.
9. Though FRA provides a statutory procedure for recognizing and protection of CFRs and CFRts by a gram sabha-based committee. But there are insufficient details available on the aspects of community-based forest governance. There is some confusion as to whether the community has rights to manage the entire CFR as defined in section 2(a) of 7 the FRA or only those areas within the CFR that had been traditionally protected as provided under section 3(1)(i) of the Act. Rights, powers, and responsibilities given to local communities are unclear as to how those responsibilities will be discharged, and what will happen when they are not discharged.
10. Forest records, maps and working plans are almost not made available to the FRC; lands that are being used by communities are routinely taken up for afforestation programmes under various projects; communities are being denied CFRt claims on lands because they are 'demarcated for mining'. In some places CFRt claims have been rejected for procedural reasons or just kept pending. In large number of cases, the rejections are not being communicated to the claimants and their right to appeal is not being explained to them.
11. In few states, in respect of the areas earmarked for mining or plantations, the claims of the tribal communities cultivating land in these areas (individual/community) are not being accepted without assigning any reason. Although as per rule, the rights of the communities cannot be denied in the name of the development or afforestation works.

12. Lack of coordination between Tribal Affairs/ Social Welfare, Forest, Panchayati Raj and Revenue has emerged as one major factor posing the biggest challenge in the effective implementation of FRA, 2006.
13. Absence of national and state level consolidated picture of the status of FRA implementation in Protected Areas and National Parks. There is a trend of initially denying the rights and rejecting claims under FRA within PAs in some states.
14. In view of the provisions of Section 4(5) of the Act, no member of the forest dwelling STs or OTFDs can be evicted and resettled from the National Parks and Sanctuaries till all the formalities relating to recognition and verification of their claims are completed. The Act clearly states to ensure that their rights need to be recognized first before any exercise for modification of their rights or their resettlement, if necessary is undertaken. But in practice, there is a blatant violation of such provisions of the Act.
15. The FRA has specific provision under section 4(2) for creation of Critical Wildlife Habitats (CWHs) within National Parks and Sanctuaries to keep such areas as inviolate for the purposes of wildlife conservation. Such areas are to be finally notified by the Union MoEF. So far no CWH has been established under the FRA. There is also confusion in the states between CTH and CWH, especially since CTHs have already been established in most Tiger Reserves under the WLPA.
16. A large chunk of forests have been diverted for developmental projects. This diversion of land has affected a large population of people dependant on forests for their livelihood and sustenance. Their rejection or consent to such projects has not been taking into consideration. There is a trend of by passing Gram Sabha before diverting forest lands for development projects.
17. Very often Gram Sabhas's consent is overlooked by the concerned DLCs and SDLCs;
18. Lack of initiative by the Forest Department in providing protection and Technical support to the Gram Sabhas to empower them to carry out Forest Monitoring, that is, the

extent of compliance with sustainable use and conservation regulations in the community- managed areas.

19. Forest Department is assigned the task of maintaining the documents related to rights vested under the FRA. Forest officials are of the view that when Revenue Department with the entire wherewithal at its command could not secure the rights of the aforesaid STs, than how the Forest Department with fewer staff and capability can ensure that these rights stay with rightful owners? The timely & smooth transfer of rights by the Forest Department to the next heir in the case of death of the right holder is another challenge. Here, mention needs to be made of Uttar Pradesh, where in an innovative step, Record of Rights are being updated through introducing a new column in books of records to enter the rights recognized under FRA.
20. PVTGs face difficulties in dealing with the formal procedure of different offices and filing of various forms hence, not able to get their IFRs, CFRts and right to habitation. Even DLC could not ensure habitat rights claims of PVTGs, pastoralists and nomadic tribes.
21. Lack of national level data on the status of FRA implementation with regard to Nomads and pastoralist comes in the way of formulating an effective plan for their CFRt.
22. Women in DLC, SDLC and FRC constituted under FRA, 2006 are not given adequate representation. Very often women are not intimated regarding meetings.
23. Lack of capacity building and awareness among the implementing agencies.
24. Compensatory Afforestation Fund (CAF) Act, 2016 recognizes no role of local community and Gram Sabhas in afforestation.

1.7 Objectives of the Study

1. Household profile (caste, education and occupation) of the beneficiaries
2. Time gap at different stages of implementation of Individual Forest Rights and Community Forest Rights

3. Whether gram sabha and forest right committee members are aware of the procedure of IFRt and CFRt and whether they are receiving applications from the claimants?
4. Extent of understanding of provisions of FRA, 2006 among stakeholders
5. Extent of granting IFRts and CFRts and how many have been granted land titles and legal status of land ownership
6. Role of revenue authorities in facilitating beneficiaries to get forest land rights
7. Extent of accepted/ rejected claims and find-out how far implementation of FRA, 2006 impacted in improving the household economy
8. To collate and review various forest laws/ legislations enacted by Ministry of Environment, Forest and Climate Change and land revenue laws as in force in different states and find out whether these laws have taken cognizance of FRA, 2006 and also to review whether the forest laws are facilitating the implementation of FRA, 2006 or putting hindrances
9. To analyze panachayat level officials, sub divisional level officials, District (ITDA officials and CSO, if any in the block/ district
10. To analyze the role of women at various stages in the settlement of IFRts and CFRts, if women were denied their rights under the act, find out the reasons;
11. To review and analyze Compensatory Afforestation Fund Act (CAF), 2016 at three levels viz. gram sabha, ecology and livelihood
12. To study the inter —departmental co-ordination and identify problems coming in the way of coordination; and lastly
13. Suggest interventions for effective implementation.

METHODOLOGY OF THE STUDY

2.1 Review of Literature

Although the present study is based primarily on the findings of the empirical study and analysis of primary data sources, literature review was necessary for substantiation and validation. It helps in understanding the past processes and observations, whereas it also helps in the collection of secondary information.

Several state- and national level studies have been done on FRA both by government and non-government organizations. In Odisha, non-government organizations like Vasundhara, RCDC, and FES, etc. have been involved in both state- and national level studies, and the government institution SCSTRTI also holds the same credit. National and international NGOs like Kalpavriksh, Action Aid, and OXFAM have also conducted studies at national level whereas the Ministry of Tribal Affairs, Govt. of India regularly e-publishes the status report on the progress in the implementation of FRA. The ST and SC Development Department, Odisha also provides the status of this progress at state level on its website. Besides, there are proceedings of several consultations on FRA available online which are quite useful [like, **Report of the National Consultation on Habitat rights of Particularly Vulnerable Tribal Groups (PTG), 2010**]. However, for obvious reasons, the selection of literatures was guided by the realistic requirement for the present study that is focused on Odisha.

Manthan 2010; Report of National Committee on Forest Rights Act was submitted to Government of India in 2010. Ministry of Environment and Forests and the Ministry of Tribal Affairs constituted a Joint Committee in April 2010 to review the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 popularly known as Forests Rights Act (FRA) across the country.

The report deals with implementation of the Forest Rights Act 2006, also included are factors that aid and impede its implementation. It helps reveal policy recommendation for changes in the future management of the forestry sector in India which may be necessary as a consequence of implementation of the Act. It identifies the role of various agencies (official and others) in facilitating forest-dwellers carrying out their roles regarding conservation and management of forests. It defines the new role for the Forest Department vis a vis the Gram Sabha for forest conservation and regeneration, and identifying opportunities for and recommend measures to ensure convergence of various beneficiary oriented programmes for the forest rights holders taken up by various line departments in the states.

Compendium of Judgement on Forest Rights Act; 2015, compiled by MoTA and UNDP has attempted to compile various enabling judgements of Hon'ble Supreme Court of India, High Courts and lower courts for effective implementation of FRA. The compendium has tried to provide a brief analysis of each of the case. This helps in sharing the directions on implementation and positive rulings which can be used by all stakeholders involved in the implementation of FRA.

SCSTRTI has contributed remarkably to the FRA literature by compiling and/or publishing a number of research reports and compendiums, etc. including manuals. Its first major step in this direction was a **Quick Impact Assessment on Implementation of ST and Other Forest Dwellers (Recognition of Forest Rights Act)-2006** in Odisha, released in December 2009.

Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006: Study on Implementation Status and Good Practices in Odisha provides a good insight into the realities of how the misinterpretation of the law has deprived the OTFDs of their rights, as well as document good practices. This study was commissioned by SCSTRTI and conducted by Vasundhara in 2012. **Implementation of Forest**

Rights Act, 2006: Approaches, Good Practices and Learning Experiences from Selected States is another useful study of SCSTRTI conducted with the consultancy support of FES. In 2013-14, it took up a national study on the status of implementation of the FRA in the neighbouring states of Odisha comparing Andhra Pradesh and Chhattisgarh with Odisha.

Land Utilization, Convergence of Schemes by FRA ST Beneficiaries in Selected Districts of North and South Odisha (2015) is a study report prepared by SCSTRTI based on sample survey in 5 districts of the state. Apart from its observations on the convergence scenario, the report has also pointed out some of the loopholes in the system such as absence of a monitoring mechanism to track the benefits accrued to right-holders.

The **Training Manual** (Part I and II) developed by the National Resource Centre (NRC) at SCSTRTI and published in 2016 has discussed some major issues like habitat rights, CFR management, women and FRA, and convergence. In its part-II, it has exclusively dealt with the delination and mapping of community rights and community forest resources.

The **Compendiums of government circulars and guidelines** first compiled by SCSTRTI (revised publication in 2012) followed by that prepared by the NRC (2016) have provided very useful clarifications and instructions issued by government agencies from time to time to comply with the provisions of FRA.

Community Forest Resource Rights in Odisha and Chhattisgarh: Provisions versus Realities by Rath (2015) is an useful comparison between the two states on the status of implementing CFR. Similarly, **NTFP Policy Regime after FRA: Studies in Select States of India** (Bag, Ojha, and Rath; 2010) published by RCDC has compared the NTFP policies in 7 states of India with a conclusion that the mandate of FRA on NTFP/MFP was yet to be properly honored by these states 6 years back though some changes were later made in Odisha. **Study on Actual Use of FRA Recognized Land at Individual and Community Level**

(Mohanty, 2013) is another useful e-publication of RCDC. It throw light on the post-entitlement scenario in the state based on case studies in several districts.

Study on “Actual use of FRA recognized land at individual and community level”, carried out by RCDC in 2013 is an outcome of series of case studies, information collected through RTI. Other sources like govt. convergence guideline & literatures, discussion with village communities, community federation, campaign group and CSOs, and its detailed analysis. The study tries to assess the status of FRA claimed lands after recognition of rights. The general understanding is that FRA has been considered an ameliorative step towards undoing the historical injustice done to the forest. This relates to lands that are under community possession or in possession of the resident households in the village duly approved by the community through customary rights or otherwise. Through the stages of implementation of the FRA in Odisha there has been some remarkable development in terms of granting of rights over individual claims and community claims. Despite the fact that there is little awareness across the districts and blocks in the State. Ofcourse, there are some good examples of recognition of rights and the subsequent linkage of the FRA lands with other development programs.

Potential for Recognition of Community Forest Resource Rights Under India's Forest Rights Act; July 2015; a study carried out by Rights and Resources Initiative, Vasundhara and Natural Resources Management Consultants makes a preliminary assessment of the potential area over which CFR rights can be recognized in India under the FRA. The estimate provided offers a baseline for planning and effective implementation of CFR rights recognition under the FRA, and allows policy makers and forest dependent communities to assess the extent to which laws have been implemented

Foundation for Ecological Security (undated); **Gosthi Jangala Adhikara Swikruti Ebam Baunsha Sambalara Parichalana: Jamguda Gaanra Anubhuti(Odia)**; CWS (2015),

CFR Protection and Management Plan of Duvia Gram Sabha in Mayurbhanj District and Gopalpur Gram Sabha in Balasore District of Odisha under FRA, 2006; Bhubaneswar; and DFO, Kalahandi North Division(undated); **Microplan For Harvesting Bamboo by Jamguda Gram Sabha** help us understand the way the first phase of CFR management plans have been initiated in the state, whereas Rath (2016), **Community-based Forest Management and Livelihood Development Plan of Karlakana and Podchuan** (each separate), NIRMAN, Bhubaneswar demonstrates an advanced and improved version of the CFR management plans.

The article of Sarap, Sarangi, and Naik, **Implementation of Forest Rights Act, 2006 in Odisha: Process, Constraints, and Outcome** published in the 7th September 2013 issue of *Economic and Political Weekly* is a useful analysis of the scenario in the state based on sample survey.

Campaign for Survival of Dignity(CSD) has been the key social activist organization promoting the FRA and monitoring its progress at various levels. **Critical Observations on the 'Implementation Status Report of Forest Rights Act, 2006' Produced and Uploaded by the State Level Monitoring Committee (SLMC), Odisha** (2013) compiled by CSD's Odisha chapter provides us an understanding of the claims versus realities. It shows that most of the so-called CFR titles distributed in Keonjhar district were actually related to Section 3(2) of the Act, i.e. development rights.

Post-CFR Scenarios in Central Indian Landscape: Prioritizing Issues and Developing Support Mechanisms (A Scoping Study) is a report prepared by Kanch Kohli (2015) with support from FES. It discusses some of the issues related to the post-entitlement scenario in CFR villages in Central Indian states including Odisha. The report incorporates valuable inputs provided by eminent civil society experts in a meeting convened by FES for this purpose at Anand. For instance, it states that whereas in most cases the claimant communities were involved in protection of the forest rather than management, the actual management of CFRs is now to begin.

Promise and Performance: Ten Years of The Forest Rights Act in India is the latest civil society review of the achievements under FRA in the country during the past 10 years. Released in December 2016 and compiled as a citizen's report as a part of the *Community Forest Rights-Learning and Advocacy Process*. The report discusses the performance, reasons of poor implementation of FRA, and also the way ahead. The same initiative has also simultaneously released the **Odisha** part of the review, both of which are available at fra.org.in.

2.2 Approach and Methodology: The study methodology included both qualitative and quantitative methods, each being based on both primary and secondary data collection and analysis, as follows:

- ***Qualitative methods:*** This focuses on the proceedings of DLCs, SDLCs, and FRCs in the districts so as to understand what exactly the process has been. The latest three and first three proceedings of DLCs and SDLCs were collected for this purpose. Though it was successful either partially or with availability of some more proceedings of the intermediate period. All proceedings of the SLMC were studied along with those of the Tribes Advisory Council from 2011 to 2018. While this was considered to be a primary source of information, secondary information was collected from various published/e-published/unpublished literatures focusing on FRA.
- ***Quantitative methods:*** Relevant statistical data were collected from primary and secondary sources and analyzed. Usually the performance was measured in terms of percentage of achievements, and line graphs, bar graphs and pie charts were used to project the findings. Progress reports accessed from the Ministry of Tribal Affairs, Govt. of India as well as the ST and SC Development Department, Govt. of Odisha provided some key statistics. It listed the overall progress in the implementation of FRA. Statistical information was obtained from district-level nodal agencies.

The empirical study was conducted in 2 districts, namely Sundergarh and Kandhmal with prescribed formats. The household schedules provided both qualitative (like, use of the forest land prior to the claim and after the entitlement) as well as quantitative (like, area/extent of forest land recognized) information. A master table was prepared using the household survey data from which data pertaining to specific queries or issues were obtained through 'filtration' and were then subjected to analysis. Qualitative survey data was transformed into numerical codes for the quantitative analysis.

Valuable feedback was also obtained from various other stakeholders using different schedules, either through direct contacts or through e-mail. A formal request was sent from SCSTRTI to select competent authorities of the civil society including the CSD, Odisha for their critical inputs. Two NGOs and two individual experts responded with their valuable feedback. This helped in the study.

Media reports and brief and/or detailed observations made by competent individuals/authorities/organizations on various FRA-related issues were also studied and used in the analysis.

2.3 Sampling for the Study

Method and Size of the Sampling

The method of sampling is Purposive Sampling. The size of Sampling is 160 households of Odisha, Kandhamal and Sundergarh 2 districts of Odisha.

- The study was conducted in 2 blocks of each district. The sample size of 160 household was segregated into 80 household for each district.
- The sample size of 80 household per district was again segregated in 40 households in each block.
- The study was conducted in 2 villages of every block. 20 HHs were taken up in each village for the study. The following table illustrates the sample size.

Table No. 1
Sample Size of the Study

KANDHAMAL				SUNDERGARH			
District (80 HHs)				District 80 (HHs)			
Block (40 HHs)		Block (40 HHs)		Block (40 HHs)		Block (40 HHs)	
Village 20 HHs	Village 20 HHs	Village 20 HHs	Village 20 HHs	Village 20 HHs	Village 20 HHs	Village 20 HHs	Village 20 HHs

The different parameters taken into consideration in this study has specific sample size as illustrated below:

1. There must be sample size of 20 household from the PVTG out of the 80 household in each district.
2. There must be sample size of 20 rejected cases and 60 recognised titles in terms of the Recognition of title out of the 80 household per district.
3. There must be a sample size of 10 households pertaining to the OTFD out of the 80 households from each district. Out of this 10 households pertaining to OTFD, 2 sample should be of women and 8 men right holders whose rights have been recognised under FRA.
4. There must be sample size of 70 households pertaining to Scheduled Tribes out of the 80 households from each district. There must be a sample size of 10 households pertaining to the women right holders out of this 70 ST household, whose rights have been recognised under FRA. The following table illustrates the sample size.

Table No.2
Specific Sample Size of the PVTG Community

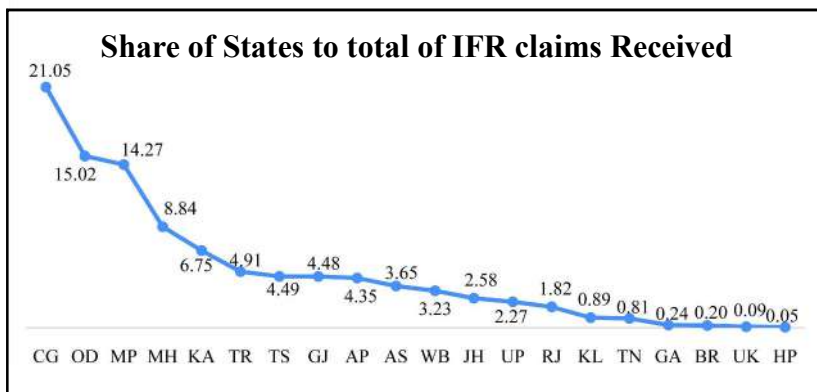
PVTG	Recognised	Rejected	ST		OTFD	
			70 out of 80		10 out of 80	
			F	M	F	M
10 out of 80 HHs	60 out of 80 HHs	20 Out of 80 HHs	10	60	2	8

IMPLEMENTATION OF FRA IN INDIA WITH SPECIAL REFERENCE TO ODISHA: A COMPARATIVE ANALYSIS

3.1. FRA Scenario: Odisha versus Rest of India:

3.1.a: Individual Forest Right Claims:

IFR Claims Received: As on 31 December 2018⁴², a total of 40.79 lakh individual forest right claims have been received from 20 States, of which scheduled V and VI states constitutes 81% of total claims received. In terms of number of claims received, the State of Chhattisgarh followed by Odisha and Madhya Pradesh have recorded the highest receipts of individual claims under FRA. These 3 states share 50% of total IFR claims received, while Odisha it is 15%. (See below Graph)



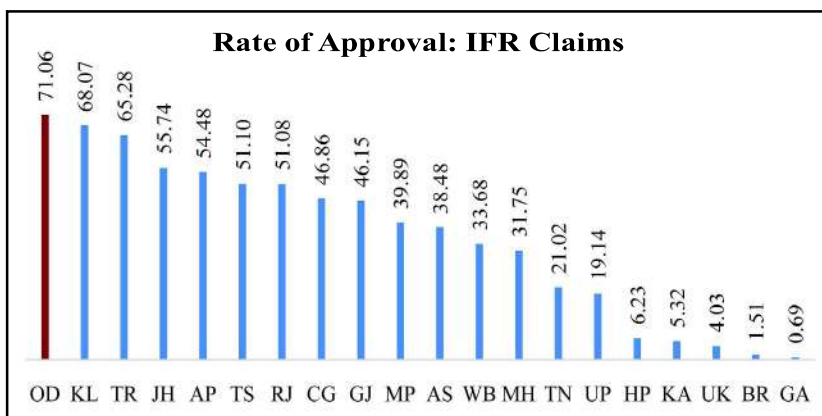
Graph No.1
Share of States to Total of IFR Claims Received

Distribution of IFR Titles: Similarly, by end of December 2018, a total of 18.27 lakh IFR titles distributed in 20 States, of which

⁴²Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 31.12.2018], Ministry of Tribal Affairs, Government of India

87% are from the Scheduled V & VI States. Highest number of IFR titles distributed in Odisha (4.23 lakhs) followed by Chhattisgarh (4.01 lakhs) and Madhya Pradesh (2.24 lakhs), while lowest number of titles are distributed in the State of Goa (17) followed by Himachal Pradesh (129) and Uttarakhand (144).

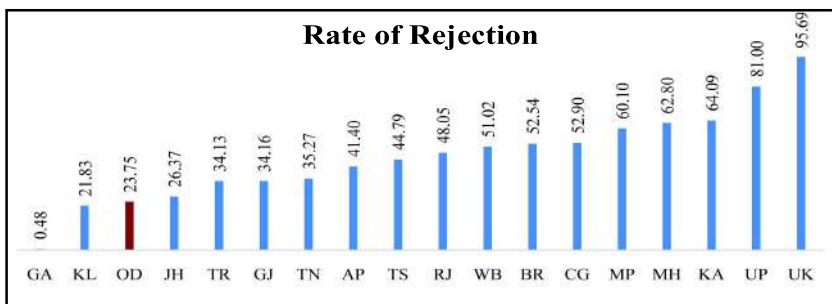
In terms of rate of approval against total claims received, the State of Odisha tops the list followed by Kerala and Tripura, while 4 states like Himachal Pradesh, Karnataka, Uttarakhand and Goa, where rate of approval is below then 10%.



Graph No.2
Rate of Approval of IFR Claims across States

Rejection of IFR Claims: As per the Monthly Progress Report of Ministry of Tribal Affairs for the month of December 2018, a total of 18.92 lakh IFR claims have been rejected in 18 states, while in two states namely, Assam and Himachal Pradesh information is not available. The average rate of rejection is 46%, while in scheduled states it is 44%, but 78% of total rejected claims are also from the scheduled states.

The State of Goa (0.48%) registers lowest rate of rejection followed by Kerala (22%) and Odisha (24%), while in Uttarakhand & Uttar Pradesh more than 75% of claims have been rejected.

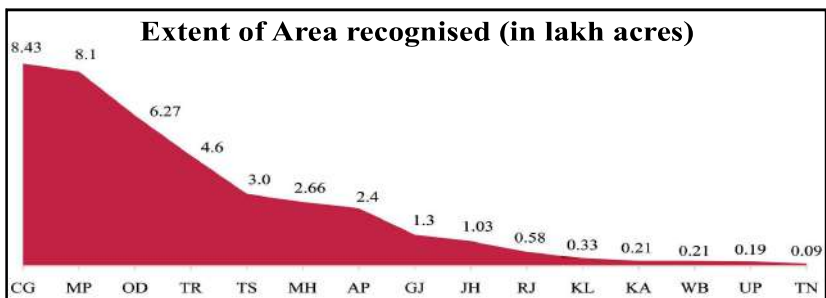


Graph No.3
Rate of Rejection of IFR Claims across States

Recognition of Extent of Forest Land: The sub-section 6 of section 4 of the Act caps upper limit of extent of area to be recognised under the Individual Forest Right is 10 acres or 4 hectares. However, this upper limit is only applicable to clause (a) of sub-section (1) of section 3 not for clause (f), (g) and (m) of sub-section (1) of section 3 of the Act, which are part of the Individual Forest Right.

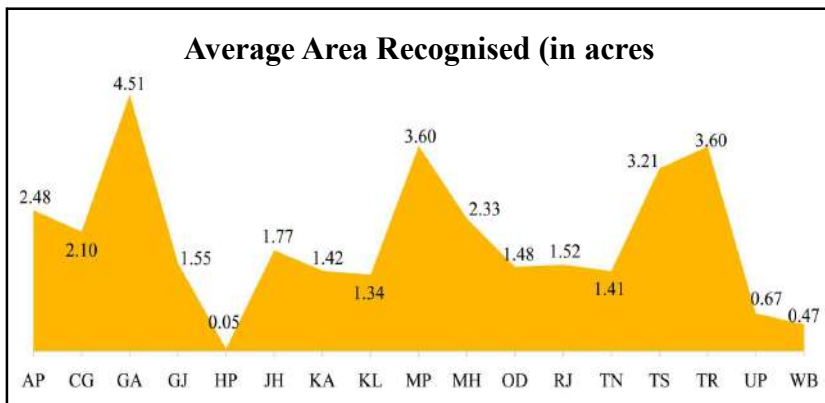
Till end of December 2018, a total of 39.32 lakh acres of forest land has been recognised under the Act, which is only 2.08% of total recorded forest land of the country.

The State of Chhattisgarh (8.43 lakh acres) tops the list in terms of extent of forest land recognised under the IFR followed by Madhya Pradesh (8.10 lakh acres) and Odisha (6.27 lakh acres).



Graph No.4
Extent of Forest Area recognised under IFR Title

An average area recognised under the Individual rights is 2.22 acres in 17 states excluding Assam, Bihar and Uttarakhand as information is not available in the report. The State Goa tops the list with an average area of 4.51 acres, followed by Madhya Pradesh & Tripura, where average area is 3.60 acres respectively. The State of Odisha ranks 11th position in terms of average area of recognition amongst seventeen states.

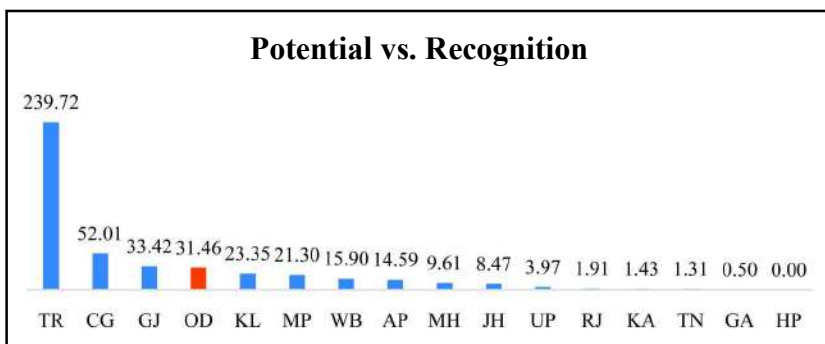


Graph No.5
Average Forest Area Recognised under IFR

The State of Forest Report – 1999, mentions that 32.18 million hectares of the forest land is being used by 142 million rural people from 1.59 lakh villages of India which includes both for agriculture and other uses like MFP collection

Similarly, the Wasteland Atlas of India – 2010, published by Ministry of Rural Development in collaboration with National Remote Sensing Agency, mentions that prior to 2005 around 252.53 lakh acres of degraded forest land was under agriculture, which is around 13% of the total recorded forest land of the country. Till end of December 2018, only 17% of forest land has been recognised against the occupation.

The below graph depicts forest land recognised under the IFR claims against potential forest land to be recognised.



Graph No.6
Forest land recognised under the IFR claims against
potential forest land to be recognised

Except, the State of Tripura none of the state attended the minimum potential. In Odisha, only 31% of potential forest land has been recognised.

3.1.b: Recognition of Community Forest Rights:

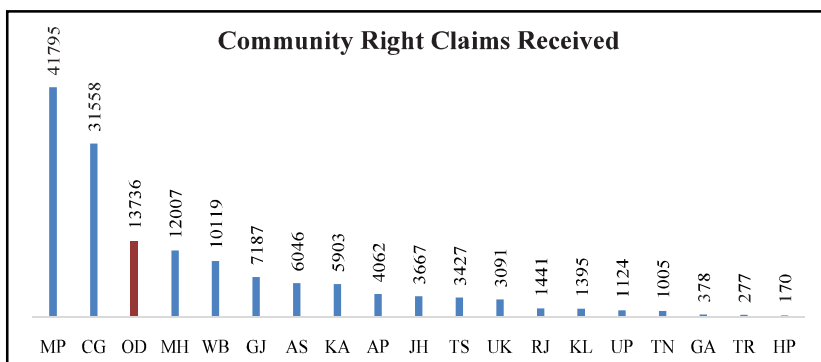
The amended rules 2012, defined the community right, which includes the forest rights listed in clauses (b), (c), (d), (e), (h), (i), (j), (k) and (l) of sub-section (1) of section 3, especially

- Rights recognised by erstwhile Princely States, Zamindars or such intermediary regimes
- Right over Minor Forest Produce, which includes collection, use and disposal
- Entitlement over fish and other products of water bodies, grazing, access to seasonal resources of nomadic or pastoralist communities
- Community tenures of habitat of PVTGs and Pre-agricultural communities
- Conversion of all forest villages/un-surveyed villages or habitations located inside the forest land into revenue village
- Right to protect and govern the community forest resources
- Traditional or customary rights which are not enlisted under section 3 (1) of the Act

- Access to biodiversity and community right to IP & TK related to biodiversity and cultural diversity

The amended rules 2012 prescribed two formats for community right, one is for community forest right and another for community forest resources.

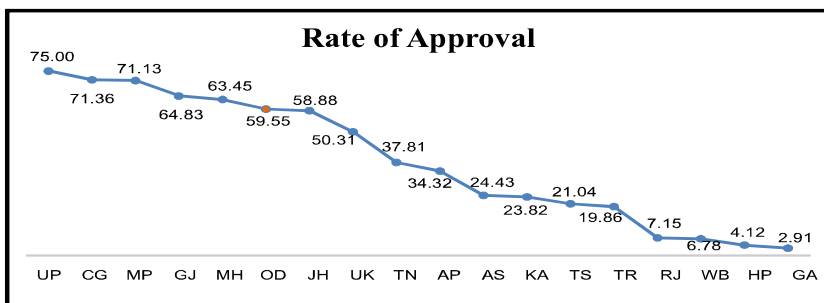
As the segregated information is not available for both sub-categories rights under the community right in the MPR, so it is quite difficult to compare the progress Odisha with rest of states against each aspects of community right.



Graph No.7
Community Claims Received across States

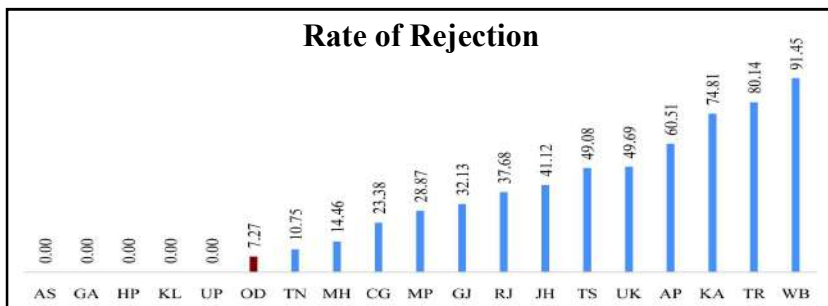
Distribution of CR Titles: Similarly, by end of December 2018, a total of 0.75 lakh CR titles have been distributed out of 83,505 approved, of which 96% are from the Scheduled V & VI States. Highest number of CR titles distributed in Madhya Pradesh (27948), followed by Chhattisgarh (21967) and Maharashtra (6909), while lowest number of titles are distributed in Uttarakhand (01), Goa (07) and Himachal Pradesh (07). Odisha occupies 4th position.

In terms of rate of approval of claims, Uttar Pradesh tops the list, while Odisha is in 6th position.



Graph No.8
Rate of approval of CR Claims across States

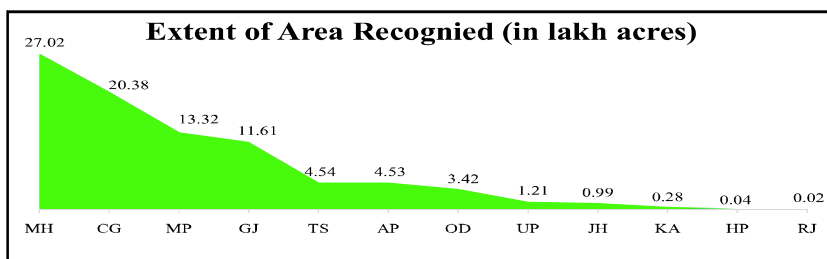
Rejection of CR Claims: A total of 46,215 claims have been rejected out of 1.48 lakh claims received. The average rate of rejection is 31%, which below then rate of IFR claims rejected. In terms of numerical value, highest number of claims are rejected in Madhya Pradesh (12066) followed by West Bengal (9254) and Chhattisgarh (7378). The rate of rejection of community right claims are depicted in the graph below.



Graph No.9
Rate of Rejection of CR Claims across States under FRA

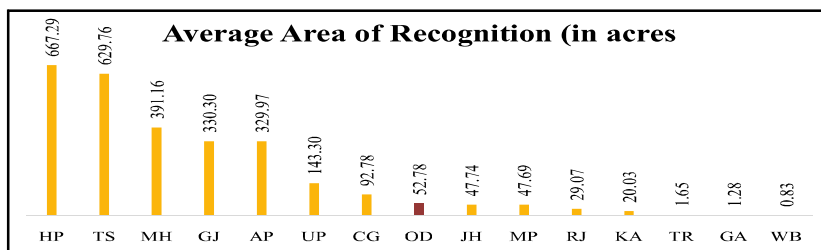
Recognition of Extent of Forest Land: A total of 87.41 lakh acres of forest land has been recognised, which constitutes only under the Act. This is only 4.62% of total recorded forest land of the country.

The State of Maharashtra (27.02 lakh acres) tops the list in terms of extent of forest land recognised under the CR followed by Chhattisgarh (20.38 lakh acres) and Madhya Pradesh (13.32 lakh acres).



Graph No.10
Extend of Forest area Recognised under CR

The national average area of recognition is 118 acres excluding states like Assam, Tamilnadu and Kerala as the information on area is not available. The Himachal Pradesh tops the list in terms of average area recognised under the community followed by Telengana and Maharashtra. The average area recognised in Odisha is 52.78 acres.



Graph No.11
Extend of Average Area Forest area Recognised under CR

Recently, a number of civil society organizations collectively reviewed the status of implementation of FRA in the country during the last 10 years⁴³. They said that whilst there has been good progresses and ac^{hie}vements, less than 5% of the potential right-holders have benefited under the Act, while the rights of around 190 million people in about 30 million hectares of forest land is yet to be recognized⁴⁴. Citing examples from

⁴³ Vide **Promise and Performance: Ten Years of The Forest Rights Act in India**, discussed in Section 2.1 of this study report

⁴⁴ Around 190 mn forest dwellers unrecognized 10 years after FRA, *India Today*, 13 Dec. 2016, <http://indiatoday.intoday.in/story/around-190-mn-forest%20dwellers-unrecognized-10-yrs-after-fra/1/833398.html>

Odisha's Mayurbhanj district where recognition of CFR has helped address the issue of Maoist influence in the Shimilipal region. It was said FRA provides similar opportunities in other parts of the country⁴⁵. The review found that Maharashtra, Gujarat, Odisha and Kerala led in recognising community and individual forest rights. States like Assam, Bihar, Goa, Himachal Pradesh and Uttarakhand lagged behind. The poor progress is attributed to various factors such as lack of adequate capacity of the state- and central nodal agencies responsible for the implementation of FRA, the apathetic or hostile attitude of the Forest Department, lack of necessary political will, and intentional efforts to undermine the law⁴⁶.

Some immediately relevant statistics as furnished in the citizen's reports released under the afore-said civil society initiative as a part of the *Community Forest Rights Learning and Advocacy Process*, have been provided in the following tables:

Table No. 3
Potential⁴⁷ and performance of CFR recognition

Region	Potential of CFR recognition (acres)	CFR recognized (acres)	Remaining potential for CFRs (in acres)
India	85605944	2782078	82823866 (96.75 %)
Odisha	5788714	310824	5477890 (94.63%)

(based on Table-4, Promise and Performance: Ten Years of The Forest Rights Act in India)

⁴⁵ See '10 years of Forest Rights Act: Some tribals happy, most still suffering', Catchnews, 13 Dec. 2016, <http://www.catchnews.com/india-news/10-years-of-forest-rights-act-some-tribals-happy-most-still-suffering-1481639766.html>

⁴⁶ See 'Landmark forest rights law crippled by conflicting policies', The Quint, 13 Dec. 2016, <https://www.thequint.com/india/2016/12/13/indias-landmark-forest-rights-law-hobbled-by-conflicting-policies-legislation-lack-of-political-will-funds-advocacy>

⁴⁷ The potential has been estimated partly on the basis of data on the forest area recognized for community purpose as per the settlement rules, partly on a conservative estimate of the forest area outside village boundaries but under community use, and similar other methodologies; and hence are more indicative in nature than factual.

EVOLUTION OF POLICIES FOR EFFECTIVE IMPLEMENTATION OF FRA IN THE STATE

4.1 Tracing the Journey:

The Forest Rights Act, 2006 was notified in the Gazette on 2nd January 2007. The draft Forest Rights Rules were published under the notification of the Government of India in the Ministry of Tribal Affairs on 19 June 2007 and made public. Objections and suggestions were invited from all persons likely to be affected within a period of 45 days from the date of said notification. 'The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules', 2007 were finally notified on 1st January 2008 which paved the way for the implementation of the Act for all practical purposes as the Rules provide the details of who is to do what and how. The Rules also provide the basic tools for starting the claim process, i.e. formats in which the application is to be made and claim recognized.

Subsequent to the notification of Forest Rights Rules, the State Government initiated the implementation of Forest Rights Act. It constituted empowered committees at different levels like State Level Monitoring Committee, District Level Committee and Sub-Divisional Level Committee, as mentioned under Forest Rights Act, vide notification no. 4694-TD-II-3/2008 dated 1st February 2008. The constitutions and functions of the respective committees were elaborately explained as provided under the Forest Rights Act and Rules. Following the formation of the State and District Level Committees, steps were taken for the formation of Forest Rights Committees in all the villages of the State.

Officially, the special meeting of Gram Sabha/Pallisabha was called on 28.2.2008 for constitution of FRC in the country. But in Odisha, state-wide special Pallisabha was organised on 16th and 23rd March 2008 vide letter no. 9153 of Panchyati Raj

Department, dated 26.02.2008. Subsequently letter was issued by Panchayati Raj Department on 24th March 2008 to convene Pallisabhas in villages where no Pallisabha were conducted or Forest Rights Committee were not constituted. Strict instructions were issued to hold Pallisabhas for constitution of Forest Rights Committee in all villages by 30th April 2008. This was extended to 30th June 2008 (letter dated 25th May 2008). Instructions were issued to all Collectors by the Panchayati Raj Department on 30th December 2008 to take steps for conversion of all forest villages to revenue villages and constitute Pallisabha in such villages for the constitution of Forest Rights Committee. By June 2010, 47345 FRCs were constituted out of 47529 inhabited villages.

Immediately after formation of statutory bodies under the Forest Rights Act at different tiers the key initiatives taken by the ST & SC Development Department and Scheduled Caste & Scheduled Tribe Research & Training Institute (SCSTRTI) to facilitate the process of FRA implementation at the field level were:

- Translation of Act and Rules in Odia which were distributed to all Gram Sabhas/Pallisabhas and Forest Rights Committees.
- Steps were taken for printing the required number of copies of the Act and Rules for distribution among the various stakeholders i.e. Zilla Parishad members, Panchayat Samiti members, Gram Panchayat members, Gram Sabhas, etc
- Series of trainings and awareness camps were conducted for state- and district level officials, PRI members and IEC materials were distributed.
- Training programmes were conducted in districts for Revenue-, Forest-, ST & SC- and Panchayati Raj Department officials.
- Frequently Asked Questions (FAQ) on FRA clarifying the doubts about the Act and its provisions were compiled and printed both in Odia and English. These were circulated among the officials and others for facilitation of proper implementation of the Act.

4.2 Forest Rights Act in Judicial Custody: Pace of Implementation in a Deadlock

A writ petition, W. P (C) No. 4933 of 2008 was filed in the Odisha High Court by the Society of Retired Forest Officers on 23.07.2008 challenging the Forest Rights Act, arguing that the Act would destroy the flora and fauna. The Hon'ble High Court directed '*xxx not to undertake any felling of trees and not to alienate any land by issuing patta or by any other manner pursuant to the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act 2 of 2007) particularly from out the Sanctuaries, National Parks and Biospheres (Reserve Areas) until further orders*'. **The implementation of the Forest Rights Act came to a standstill in the state due to this interim order passed by the Hon'ble High Court. This interim stay order restrained the government to issue any titles on the forest rights claims.**

This deadlock led to a stir among the tribal groups. State-wide consultations were held among the tribal groups, people's organisation, and lawyers' association of the state to intervene in the case to defend rights of the forest dwelling communities. Counter petitions were filed by the tribal groups and individuals with support of people's organisations challenging the writ petition. The State intervened and the Hon'ble High Court passed another interim order on 02.09.2008 which allowed the process of identity and recognition of the persons etc. under Forest Rights Act to go on. However the final decision would not be taken without the leave of the Court.

The SC & ST Development Department intervened in the matter, filing a petition in the High Court pleading for vacating the interim stay order of the High Court. Vacation petitions were filed by other parties and after sustained efforts, at different levels and series of hearings the High Court vacated the stay on 12th August 2009. This paved way for issuance of titles to the forest rights claimants.

4.3 Key Initiatives taken by the State Government (2009-2018)

After vacation of the interim stay order, the Forest Rights Act found a new base of life in the state. The process of implementation was resumed with full vigour. The ST & SC Development Department, being the nodal department immediately issued orders to all Collectors on 19.08.2009 to issue certificate of titles to all the eligible claimants whose claims were verified and were pending at District Level Committees.

A study on 'Status of implementation of Forest Rights Act' was undertaken by SCSTRI and ST & SC Development Department in 2009-10 to understand the actual progress of Forest Rights Act in the State. It sought to identify the key issues and challenges in FRA implementation, and recommendation for smooth and effective implementation of Forest Rights Act. Based on the recommendations of the study a number of proactive steps were taken to ensure successful implementation of the Act both in letter and spirit.

The said Department took proactive steps in awareness generation, information dissemination and capacity building of key stakeholders in different provisions of the Forest Rights Act. The SCSTRI played a crucial role in developing the resource and communication materials and imparting training to various stakeholders in the implementation of the Act.

4.3.1 Sensitization on the various provision of the law

The state government undertook a special drive for sensitization of various stakeholders on the different provisions of the Act and Rules. A two-pronged strategy was adopted for creating awareness and widespread information dissemination.

A. Development and dissemination of resource and communication materials on the Act and Rules

- Translation of the Act and Rules into Odia and distribution of the same to all Gram Sabhas.
- Translation of Act and Rules into 10 tribal languages and distribution of the same to all Micro Project areas.
- Process materials, guidelines, Training manuals on Act and Rules developed and widely distributed.
- Frequently Asked Questions on FRA clarifying the doubts about the Act and its provisions have been compiled and printed both in Odia and English and circulated among the officials and others for facilitation of proper implementation of the Act. (D.O No 40373/SSD, dated 21.11.2008)
- Frequently Asked Questions developed on determination and recognition of Community Forest Rights to be conferred under Forest Rights Act 2006 and rules thereof (D.O No 2348/SSD, dated 22.02.10) and circulated among the officials, Gram Sabhas, FRC members, SDLC/DLC members and others for expediting the process of recognition of Community Forest Rights.

B. Capacity building of various stakeholders (govt. officials, PRI members, FRC members, people's organisations/ NGOs/CBOs, SHG members, tribal youth etc.) through series of training and orientation programmes, in a phased manner.

- Trainings and awareness camps conducted at various levels and IEC materials distributed.
- Training of Trainers' Workshop held at the state- and district level for government functionaries, FRC members, and Gram Sabha members.
- Special training programmes organised for Tribal Youth, Women SHGs, and PRI representatives.
- Steps taken for printing the required number of copies of the Act and Rules for distribution among the various stakeholders i.e. Zilla Parishad members, Panchayat Samiti members, Gram Panchayat members, and Gram Sabhas etc.

- Training programme in districts for Revenue-, Forest-, ST & SC- and Panchayati Raj Dept. officials.



Odisha ranking 1st in the country in terms of maximum number of title distribution with regards to individual rights.

4.3.2 Constitution of FRCs in all villages (including forest and un-surveyed villages)

A list of forest villages/un-surveyed habitations/old settlements inside forest land based on 2001 Census was provided to all District Collectors to ensure constitution of FRCs and indicate the progress of implementation of Forest Rights Act in such villages (vide letter dated 25.10.2008 of the Revenue and Disaster Management Deptt.). Further, the Panchayati Raj Department vide letter no 42358/dated 31.10.2008 instructed all Collectors for conversion of all forest villages, old habitations, un-surveyed villages and other villages in forest whether recorded, notified or not, into revenue villages and ensure formation of Forest Rights Committees in such villages so as to facilitate the process of claim filing and verification under Forest Rights Act in such villages/habitations as well. Accordingly a CD containing the list of such settlements has also been supplied to the district-level nodal officers.

This effort has led to formation of 48459 number of Forest Rights Committees in Odisha out of 48071 revenue villages which indicates that FRCs have been systematically formed in forest villages/un-surveyed habitations as prescribed under FRA and are

operational thereby ensuring that claimants from such villages/habitations are not deprived of their legitimate rights.

4.3.3 Handholding Support to Gram Sabha and Forest Rights Committee Members for Determination of Rights

Apart from sensitization and capacity building of key stakeholders, the state government also took adequate measures to extend handholding support to the Gram Sabha and FRC members to ensure smooth facilitation of the process of claim filing and verification at the ground level.

- **Supply of Evidence:** Initiatives were taken to supply set of evidences to all Gram Sabhas especially in PVTG areas for speedy disposal of the claims. Handholding support was provided to the Gram Sabhas for filing of claims and adequate no. of claim forms (Form – A, B and C) were printed and circulated to all GPs. A set of documentary evidences was provided to all District Level Committees, Sub-Divisional Level Committees, Micro Project and Integrated Tribal Development Agency areas as well so as to ensure quick verification and disposal of claims.
- **Engagement of Retired RIs and Amins:** A maximum of 10 retired Revenue Inspectors/Amins were engaged at each district on contractual basis for a period of 3 months on consolidated remuneration of Rs.3500/- per month vide letter No.38848 Dt. 6.11.2008 of the ST & SC Development Department. The RIs and Amins helped in the preparation of maps for early finalization by the SDLC and the expenditure was met from Article 275 (1) of the Constitution.
- **Squad Approach:** It was observed that a large number of claims were pending at the SDLC level due to incomplete information or other deficiency in the claims forwarded by the Gram Sabha. Steps were taken to form a **joint squad** of officials consisting of RIs, Amins, Foresters/forest guards; and the key responsibility of the squad was to complete the verification of claims in a time bound manner. The Joint

Squads were supported by the Sarpanch and Secretary of the concerned Panchayat as well as the FRC members of the concerned Gram Sabha; and the process was coordinated by the Welfare Extension Officer. Each Panchayat was taken as a unit and the squad completed the verification of claims, creation of maps etc for all the villages in a particular panchayat and then moved to the next panchayat thereby covering the entire district in a time bound manner.

- **Micro Project Approach:** In order to ensure that claims of Particularly Vulnerable Tribal Groups (PVTGs) are duly processed and their rights over forestland is recognised, steps were taken to organise special awareness campaigns in the Micro Project areas and ensure training of the Special Officer of the Micro Project and other connected officials. (vide letter no TD-II 32/2008/ 36639/SSD dt. 6.10.2009). Separate reporting of PVTGs claims from Micro Project area was done in the Monthly Progress reports so as to track the progress PVTGs claims.

4.3.4 Clarificatory circulars and guidelines supporting officials at the cross cutting edge in implementation of the Act

2009

- Right of appeal
- Rights of Gram Sabha
- Community Forest Rights (6061, 4th Feb. 09)
- Diversion of forestland (18-05-09, 11-9/1998 FC)
- Constitution of FRCs in unsurveyed villages (clarified in the video conferencing)
- Settlement of rights in PTG area (36639, 6th Oct 09 by ST and SC)
- Review of claim approval (36638, 6th Oct 09)
- Clarification over pre-1980 (40938 R & D.M, 23rd Oct 09)
- Convergence of other programs and schemes (5th Nov 09, 38708)

- Withdrawal of forest cases against the claimants, those already got title deeds (16376 cases withdrawn as on 18th Dec 09)
- Fine against the encroachers under OPLE (clarified in the Video Conferencing)
- Creation of RoR (Remark Column)
- Clarification over Section 3.1 and 3.2
- Rejection (Remand)
- Clarification over Pahad/ Jawan/ Dongar (extended category)
- 1997 Joint Enquiry Report (T.N. Godavarman case)
- Issues of FRA Implementation in Land Reform Committee

2010

- Sharing of maps and verification reports with Gram Sabhas (No. 12976/dt. 03.04.10)
- Frequently Asked Questions on determination and recognition of Community Forest Rights (No. 8348/dt. 20.2.10):
- Instructions to all Collectors to ensure that sketch map of land is given along with Patta and Orders/Resolutions of Gram Sabha, SDLC and DLC be communicated to concerned claimants a(5213/SSD dt. 01.02.2010)
- Instructions to all Collectors for sensitizing DFOs/ PA, ITDAs, Sub-Collectors ("http://www.orissa.gov.in/stsc/F OREST_RIGHT_ACT/FRA-Scanned_Orders/ D.O.%20& %20 UOI/D.O.%20118%20dt.%202.1.10.pdf")
- Instructions to all Divisional Forest Officers to expeditiously deal with all categories of forest land as also regularization of pre-1980 eligible category of forest encroachments. "http://www.orissa.gov.in/stsc/ FOREST_RIGHT_ACT/ FRA-Scanned_Orders/ No%5B1%5D._2779_ dt._25.2.2010.pdf")
- Instructions to all Collectors to consider to claim petitions relating to all types of forest land as defined under Section-2(D) of the Forest Rights Act ("<http://www.orissa.gov.in/>

Regular review and monitoring of the progress was ensured by the ST and SC Development Department through fortnightly review of all districts through video conference.

The State Level Monitoring Committee (SLMC), the apex level committee under the Act also met at regular intervals to review the progress of FRA in the state. Soon after its constitution on 1st Feb 2008, the first meeting of the SLMC was held on 3rd April 2008 followed by the second meeting on 24th October 2008. The decisions taken by the SLMC guided the State Government in smooth implementation of the Act.

September 2012

The Forest Rights Rules, 2008 notified on 1st January 2008, **were amended on 6th September 2012** to address some of the crucial issues that emerged during the implementation of the Act. Notable provisions in the amendment rules are:

- Clarifications on meaning of 'bonafide livelihood needs' and the concept of community rights
- Simplification of the manner of disposal of minor forest produce and the transit permit regime,
- Provision for inclusion of those hamlets which are not part of any existing revenue or forest village,
- Separate procedure for the formal recognition of right over community forest resource and a title to that effect,
- Delineation of community forest resource and their mapping process,
- Provisions for conservation and management of the CFRs,
- Appellate procedure and clarifications on grounds for rejections etc.
- Emphasis on rights of Particularly Vulnerable Tribal Groups

and their rights and onus has been put on the DLC to ensure that their rights are recorded and vested.

- Provision for post-claim support and hand holding to the holders of the forest rights.
- A more rigorous monitoring mechanism has been devised through prescribed reporting formats to maintain constant vigil and connect between the nodal ministry and the respective state governments.

4.4 Post 2012 Developments

Soon after the amendment of Forest Rights Rules, Ministry of Tribal Affairs, GoI took an intensive task of orientation of tribal departments of all states and Union Territories on the amended rules following which the first regional consultation was held at Bhubaneswar on 25th September, 2012. Representatives from different states participated. The series of regional consultations where state functionaries from Forest-, Tribal Welfare- and Revenue department participated shared their experiences with field level implementation. It culminated in the National Level Consultation held on 3rd December, 2012. This process of consultations have also highlighted some good/innovative initiatives undertaken at micro level by district- and sub-district functionaries which expedited the implementation of the Act and can be used for learning and replication in other regions.

During May 2013, the review of Action Plans of the states by the Ministry of Tribal Affairs pointed out clearly that while most of the states proceeded well with the recognition of individual rights, recognition of community rights and community resource rights was lagging behind in almost all the states. During the review process, certain states pointed out certain operational challenges and difficulties in recognition of community rights and community forest resource rights. Further, recognition of habitat rights of the PTGs has also not been initiated by the states. Tribal communities face procedural challenges to submit claim applications often due to lack of availability of evidence or incomplete documentation. Similarly claims are left

pending or rejected due to lack of information on part of the field level government functionaries. The lack of capacities of the officials to interpret and implement the various provisions of the Act and confusion of areas of overlap of FRA with other laws such as PESA and the Forest Conservation Act has also contributed towards low effectiveness in Act implementation.

In order to address the above concerns and to ensure effective implementation of the Act the Ministry of Tribal Affairs undertook a number of measures that would facilitate implementation of the Act including Amendment to FRA rules in 2012 and issued comprehensive guidelines to the states for better implementation of the Act.

Establishment of National Resource Centre

Odisha ranked 1st in the country with highest number of individual forest rights claims filed and titles recognized under FRA. The success of progress of implementation of FRA in the state was due to a number of proactive steps taken to implement the Act in letter and spirit. As mentioned above, the Government of Odisha had undertaken training programmers from the grass root level functionaries to the senior officials, translation of rules and guidelines in local dialects of the tribal communities. A number of operational guidelines and office orders have been issued to ensure smooth implementation and regular monitoring of the implementation. The Tribal Research Institute in Odisha (SCSTRTI) also played a crucial role in carrying out research studies on FRA, developing reference materials and imparting training to various stakeholders which resulted in the successful implementation of FRA in the state.

With this background, a **National Resource Centre was set up at Scheduled Castes and Scheduled Tribes Research and Training Institute (SCSTRTI), Bhubaneswar Campus in 2014** under the aegis of the Ministry of Tribal Affairs, Government of India and UNDP so as to build the capacity of the states for effective implementation of FRA. The National Resource Centre at SCSTRTI, Odisha was set up with the key

objective of functioning as the '**National Knowledge Hub and Technical Arm**' of the **Ministry of Tribal Affairs (MoTA)** to address the capacity and knowledge gaps in tribal development and extending support to all the States for smooth implementation of Forest Rights Act.

Development of Training and Resource Materials

A set of training manuals and learning materials on Forest Rights Act were developed by National Resource Centre during 2015-16 for the benefit of government functionaries, Gram Sabha/FRC members, civil society organisation and other stakeholders involved in the implementation of Forest Rights Act. Apart from it, research and documentation was also undertaken under to understand the status of FRA implementation in various states, identify the implementation bottlenecks and operational challenges in the field. Further, study on good practises documentation was also undertaken so that different states could learn from the experiences and replicate the same.

Preparation of Training Modules for Government Functionaries and Members of Gram Sabha

It was lack of understanding of the Gram Sabha/FRC members as well as the government functionaries on various provisions of the Act and the processes as enshrined under the Amendment Rules, 2012, the implementation of the Act was facing hurdles in the field. It was felt that the handholding support and training to the Gram Sabha and FRC members along with the concerned government functionaries for effective implementation of FRA. Keeping these in the backdrop, training manuals were developed by NRC at SCSTRI, Odisha for

- a. Gram Sabhas, FRC members; elected representatives; and
- b. Government functionaries (members of DLCs, and SDLCs, Revenue, Tribal, and Forest Departments)

Development of Manual on Delineation and Mapping of Community Rights and Community Forest Resources (CFR)

According to FSI report (The State of Forest Report 1999, page no. 30) there are about 5.87 lakh villages in the country of which 1.70 lakh are forest fringe villages. Till the end of May 2014 about 23,440 community right titles were issued which constituted only 13.75% to total forest fringe villages. Poor recognition of CFR rights and community rights by the states emerged as a key challenge during the series of regional consultations on FRA organised jointly by the Ministry of Tribal Affairs and UNDP.

Barring some stray pockets in a few states, there has been poor filing of claims and recognition of the CFR rights largely due to lack of capacity for facilitating the community rights and CFR claims and verification process. Drawing lessons from the learnings of the successful examples from Gadchiroli district of Maharashtra, as well as from the Kandhamal and Mayurbhanj districts of Odisha in recognition of both community rights and rights over CFR, a manual on the process for delineation and mapping of customary boundaries of community forest resources was developed for reference of government functionaries, civil society organizations and members of the Gram Sabha across the country. The manual was also translated in the local language by SCSTRTI for wider circulation in the state.

Documentation of Good/Best Practises and Development of Learning Documentaries

Documentation of Good Practices study was undertaken by National Resource Centre at SCSTRTI, Odisha to document the experience of successful initiatives nationwide and widely circulated so that they could be replicated in other states. Documentation of good practices has enabled other states in developing strategies for expediting the process of determination and recognition of forest rights.

Self-Learning CD on the FRA

A self-learning CD on the FRA, a computer-based, interactive course (packed in offline CD) has been developed which resolves doubts and provides clarification on the Act and Rules. The self-administered learning module provides basic information about the Act, compliance. It provides provision and acts as a customized training package for the officials of state/district Tribal Departments; Revenue Department and Forest Department.

Compendium of Selected Guidelines and Clarificatory Circulars Issued by the Different State Government for the Effective Implementation of the Act

Compendium of circulars, guidelines, notifications on different provisions of FRA issued by Government of India and different States has been published during 2016. The Compendium serves as a ready reckoner for the government officials, user agencies and the public in general to facilitate the effective implementation of FRA at the grass root level.

Frequently Asked Questions

Ministry of Tribal Affairs in partnership with UNDP brought out a Frequently Asked Questions (FAQ) in March 2016 under the MoTA-UNDP project. This was shared with all state governments. ST and SC Development Department and SCSTRTI, Govt. of Odisha took adequate measures for widespread distribution of the FAQ to all government functionaries and other stakeholders involved in the implementation of Forest Rights Act.

Sensitization and Awareness Drive

- Sensitization to key functionaries on Forest Rights Amendment Rules, 2012 through series of trainings to officers working in LWE districts.

- Special attention given for organising GP level training programs for FRC and PRI members in all Scheduled V districts falling under LWE districts
- Special drive also taken for involvement of civil society organisations and peoples' network in facilitation of FRA.

4.4.1. Key Circulars and Guidelines Issued by the State Government

2012

Reconstitution of FRCs: As per the amended rules under Rule-3(1) the Forest Rights Committee should have at least $2/3^{\text{rd}}$ members from Scheduled Tribe community. Instructions were issued to all Collectors (vide letter no 34124, dated 26th Nov 2012) for reconstitution of FRCs in case there are no Scheduled Tribes and also ensure that at least $1/3^{\text{rd}}$ of the committee members are women. They were instructed to sensitize the GP Nodal Officers and VLWs to reconstitute the FRCs, wherever necessary, by 30.12.2012.

Community Rights and Community Forest Resource Rights: Directions were given to district authorities to give thrust on settling Community Rights as defined under Rule 2 (1) (c). It was directed that CFR claims need to be filed in the new format introduced for application for Community Forest Resources in shape of Form-C and to give copy of ROR for Community Forest Resources (vide letter no 34124/SSD, dated 26th Nov 2012).

2013

Conversion of forest villages to revenue villages: As per the guideline of MoTA dated 8.11.2013, instructions were issued by ST and SC Development Department Govt. of Odisha vide letter no 36823, dated 16.11.2013 regarding conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue village under section 3(1) (h) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights)

Amendment Rules, 2012. As per guideline of MoTA, it was also clarified that the conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc.

2014

Review of rejected claims and Prompt disposal of pending claims filed: As stipulated under FRA amended Rules, 2012, circular was issued (letter no. 5347 dated 30.1.2014) that in case of modification or rejection of a claim by the Gram-sabha / SDLC / DLC, such decision need to be communicated in person to the claimant to enable him/ her to prefer a petition to the appropriate forum. District authorities were also directed to initiate prompt action to facilitate the early disposal of pending claims at all levels.

Reconstitution of SLMC: In pursuance to Rule 9 of the Forest Rights Act, 2006 and Amended Rules, 2012, the State Level Monitoring Committee was reconstituted as per D.O 23427/SSD, dated 12th August 2014, to monitor the implementation of Forest Rights Act and Rules in Odisha

2015

Guidelines to remove impediments in the proper implementation of the Forest Rights Act: As issued by Ministry of Tribal Affairs on 10.4.2015, directions were issued by ST and SC Development Department vide letter no.8977 dated 30.4.2015 to implement the FRA as per the guidelines. The key points covered in the guidelines are:

- **Recognition of Community Forest Resources Rights** need to be taken up on a priority basis and regular trainings and workshops are needed to be organized for the personnel involved in the process of implementation of the Act.

- **High rate of rejection of claims** is another area of concern. Cause of every rejection needs to be communicated to the claimants. All the cases of rejection must be categorized on the basis of causes of rejection. There is a need to have a relook into the cases of doubtful rejection so that any rightful claim does not get denied.
- **State Level Monitoring Committee (SLMC) meetings** are required to be held at regular intervals in the interest of proper implementation of the FRA. The SLMC also needs to specifically ensure that Section 4(5) of FRA is implemented in letter and spirit and no forest dweller is evicted or removed till the process of FRA implementation is complete.
- **Rights recognition process need to be completed in Sanctuaries and National Parks** specifically in Tiger Reserves as FRA is applicable in all forest areas. Also, Gram Sabha decision has to be taken into consideration before any relocations.
- **Recognition of Ownership Rights over Minor Forest Produces** and Minimum Support Price to Minor Forest Produces need to be extended in Protected Areas as well. The State monopoly in MFP trade needs to be ended with the enactment of FRA.
- **Creation of Record of Rights** needs to be taken up by the state government as the purpose of rights recognition is realized only when permanent record of rights are entered into record.

Recognition of Habitat Rights

Clarificatory Guidelines on recognition of habitat rights of Particularly Vulnerable Tribal Groups (PVTGs), dated 23rd April 2015 were issued by Ministry of Tribal Affairs. This was communicated by the ST and SC Development Department, Govt. of Odisha to all the districts (letter no. 9141, dated 1st May 2015). The key highlights of the guideline are:

- Definition of 'habitat' as prescribed under Section 2(h) of FRA; and further describes the forest right to such habitat under Section 3(1)(e).
- FRCs to ensure that the claims from PVTGs are verified when such communities or their representatives are present.
- Right to community tenures of habitat and habitation may be recognized over customary territories used by the PVTG for habitation, livelihoods, social, economic, spiritual, sacred, religious and other purposes.
- Role of the District Level Committee (DLC) to examine, whether all claims, especially those of primitive tribal groups (Particularly Vulnerable Tribal Groups), pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act.
- PVTGs receive habitat rights in consultation with the concerned traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary, by recognising floating nature of their Gram Sabhas.
- DLCs should take steps to ensure recognition of the habitat rights along with mapping of the area of each claim over which their rights have been recognized.

Community Forest Resource Rights (CFR) and its Management

Guidelines under Section 12 with regard to recognition and vesting of Community Forest Resource (CFR) and its management under FRA issued by Ministry of Tribal Affairs on 23rd April 2015 which was duly communicated by the ST and SC Development Department, Govt. of Odisha to all the districts (letter no. 9141, dated 1st May 2015). The key highlights of the guideline are

- As per Section 3(1) (i) and Section 5 of FRA, the authority to protect, regenerate or conserve or manage CFRs, is the Gram Sabha along with the committee for protection of wildlife, forest and biodiversity constituted under FR Rule 4(1)(e).

- Each Gram Sabha shall be free to develop its own simple format for conservation and management plan of the CFR.
- Gram Sabha and the Committee under FR rule 4(1)(e) to modify the micro plan or working plan or management plan of the Forest Department in order to integrate the same with the conservation and management plan for the CFR as passed by the Gram Sabha.
- Funds under Tribal Sub Plan, MGNREGA, Funds under CAMPA to be made available to the committee at the Gram Sabha constituted under FR Rule 4 (1){e} for development of CFR
- Community Forest Resource (CFR) areas as recognised under Section 3(1)(i) of FRA shall constitute a new category of forest area which should be recorded as 'CFRs' in the Records of Rights and be suitably incorporated in the records of the Forest Department.
- Provide disaggregated information in the monthly reports on the CFR claims and CFR rights recognised and the extent of forest land recognised under the same.

Inclusion of Eligible Forest Dwellers under National Food Security Act

Special campaign launched by Food Supplies and Civil Works Dept in collaboration with ST and SC Development Department for inclusion of forest dwellers recognised under Forest Rights Act to be covered under Nation Food Security Act-2013. (vide letter no. 613/CS, dated 24.8.15 and letter 17963/SSD, dated 08.09.2015)

2016

Review of Rejected Claims under FRA

Action plan was suggested to review the rejected claims in a time bound fashion (Letter No. 10740, dated 16th June 2016). For proactive facilitation of the appeal process it was suggested that

- Rejected/ modified claims to be suo moto treated as petitions for hearing and disposal.
- Reasons of rejections to be communicated to the concerned claimants/ Gram Sabhas immediately
- DLCs/ SDLCs to fix venues and timings for hearings of the claimants' appeals against rejection / modification and take appropriate decisions.
- Appropriate mechanism to be devised by concerned DLCs/ SDLCs by fixing a particular day in the week for hearing the appeals to ensure timely action.

Convergence Guidelines

Convergence guidelines was issued by ST and SC Development Department, Govt. of Odisha and instruction was also issued vide letter no. 15078, dated 12.08.2016 for 100% coverage of FRA right holders through convergence with different schemes of the government for their socio-economic development. Accordingly it was also instructed to report the progress of convergence in separate format in monthly reports.

Potential Villages for Recognition of Community Rights and CFR

List of potential villages for recognition of Community Rights and Community Forest Resources Rights under FRA, developed by SCSTRTI, Bhubaneswar basing upon the methodology provided by the Ministry of Tribal Affairs, Govt. of India was circulated to District Collectors and DLC members with the instruction to process Community Rights and Community Forest Resources Rights under FRA on a priority mode basing on the procedure and process prescribed under FRA rules (letter no 16416, dated 3rd September 2016).

Review: An Essential Part of the Process: Regular review of Forest Rights Act is being undertaken through the monthly progress reports, newly introduced monitoring formats and video conference to track the status of implementation in different district. A study on **'The Scheduled Tribes and Other**

Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006; Implementation Status and Good Practises in Odisha' was carried out by SCSTRTI, Govt. of Odisha during 2012. The study helped to assess the implementation status of community forest rights in the state; status of appeal and rejection cases, and verification of claims under developmental rights [Sec 3 (2)]; identified the successful interventions in the state, as also suggested corrective measures for the effective implementation of the Act and the amended FR Rules 2012.

Apart from it, as directed by the State Level Monitoring Committee, the current study on '**Status of Implementation of Forest Rights Act in Odisha**' was undertaken by SCSTRI, Govt. of Odisha in 2016. The study gives a picture of implementation of the Forest Rights Act in the state over a period of 10 years. This helps in critically reviewing the gaps and enables the State Government to take adequate steps to fulfil the intended objectives of the Forest Rights Act in favour of the Scheduled Tribes and Other Traditional Forest Dwellers.

Table No.4
Highlights of the SLMC (Odisha) proceedings

Number of Meetings	Date	Discussion Points
1 st meeting	3 rd April 2008	<ul style="list-style-type: none"> • Settlement of all encroachment cases in favour of tribal encroachers by the Forest Department. • Holding of Pallisabhas for formation of FRCs. • Engagement of Gram Sathis for facilitation of claim filing process.
2 nd meeting	24 th October -08	<ul style="list-style-type: none"> • Complete the process pending disposal of the writ petition on the subject. • All claims received so far should be disposed of finally by 30.11.2008. • Authenticated copy of the SDLC proceedings needs to be given to Pallisabha/ Gram Sabha so that they know about the recommendations of the SDLC.
3 rd meeting	22 nd May 2010	<ul style="list-style-type: none"> • Revenue & Disaster Management Deptt. may communicate detailed guidelines to the Collectors for taking prompt action for incorporation of RoRs of the forest land distributed to the STs & Other Traditional Forest Dwellers under FR Act 2006 in revenue records.

4 th meeting	29 th March 2011	<ul style="list-style-type: none"> • Verification of rejected cases on a 5% sampling basis. • Convergence to cover beneficiaries of FRA under land based schemes. • Convergence of forest villages to revenue villages. • District Level Committees should ensure proper entries i.e., land marks, <i>chauhadi</i> (boundary), and sketch map on the certificate of titles distributed under Forest Rights Act. 2006.
5 th meeting	24 th October 2011	<ul style="list-style-type: none"> • Reconcile the list of Forest Rights title - holders with the list of pre -80 encroachment cases taken for regularization under the provision of Forest Conservation Act; all such cases need to be dropped as decided also in the 4th SLMC meeting.
6 th meeting	23 rd November 2012	<ul style="list-style-type: none"> • On completion of the process of settlement of rights and issue of titles, the forest rights so vested should be incorporated in the Revenue & Forest records, as the case may be, within a period of three months. • Details of land development programme taken up under MGNREGS for the benefit of the forest right holders should also reflect the man days generated & amount paid to such title holders. • DLCs should sit frequently for not only considering the claims but also should facilitate the process for recognition of community rights including Habitat Rights for PVTGs/ Community Forest Resource Rights as well.
7 th meeting	27 th June 2013	<ul style="list-style-type: none"> • It will be mandatory for the DLCs to ensure that the title issued to the Forest Rights holders should be accompanied with sketch map. • Convergence of programmes under FRA to be monitored separately. • Efforts to be made to collect the claim applications under Community Forest Rights and Community Forest Resource Rights before 31st August, 2013 and the finalization be made before 30th November, 2013.
8 th meeting	21 st July 2015	<ul style="list-style-type: none"> • Disposal of individual and community claims at different level to be done in a time bound manner. • As per the instruction issued by the Ministry of Tribal Affairs, GoI the claims which are rejected need to be communicated to the applicants with the reasons for rejection. • Urgent need for undertaking survey and demarcation of the plots of the concerned title - holders so that they can identify the exact boundaries of the forest land over which rights has been vested.

		<ul style="list-style-type: none"> • Correction of Record of Rights. • Convergence of various schemes and programmes. • The MoTA, Gol had issued guidelines that the JFM Committees or the Vana Surakshya Samities (VSS) are not eligible for availing the Community Forest Rights as per the FRA provisions. The committee observed that in Odisha, the VSS have been over the years
		nurtured by the F&E Department to sustainably manage and protect forest resources. The committee decided that those VSS where there are no conflicts with the Gram Sabha in sustainable management of the forest resources may be identified so that Community Forest Rights can be given under FRA.
<p>On 19th November 2015, the ST & SC Development Department informed three SLMC members (MLAs) that in view of the following observations of the MoTA the corresponding original recommendations of the SLMC were 'hereby' modified:</p> <ul style="list-style-type: none"> • Community Forest Resource (CFR) rights may be conferred only to Gram Sabha and not to VSS committee as per the Forest Rights Rules as amended up to 2012. It is for Gram Sabha to constitute a Committee for protection of wildlife, forest and bio diversity as per Rule 4(1)(e) of the Forest Rights Rules. • There is no provision in the FRA to co-opt any additional members. 		

4.5. Key Initiatives by the State of Odisha

1. ***Special State-wide campaign for constitution of FRCs:*** In March 2008, the Govt. of Odisha organized a special drive in all Gram Sabhas (Palli Sabhas) for the constitution of FRCs. Another special drive was initiated for formation of FRCs in 589 forest villages/ habitations located inside the forestland/ un-surveyed habitations. Because of this sustained drive, so far FRCs have been constituted in 98.97% of the inhabited villages of Odisha.
2. ***Power to Gram Sabha to issue Caste Certificate:*** The Govt. of Odisha vide its letter no 47923 dated 12/11/2008 has authorised the Gram Sabha to issue caste certificates to claimants for the purpose of FRA. This removes a major impediment in the processing of individual claim applications and solved a major challenge for the claimants in the submission of claims.

3. ***Supply of secondary evidence to Gram Sabhas:*** Initiatives have been taken to supply secondary evidences to the Gram Sabhas/SDLC for speedy disposal of claims for the above purpose.
4. ***Vacation of Interim Stay on FRA:***The SC & ST Department filed an intervention petition seeking vacation of interim stay order by the Hon'ble High Court Odisha in WP(C) 4933 of 2008 in lieu of a petition filed by the Society of Retired Forest Officers on 23.07.2008. The later had challenged the key provisions of the FRA. Proactive and timely legal intervention by the Govt. of Odisha has allowed the implementation process to continue. This has led to record-breaking distribution of FRA titles.
5. ***Translation of the Act and Rules into tribal languages:***FRA and its accompanying rules, guidelines and procedures have converted by the Govt. of Odisha into 6 tribal languages in addition to Oriya. This has greatly spread awareness about the Act and helped in a better understanding at the grassroots about its rights, duties, and processes. Regular publication of informative advertisements by the govt. has also helped in the dissemination of information.
6. ***Clarifications through FAQs:*** The Govt. of Odisha has formulated a list of FAQs that clarified many doubts and processes of the FRA, to help with its implementation especially during the initial stage. The FAQ inter alia includes clarifications on VSS and CFR, Palli Sabha to make resolution on status of ST and OTFDs, role of Palli Sabha. This has had a significant impact. Also, based upon questions that cropped up at different levels of facilitation, another FAQ has also been issued for clarity over submission and processing of Community Forest Rights.
7. ***Special training-cum-orientation programmes:*** The Govt. of Odisha has regularly conducted special training-cum-orientation programmes for all concerned parties involved in the implementation of FRA, including DLC and SDLC members, ITDA and Micro-Project Officers, FNGOs, NGOs, FRC, PRI and SHG members. This has made better sensitization about the provisions of the Act.

8. ***Fortnightly review of implementation:*** The Govt. of Odisha has regularly monitored the Act's implementation with district-level administration. This has been achieved especially through regular video conferencing. This makes for a better understanding and on the spot clarification on various issues and questions faced in the implementation process. This was used as a better place for cross learning as many ground level issues and difficulties were discussed and speedily clarified.
9. ***Settlement of Pre-1980 Encroachment cases under FRA:*** Vide Circular No. 40938 dt. 23.10.2009, the Revenue and Disaster Management Dept. of the Govt. of Odisha deemed that those among pre-1980s encroachment cases who have received Stage-1 clearance will be granted forest titles without requiring Stage-2 clearance, on the grounds that these claimants are now eligible under FRA, which has removed the need for Stage-2 clearance for those ST persons who have been in possession of forest land prior to 13.12.2005. Based on this, 5113 cases were identified from 263 villages covering an area of 4729 hectares of forestland for disbursement of titles on a priority basis.
10. ***Settlement of minor forest offence cases:*** By 27th June, 2008, about 9000 minor forest offence cases in Odisha settlements had been dropped after redundancy due to the enactment of FRA⁴⁸.
11. ***Settlement of Non-Forest Land in favour of claimants deemed ineligible under FRA:*** Vide Circular no. 368 dt. 4.01.2010, the Revenue and Disaster Management Dept. of the Govt. of Odisha outlined that the policy of the government is to provide homestead land to all homeless persons. It declared that communities whose applications were rejected by Gram Sabha under FRA provisions would be eligible for settlement of land under OGLS Act and OPLE Act.

⁴⁸ Minutes of conference of State Ministers of Tribal/Social Development to review the implementation of the Forest Rights Act held on 27.06.2008 at Vigyan Bhavan, New Delhi.

- 12. Clarification over meaning of “forest land”:** Vide Circular no. 5309 dt. 01.02.2010, the Revenue and Disaster Management Dept. of the Govt. of Odisha clarified that the definition of “forest land” as under s. 2 (d) of the FRA is wide enough to include all types of forests, including jungle kisan land found in the revenue records, thereby enabling claims over such lands to be processed under FRA.
- 13. Sharing of maps and verification report with Gram Sabha:** The ST and SC Development Dept. in its letter dt. 03.04.2010, issued a guideline stating that the findings of field verification and maps prepared by retired RI/Amins must be shared with the FRC. It must have the approval of the Gram Sabha before being recorded by the SDLC. Failure to comply shall attract penal action under s. 7 of FRA.
- 14. Adoption of Micro-planning approach to assess status of claims under FRA:** On the grounds that most districts were unable to provide data for the actual number of villages covered under FRA so far, the ST and SC Development Dept. in its letter dt. 05.04.2010, issued a guideline requiring the use of “micro planning approach” to assess the status of claims in Scheduled areas and Micro-project areas on a village-to-village basis, which would help assess the extent of villages covered under the Act and expedite implementation in a time-bound manner.
- 15. Mission-mode approach:** The implementation process was carried out on a mission mode in many districts, a good example being Mayurbhanj. It is another thing that this approach was focused on individual rights. In this case the concerned authorities are bound to take up the desired responsibility without fail or negligence, and are required to be proactive.
- 16. Special drive:** While mission mode approach has a continuous time span for a larger period, special drives were made from time to time in different phases. These have been particularly useful in helping the eligible applicants file their claims if they could not do so earlier. Government officials have to play a proactive role as facilitators. A good example is Malkangiri district.

- 17. *Target-based approach:*** Fixing targets have also been one of the effective factors. This has been done in case of convergence programme, particularly Indira Awas; and also for ensuring individual forest right titles for the PVTGs in all Micro Projects.
- 18. *FRA cell:*** Creation of the FRA Cell at district- and lower levels has been very useful as this has helped the concerned nodal agencies to exclusively focus on the matter with a dedicated staff. Malkangiri has gone a step ahead by merging the DLC-level and SDLC (Malkangiri)-level cells together, i.e. operating in the same hall though records are kept separately.
- 19. *Appointment of retired revenue officials for survey and demarcation:*** Appointment of retired amins and/or revenue inspectors has been very effective to accelerate the process of joint verification and demarcation, etc.in case of claims under FRA.
- 20. *Dedicated website on FRA:***While the SLMC has recommended a dedicated website on FRA, the Kandhamal district administration launched an interactive and dedicated website 'Iddaali Gasha Maande' on FRA in 2014

The details of facilitating circulars, orders, notifications, etc. issued by the State of Odisha and Central Government for better implementation of FRA is given in **Annexure**.

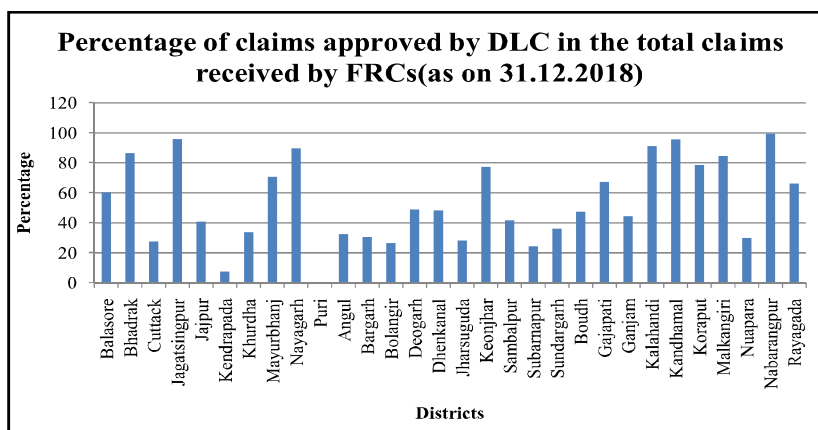
STATUS OF IMPLEMENTATION OF FRA IN ODISHA WITH SPECIAL REFERENCE TO STUDIED DISTRICTS

5.1 Individual Rights, Community Rights, Community Forest Resource Rights:

5.1.1 Individual Forest Rights

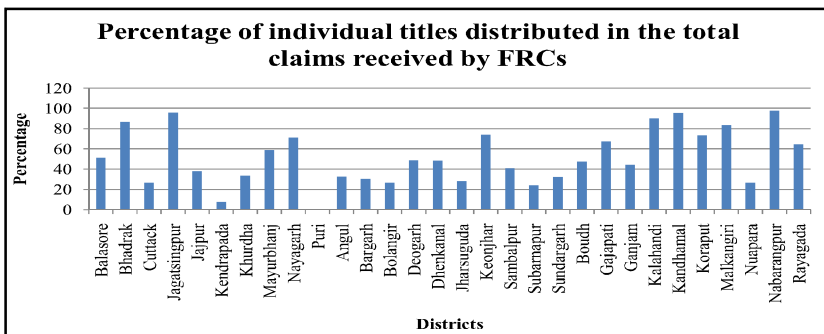
As per the data available on 31st December 2018, the State has distributed 423634 individual titles which is 97.03% of the total 435377 claims approved by the DLC and 69.14% of the total 612693 claims received by FRCs. The status by December 2018 has been provided in annexure-2.

5.1.2 Approval status in the State: As detailed in annexure-3, Kandhamal followed by Keonjhar show the highest figures of approval by DLC; but in terms of the percentage of IFR claims approved by DLC in the total claims received by FRCs, Nabarangpur (99.53%) followed by Jagatsinghpur (95.91%) and Kandhamal(91.13%) show better performance



Graph No.12
Percentage of Claims approved by the DLC in the Total Claims Received by the FRCs across Odisha

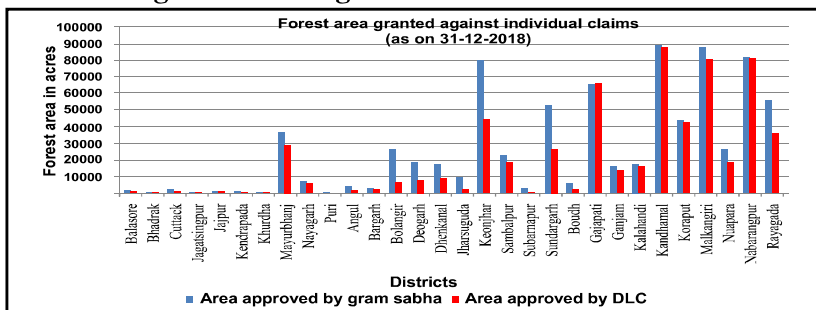
5.1.3 Distribution status:The highest title(IFR) distribution figure comes from Kandhamal followed by Keonjhar (vide annexure-3); but in terms of the percentage of IFR titles distributed in the total claims received by the FRCs Nabarangpur followed by Jagatsinghpur and Kandhamal show highest performance though it is true that disposing few number of claims is obviously easier(as in case of Jagatsingpur



Graph No.13

Percentage of Individual titles Distributed against the Total Claims received by FRCs across Odisha

5.1.4 Average forest area granted:

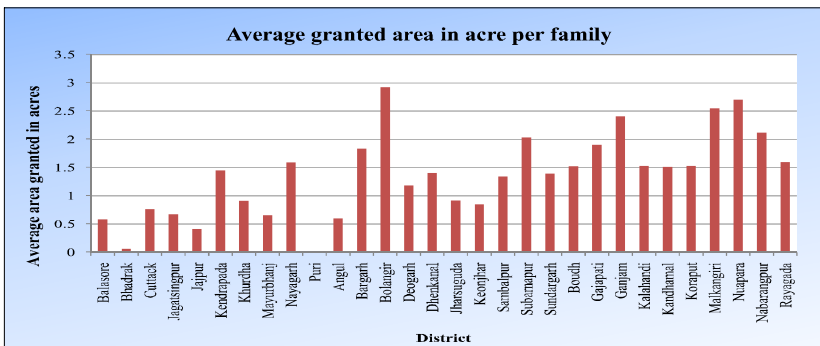


Graph No.14

Forest Area Granted against Individual Claims across Odisha

Kandhamal, Nabarangpur, Malkangiri, Balasore and Gajapati districts show high resemblance of area approved by DLC with that approved by the Gram Sabha (vide annexure-4). Puri district doesn't show any approval by DLC whereas the anomaly is highest in case of Keonjhar followed by Sundargarh and Rayagada (vide annexure-4).

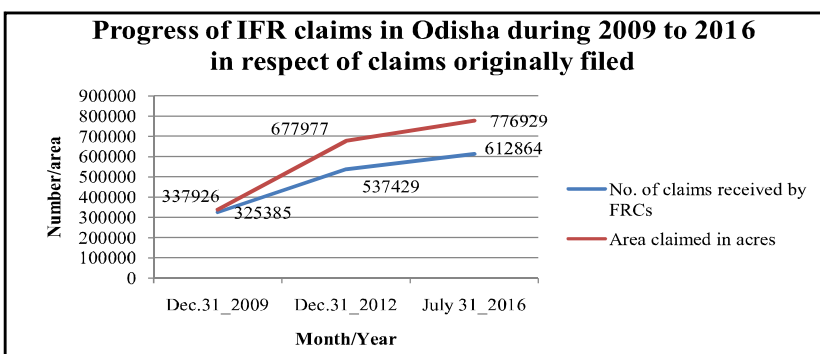
The average forest area approved by DLC in the state is 1.5 acres per family. However, the district-average is highest in Bolangir (2.9 acres/family) followed by Nuapara (2.7 acres per family), Malkangiri (2.55 acres) and Ganjam (2.4 acres). The lowest average comes from Bhadrak (0.05 acre) whereas a progressive district like Mayurbhanj has less than 1 acre average.



Graph No.15

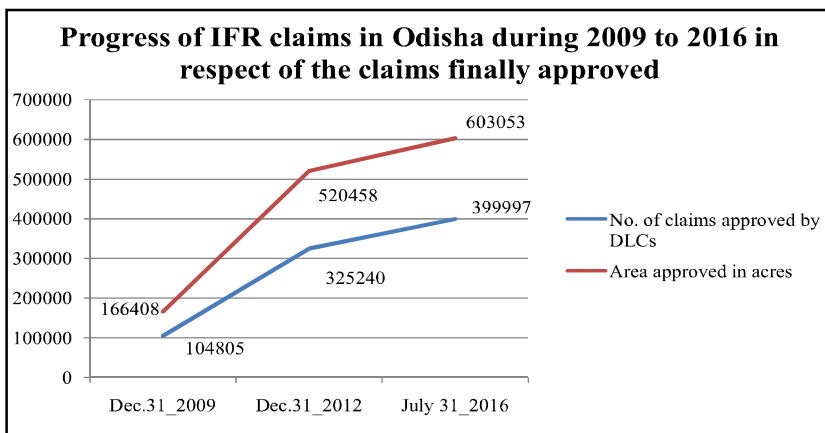
Average area granted in acre per Family across Odisha A title issued in Kandhamal district

The following charts show the trend of progress in the IFR claims in the state during the period 2009 and 2018. Whereas the number and area claimed was more or less double, the approved number and area increased by about 3.75 times during this period.



Graph No.16

Progress of IFR Claims in Odisha during 2009 to 2016 in respect to claims Originally Filed



Graph No.17
Progress of IFR Claims in Odisha during 2009 to 2016 in respect of the claims finally approved

(based on *ODISHA: Promise and Performance of the Forest Rights Act, 2006: The Tenth Anniversary Report*; table-3.1)

5.1.5 Potential Households to be benefitted under FRA

The recorded forest area of the state is 58,136 km² which is 37.34% of the total geographical area. The reserved forests constitute 45.29%, protected forests 26.70% and unclassed forest constitute 28.01% (*State of Forest, 2011*). As per Census 2011, there are 51,349 villages of which 47529 are inhabited and 3820 un-inhabited in Odisha. State of Forest Report, 1999 stated that in Odisha, there are 29,000 villages located in close vicinity of forest. The GoO also has estimated that out of 64.2 lakh rural households, there are 17.9 lakhs ST households (27.95 %).

Table No. 5
Estimated Scheduled Tribes Household in Odisha

Total Households	Rural Household	ST households	Others (including SCs)
77, 380, 65	6420514	17, 95,075	59, 42,990

Source: Department of ST and SC Development, GoO

The projected ST households to be benefitted under Forest Rights Act are **7.35 lakhs as shown in Table below**. Besides STs,

there are large numbers of Other Traditional Forest Dwellers in the State depending on the forest for their subsistence needs to be covered under FRA.

Table No. 6
Projected number of households to benefitted under FRA

Name of the district	Total GA (acres)	No of villages	Total Forest Area (in acres)	%of Forest Area to GA	Total Rural HH	Total ST HH	Projected HHs of STs
Balasore	3806	2691	108260.1	11.71	362365	41739	4888
Bhadrak	2505	1248	31257.85	5.05	220048	5020	254
Cuttack	3932	1857	207697.36	21.4	352874	16662	366
Jagatsinghpur	1668	1230	38364.04	9.31	207895	1627	151
Jajpur	2899	1575	187682.95	26.21	328179	25302	6632
Kendrapada	2644	1619	67845.96	10.39	278214	1920	199
Khurda	2813	1355	167631.49	24.33	202360	14089	3428
Mayurbhanj	10418	3758	1108600.22	43.09	443016	261116	112515
Nayagarh	3890	1516	541105.37	56.74	174926	12356	7011
Puri	3479	1613	47950.11	6.44	255809	1670	108
CZ	38054	18462	2506395.45	26.83	2463321	381501	138752
Angul	6375	1632	679351.27	43.21	195527	28985	12524
Bargarh	5837	1207	300384.11	20.83	280361	65243	13590
Bolangir	6575	1753	398865.48	24.57	306102	79909	19634
Deogarh	2940	774	385374.34	53.07	53981	19693	10451
Dhenkanal	4452	1232	437943.35	40.17	206753	30605	12294
Jharsuguda	2081	352	126123.14	24.59	69018	29131	7163
Keonjhar	830	2045	830213.93	40.54	287318	134654	54589
Sambalpur	6657	1262	921314.94	56.08	148284	67780	38011
Subarnapur	2337	825	104174.72	18.05	109649	14181	2560
Sundargarh	9712	1668	1371225.44	57.16	263783	173616	99239
NZ	55269	12750	5554970.72	40.74	1920776	643797	270055
Boudh	3098	1190	318588.01	41.63	81225	11808	4916
Gajapati	4325	1528	613498.6	57.43	101797	54775	31457
Ganjam	8206	2831	796244.02	39.28	564710	25543	10033
Kalahandi	7920	2068	641567.68	32.88	304484	94591	31102
Kandhmal	8021	2415	1410777.55	71.21	136890	72271	51464
Koraput	8807	1890	481449.93	22.26	241724	139561	31066
Malkangiri	5791	933	830878.36	58.09	102000	66059	38374
Nuapada	3852	658	470455.96	49.52	123352	44884	22227
Nabrangpur	5291	867	608294.31	47.61	214990	124453	59252
Rayagada	7073	2469	788937.76	45.2	165245	103099	46601
SZ	62384	16849	6960692.18	45.3	2036417	737044	326491
ODISHA	38459629	48071	15022058.35	39.16	6420514	1762342	735298

Source: Department of ST and SC Development, GoO

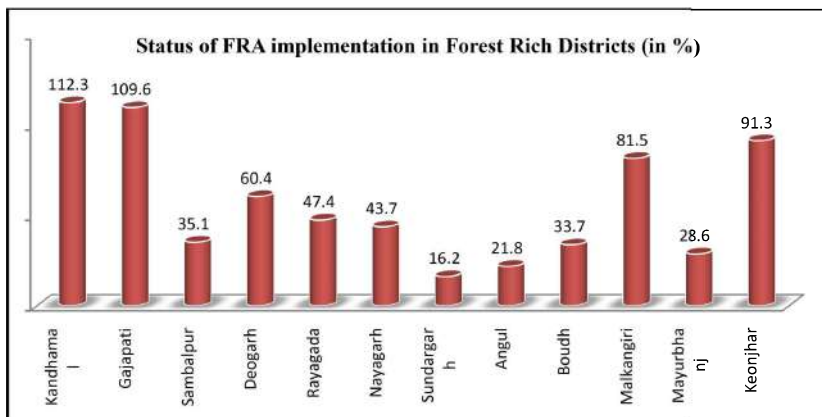
Achievement against Target

Out of 6.02 lakh claims for individual forest rights received by the Forest Rights Committee, only 4.01 lakh claims have been approved by District Level Committee as on 31st July 2016 (Table in Annexure 3). Though progress of recognition and vesting of rights with the forest dwellers as per FRA is comparatively favourable in Odisha as compared to other States, but after eight years of implementation of the Act, still more than **2.01 lakhs households are yet to be covered out of the projected 7.35 lakh potential households to be covered under FRA**. In Odisha, as on 31st July 2016 around 27.3% of the potential households are yet to be covered under FRA as shown in the table below.

5.1.6 Status of FRA implementation in Districts with High Forest Cover

Table No. 7
Status of FRA Implementation in Districts with High Forest Cover

District	Geographical Area	Total Forest Cover (Area in km)	% of GA	No. of Projected ST HHs	No. of villages	No. Of IFR claims received by FRC	No. of individual claims approved by DLC	No. Of community claims received by FRC	Community claims approved by DLC
Kandhamal	8021	5371	66.96	51464	2415	60346	57818	2351	1907
Gajapati	4325	2471	57.13	31457	1528	51056	34471	187	56
Sambalpur	6657	3358	50.44	38011	1232	31551	13358	344	78
Deogarh	2940	1375	46.77	10451	774	13817	6308	110	6
Rayagada	7073	3133	44.3	46601	2469	511	22077	34090	28
Nayagarh	3890	1682	43.24	7011	1518	3334	3061	91	2
Sundargarh	9712	4148	42.71	99239	1668	53155	16032	430	-
Angul	6375	2702	42.38	12524	1632	8360	2727	2	-
Boudh	3098	1263	40.77	4916	1190	3499	1657	58	2
Malkangiri	5791	2321	40.08	38374	933	36414	31281	217	78
Mayurbhanj	10418	4021	38.6	112515	3758	58625	32203	87	44
Keonjhar	8303	3211	38.67	54589	2045	65127	49830	394	343
ODISHA	155707	50347	32.33	735298	48019	602154	379244	6572	3055



Graph No.18
Status of FRA implementation in Forest Rich Districts (in %)

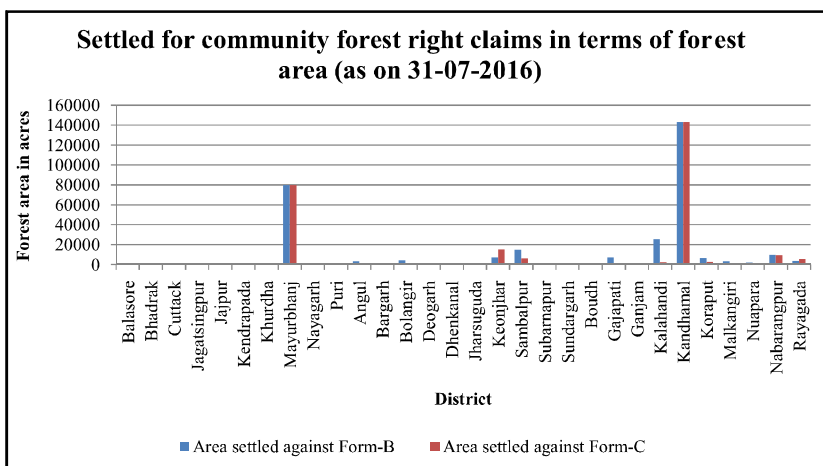
The table and graph above indicates that among the districts having rich forest cover, Kandhamal, Gajapati, Keonjhar and Malkangiri have performed better in case of individual forest rights but districts like Nayagrah, Angul, Sambalpur, Sundargarh inspite of having dense forest cover the recognition of IFR claims has been very low. It is assumed that much priority has been given to the Scheduled V districts with regards to recognition of individual forest rights claim. Rest of the districts even though having rich forest cover and forest dwelling ST and OTFDS dependent upon the forest has been treated with lesser priority.

In case of community claims the situation is worse. In districts like Nayagarh and Deogarh having only 2 community claims approved by their DLCs. In districts like Angul and Sundargah having more than 42% forest cover of their geographical area, it is a matter of concern that till date no community rights claims has been approved at the DLC level. The situation of community rights claim is in a tardy state of affair in the entire State. Further, till date there is no clarity over the number of community rights and community forest resource rights claim been approved and distributed. The status report provided by the ST and SC Development Department does not have any specific

information on the number of Community forest resource rights claims claimed/approved or distributed in various districts. It is very important that disaggregated database must be maintained and updated on community rights and community forest rights because in Odisha as per FSI report more than 29,000 villages are potential for community forest resource rights, but even less than 1% of the villages have actually received the CFRR rights.

5.2.1 Community rights (CR): By 31st July 2016 the state has granted 4212 numbers of CRs (51.57%) as against total 8167 claims (vide annexure-5). This has been against the claim in Form-B which did not clearly provide for community rights for regeneration, conservation and management of forests. However, the right for regeneration, conservation and management of forests has been mentioned in this claim form supposedly in a good number of cases partly because of some NGO initiatives favoured by the nodal authorities.

As Form-B was the only one to be used for community claims before the Amendment Rules of 2012 came, hence grants against the same outnumber those against Form-C (CFRR).



Graph No.19
Settled Community Forest Rights Claims in terms of Forest Area

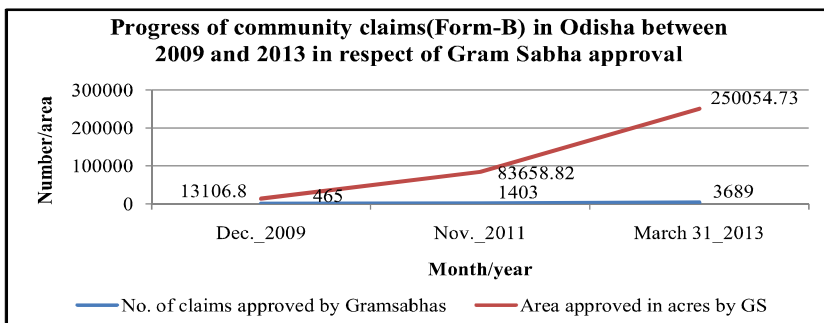
The state nodal agency as well as the SLMC have ignored a repeated error in which claims/grants against Form-B and Form-C are considered completely separate from each other though actually they can overlap in many cases, if not all. For instance, Mayurbhanj and Kandhamal have shown the same figures of achievements in settling community rights against Form-B and Form-C. While this is possible in principle, the total achievement should also be the same figure whereas the state database shows a sum of the same two figures that is doubling the same figure. This is erroneous.

By 31st July 2016, the number of CR titles distributed was 3042 and the number of claims pending was 1977. Total 297 claims were rejected (vide annexure-5).

The SLMC in its meeting dated 22-5-2010 asked all Collectors to process community claims on priority; and that the Forest Department should take pro-active steps in this regard. Similarly, on 27-6-2013 it fixed a deadline for collection of all community claims by 31-8-13 and finalizing the same before 30-11-13 with a remark, “The timeline should be strictly adhered to.” However, as observed on 8-9-2014 in the meeting to finalize the action taken report on 7th SLMC meeting, this deadline was not adhered to in many districts. In fact, there are still areas from which the claims are yet to come.

It has been difficult to provide a comparative analysis of the progress in processing community forest rights during the last 8-10 years, chiefly because of the inconsistency in the data available. A major problem is the current practice of adding claims under Form-B with those under Form-C, and in some cases just duplicating the figures. Hence, the following chart has used information when such a practice had not started, at least formally in so far the official projection is concerned⁴⁹. It may be recalled here that separate claims in Form-B and Form-C started only after the Amendment Rules of 2012 were issued.

⁴⁹ Still, it can't be said for sure the March 2013 figures did not include any claims in Form-C. Further, inclusion of development projects claimed/sanctioned under Section 3(2) in the community claims has also been seen in some cases.

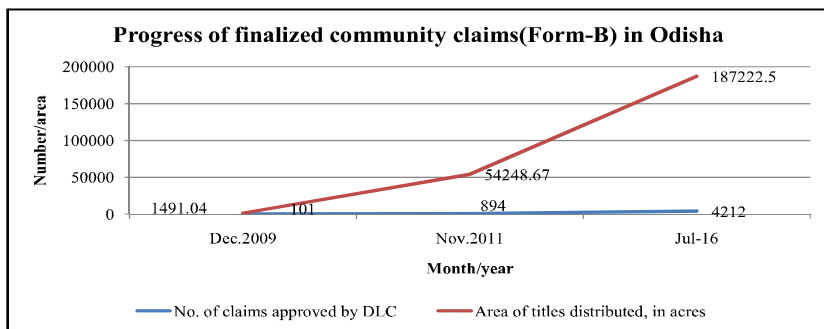


Graph No.20

**Progress of Community Claims (Form B) in Odisha
Between 2009 and 2013 in respect of Gram Sabha approval**

[based on SCSTRTI 2012, Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006: Study on Implementation Status and Good Practices in Odisha, Table 1.8; and Status of Implementaion of Forest Rights Act in Odisha as on 31 March 2013 as released by ST & SC Development Department, GoO]

As regards the progress in the approved area, the increase has been by more than 100 times during 2009 and 2016 whereas the number of finalized cases has jumped by more than 40 times, as seen in the following chart:



Graph No.21

**Progress of Finalised Community Claims (Form B) in Odisha
[based on SCSTRTI 2012, Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)**

Act, 2006: Study on Implementation Status and Good Practices in Odisha, Table 1.8; and Status of Implementtaion of Forest Rights Act in Odisha as on 31 July 2016 as released by ST & SC Development Department, GoO]

Attempts by SLMC to promote JFM/VSS under FRA

“It was decided to move the MoTA alongwith a recommendation to recognize the JFM and CFM initiatives continuing in tribal areas/forest areas and make an explicit reference in the title deeds of CFR” This is regarding the draft guidelines for facilitating grant of community rights and management of CFR as submitted by the FD (vide proceedings of the meeting dated 24-10-2011).

“The MoTA, GoI had issued guidelines that JFM committees or Vana Surakshya Samitis (VSS) are not eligible for availing the Community Forest Rights as per the FRA provisions. The committee observed that in Odisha, the VSS have been over the years nurtured by the F& E Department to sustainably manage and project forest resources. Hence the committee decided that those VSS where there are no conflicts with the Gram Sabha in sustainable management of forest resources may be identified so that Community Forest Rights can be given under FRA.”(vide proceedings of the meeting dated 21-7-2015).

However, when MoTA objected to this in their letter dated 20-8-15, decision was taken to modify this.

5.3.1. Community forest resource rights (CFRR):

As on 31st July 2016, the grant of CFRR against claims in Form-C in the state is 3149 (61.19%) against the total claim of 5148 (vide annexure-5). The poor progress is chiefly due to the reservations of the Forest Department though it is also true that many claims are yet to be made⁵⁰. Another factor causing the delay in submission

⁵⁰The Gunupur SDLC observed on 9-5-2016 that since CR and CFR claims are not coming from Gram Sabhas, so field functionaries need to create necessary awareness.

/consideration of the CFRR claims is the use of GPS in mapping the community forest resource. Although the use of GPS is not mandated under FRA, and it has rather been clarified that technical support can only supplement the process and is not mandatory or should not be a cause of hindrance, VSS is still a hindering factor in the process, despite clear instructions from the government.

Follow up actions after the grant of CFRR titles have not been much properly taken in most cases. Particularly the CFR Management Plan is a concept that is still in an experimental phase for many, in absence of guidelines for the same⁵¹.

5.4. Habitat Rights

As an anthropologist would see it, the term 'habitat' practically has greater significance and implications for the pre-agricultural nomadic and pastoralist communities than the well-settled communities. In Odisha, the most eligible community for habitat rights is the Mankirdia particularly because they have not been used to a fixed habitation or settled life⁵², and have rather preferred a semi-nomadic life moving from place to place in search of their livelihood. Raw material the siali (*Bauhinia vahlii*) bark fibre from which they make ropes and other items having some special properties (like flexible baskets used in traditional extraction of mahua seed oil) though it is another thing that their traditional products have lost the market space due to popularity of other substitutes (like plastic ropes) as well as discontinuation of old methods of oil extraction.

⁵¹The impression of the present consultant in his capacity as an independent researcher on community forestry is that the village communities are not accustomed in systematizing their efforts the way the law or the Forest Department expects from them, and they are comfortable in exercising their stake and power more in the informal ways than formal. CFRR title for them is more for asserting their rights and continuing their conventional ways of forest use than going for planning for its management and development.

⁵²Many of them have been rehabilitated in colonies near Jashipur and Karanjia where they have been given substitutes of siali to continue their business.

As of the other PVTG communities, each of them binds itself to a particular geographical landscape irrespective of the legal or political boundaries, and that is the domain or territorial identity of that particular community. Like, the Juang belongs to the Juanga pidha (Keonjhar), the Chuktia-Bhunjia to the Sunabeda plateau (Nuapada), the Dangria Kandha to the Niyamgiri (Rayagada/Kalahandi), and the Bonda to the Bonda Hill (Malkangiri). Earlier each such land used to fulfill their simple needs of life and livelihood. They served as their habitat which is a common property resource for the community. The difference between the village boundary and the habitat is that the villages are a part of the whole habitat, and certain activities like hill cultivation are limited to the village boundary while activities like grazing of domestic animals and collection of forest products went beyond the village boundary where the larger landscape of habitat is entered. The habitat may also contain common places of worship and social gathering/celebrations. This is why the FRA recognizes habitat rights for such communities. It defines 'habitat' as “the area comprising the customary habitat and other such habitats in reserve forest and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes” (Section 2-h), and provides for recognition of the community tenures of habitat and habitation for PTGs (PVTGs) and PACs under Section 3-1(e). The Amendment Rules, 2012 provide further under Rule 12 (B) that the DLC has to ensure that the PVTGs receive their habitat rights in the due process involving their traditional institutions.

Over the years however, the original habitat landscape suffered heavy degradation. It becomes inadequate in fulfilling the growing needs of the dependent population. At the same time, the once self-confined PVTG communities gradually accepted the government's initiative for mainstreaming, to come out from isolation. Moreover, the government provided them with alternative livelihood options; and educational and other developments changed their lifestyle gradually. The value system and perceptions too changed gradually (even if partially), and this is how the relevance of habitat was lost to some extent. However, when some outside intervention poses a major threat to the life,

livelihood, and identity of the PVTGs by causing any modification in the habitat, then the matter assumes significance. In the Sundargarh district in context of the possible long-term impact of the mining in the Khandadhar area on the socio-ecological security of the Paudi Bhuyans living there⁵³. Similar concern has been raised in context of the proposed mining in the Dangria dwelling domain, the Niyamgiri hills. Therefore the habitat conditions that support the livelihood and ethnic identity of the PVTGs need to be protected. However, while it is true that the habitats of PVTGs need such protection from any harmful external interventions, there should not be any doubt that the habitat-dwellers themselves realise that their own ways should not be detrimental to the habitat. Shifting cultivation is a major concern as it has degraded many hilly habitats. However, as said earlier, if the major pressure of the population is limited to the village itself and the concerned community adopts an efficient CFR management practice, then the habitat is likely to experience less pressure. It can regain some of its lost glory, if not all.

Although habitat rights are supposed to have greater importance than the CFRR for the PVTGs, their importance/relevance has lost its strength by becoming just one of the many provisions under the Community Forest Resource title, as in the claim Form-B, probably with an idea that such rights cannot be exclusive but partial. Moreover, the habitat right granted under FRA has to be limited only to forest kisan lands whereas the PVTGs do not have any such distinction while visualizing their habitat. The added concern is the approach that the Micro Project authorities have to facilitate the process of claim for habitat rights for the area under their jurisdiction though the actual habitat may be much larger than that.

The claim for habitat rights is supposed to be a complex process in itself (like, identification of the cultural and natural

⁵³ Tribals oppose mining in Odisha, *The Hindu*, 8 June 2015, "<http://www.thehindu.com/news/national/other-states/tribals-oppose-mining-in-odisha/article7292666.ece>" Also, Chakravartyy, A.(2016); Fight for Khandadhar, *Down to Earth*, 31 March 2016, <http://www.downtoearth.org.in/news/fight-for-khandadhar-53257>

heritage, as mentioned under Section 5-c) as many things are to be considered. There is neither any exclusive format for this purpose nor any model process documentation to refer or follow although the Training Manual (Part-I) published by SCSTRTI has provides some clue to the process to be followed in the matter.

It is strange that Juanga pidha in Keonjhar, which received the first focused attention for claiming the habitat rights and where a lot of campaigning has been made to assert the claim, is still nowhere in the picture. This is despite the information that pidha-wise mapping has already been followed by submission of the habitat right claims to the SDLC (vide SCSTRTI 2016, Training manual, Part-I, p.41).

On the other hand, the Mayurbhanj district administration decided to lead the process and was about to get the first habitat rights approved in the state for the PVTG Mankirdia on whose behalf 9 claims have been filed so far, and the Forest Department, particularly the STR(Similipal Tiger Reserve) authority is understood to have agreed in principle to support the initiative. Though the major issue hindering the process is said to be the Mankirdias' insistence to include the core area of the sanctuary in their habitat boundary as they know that their resources are better available there, whereas the STR authorities are reluctant to share the core area for this purpose. Still from the 9 claims submitted to the SDLC, 2 were approved and forwarded to the DLC (vide annexure-25).

It was reported to the Malkangiri DLC on 4-8-16 that “The process of recognition of habitat rights of Bonda community is in progress; survey, demarcation of customary boundary of Bonda community is going on and habitat right process of Didayee community will start soon after completion of survey work of Bonda community.”

The Kandhamal DLC observed on 26-11-15 that Vasundhara (NGO) representative shared that the claim-making process had already been initiated 'after extensive village survey',

and that Jhirpani GP was selected to initiate the process. On the other hand, the PA-ITDA said that the process, although started with the help of Vasundhara, was facing difficulty due to non-cooperation by the revenue- and forest authorities.

In fact, many Micro Project authorities neither have a clear perception of the habitat right nor feel any responsibility. At the same time it is also true that the issue (claim for habitat rights) has little or no relevance in some of the Micro Project areas. It does not matter if neither the concerned PVTG communities nor the Micro Project authorities do not bother.

5.5. Settlement of Rights in Wildlife Sanctuaries and National Parks

Rights in Protected Areas have been a bit difficult to be settled chiefly due to the objection of the Forest Department.

Table No. 8
FRA implementation in Protected Areas
(upto December 2016)

Homestead claim under IFR	Claims for agricultural land under IFR	‘Other’ (?) claims under IFR	DLC approved claims for homestead land	DLC-approved claims for agricultural land under IFR	DLC-approved ‘other’ (?) claims under IFR
1555	3055 ⁵⁴	364	560 (area 179.8 acre)	3651 (area 9582 acre)	305 (area 457 acre)

(Source: Office of the PCCF, Wildlife, Odisha)

As regards community claims the progress is negligible. It seems that only some minor claim has been recognized in Karlapat sanctuary.

In Similipal, on the other hand, the authorities have been very eager to see the National Park finally notified and hence are opposed to the forest rights or any other rights or privileges of the

⁵⁴ The mismatch with the approved figure is due to the ambiguity of data in case of Kuldiha sanctuary (vide annexure-31)

people in that forest area as a result of which they are now about to complete the eviction process in the villages situated in the core area, and are encouraging people in the forest villages inside the Tiger Reserve area to rather opt for relocation with an attractive compensation package of Rs.10 lakhs per family. Despite such approaches the activism of the concerned district collector, complemented with the efforts of social activists, has made it possible for recognition of both individual and community forest rights inside this Protected Area.

Hadagarh sanctuary (Keonjhar district) provides a distinguished picture as fishing rights have been conferred under the FRA (as per application in Form-B) in the dam, that too in the name of the president of a fishermen's cooperative. The said community right is recognized in the Hadagarh reserved forest, and the authority Gram Sabha is that of Hadagarh. The right-holders have been named (9 individuals and other villagers) who belong to the ST category, and the right conferred is pisciculture and fishing nothing else. The Hadagarh Primary Fishermen's Cooperative Limited has about 700 members from 19 villages in 7 GPs, some of whom belong to the neighbouring district of Mayurbhanj. Rights were conferred after a long tussle between the concerned village communities and the sanctuary authorities which started when the latter denied fishing rights in the Hadagarh reservoir with the plea that it is a part of the sanctuary where such commercial activities are not allowed as per the Supreme Court order. The Fishery Department supporting the fishery in lieu of lease money and royalty, helped the communities take up their issue with the government (like Forest Department)⁵⁵. Ultimately it was decided that the fishing right could be allowed using the Forest Rights Act; and so the title though naming the same in the name of the President of the Fishermen Society has been controversial.

In Sunabeda sanctuary the intense Maoist activities significantly affected the FRA implementation process; particularly joint verification was difficult as forest- and revenue

⁵⁵ Interaction with Sri Baikunthanath Rath, Cooperative Supervisor

officials avoided going inside the sanctuary because of the Maoist threats. Gradually some people received the titles, but not all; particularly the most vulnerable Paharia community has not been able to benefit from the process being categorized as OTFD.

Sarangi (2015) has studied the status of implementation of FRA in the Badrama sanctuary area, and his report suggests that out of the 700 IFR and 27 community claims received by FRCs in the sanctuary in 2014, 343 IFR claims and 3 community claims were approved by the DLC though no community title was actually distributed by then.

In all the cases of FRA implementation in the Protected Areas the civil society organizations have taken a lead role in facilitating the process as the forest authorities have not been favorable.

5.6. Recognition of Rights Under Sec 3 (2)

It seems that development rights are the only ones which have received goodwill from the Forest Department. Applications to this effect are first submitted to the Forest Range Officer by the user along with a resolution of the concerned Gram Sabha, with its recommendation. The Range Officer then forwards this to the DFO, who can either approve or reject it, provided that in case of rejection he/she (DFO) has to cite a reason.

As detailed in the FRA with subsequent clarifications (dated 18 May, 2009) and updations, diversion of forest land for non-forestry purposes implying only development of the village community will not require processing under the Forest Conservation Act, 1980 if the required forest land is less than 1 hectare (each case) and the number of trees to be cut for the said purpose do not exceed 75 per hectare.

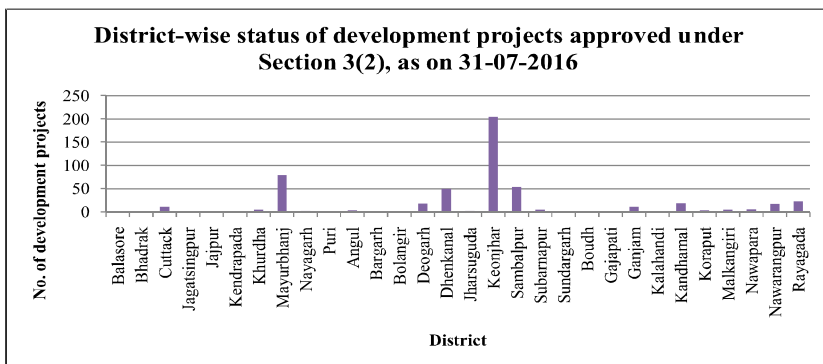
The development projects originally included 13 facilities (managed by government only), viz. school, dispensary/hospital, anganwadi, fair price shop, electric and telecommunication lines,

tanks and other minor water bodies, drinking water supply and water pipe lines, water or rain water harvesting structures, minor irrigation canals, non-conventional source of energy, skill upgradation or vocational training centres, roads, and community centres; but in November 2016 the Government of India added community toilets to this list though it would not apply to Protected Areas⁵⁶. On the other hand, this provision for community toilets will be equally applicable to urban areas where the urban local bodies give recommendations.

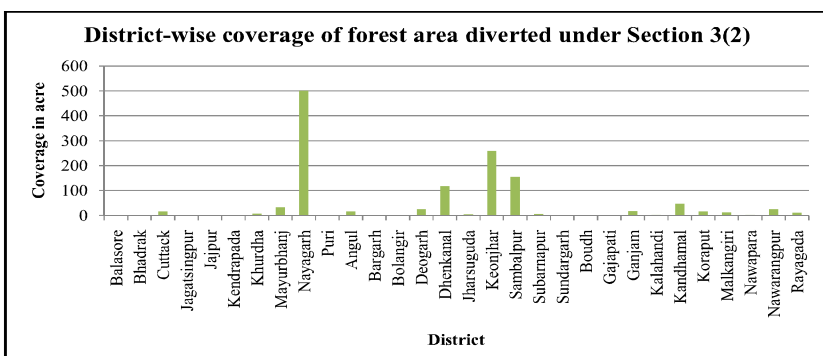
The prime responsibility in this case rests with the user agency. It would make the construction. If the DFO doesnot approve the proposal, he/she has to forward it to the DLC which can take a final decision in this regard with at-least 1/3rd quorum, and convey the decision to the DFO. In case the DLC approves the project, the DFO has to comply with that provided the said land is not diverted for any other purpose, and in case the work could not start within one year of the permission granted to the user agency, then the Forest Department shall have the right to appropriate land. What is remarkable is that the Range Officer, in case he/she doesnot agree with the proposal, can suggest for a better option. The DFO's approval has not been mandated if the 'better option' has to be resented for the consent of the Gram Sabha.

As on 31 July 2016, total number of claims settled under Section 3(2) is 522 covering an area of 1271.73 acres (vide annexure-6). Keonjhar ranks topmost in the number of projects approved followed by Mayurbhanj. On the other hand, Nayagarh is the district with highest coverage of forest area under this provision followed by Keonjhar, Sambalpur, and Deogarh.

⁵⁶ **Green Ministry Nod for Toilets on Forest Land**, *The New Indian Express*, 15 Nov. 2016, <http://www.newindianexpress.com/nation/2016/nov/15/green-ministry-nod-for-toilets-on-forest-land-1538582.html>



Graph No.22
District –Wise Status of Development Project Approved Under Section 3 (2) as on 31- 07-2016

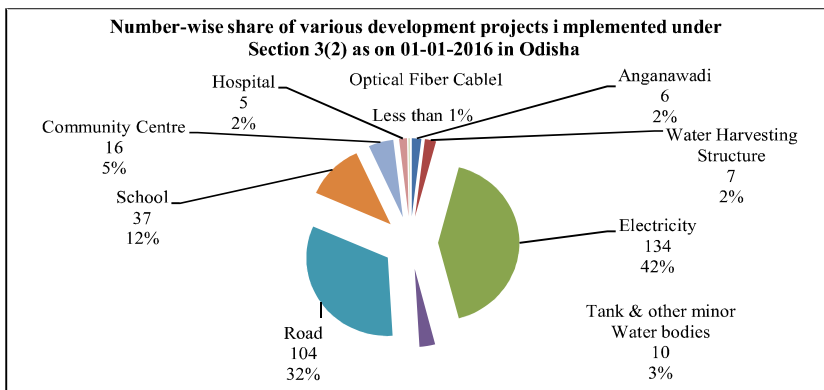


Graph No.23
District wise coverage of forest area diverted under Section 3(2)

(vide annexure-6)

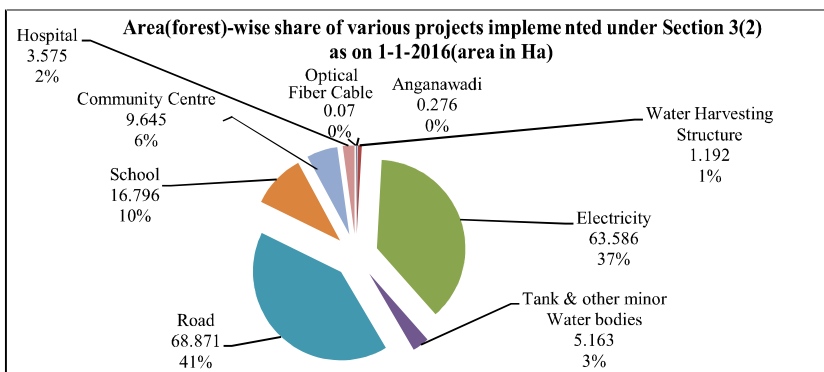
As per the data furnished by the PCCF's office, total projects approved under Section 3(2) were 320 upto 1st January 2016⁵⁷ (vide annexure-14), and the following charts show that electrical installations followed by school and roads have the major shares in number-wise projections whereas roads followed by electrical installations hold the major shares area-wise:

⁵⁷"http://odishaforest.in/fra_forest_land_diverted.jsp", as accessed on 13 December 2016



Graph No.24
Graph illustrating the number wise share of various development projects implemented under section 3(2) as on 01-01-2016 in Odisha

(vide annexure-14)



Graph No.25
Area (Forest) – wise share of various projects implemented under Section of 3(2) as on 1-1-2016 (Area in Ha)

5.7.Conversion of Forest Villages into Revenue Villages:

The term 'forest village' implies to a village or habitation in forest land belonging to the Forest Department. Usually such villages are found in the reserved forests or sanctuaries, and the villagers

live at the mercy of the Forest Department. They cannot avail the development facilities of the government applicable for revenue villages. Even their identity is at stake, and they normally identify themselves with reference to some nearby revenue village.

Un-surveyed villages have more or less the same issues though they need not necessarily be in forest lands always. Section 3(1)(h) of the FRA is however applicable to unrecognized villages in forest lands only. The Act mandates settlement of the rights as well as conversion of such villages into revenue villages.

While the settlement of individual claims for forest rights has been possible in most of the forest villages of the state partly because of the remarkable activism of civil society organizations in a number of cases (if not all), progress in the matter of conversion of forest villages into revenue villages has however remained quite dissatisfactory. Unfortunately, despite repeated instructions from the central- and state governments, the factors causing the objectionable delay have been found to be many, like:

- The list of such villages are yet to be prepared (DLC, Koraput; dated 1-9-16); or sub-ordinate authorities not submitting the list despite repeated requests (Gajapati), or the villages are yet to be identified by the DFO (Rayagada DLC, dated 12-5-2016).
- More comprehensive guidelines required, as observed by the SLMC.
- Case records of 4 proposals did not tally with check memo; so returned to SDLC for compliance. (Mayurbhanj DLC, dated 8-8-16).

Still, Mayurbhanj is in a leading position in the process of converting forest villages into revenue villages where proposals have been submitted for 6 villages of Thankumunda Block and progress has been made for two most remote villages Jharjhari and Asurkhal among these six. Next in the line is Kandhamal where 6 villages of Jamjhari GP are in the process.

The plight of Malsodra



Malsodra is a forest village in the Jamujhari GP of Kandhamal district. As the above map shows, the village is found not in the revenue map but in the forest map as it is situated inside the Kalabagha reserved forest. The residents (10 HHs) are Kandha, and depend on forest collection as well as hill cultivation. The nearest revenue village to which it attaches itself as a hamlet is Madikhol wherefrom a forest road goes to Malsodra, which was till recently very difficult to use and is still a not-much motorable, fair weather one. Their claim process was made under the Madikhol FRC, and the villagers got individual titles both for homestead and cultivated lands though they say only lands near their habitation were measured during the verification process, and others were left out. The only facility which they have is a well. There is no smashan (funeral ground) or gochar (pasture) demarcated in this village as it is not a revenue village; so the villagers have themselves made a virtual demarcation for all these. When this study team visited the village, forest officials had arrived in the area to mark trees for felling, which the Malsodra villagers wanted to protest as they considered that part of the forest as their resource, but they knew the limitations of their right and hence their objection did not work. However, the support of Vasundhara has created good hope for them as the process for conversion has been started, and the village women have been supported to do collective trading in minor forest produce.

As reported by the ST & SC Development Department, GoO in September 2016 the process for conversion of forest/un-surveyed villages had started for 88 villages out of the total 329 such villages identified in the state. Of these, 77 proposals were pending at Gram Sabha level, 7 at SDLC level, and 4 at DLC level⁵⁸ (vide annexure-13). Interestingly, as indicated earlier that some of the districts were yet to prepare the desired list, the ST and SC Development Department did not receive data from few districts including Koraput. As per the available details Malkangiri has the highest number of such villages (66) followed by Ganjam (53), Nayagarh (42), Subarnapur (36), Kandhamal (35), Jajpur (30), and Mayurbhanj (24).

5.8. Rejection and Appeal

Claims under FRA have been rejected showing various reasons. The reason mentioned may be one or more, and may vary for individual and community claims. Individual claims are rejected normally on the grounds including 'claim on non-forest land', encroachment of forest land after 13-12-2005, claims from minors or multiple claimants, and lack of sufficient evidence; whereas community claims have been rejected or remanded for reconsideration on grounds like inadequate resolution, lack of required signatures in the joint verification report, lack of boundary demarcation, etc...

The Forest Rights Rules, 2008 followed by the Amendment Rules, 2012 have made elaborate provisions regarding the appeal against the rejection. The basic thing to ensure the appeal is the timely intimation to the claimant explaining the cause of rejection, which doesnot seem to have been ensured for a long time.

91310 individual claims and 466 community claims have been reported to be rejected by the Gram Sabha as per the FRA status report as on 31st October 2015. It was found that in most of

⁵⁸ Letter No. 18069/SSD, dated 29-9-2016 of the ST and SC Development Department, GoO

Table No. 9
Rejection of claims (as on 31st October 2016)

Sl. No.	Level	IFRC rejected	IFRC remanded	Community Claims rejected	Community Claims remanded
1	Gram Sabha	91310	1347	466	54
2	SDLC	55838	21267	148	303
3	DLC	1505	3634	0	43

Source: Department of ST and SC Development, GoO

the cases the claims have been rejected by Gram Sabha due to lack of evidence. It is reported that around 55838 individual forest rights claims and 148 community claims duly approved and recommended by the Gram Sabha have been rejected by the SDLC and around 21267 individual forest rights claims and 303 community claims have been remanded back to Gram Sabha. These are the claims mostly of Other Traditional Forest Dwellers (OTFDs). They were duly approved and recommended by many Gram Sabhas but rejected by the SDLC demanding unnecessary documentary evidences of three generations. While the requirement of proving three generations is not required for the land occupied and claimed by the OTFDs. It is required under the Act that the OTFD claimant family would be residing in that area for three generations and would have occupied or have depended over forest or forest land prior to 13th Dec 2005. But most of the SDLC have rejected the claims of OTFDs.

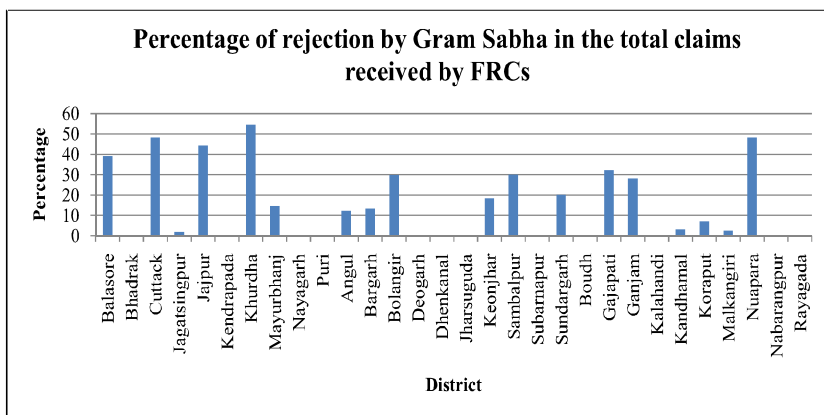
On 16 June 2016, the Commissioner-cum-Secretary, ST and SC Development Department, Govt. of Odisha wrote a letter to all Collectors. He referred to the poor progress in implementing the provisions of Forest Rights Act, and the Amendment Rules of 2012 made thereunder regarding the disposal of rejected claims, citing the decision made in the 8th SLMC meeting to implement this process in a time bound manner. He said: “There is an urgent need for proactive facilitation of the appeal process for which it is suggested that the rejected/modified claims be suo-moto treated as petitions for hearing and disposal. The reasons of rejection or modification shall be communicated to the concerned claimants/Gram Sabhas immediately, if not done yet; and the

DLCs/SDLCs may fix venues and timings for hearings of the claimants' appeals xxxxx and take appropriate decisions to dispose of the same.”

This is however yet to be adhered to properly. Generally the situation is that the reason of rejection is yet to be intimated to the claimants in a large number of cases. Even where it is accepted in principle that the SDLC or DLC would not reject any case, the claims remain pending for long without any clarification to the claimant.

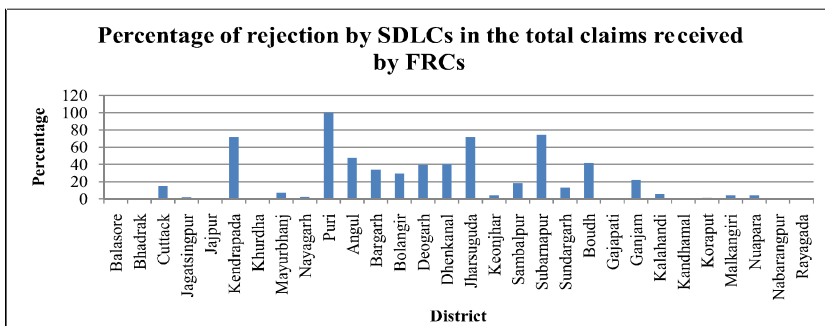
As per the information available with the state nodal agency as on 31-07-2016, the total number of rejected cases of IFR claims was 93136 at Gram Sabha level which was 15.19% of the total 612944 claims received by the FRCs (vide annexure-7). The number of claims remanded to Gram Sabha by SDLC was 21907 whereas those remanded by DLC to SDLC was 1811. The Gram Sabha on the other hand has remanded 1751 claims to FRC.

Khurdha, Jajpur, Nawapara, and Cuttack are among the districts where high percentage of rejection by the Gram Sabhas has been seen, as is evident from the following chart:



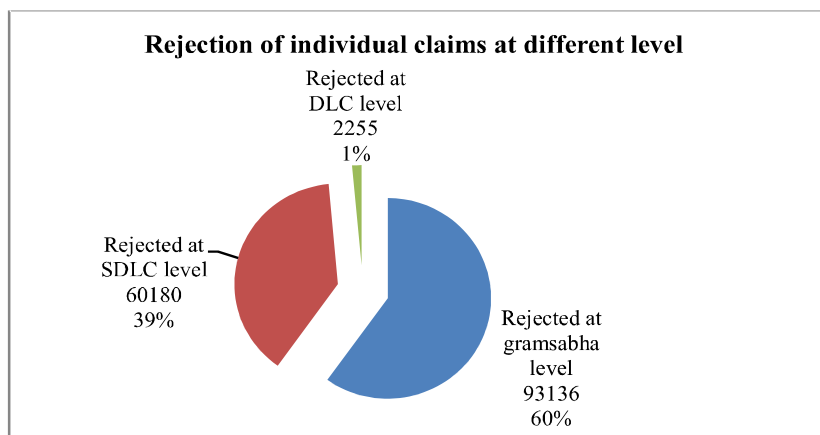
Graph No.26
Percentage of Rejection by Gram Sabha in the Total Claims received by FRCs (vide annexure-7)

On the other hand, in addition to Puri district where the SDLC has rejected all the claims, Subarnapur, Jharsuguda, and Kendrapada followed by districts like Angul, Dhenkanal, Boud, etc. have recorded the highest percentage of rejection by SDLCs to the total claims received by FRCs, as seen in the following chart:



Graph No.27
Percentage of Rejection by SDLCs in the Total Claims received by FRCs

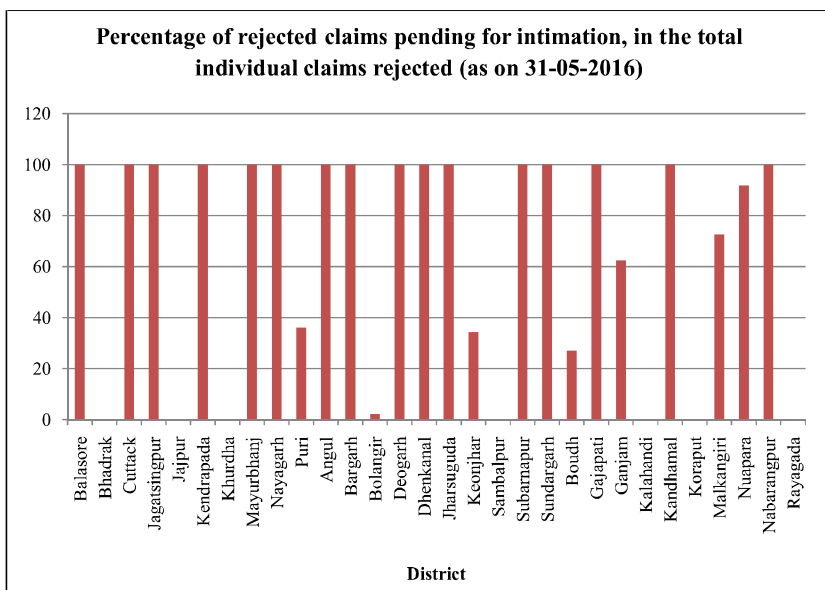
The following chart shows the share of rejected cases at different levels(as on 31-07-2016):



Graph No.28
Rejection of Individual Claims at Different Level
(vide annexure-7)

Bhadrak, Nayagarh, Puri, Deogarh, Dhenkanal, Jharsuguda, Subarnapur, Boud, Kalahandi, Nabarangpur, and Rayagada are the districts where not a single claim has been rejected by the Gram Sabha.

As to intimating claimants about the rejection, the performance of most districts was highly dissatisfactory as reviewed on 31 May 2016⁵⁹ (vide annexure-8) when out of against the total number of rejected claims (individual) of 155914, 109403 remained pending for intimation; and out of the total 303 appeals filed 225 had been disposed of. Mayurbhanj, Ganjam, and Sundargarh were the only districts receiving appeals, and Mayurbhanj held the position of highest receipt and disposal of the appeals.



Graph No.29
Percentage of Rejected Claims Pending for Information, in
total individuals claims rejected as on 31.05.2016
(vide annexure-8)

⁵⁹ Letter of Sri Surendra Kumar, IAS; Commissioner-cum-Secretary, ST and SC Development Department; dated 16 June 2016

As of community claims, total 8167 claims were received in Form-B of which 297 have been rejected whereas of the total 5148 claims received in Form-C, 22 have been rejected (annexure-5). Kendrapada is the district where the highest rejection has taken place followed by Balangir, Sambalpur, and Keonjhar. No claims have been received from Bhadrak, Jagatsinghpur, and Puri.

5.9.Convergence Initiatives taken up by the State

Rule 16 introduced through the Forest Rights Amendment Rules, 2012 mandates for convergence of all government schemes with the FRA for all right-holders (both individual and community) whose rights have been recognized and vested under the Act. Accordingly, title-holders, mostly individuals, have received great priority in the state under various schemes among which the housing scheme happens to be the topmost. Thus, convergence is maximum for Indira Awas, as it was target-based although the Indira Awas is usually constructed not in the 'FRA land' but in the village (non-forest land) itself. Since maximum people get benefits under the IAY, hence the Mo Kudia scheme, which applies to those who could not avail IA, projects a low achievement under FRA.

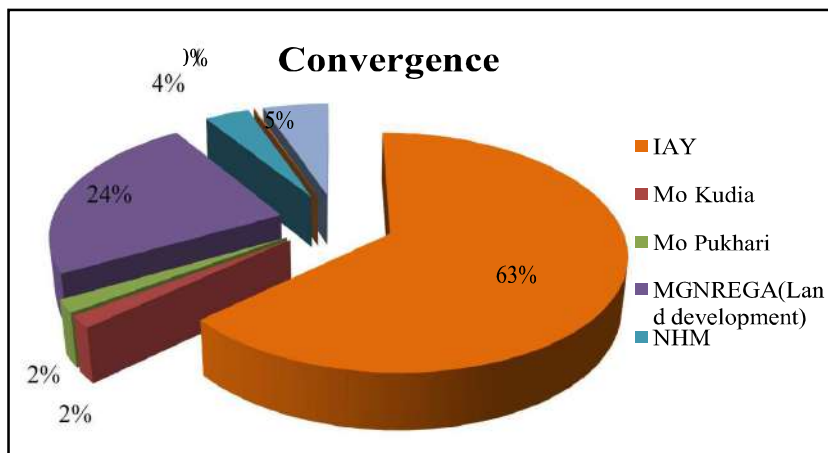
Status of Convergence initiatives taken up by the State

Various programmes like IAY, Mo Kudia, Horticulture Mission, MGNREGS, NRLM, OTELP, Focus Area Development Programmes are being taken up for the livelihood and food security of the poor especially ST and SC population of the State as shown in the table below. Convergence of FRA with different programmes, if implemented in the lands of FRA title holders in true spirit and process, has the potential of leading to sustainable livelihood and food security of the title holders. But in reality, till date, convergence of different programmes has been kept in limited boundaries. Priority has been given only for housing schemes like IAY and Mo Kudia and land development initiatives under MGNREGS.

Table No.10
Convergence of FRA with different programmes/schemes

Total Titles distributed	Total availed different Govt. schemes	IAY	MO Kudia	MO Pokhari	Land dev. Under MGNREGA	NHM	National Bamboo Mission	Other Programmes
349100	226304 (64.8%)	143724	3737	3944	53969	8383	286	12261

Source: Annual Report 2013-14, ST and SC Development Department



Graph No.30
Convergence of FRA with different programmes/schemes

The graph and table above indicates that out of 349100 FRA right holders till end of October 2015, 226304 right holders (64%) have been covered under different programmes and schemes. Out of them, 63% of the right holders have been covered under IAY and 24% under MGNREGS (Land development initiatives). Only 4% of the right holders have been covered under National Horticulture Mission and merely 2% of the right holders have been covered under Mo Pokhari and Mo Kudia schemes respectively. The graph explains that the potential of convergence of programmes for the livelihood security and poverty alienation

of the FRA right holders has not been explored. **Convergence of programmes has been mostly limited to IAY and MGNREGS only.** Since there are circulars issued by the Ministry of Panchayati Raj, GoI and Department of Panchayati Raj, GoO with regards to 100% coverage of FRA right holders under IAY and MGNREGS and increase in the minimum days of employment from 100 to 150 under MGNREGS for the FRA right holders, it is observed that in the districts FRA right holders are being covered primarily under these two schemes in order to fulfil targets.

Table No.11
Best Performing Districts in convergence of different programmes and schemes (31st October 2015)

Sl. No.	District	No. of Certificates of Titles distributed to Individual Claimants	No. of Rights holders covered under various Govt. schemes for their benefit							TOTAL (Col. 4 TO Col. 10)
			IAY	Mo Kudia	Mo Pokhari	Land Dev. under MGN REGS	+ National Horticulture Mission	+ National Bamboo Mission	+Other Programmes (Please mention the programme)	
I	II	III	IV	V	VI	VII	VIII	IX	X	XI
1	Kandhamal	57657	23464	1048	172	18958	4600	0	0	48242
2	Keonjhar	49189	20342	776	266	6433	1357	132	1761	31067
3	Malkangiri	28320	18655	186	605	3157			3588	26191
4	Koraput	25742	14238	75	437	5581	1007	44	2170	23552
5	Gajapati	34353	17264	82	65	1336	625	71	545	19988
6	Nawarangpur	35949	10566	2	380	3725	288	37	17	15015
7	Rayagada	19498	9435	65	313	1521	164	1		11499
8	Mayurbhanj	21239	4196	523	377	1117			2560	8773
9	Kalahandi	10077	3494	3	38	3200	0	0	310	7045
10	Sundargarh	9477	3172	112	496	1200	24	1	188	5193
	ODISHA	349100	143724	3737	3944	53969	8383	286	12261	226304

Table No.12
Laggard Districts in convergence of different programmes and schemes (31st October 2015)

Sl. No.	District	No. of Certificate s of Titles distributed to Individual Claimants	No. of Rights holders covered under various Govt. schemes for their benefit							TOTAL (Col. 4 TO Col. 10)
			IAY	Mo Kudia	Mo Pokh ari	Land Dev. under MGN REG S	+ National Horticul ture Mission	+ National Bamboo Mission	+Other Progra mmes	
I	II	III	IV	V	VI	VII	VIII	IX	X	XI
1	Puri									0

2	Jagatsingh	47	6	39	2					47
3	Bhadra	175	114						22	136
4	Subarn	379	165		1	193	3			362
5	Kendra	305	245	3	5	112				365
6	Jharsug	2599	521		18	222				761
7	Jajpur	3108	341	32	15	443	5	0	0	836
8	Bargarh	1099	547	5	139	95			21	807
9	Bolangi	1960	413	26	0	399				838
10	Khurda	787	743	2	13	2	51		38	849
11	Boudh	1657	371	274	19	206	7			877
12	Balasor	2084	626	305					620	1551
13	Nayaga	3061	866		218	447	17			1548
14	Cuttack	1560	1184	0	6	441				1631
15	Angul	2545	957	0	60	964	1			1982
16	Dhenka	6109	2344	9	75	286	37		46	2797
17	Deogar	5909	1648			1545	15			3208
18	Nawap	6040	1482	45	157	1675				3359
19	Ganjam	5594	2321	86	14	711	72		217	3421
20	Sambal	12581	4004	39	53		110		158	4364
	ODIS	349100	143724	3737	3944	53969	8383	286	12261	226304

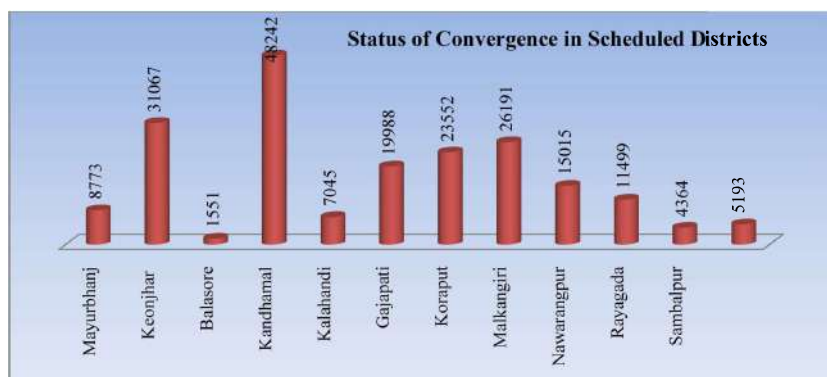
The table above indicates that districts performing well in terms of coverage of right holders under different programmes and schemes are Gajapati (19988 right holders), Kandhmal (48242 right holders), Keonjhar (31067 right holders), Malkangiri (26191 right holders) and Koraput (23552 right holders).

Coastal districts like Puri, Jagatsinghpur, Bhadrak, Kendrapada etc are lagging behind in convergence. As such the implementation of Forest Rights Act in coastal districts is tardy with minimal number of forest rights recognized. Districts like Jharsuguda, Bargarh, Bolangir, Angul, Boudh, Nuapada, Ganjam having high forest cover and tribal population are also lagging behind in FRA implementation as well as in convergence of programmes for the benefit of the FRA right holders.

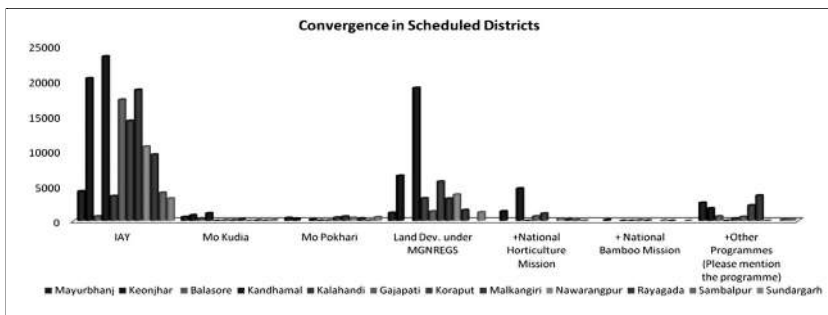
It has been observed that FRA implementation and coverage of FRA right holders under different programmes and schemes have progressed well in Scheduled V districts. In districts where administration has been proactive, successful initiatives of convergence of various programmes for the benefit of the FRA right holders have been taken up.

Table No.13
Status of Convergence in Scheduled Districts

Sl. No.	Districts	IAY	Mo Kudia	Mo Pokhari	Land Dev. under MGNREGS	+National Horticulture Mission	+ National Bamboo Mission	+Other Programmes (Please mention the programme)	TOTAL
I	II	III	IV	V	VI	VII	VIII	IX	X
1	Mayurbhanj	4196	523	377	1117			2560	8773
2	Keonjhar	20342	776	266	6433	1357	132	1761	31067
3	Balasore	626	305					620	1551
4	Kandhamal	23464	1048	172	18958	4600	0	0	48242
5	Kalahandi	3494	3	38	3200	0	0	310	7045
6	Gajapati	17264	82	65	1336	625	71	545	19988
7	Koraput	14238	75	437	5581	1007	44	2170	23552
8	Malkangiri	18655	186	605	3157			3588	26191
9	Nawarangpur	10566	2	380	3725	288	37	17	15015
10	Rayagada	9435	65	313	1521	164	1		11499
11	Sambalpur	4004	39	53		110		158	4364
12	Sundargarh	3172	112	496	1200	24	1	188	5193
	ODISHA	349100	143724	3737	3944	53969	8383	286	12261

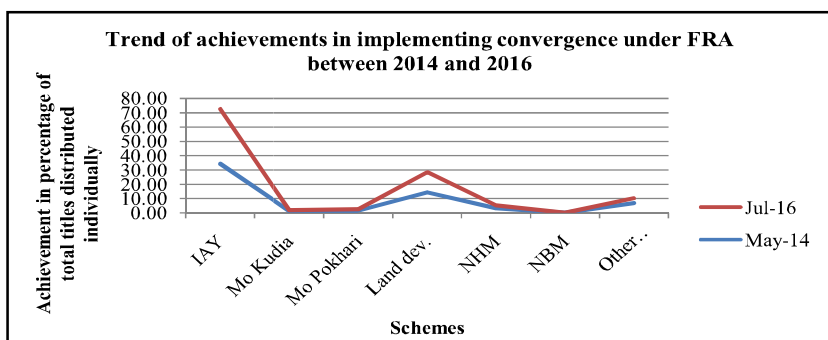


Graph No.31
Status of Convergence in Scheduled Districts



Graph No.32
Types of Convergence Schemes Granted in Scheduled Districts

In tribal dominated districts, Gajapati, Kandhamal, Keonjhar, Koraput have covered the maximum number of right holders under different programmes and schemes. But the nature of convergence is limited to IAY, Mo Kudia and land development initiatives under MGNREGS. In very few districts like Keonjhar, Kandhamal, Koraput apart from IAY and MGNREGS convergence, agro forestry, intercropping, vegetables production and plantation have been taken up in individual lands under National Horticulture Mission, WADI programme with support from NABAARD etc. But such type of interventions has been limited to few identified district and need to be expanded to other districts.

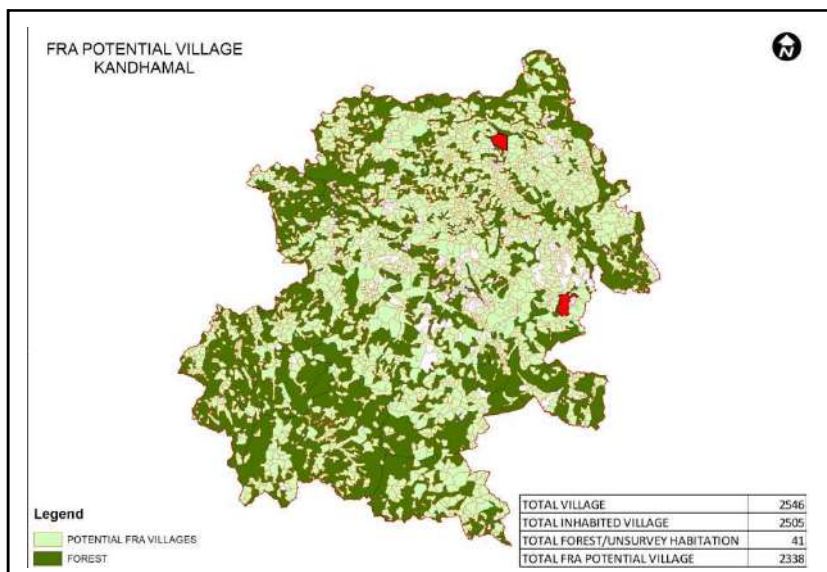


Graph No.33
Trend of Achievement in implementing Convergence under FRA between 2014 and 2016
(based on annexure- 9)

STUDY DISTRICTS

6.1. Kandhamal District at a Glance

Kandhamal as it is named after the Kandhs, a major tribal community residing in this territory. The present Kandhamal subdivision was a part of the princely state of Boudh till 1855. However, the area was mostly autonomous with the Boudh Kingdom having very little control over these areas. In the 19th Century, the British launched a vigorous campaign in these hilly tracts with the objectives of annexing the areas to their empire and suppressing the practice of human sacrifice (*meriah*). The British encountered stiff resistance from the tribals for a prolonged period of 20 years from 1835 to 1855. As the Boudh Raja failed to stop *Meriah*, the British truncated a large area, where the Kandhas were predominant, from Boudh on February 15, 1855 and named this newly annexed territory as Kandhamal to bring it under British rule within Bengal Province.



⁶⁰ Agriculture Census 2000-01, Government of Odisha

In the wake of the amalgamation of the princely States with Odisha in January 1948, Boudh and Kandhamal constituted the new district of Boudh-Kandhamal, with its headquarters at Phulbani. It is located in south central Odisha covering 8,021 sq. kms geography consists of forested landscapes interspersed with habitations and hills. Of the district's total area of 8,021sq.km, 5,710sq.km is classified as legal forests (71 %) with 29 % non-forest land (GoO, 2001⁶⁰). Only 12 % of the district's area is private land and 17 % is government owned non-forest land.

6.1.1. Demographic Profile of the District

The total Population of the district is 7,31,952 which is 1.74% of Odisha's Population. Kandhamal District has 2 Sub-Divisions, 12 Tehsils, 12 Blocks and 153 Gram Panchayats and 2,546 villages out of which 2,505 are inhabited villages and 41 un-surveyed villages as per Census 2011. Total potential village for the implementation of Forest Rights Act in the district is 2338.

Table No.14
Demographic Profile of Kandhamal District

Sl. No.	Demographic Details						
1	Total District Population	Male (%)	Female (%)	Urban (%)	Rural (%)	SC (%)	ST (%)
		49	51	10	90	16	54
		Total Dist. Pop = 733110					
2	Sex Ratio	1037 (Rural-; Urban-)					
3	Density of population (Per sq.km)	91					
4	Decadal Population Growth (2001-2011)%	12.92					
5	Total Households	172022 (Rural-90%, Urban-10%)					
	Literacy Rate	64.13%					

Source: Census of India, 2011; BPL Census of Panchayati Raj Department, Government of Odisha and SECC (2011)

6.1.2. Land Use & Land Holding Pattern

The total area of the district is 8,021 sq. km, out of which approximately 3063 sq. km is dense forest; 2,327 sqkm is open forest (Forest Survey of India, 2001). Another 376 sq. km. is

⁶⁰ Agriculture Census 2000-01, Government of Odisha

classified as scrub. Of the total geographical area 5,709.83 sq. km is forest and 2311.17 sq. km non-forest land.

Table No.15
Rural Land Use Pattern of Kandhamal District (excluding forests outside village boundaries)

Types of Land Use	Area (ha)
Forest Area (inside village boundaries)	158,779
Barren and uncultivable land	116,181
Net area sown	75,319
Current fallows	28,009
Other fallows	18,535
Land put to non-Agricultural uses	15,261
Culturable waste	13,442
Permanent pasture and other grazing lands	10,869
Misc. tree crops & groves not included in net area sown	1,153
Total	437,548

As per the 2000-01 Agriculture Census, Government of Orissa, the total forest of the district is 71 % and the non-forest land consist of 29 %.

Land holding pattern of Kandhamal⁶¹

Table No.16
Landholding Pattern of Kandhamal

Land holding pattern in Kandhamal District	Area (sq. kms)
Total Geography area	8,021.00
Non-forest area	2,311.17
Total Forest area	5,709.83
Non Forest Govt land	1,332.16

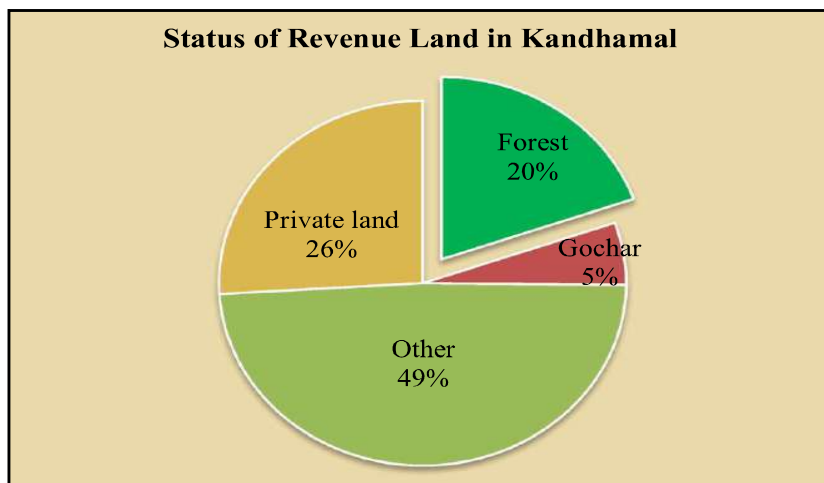
Of the total non-forest government land only 12 % area is under private possession and of the rest 17 % of land considerable size of land is under reserved and non-culturable waste category hence very little land available for cultivation. Since agriculture is the main source of livelihood, a large section of the population

⁶¹ Compiled from Agriculture Census 2000-01, Govt. of Orissa and Orissa Forest Status Report, 2003-04.

have been depending upon government forests and non-forest land for sustenance.

Legal Status of Revenue Land in Kandhamal District

The Revenue and disaster Management Dept has constructed the figure for broad legal category of land within its jurisdiction in Kandhamal district as shown in the chart below. However, during the process of implementation of the Scheduled Tribes and other Traditional Forest Dwellers (recognition of forest Rights Act 2006, it was found in the Record of Rights in Kandhamal District that there are more areas of forestland, which was not calculated and shown under forest category. Such issue/ gap has been identified based upon the reference of Case filed before the Honourable Supreme Court in connection with WP (C) No. 202/95-T.N. Godavarman vrs. Union of India &Ors, which clarified more on the definition of “forest”. Almost all the villages of Kandhamal many more forest kissam land is identified from the RoR of the village. Most of those categories of lands so far have been calculated under “other” category by the dept. Therefore, the area under non-forest category land would be reduced drastically.



Graph No.34
Status of Revenue Land in Kandhamal

Forests and System of Forest Governance in Kandhamal

Kandhamal district has the highest percentage of forest land in all of Orissa. The total legal forest land is 5709 sq. km. which forms 71% of the total land area of the district. The legal categories of forest land as per the affidavit submitted to the Supreme Court are as follows:

Table No. 17
Classification of Kandhamal District Forest Area by
Legal Status as on 31.03.2004

Classification of Forest	Area (Sq. km)
Reserve Forest	2,010.06
Demarcated Protected Forest	1,783.30
Undemarcated Forest	0.00
Un Classified Forest	2.00
Other Forest under control of Revenue Dept.	1,914.47
Total	5,709.83

Source: Orissa Forest Status Report 2003-04, Principal Chief Conservator of Forest, Orissa, Aranya Bhawan, Bhubaneswar

6.1.3. Forest-Based Livelihood

The landscape of Kandhamal district is dominated by forest area followed by agricultural land. It constitutes an important resource for sustainable livelihood opportunities for local communities. Shifting cultivation was once a common practice in the district, and was a major source of livelihood. Communities living in remote parts of Kandhamal district practice shifting cultivation and cultivate millets like Raggi, Janha and Jhudanga, Katinga, Black gram, Quarry etc. in Dupi and Kadapanna villages of Balliguda subdivision in Tumudibandh, Belghar, Kotgarh, areas in Phulbani and G Udaygiri areas, shifting cultivation has been almost stopped.

Siali is the main tree species in the area. Communities of Madikhol village formed collectives and stitched Siali plates and

other forest produces and sell through the collectives and earn more money for the family. Minor forest products like siali leaves, honey, lac, Jhuna, Castard, different types of roots/ tubers like Pita Kanda, Mepa Kanda, Poti Kanda, Langel Kanda, Bhat Kanda etc., Mushroom, Green leaves, Mahua flowers, Mahua seeds and Tamarind are important sources of income for tribals and others living around forest areas.

6.1.4. Implementation of FRA in Kandhamal District and Issues

6.1.4.1. District Level Initiative for Implementation of FRA

District has shown significant records in distribution of titles over individual and Community forest land. Despite having partly affected with extremism, frequent communal overturns and other law and order problems the district administration was successful because of their effective strategy for implementation, tracking and monitoring of the process. The information collected through interaction with PA, ITDA-cum Member Secretary, DLC, District Collectors, Sub-Collectors, and many other officials engaged in the FRA implementation, the following are some of the strategies adopted in the districts:

- Awareness generation among the communities by organizing awareness training programme in Tehsil, GP and village wise with involvement of local CSOs/ NGOs.
- Establishment of FRA Cell for proper management of MIS and preparation of FRA title.
- Better coordination and regular follow up with officials assigned the specific work for implementation of FRA through review meetings.
- Ongoing sensitisation of officials on CFR claims facilitation actively and intensively in ***campaign mode*** for creating proper understanding and proper recording of rights.
- Proactively engaging RIs, Amins, Tehsildars, Village level volunteers & civil society in sensitization and facilitation of CFR claim process.

- Number of Special consultations for the Forest Dept officers for proactive engagement in the process.
- Developed & disseminated sensitization materials (leaflets, plaques, etc.) in all over district.
- Developed CFR model and guidelines through participatory process & used the model for replication in all over Kandhamal.

☞ **Training Sensitisation and Information Support**

As per the information collected from the PAITDA Office, sensitization programme was organised in each block

☞ **Review and Monitoring of the Process of Implementation at SDLC & DLC Level**

After the notification of the Act only 23 DLC meetings have been held in the district to take decisions on the claims filed under Forest Rights Act. The first DLC was organized on 30.09.2009 and the last DLC meeting on FRA was held on 23rd Sept, 2017 in the district. In the year 2009 - 2010, the DLC meeting was held in the interval of one or two months.

6.1.4.2. Pre Claim Phase

Before the Forest Rights Act, 2006 came into force, the forest dwelling communities used to protect and utilize forest resources. Shifting cultivation was once a common practice in all of the current Kandhamal district. It was a major source of livelihood and subsistence. However, during the Forest Reservations and Survey and Settlements, the practice of shifting cultivation was not taken into account and the shifting cultivation lands on the hill slopes were either classified as reserved/proposed reserved forests or as government revenue lands. Most of the areas of land customarily cultivated by the Kandhs and other tribals were converted into state-owned lands, and shifting cultivation on these lands has been criminalized.

At present, shifting cultivation is still being practiced in remote parts of Kandhamal district, especially in Balliguda subdision in Belghar, Kotgarh, Bamunigaon and Daringbadi areas. In Phulbani and G Udaygiri areas, shifting cultivation has been almost stopped. The reasons seem to be intensive cultivation of turmeric as a cash crop, availability of wage employment through government programs, increasing migration of youth to other states and relentless pressure from the forest department through fines and cases against shifting cultivators.

In the study villages of Tumudibandh block, the shifting cultivation areas of the communities not recognised though there is a provision for recognition of rights of pre-agricultural communities under Forest Rights Act. The shifting cultivation has almost ended in study villages coming under Phulbani block of the district.

In context of Reserved Forests and Proposed Reserved Forests, there has been a continuous struggle and conflicts between tribal communities and Forest Department over shifting cultivation.

6.1.4.3. During Process of FRA Implementation

Tehsil was taken as unit for planning, monitoring and implementation of Forest Rights Act in the district. A dedicated team formed at Tehsil level under the supervision of RIs and Amins for the facilitation of FRA in the village level. Awareness training organized by the District administration and SCSTRTI for all Tehsil level staff on the Act & Rule. NGOs / CSOs were also involved in the entire process of implementation of Forest Rights Act in the district. This was taken GP-wise/village wise. Close coordination between line departments with clearly defined roles, duties and responsibilities. FRA cell established in DLC level which was worked under direct supervision of PAITDA. Deployment of additional human resource for the smooth implementation process. Special care taken for preparation of records. 5 copies of titles were prepared with 2 copies of maps. Right Holder was given one copy of title along with a copy of map.

Continuous monitoring at weekly intervals at District level and fortnightly review meetings at Tehsildar level. Sensitization on provisions of Forest Rights Act, 2006 and Rules, 2008 to PRI members and Gram Sabha.

The Civil society organisations namely Vasundhara, Ahinsa, Care India, Swati, Jana Vikas, Pradata, SEVA BHARATI, JAGRUTI, Orissa, Ajka, Maitri Odisha, Shanti Maitri, FARRELL, VASA etc. were a part of the process.

The Claim filing process carried out in the study villages through the top down approach. The claim facilitation of PVTGs in micro project area facilitated by the officers of Kutia Kondh Development Agency with the help of NGO called Seva Bharati. In other villages, Revenue Inspector played a key role in the facilitation of claim. In Kandhamal, the claims of Scheduled Tribes received and titles distributed. The claims of Other Traditional Forest Dwelling communities have been ignored or not considered by the district administration.

Constitution of FRC

As per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2008, formation of Forest Rights Committee is the first step for the claim facilitation process which is an executive committee of Gram Sabha and mainly intended to initiate the process of determining the nature and extent of forest rights, receive and prepare a list of claimants of forest rights and maintain a register on behalf of Gram Sabha. After the enactment of Forest Rights Act, Forest Rights Committee formed in 2415 revenue villages in 16th and 23rd March, 2008 in all over the district.

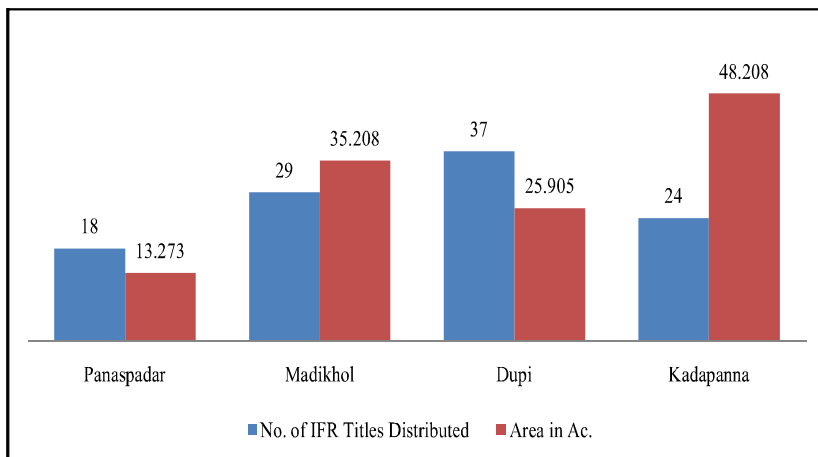
6.1.5. Recognition of IFR and CFR Rights in Kandhamal District under FRA 2006

6.1.5.1. Individual Rights

As per the status report till 31st Dec, 2018 a total of 60346 individual forest rights (IFR) claims have been filed by the

Scheduled Tribe Forest Dwelling Communities in their respective FRCs. All these claims have been received and verified by the FRC and submitted to the Gram Sabha for the final approval. At the Gram Sabha level out of the 60346 claims, 58425 individual claims approved and sent to the SDLC for approval. SDLC has recommended 57918 to the DLC for final approval out of 58425 claims received by Gram sabha. DLC has approved 57818 Individual rights. As per the status report it is found that except 507 claims rest of the claims have been approved at the SDLC level and except for 100 claims, rest of the claims have been approved at DLC level.

The total number of IFR titles distributed in the district is 57818 for an area of 34980 Hect.of forest land which comprises the **revenue forest land of 29,572.868 hect.** and **reserve forest land is 5407.132 hect.**The average land over which individual rights have been recognised in the district is 1.51 acres which is comparatively more than the State's average of 1.48 acres as per the FRA Status report shared by ST & SC Development Department. The titles distributed in the study villages are reflected in the following graphs.



Graph No.35
Number of Titles Distributed and the Forest area
Recognised

In Panaspadar village, the Communities filed their claims at Tehsil level through Forest rights committee in the June 2009 and received title in Dec, 2009. Total 23 no. of ST Claims filed at Gram Sabha level of which 18 claims have been approved by DLC over an area of 13.273 hect. of forest land in revenue forest. The rest of the 5 claims have been rejected by DLC due to Parbat kisam of land which is not under purview of Forest Rights Act. The average area is 0.74 hect.

In Madikhol village, 29 titles distributed over an area of 35.208 hect. of forest land out of which 25.635 hect. in revenue forest and 9.523 hect. of land in Reserve / Protected forest land. The average area is 1.21 hect.

Kutia Kondh Development Agency (KKDA) played a vital role in claim filing process for Kutia Kondh communities. The communities of Kadapanna village filed their claims at Tehsil level with support from KKDA. 24 Nos. of claims filed at Gram sabha level and all received their title over an area of 48.208 hect. of forest land out of which titles recognised over an area of 13.798 hect. in Revenue forest and area of 34.410 hect. in Reserve/ Protected Forest. The average area is 2.008 hect.

In Dupi village, individual titles distributed to 37 claimants over an area of 25.905 hect. of forest land of which 13.166 hect. in revenue forest and 12.739 hect. in Reserve/ Protected Forest land. The average area in the village is 0.70 hect.

6.1.5.2. Community Rights

Kandhamal is the only district where Community Rights recognized in the year 2010 - 2011. District Administration initiated the process of Claim filing of Individual rights and Community Rights simultaneously. So, the Community Rights recognized before the amendment rule 2012. As per the status report shared by PAITDA, Kandhamal, 2221 Community Rights recognized in 2221 villages based on their traditional boundary. There is no area mentioned in the title as these are the usufruct rights.

In four study villages, the Community Rights have been recognised as per the sketch map drawn based on their traditional boundary. The claim filing process of Community Rights not followed up and titles distributed in the year 2011.

6.1.5.3. Community Forest Resource Rights

The Community Rights have been recognised in the district in the year 2011 -12 before the new claim for Community Forest Resource Rights as Form C introduced in Amendment Rule, 2012. After that Different awareness training programme on Community Forest Resource Rights organised by District Administration, SCSTRTI and Civil Society groups 2014 onwards and initiated CFR claim filing and mapping process in Jamjhari GP in pilot basis by engaging volunteers for mapping of traditional boundary of the village. Vasundhara organisation engaged with the district administration for providing technical support for preparation of map of the traditional boundary through GIS technology. Only, CFR claims submitted at SDLC in Madikhol village and rest 22 CFR claims of Jamjhari GP have been submitted at SDLC and approved by DLC but till date no titles have been distributed.

Other than Madikhol villages, the communities have not submitted their rights over the area of protection and conservation under Sec 3(1)(i) in Form C.

Recognition Phase

Tehsil was taken as unit for the facilitation and submission of claims. After completion of due process, the claims submitted at SDLC level and the claims recommended by the members of the SDLC and sent to DLC for final approval. There are 23 DLC convened to take decision on Forest Rights Act from the date of constitution of DLC in the district.

6.1.6. Post Rights Activities:

6.1.6.1. Intervention through various Schemes under different Departments for Livelihoods Support

The Forest Rights Act recognizes and vests rights with the Scheduled Tribes and Other traditional Forest Dwellers over forest land and community forest resources with an aim to ensure their livelihoods and food security. The amended FRA Rules have made enabling provision (Rule 16) for post-claim support to holders of forest rights. This mandates the state government to ensure that all government schemes, including those relating to land development, land productivity, basic amenities and other livelihood measures, are extended to the individuals and communities whose rights have been recognised under the Act through its various departments. The Government of Odisha has initiated convergence of various programmes and schemes since 2009 to support the livelihood of forest dwelling communities. But the absence of a proper convergence framework and relevant state-level guidelines have been found to be limiting factors for converting the rights under the FRA into sustainable livelihoods. Only housing scheme like Indira Awas Yojna realised in the district as well as in the study villages.

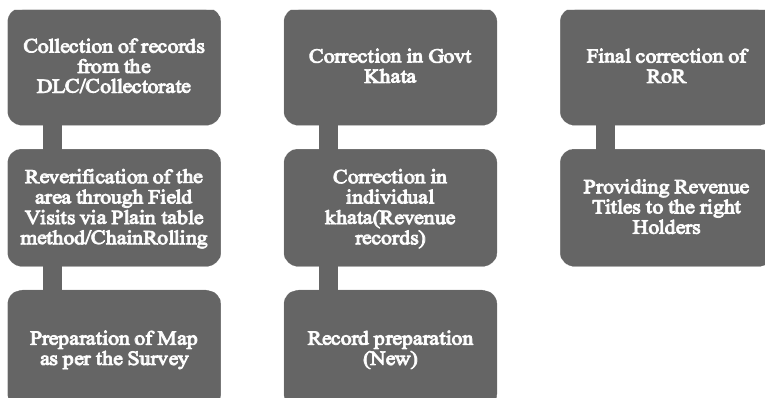
In 2016, Vasundhara which is a research and advocacy NGO working for natural resource governance has commissioned a study on the convergence programme. It found that instead of doing assessment of the requirement of the title holders, IAY (Indira Awas Yojna) distributed to all the title holders and the peoples are unaware about convergence programmes like land development through NREGS, National Bamboo mission, Horticulture Mission, Mo Pokhari, Mo Kudia, etc. in the district. After intervention of Vasundahra, the community of Madikhol village have prepared the first such convergence plan as per their requirement with the active involvement of FRC members, Women right holders and management committee members by giving more priority to women's decision, and the Gram Sabha has approved the same. This convergence plan along with the Social and Resource map prepared by the community, Gram Sabha resolution and letter which was issued by Sarpanch has shared

with the district administration for further course of action and this led to an unique initiative taken by Collector. The Collector of Kandhamal has issued a special letter to all line depts. for effective implementation of convergence programs.

As ITDA is a nodal agency PA-ITDA Kandhamal has organized a special meeting and a 6 member committee formed to constitute district level convergence committee .This is the first such special committee in district level which look after convergence schemes specifically for forest right holders. On the basis of the village initiative, the State Tribal development department issued comprehensive guideline on “Effective implementation of convergence programme for Forest Rights Holders” in 2017.

6.1.6.2. Demarcation of Land and Incorporation of Rights in the relevant Govt. Records including Record of Rights

As per Ministry of Tribal affairs, Govt of India Letter no-23011/06/2014-FRA Dated 3rd March, 2014 and the guideline issued by the Revenue and Disaster Management Dept, Govt of Odisha Letter No-43974 Dated-29th Oct.2010, the RoR correction is mandatory to ensure right interest and occupation on the recognised land. Simultaneously Rule 8(f) provides that the district level committee shall issue directions for incorporation of rights in the relevant govt records including record of rights. Rule8 (g) further provides that the Committee shall ensure publication of records of forest rights as may be finalized.




Kandhamal district administration has taken up proactive steps with regard to the correction of RoR since December, 2018. In the district, Amis / RIs had been engaged in the demarcation and RoR correction process or revenue forest as follows: The entire process as followed in all the Tehsil / Block is as above.

1. New plots have been created from the village forest area
2. New plot no in separate Khata has been reflected with the signature of the Tehsildar
3. New Khata created
4. New sub (bata)plot which has been created carving out the old plot has been reflected in the in the old revenue record.

But during our discussion with the Tehsildar, Amin and RI we found that there are some critical areas of concerns in the entire process.

- There have been gaps with regard to the exact area of land recognised and reality during field verification.
- With regard to the location of the specific patch of land there is confusion.
- No clear cut idea as to what would happen in the case of land within the reserve and other kinds of forest other than revenue forest.
- Uptill now, only cases of individual rights recognised within the revenue forest areas have only been taken up.

DUGUNI KONHAR, M.L.A.
PHULBANI
ODISHA LEGISLATIVE ASSEMBLY


सत्यमेव जयते

Vill. : Kadaraha,
P.O. : Bhungrodi,
P.S. : Phimgiri,
Dist. : Kandhamal
Mobile : 9700902020
Crs. No. F-14/2, M.L.A. Colony,
Unit-IV, Bhubaneswar.


Ref. No. 34 Date 8.3.2018

20

The P.D.O. Phulbani
Subj. gram & work order.

Sir,

Sri Premamanda Bairathani s/o-Jambhansu
Bairathani of Madikula under GP Jambhansu
GP may be issued work order for construction
of Madikula S.H.S. Community Centre at
Madikula Bid 2 M.L.A. LAs 2016-17 amounting
to Rs. 2,00,000/- (Rupees two lakhs) for the
interest of public.


8.3.2018
DUGUNI KONHAR
M.L.A.
64, Phulbani, ST

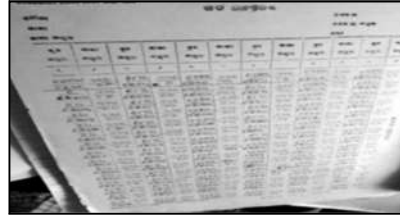
- There are cases where during verification the team comes up with the fact that the land recognised as of today had been possessed by OTFDs and since they have fled during the communal riot, the same lands have been recognised with the tribals.

In our study areas, the demarcation and RoR correction of the land recognised under Revenue forest has been completed and the copy of RoR also distributed to the right holders. But the land recognised on Reserve forest / Protected Forest not done till date.

6.1.6.3. Preparation of Protection, Conservation and Management Plan under Sec 4(1)(e)

The communities of the village collected Siali Leaves, Mahua, Tola, Sal seed, different types of Tubers, Medicinal plants from the forest for their life and livelihood. In 2016, a collective group namely **MAA DHADIAMBA LAGHU BANAJATA SANGRAHAKARI MAHILA GOSTHI** formed with the women members of Jamjhari GP with technical support from Vasundhara for collection of Minor Forest Produce. These are sold through groups to increase household income. The Collectives collected Siali leaves, prepared Siali leaf plate and transported them to Hyderabad through TT permit issued by Gram Sabha under Forest Rights Act. MLA of Kandhamal has sanctioned Rs.1,00,000/- (Rupees One Lakh only) towards construction of Godown of Collectives from MLA fund.

The community also formed Protection, Conservation and Management Committee under section 4(1)(e) of the Forest Rights Act to prevent forest fires and manage sustainable use of forest produces for life and livelihood. There are two committees under Management committee. One is Executive Committee consisting of 20 members (one member from each household) and an Advisory committee consists of 5 members which will give advice to the executive committee for the protection and conservation of the forest and forest resources.



The Members of the Executive Committee

Table No.18
Members of the Executive Committee

Sl. No.	Name of the Members	Sex	Age	Caste
1	SampatiKanhar	F	61	ST
2	Susila Sandhu	F	46	OBC
3	SamantiKanhar	F	45	ST
4	Kailash Kanhar	M	52	ST
5	RashmitaBindhani	F	28	OBC
6	BasantiKanhar	F	27	ST
7	SanaphulaKanhar	F	48	ST
8	SukantiKanhar	F	42	ST
9	RanjanaKanhar	F	39	ST
10	SarojiniKanhar	F	50	ST
11	Purna Ch. Sandha	M	38	OBC
12	SankarKanhar	M	39	ST
13	MediniKanhar	F	47	ST
14	KulamaniKanhar (Secy)	M	56	ST
15	ManjuraKanhar	F	43	ST
16	PremanandaKanhar	M	30	ST
17	Mahindra Kanhar	M	54	ST
18	LemunaKanhar	M	40	ST
19	BiswambarKanhar	M	25	ST
20	BhismaKanhar	M	25	ST

Members of Advisory Committee

Table No.19
Members of the Advisory Committee

Sl. No.	Name of the Members	Sex	Caste
1	Jalandhar Kanhar	M	ST
2	ShyamaKanhar	M	ST
3	KaliaKanhar	M	ST
4	Priyanjan Sandhu	M	OBC
5	JibardhanKanhar	M	ST

6.1.7. Rejection Cases in Kandhamal District:

As per the status report shared by the PAITDA, Kandhamal, total 2437 Individual Forest Rights claims have been rejected in the district as follows:

Table No.20:
Rejection cases in Kandhamal District

Sl. No.	Tehsil / Block	Number of case records	Area in hector
1	PHIRINGIA	287	82.355
2	PHULBANI	86	33.333
3	KHAJURIPADA	717	248.356
4	CHAKAPAD	243	73.940
5	TIKABALI	255	Nil
6	DARINGBADI	134	Nil
7	G.UDAYAGIRI	166	Nil
8	TUMUDIBANDH	33	Nil
9	KOTAGARH	480	Nil
10	RAIKIA	27	Nil
11	K.NUAGAON	9	Nil
12	BALLICGUDA	0	Nil
		2437	437.984

Most of the claims of the Scheduled tribes and other traditional forest dwellers have been rejected due to following reasons:

Table No. 21
Total No. of Claim Rejected and the Cause of Rejection

Sl. No.	Cause of Rejection	Total no. of claims rejected	%age of rejection out of total rejected claims
1	Inability of OTFD applicants to prove 75 years <i>occupation</i>	881	36%
2	Lack of Evidence as prescribed under section 13 of FR Rules 2008	498	20%
3	Non-possession of Forest Land	679	28%
4	Multiple claimants	61	3%
6	Non Forest Kisam Land	145	6%
	Grand Total		

From the above table the rejection of OTFDs is 36 % due to inability of providing evidence for **75 years of occupation** over the claimed land seems to be misinterpretation of the law. Similarly rejection on the basis of lack of evidence is about 28% which too is violation of the law. As per law, SDCL cannot reject claims due to lack of evidence but remand back to the Gram Sabha and should provide necessary documents to the Gram Sabhawhich is clearly mentioned in Amendment Rule, 2012. But no actions have been taken against those claims. On the issue of non- possession of forestland, the status of the claims in Odisha should be reflected in the State's status report and should have been put to remand for settlement under State revenue law (OPLE 1972 and OGLS, 1958) instructed in circular no 368/ CSR&DM, Dept. of R&DM on dated 4th January 2010.

In the study villages an assessment has been made on the status of rejection and causes thereof drawing primarily on the findings from the study villages. In most of the cases, OTFD

claims were not received and told them that their rights could not be recognized due to non-availability of 75 years of occupational evidence. As per the law, 75 years of residential proof is needed for the OTFD not the occupational proof of 75 years. Several clarifications on this have been issued but nowhere the claims of OTFDs are entertained. The reason of rejection not communicated to the claimants by the SDLC / DLC, as a result of which the claimants failed to appeal in the concerned authority. It is also found that the claims have not been recognized on Parbat kisam of land.

6.1.8. Habitat Rights of PVTGs in the District

The Forest Rights Act, 2006 provides special rights to the PVTGs (Particular Vulnerable Tribal Groups). "Section – 2(h) of the Forest Rights Act defines 'habitat' as the area comprising the customary habitat and such other habitat of the PVTG, Pre Agricultural Communities and other Forest dwelling STs. Further Section 3(1)(e) describes the nature of Community Forest Rights this includes community tenure of habitats and habitation for PVTGs and Pre-agricultural communities. In Kandhamal there is one community coming under the definition of PVTGs i.e. called Kutia Kondh. To provide all types of support and benefits to the Kutia Kondh, there is a micro project called Kutia Kondh Development Agency situated at Belghar of Kandhamal district.

Kutia Kandha Development Agency Belghar⁶²

The Kutia Kondha Development Agency started functioning from 16th June 1978 for integrated development of the primitive Kutia Kondha tribes living in



⁶² "<http://kandhamal.nic.in/km-kutia/kutia1.htm>"

Belghar and Guma G.Ps. The head quarter of the KKDA has been located at Belghar under Tumudibandha block of Kandhamal district. The agency covers altogether 68 Kutia Kondha villages of which 36 villages relate to Belghar G.P and rest 32 villages relate to Guma G.P. There are altogether 1138 house-hold. The area situated at an altitude of 2255 feet above the sea level with an area of 16, 174, 46 acres of which the cultivated area is 3876.44 acres and rest area is reserved forest and others.

The following facilities are available in the Agency area:

- i. Total Area : 16,173.46 acres
- ii. Reserve Forest Area : 12,298.02 acres
- iii. Cultivated Area: 3876.44 acres
- iv. Attitude : 2266 ft
- v. Location: 1945-20.5 'N' Latitude 8.30' - 83.45' 'E' longitude
- vi. Temperature : Maximum - 42.5' C Minimum - 6' C
- vii. Average rain fall : 86 days - 1680 mm
- viii. Total population of Area : 7758
 - Kutia Kondha in total : is 4713
 - Male - 2437
 - Female - 2276
- ix. No. of house hold : 1138
 - Belghar G.P. : 623
 - In Guma G.P. : 515

Implementation of FRA in the area of KKDA (Kutia Kondh Development Agency)

Kutia Kondh Development Agency facilitated FRA in PVTG areas of the district. In the district, total number of Individual claims received and approved by DLC is 1697 and the same is distributed to the right holders over an area of 5851.26 acres of land which is an average of 3.45 acre of land.

Kadapanna is a PVTG village selected as a study village which comprises of 25 households out of which 24 hhs are PVTGs

and 1 hh is SC. All the PVTGs households received their titles over an area of 119.074 acres of forest land which includes 34.081 acres of revenue forest land and 84.993 acres of Reserve / Protected forest land.

Though Habitat right is a special provision for PVTGs under Forest Rights Act, 2006, no process has been initiated in the study village. People are unaware about the provision and the process of habitat rights till date.

6.1.9. Rights of Women under Forest Rights Act, 2006:

For the first time, the Forest Rights Act is only the Act which recognises the women's rights over land as well as given the statutory provisions for women at various levels to take decisions as follows:

Provisions under FRA

- Under section 2(g) of the act Gram Sabha means a village assembly which shall consists up all the adult members of the village, and in case of states having no panchayat, padas, tolas, and other traditional village institutions and village and elected village committees, with Full and unrestricted participation of women in the Gram Sabha.
- Under section 3 (1) of the rule In the Palli sabha minimum 10 to maximum 15 persons are selected as members of the FRC, where at least $1/3^{\text{rd}}$ members shall be the Schedule Tribes, and not less than $1/3^{\text{rd}}$ of such members shall be women.

Provided further that where there are no ST at least $1/3^{\text{rd}}$ of such members shall be a women and, that where there is a heterogeneous population of SC/Tribals in any village, the members of ST/PTGS and pre agricultural communities must shall be adequately represented.

- Section 4 (4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be

registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person.

- Under section 5 (c) of the rule In the SDLC three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the STs preferably those who are the forest dwellers, or who belongs to the primitive Tribal groups and where there are no STs, two members who are preferable OTFDs .One shall be a woman member. In areas covered under the 6th schedule to the constitution. Three members nominated by the Autonomous District Council or Regional Council or other appropriate Zonal level, of whom atleast one shall be a woman member.
- Under section 7 (c) of the rule, three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Schedule Tribes preferably those who are forest dwellers, or who belongs to or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member.

In the study district, FRC constituted / re-constituted at least 1/3rd women of the committee. SDLC and DLC constituted as per the law and women present in those committees. In the district, the titles recognized in the name of **women is 727** of which **single women title holder is 5** whereas titles distributed to the **women title holder is in case of widow is 722**. In our 4 study villages there are found **6 women title holders** and all are **widows**.

6.1.10. Important Issues & Constraints Identified in the Implementation of FRA

- Non-settlement of Rights over “Pahad/ Parbat ” kissam of Forest Land:
- Non Settlement of IFR of the OTFDs in the District
- *Non Correction of Records in Reserve Forest Land*
- Non demarcation/ verification of shifting cultivation land by the verification team.
- Hill gums and Teak plantation by Forest Department in the shifting cultivation areas.
- Land has not been demarcated properly by the verification team.
- Restriction on the shifting cultivation, which was recognized under CFR area.
- Most of the ST families also not received title till date and the reason behind that not also intimate to them.
- Lack of mass awareness among the communities relating to the implementation of FRA.
- Without going through the proper process of FRA implementation, Titles has been distributed hurriedly to achieve the target only.
- The detail land marks and nature of use of CFR area is not reflected in CFR title which was attached in the title.
- Area of recognition is less than the claimed area as said by the villagers but there is no evidence like the verification report of verification team, village resolution etc. are not available with the villagers to verify the actual area.

Case Study of Recognition, Pending and Rejection of Claims of Kandhamal District

1. Recognition of Titles:

a) Subash Mallick (ST), Dupi Village of Gumma Panchayat of Tumudibandh Block

Dupi is a revenue village coming under Kotagarh Wildlife Sanctuary area of Guma G.P under Tumudibandha Block of Kandhamal district. Dupi is a ST village consisting of 36 Kondh families and mainly dependent upon the Shifting cultivation for their life and livelihood. Subash Mallick, one of the inhabitants,

lives with his wife, two sons and two daughters in the village. He has been doing shifting cultivation as were his forefathers. He came to know about FRA through the Civil Society organisation working in that area named Seva Bharati. He applied for individual rights under Forest Rights Act in the year 2009 and received title in the year 2010 over an area of 1.507 hect of forest land of which 0.550 hect coming under revenue forest and 0.957 hect coming under reserve forest. According to him only revenue forest has been demarcated by R.I. in the year 2017 and issued RoR. But the area coming under Reserve Forest has not demarcated till date.

b) Shrambada Majhi (PVTG), Kadapanna village of Belghar Panchayat of Tumudibandh Block

Shrambada Majhi belongs to Kutia Kondh Community that comes under Particularly Vulnerable Tribal Groups (PVTG). Shrambada Majhi lives in the village, with his wife Ganda Majhi and two sons namely Budhiram Majhi and Biswadhan Majhi. Kutia Kondh Development Agency (KKDA) played a vital role in claim filing process for Kutia Kondh communities. He filed his claim at Tehsil level with support from KKDA. He has been occupied and doing cultivation since his ancestors. He applied for individual rights in the year 2009 and received title over an area of 3.324 hect. of forest land coming under Reserve Forest. The demarcation and RoR correction of those lands has not done till date.

2. Pending/ Rejection of Claims:

a) Prahalad Paraseth (OTFD), Pipalpada Hamlet of Dupi Village, Belghar Panchayat of Tumudibandh Block

Prahalad Paraseth is a forest dwelling communities belongs to Scheduled Caste residing in Pipalpada village which is the hamlet of Dupi revenue village since ages. He has been doing quarry, mustard, Tila, Alsi etc. through shifting cultivation and occupied land in reserve forest above 2 acres. He applied for his individual rights in the year 2009 before RI. But RI told that due to non

availability of 75 years of occupational proof you are ineligible to get rights under this Act. He further stated that the Government officials are not willing to accept the claims of OTFD, they are not looking or examining how they are dependent on forest, rather asking them which caste you belong to. Being unaware about the appeal filing process he failed to file a petition against non-recognition of his rights at SDLC or DLC level.

b) Premananda Bindhani (OTFD), Madikhol Village, Jamjhari Panchayat of Phulbani Block

Premananda Bindhani is a 30 year old other traditional forest dwelling communities living in Madikhol village of Phulbani block. He lives in the village like his ancestors. He is living there with his mother Uma Bindhani and wife Rashmita Bindhani. He belongs to Lohar community. He has been depending upon the forest for his life and livelihood. He has occupied forest land and cultivated it land for years. Primarily his claim has been denied by the administration due to OTFD. In the year 2014, he has applied claim for individual rights with the help of Civil society organisation named Vasundhara. But till date he has neither received any title nor informed about his claim status from the district administration. Unaware of the appeal filing process he failed to file a petition against non-recognition of his rights at SDLC or DLC level.

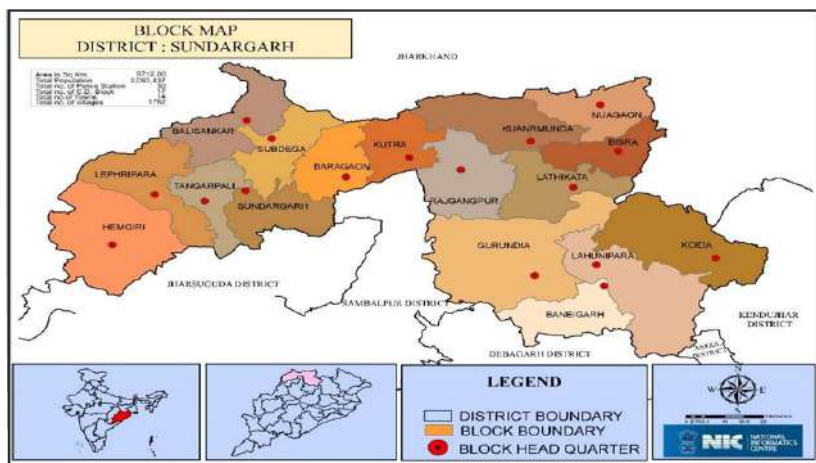
c) Jayakrushna Nayak (ST), Panaspadar Village of Tudipaju Panchayat of Phulbani Block

Jayakrushna Nayak belongs to Kondh Tribe, Scheduled Tribes. He came to know about FRA from District administration which called a meeting in GP level to aware about the Act and distributed claim forms to the villagers. He applied for individual rights in the year 2009 and submitted at Tehsil level through FRC secretary Bhaskar Kanhar. The titles have already been distributed to 18 persons of his village but he did not get title till date. We came to know about his status from the district administration that the land under his occupation is not coming under Forest kisam land and

the land coming under Parbat kisam land. He has not been informed by the district administration in writing about his claim status. After asking at Tehsil level, RI then informed him verbally that his Claim has been rejected due to non-forest kisam land.

6.2. Sundergarh District at a Glance

Sundargarh is situated in the northern part of Odisha, with Ranchi district of Jharkhand on the north, Raigarh district of Chhattisgarh on the west and north-west, Jharsuguda, Sambalpur and Angul districts of Odisha on the south and south-east and Singhbhum district of Jharkhand and Kendujhar district of Odisha to the east. It is located between 21°36' N to 22° 32' N latitude and longitude 83°32' E to 85° 22' E longitude. The district covers an area of nearly 9,712 square kilometre (sq.km) or about 971, 200 hectares (ha).



The administrative headquarter of Sundargarh district is located at Sundargarh town. There are three subdivisions which include Sundargarh, Panposh and Banei. There are presently 17 blocks in the district and 262 Gram Panchayats (GP). The blocks include Balisankara, Bargaon, Bisra, Bonaigarh, Gurundia, Hemgir, Koda, Kuanrmunda, Kutra, Lahunipara, Lathikata, Lephripara, Nuagaon, Rajagangapur, Subdega, Sundargarh, Tangarpali.

6.2.1. Demographic Profile

As per Census of India (2011), the population of Sundargarh district is about 21 lakhs. About 50.68 per cent is male and 49.32 per cent female. A decennial growth nearly 14.35 per cent has been observed for the district's population in 2011 as compared to 2001. The demographic distribution also reveals that the district is predominantly rural, with nearly 65 per cent of people living in rural areas. The overall population density is 216 per sq km, as compared to India's population density of 328 (Census, 2011). The rural areas are also economically distressed with about 90 per cent of households have the highest earning head with earning less than Rs. 5000 per month as per the Socio Economic Caste Census (2011).

Table No.22
Demographic Profile of Sundergarh District

Sl. No.	Demographic Details						
1	Total District Population	Male (%)	Female (%)	Urban (%)	Rural (%)	SC (%)	ST (%)
		50.68	49.32	35.25	64.74	9.16	50.75
		Total Dist. Pop = 2093437					
2	Sex Ratio	979 (Rural-989 ; Urban-932)					
3	Density of population (Per sq.km)	216					
4	Decadal Population Growth (2001-2011)%	14.35					
5	Total Households	4,79,109 (Rural-65.22%, Urban-34.77%)					
6	Below Poverty Line (BPL) Population (%)	65.2					
7	Households in Rural areas with highest earning head below Rs 5,000 per month	89.8					

Source: Census of India, 2011; BPL Census of Panchayati Raj Department, Government of Odisha and SECC (2011)

6.2.2. Land Use/ Land Holding Pattern in Sundergarh District

The land use/land cover of Sundargarh shows that forest area dominates the district's landscape. Of the total land use/land cover area, forest area is about 51 per cent. This is followed by land for agricultural activities, with net sown area being 29 per cent of the total land area. The rich land use/land cover indicates the huge

potential of sustainable livelihood opportunities around local resources.

Table No.23
Land Use/ Land Holding Pattern in Sundergarh District

Sl. No.	Land Use/ Land Cover Classes	Area (Ha)	Total area (%)
1.	Forest Cover	496,000	51.1
2.	Miscellaneous trees and groves	25,000	2.6
3.	Net Sown	284,000	29.2
4.	Permanent Pastures	26,000	2.7
5.	Culturable Wasteland	16,000	1.6
6.	Land Put to Non- Agricultural use	29,000	3.0
7.	Current Fallow	29000	3.0
8.	Barren and Uncultivable Land	66,000	6.8

Source: District irrigation plan, Sundergarh (2016-17)

6.2.3. Forest-Based Livelihood

The landscape of Sundergarh district is dominated by forest area followed by agricultural land. This constitutes an important resource for sustainable livelihood opportunities for local people

In Sundergarh, more than 51 per cent of the total land area is forest, which is about 496,000 ha. The district has three forest divisions, Bonai (about 202,830 ha forest areas), Sundergarh (185,339 ha) and Rourkela (107, 563 ha). Gurundia block has the highest land area under forest which is above 80 per cent. In other mining-blocks such as Kuarmunda and Koida, the forest area is around 45 to 50 per cent.

Sal is the main tree species in the area. Besides timber (from sal, asan and bija), bamboo and kendu leaves are the principal forest products of the district. Minor forest products like siali leaves, myobalance, char, seeds, kusum seeds, sunari bark, honey, lac, sabai grass, mahua flowers and mahua seeds are important sources of income for the tribals and people living around the forest areas.

Table No.24
Distribution of Main Land Use pattern across the Blocks of
Sundergarh District

Sl. No.	Block Name	Net Sown Area (%)	Forest Area (%)	Wasteland Area (%)
1.	Koida	18	48	6
2.	Kutra	61	12	6
3.	Nuagaon	71	6	5
4.	Lahunipara	25	51	4
5.	Hemgir	21	56	1
6.	Rajgangpur	54	18	6
7.	Kuanrmunda	39	44	7
8.	Gurundia	13	81	2
9.	Balisankara	17	70	6
10.	Bargaon	46	13	3
11.	Bisra	42	30	2
12.	Bonaigarh	63	14	6
13.	Lathikata	33	17	1
14.	Lephripara	25	63	3
15.	Subdega	51	33	12
16.	Sundegarh	53	24	3
17.	Tangarpali	69	8	4

Source: District Irrigation Plan of Sundargarh, Odisha (March, 2016)

While, forest based resources are potentially a key source of livelihood for a very significant part of the population, the enumeration of livelihoods based on forest resources is poor. The poor status can be owed to the extremely poor settlement of forest rights under the provisions of Forest Rights Act (FRA, 2006). As per information obtained at the time of research, under community forest rights (CFR) no CFR titles in the entire Sundargarh district have been given so far (till 31st January 2019).

The FRA recognizes and emphasizes community-based governance of forests. The Act specifically provides for the recognition of forestlands as community forest resource areas and exercising community rights over it. This offers two crucial benefits for the forest-dwelling communities. First it gives

communities the right to manage forest resources, and secondly to secure livelihoods from such resources. However, success remains far away from the potential due to poor settlement of rights.

The recognition of CFR rights have enormous potential for decentralized management of forest resources and improvement of ecological and economic services in CFR areas, contributing to well-being of communities. If CFR is awarded appropriately to forest communities, they would be entitled for better management of forest resources for productive use, support from the government in terms value addition for their products, improved market linkages and get better pricing for their products etc. The settlement of rights under individual forest rights (IFR) as per available data is better.

6.2.4. Recognition of IFR and CFR Rights in Sundargarh District under FRA 2006

As per the ST& SC Department of Government of Odisha, the Implementation status of the Forest Rights Act, 2006 in Sundergarh District of Odisha as on 31st January 2019 are as follows.

6.2.4.1. Individual Titles

**Table No.25:
IFR status of Sundergarh as of 31st January 2019**

Head	Forest Dwelling Scheduled Tribes	Other Traditional Forest Dwellers	Total
Claims Filed at the Gram Sabha Level	39756	555	40311

Claims recommended by Gram Sabha to SDLC	28674	555	29229
Claims Recommended by SDLC to DLC	22606	555	23161
Claims approved by DLC for Titles	21406	555	21961
Titles Distributed	19367	0	19367
Extent of forest Land for which titles are distributed (In hectares)	10343	0	10343
Claims Rejected	16864	0	16864

Source: "<http://www.stscodisha.gov.in/pdf/FRAMPRs31012019.pdf>"

6.2.4.2. Community Titles

Table No.26:
CFR status of Sundergarh as of 31st January 2019

Head	Community Forest Rights	Community Forest Resource Right
Claims Filed at the Gram Sabha Level	237	237
Claims approved by DLC for Titles	84	84
Titles Distributed	0	0
Extent of forest Land for which titles are distributed (In hectares)	0	0
Claims Rejected	6	14

Source: "<http://www.stscodisha.gov.in/pdf/FRAMPRs31012019.pdf>"

Also if the implementation of CFR and IFR is converged with other government schemes and worked upon properly, the economic conditions of tribals and people who are dependent on and derive livelihoods from forest resources can change significantly.

6.2.5. Agriculture related Livelihood

In Sundargarh district overall, more than 29 per cent of the land area comes under net sown area. In many of the rural parts of the district, including in some of the mining-affected blocks such as Kutra and Nuagaon, net sown area is around 60 to 70 per cent.

Paddy is the main cultivated crop of the district, besides various types of pulses and oil seeds.

A significant proportion of the district's population, particularly in the rural areas, is dependent on agriculture for livelihoods. According to the state agricultural statistics, nearly 64.5 per cent of the total households in the district constitute farm households. However, out of them majority are marginal farmers, which are more than 52 per cent of the total farm households. The average operational land holding of marginal farmers is only about 0.59 ha. Besides, marginal farmers, small farmers with average 1.43 ha of land holding constitute about 30.9 per cent of the total farm households. Besides these two categories there are 13.4 percent semi-medium farm households, three per cent medium farm households and only 0.25 per cent large farm households.

Agriculture and the allied activities is significantly less in major mining affected areas such as Koida. Also in Kutra and Nuagoan, which are significantly affected, the potential for agriculture based livelihoods is not properly realized due to concerns of water availability, pollution etc. However, in sparsely mining-affected blocks such as Gurundia agriculture is a major source of livelihood for many, where 57 per cent of main workers are cultivators and additional 18 per cent are agricultural labourers.

6.2.6. Intervention through other Schemes to ensure Livelihoods

The MGNREGS is aimed at improving livelihood security of the rural and ensure wage employment of at least 100 days per household annually. In the district MGNREGS has not been very successful in securing wage employment in the mining-affected areas. The viability of this scheme has not achieved to its full potential due to a variety of reasons. These include, availability of land in the mining areas, sufficient work, availability of work as per skills of people, accessibility/ distance to work, timely payment of wages etc.

In mining-affected areas such as Koida and Lahunipara only a fraction of the households who had taken up work under MGNREGS have completed 100 days of wage employment. The proportion is about two per cent of households in Lahunipara and one per cent in Koida (See table 37: Average days of employment generated and completed under MGNREGS).

However, the kinds of work taken up under MGNREGS if envisioned well, and converged with the prospects of other schemes, can create better earning opportunities and also create sustainable assets. For example, in rural areas, drinking water projects can be a key area to focus on. Also increasing scope of micro irrigation works, food grain storage etc., can help to secure agriculture based livelihoods in these areas.

6.2.7. Mining Activities

Sundargarh is one of the major mining district of Odisha as well as the country with rich deposits of iron ore. Besides the district also have significant coal and manganese reserves. In 2016-17, the district produced about 23.63 million tons (MT) of iron ore, Coal production for the same period was 13.5 MT and manganese 0.24 MT. Beside the district also produces minerals such as limestone and dolomite⁴. The main iron ore mining companies in the district are Rungta Mines Limited, Rungta Sons Private Limited, Steel Authority of India Limited, Odisha Mining Corporation (OMC) Limited, Essel Mining and Industries Limited, Jindal Steel and Power Limited, besides many other players. The major coal mining company is Mahanadi Coalfields Limited (MCL).

6.2.7.1. Mining Affected Areas

The mining-affected areas of Sundargarh are rural areas spread across eight blocks. These include Koida, Kutra, Gurundia, Hemgir, Kuanrmunda, Nuagaon, Rajagangapur, Lahunipara. The iron ore and manganese mines are concentrated in Koida, Lahunipada and Gurundia blocks. Limestone is found in the Rajagangapur, Nuangaon, Kutra and Kuanrmunda blocks. Coal

mines are restricted to the Ib valley region of the district in Hemgir block. Most of the mining-affected areas in the Sundargarh district are predominantly rural. For example, Kutra, Lahunipada, Nuangaon, Hemgir have 100 per cent rural population. All the mining-affected areas also have high proportion of tribal population. Rajagangapur has the highest proportion of tribal population which is more than 81 per cent.

Table No. 27
Mining- Affected Areas in Sundergarh District

SL. No.	Block Name	Total Number of Panchayats	Number of Affected Panchayats
1	Koida	12	7
2	Kutra	16	6
3	Nuagaon	20	5
4	Lahunipara	17	4
5	Hemgir	19	4
6	Rajagangpur	12	3
7	Kuanrmunda	20	3
8.	Gurundia	13	1

Source: Office of the District Magistrate, Sundargarh (January, 2018)

Table No. 28
Population of Mining Affected areas

Sl. No.	Block Name	Total Population	Urban Population (%)	Rural Population (%)	SC Population (%)	ST population (%)
1.	Koida	86,818	13	87	6.3	70.2
2.	Kutra	80,470	Nil	100	7.1	77.1
3.	Nuagaon	106,156	Nil	100	7.4	66.2
4.	Lahunipara	99,526	Nil	100	6.5	67.9
5.	Hemgir	84,559	Nil	100	14.5	45.3
6.	Rajgangpur	105,065	9.5	90.5	5.7	81
7.	Kuanrmunda	106,913	8.4	91.6	5.9	76.9
8.	Gurundia	66,988	Nil	100	5.5	79.4

Source: Office of the District Magistrate, Sundargarh (January, 2018)

6.2.8. Literacy in Sundergarh District

The literacy rate of Sundargarh district is 73.34 per cent, which is slightly above than the state's average of 72.9 per cent²⁸. Among the literate population, the male literacy (nearly 81 per cent) is better than the female literacy (about 65.48 per cent). However, for the marginalized sections the literacy rate is relatively poor. It is about 70.9 per cent for SC and about 65 per cent for ST populations (Among the mining-affected areas, Koida has the lowest proportion of literacy which is 57.3 per cent. In other mining-affected blocks also it is around 60 per cent.

Table No. 29
Literacy Rate in Sundergarh District

Category	Total Literates (%)	SC Literates (%)	ST Literates (%)
Total	73.34	70.92	65.08
Male	81.01	79.75	73.98
Female	65.48	62.03	56.39

Source: Census of India (2011)

6.2.9. Analysis of the Process of Implementation of FRA in Sundergarh

6.2.9.1. Pre Claim Phase

During the Pre Claim Phase, Before the Forest Rights Act, 2006 came into existence, the people of Sarangijharia, Teuria, Gopalpur, Ratansara, Dhukamunda, Budakhomon, Deruda, Uparginia used to protect and consume the forest resources. Even though there was dominance of forest department and they were creating hindrances in accessing the forest resources. People still used to go to the forest and collect the forest resources as they were dependent on them. People prior to the Forest Rights Act, 2006 used to individually collect the kendu leaves through the Forest Department.

After the Forest Rights Act 2006, came into existence various stakeholders created awareness among the people regarding the Act. In this eight villages different stakeholders have played immense role in making the people aware about the Act. It was mixed method, at some places through the Letter to Panchayat from the Tahsildar, some places through NGO and some places through the government official.

In Sarangijharia, Teuria, Gopalpur, Ratansara, Dhukamunda, Budakhomon, Deruda, there was NGO (CRITDA and Jeevan Vikas) intervention in the pre claim phase and they created awareness and told people about the provisions of the Act. In Uparginia, the Panchayat received letter from the Tahsildar illustrating the provision of the Act and also the Paudi Bhuiya Development Agency along with the NGO created awareness and told people about the provisions of the Act.

6.2.9.2. Claim Procedure

The Claim procedure in these eight villages has been through mixed method, it is either top down i.e through government officials or NGO Driven or Suo Moto by the Village. In Sarangijharia, Teuria, Gopalpur, Ratansara, Dhukamunda, Budakhomon, Deruda, there was NGO intervention and they facilitated the claim process. In Uparginia, the claim process was by the guidance of government officials through the Paudi Bhuiyan Development Agency.

6.2.9.3. Recognition Phase

It has been observed that after the Title Distribution, both the Civil Society Organisation and the Government Official are reluctant about the Post Title Intervention.

1. Provision of Demarcation and Record of Rights in FRA 2006 and the Orders of Government of Odisha

Rule (8) and Sub Rule (9) of Rule 12 (A) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest

Rights) Amendment Rules, 2012 under the theme of “Process of Recognition of Rights” states that “On completion of the process of settlement of rights and issue of titles. The revenue and forest Department shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of record updation under the relevant state laws or within a period of three months whichever is earlier”. Some of the orders issued by Government of Odisha on ROR Correction are highlighted below:

The Government of Odisha has issued the following orders through the SC and ST Development Department, Revenue and Disaster Management Department

- Order Number 10496/TD-II (FRA)-28/2014 and No. 14010/SSD dated on 21.03.2014 and 04.08.2017 respectively: Emphasised on issuance of Record of Rights under FRA.
- Order Number SM13209- 43974 / RDM, No. 43974/RDM and No. SM-72/2015–11804 dated on 29.10.2010, 1.11.2010 and 10.04.2017 respectively: To issue guideline for correction of Record of Rights and Maps for forest land in revenue villages for which title has been issued under FRA and upload the same in the Bhulekh Portal of Government of Odisha.

Ground Reality of Demarcation and Record of Rights

The observations from the surveyed districts i.e. Sundergarh, reveal that only in few IFR cases, RoR has been made and in a large number of IFR recognised claims even the process has yet to start. There has been absolutely no ROR Correction of the recognised CFR area in Sundergarh. Across these districts it was found even after completion of RoR Correction, it has not been uploaded in Bhulekh Portal as per the order issued by the State Government of Odisha.

2. Provisions of Pending and Rejection of Claims in FRA 2006 and the orders of Government of Odisha

Section (6) of Chapter-4 of Forest Rights Act, 2006 under the theme of “Authorities and Procedure for Vesting Forest Rights” and Rule 12 (A) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 under the theme of “Process of Recognition of Rights” states that in case of any modification or rejection of a claim by the gram sabha or a recommendation modification or rejection of a claim forwarded by the SDLC to DLC should be communicated in person to the claimant. This will enable him to prefer a petition either in the SDLC or DLC within a period of sixty days which shall be extended to a period of thirty days at the discretion of the committees. No petition of the aggrieved person shall be disposed of unless he has been given a reasonable opportunity to present themselves. The SDLC or DLC shall remand the Claim the gram sabha for reconsideration instead of modifying or rejecting the same. All Decisions of SDLC and DLC involving modification or rejection of a gram sabha shall give detailed reasons for such modifications or rejection. It also states that no recommendation and rejection should be merely on the technical or procedural basis. It also states that no committee except the Forest Rights Committee (FRC) at the block or panchayat or forest beat or range level shall be empowered to receive claims or reject, modify or decide any claim on Forest Rights. Orders issued by Government of Odisha on Pendency and Rejection of claims are highlighted below:

The Government of Odisha has issued the following orders through the SC and ST Development Department;

- Order Number-12062/SSD/TD-II-(FRA)-02/2013, Number-4109/TD-II (FRA) 08/2013 and Number-5347/TD-II(FRA)-02/2014 dated on 15.03.2013, 27.01.2014 and 30.01.2014 respectively prescribe to review and expedite disposal of Pending claims.
- Order Number-13890/SSD/TD-II (FRA)-02/2013 dated on 11.04.2013 issued to identify district wise status of pending

individual claims and expedite the process of Implementation of the ST & OTFD (RFR) Amendment Rules 2012.

- Order Number-13836/SSD/TD-II(FRA)-02/2013, Number-26791/TD-II(FRA)-02/2013, Number- 31078/STSCD-FRA-MEET-0004-2014, Number-32405/SSD and Number-33414/SSD dated on 10.04.2013, 02.08.2013, 30.01.2014, 15.11.2014, 01.12.2014, and 15.12.2014 respectively issued to seek categories of rejection of claims and regarding review of high rate of rejections of FRA claims in LWE districts.
- Order Number-10740/SSD and No. 14010 / SSD dated on 16.06.2016 and 04.08.2017 respectively issued to review of rejected claims under FRA and its disposal by treating those as suo moto appeals at the level of SDLCs and DLCs.

Ground Reality of Pending and Rejection of Claims

The status of implementation of the above orders at the grassroots level is very dismal. There is no systematic and time-bound efforts at the SDLC and DLC level to address the pending claim and the duration of pendency ranges from 3 to 5 years in all the five districts. It was also found that there are large number of rejection of claims without intimation of the reasons of rejection to the right holders. This phenomenon of pendency of claims and rejection of claims has been Prominent in Sundergarh district of Odisha. There has been numerous enabling circulars and orders issued by the SC and ST Development Department regarding the disposal of pending claims and the rejection of claims but the irony is that the people are unaware about such orders and circulars. There is also no effort from the intervening NGOs to follow up the claims that these NGOs facilitated at the Gram Sabha level. As a result of which people have accepted that the pendency of claims and the delay incurred in recognition of titles is the part of process and because of lack of awareness people do not assert their rights, even if they are not intimated before rejection of claims. For example, the FRC Members of Ratansara village of Ratansara panachayat of Hemgir Block of Sundergarh District had submitted the IFR

claims at the SDLC in 2009 but till date, 10 years down the road, they have received no titles or even intimation of their claims. Another example is that the FRC Members of Budakhomon Village of Dolesora Panchayat of Lahunipara Block had submitted the IFR claims at the SDLC in 2015. Again, 4 years later they have not received any title or any intimation for their claims. It has been observed that claims are pending or rejected without any intimation to the claimants.

3. Provisions of Livelihood Enhancement Benefits (Convergence Schemes) in FRA 2006 and the orders of Government of Odisha

Rule (16) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (hereafter, FRA) under the theme of Post Claim Support and Hand Holding to Holders of Forest Rights states that The State Government shall ensure through its departments especially tribal and social welfare, environment and forest, revenue, rural development, panchayati raj and other departments relevant to upliftment of forest dwelling scheduled tribes and other traditional forest dwellers, that all government schemes including those related land improvement, land productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act. In this regard, only few states like Maharashtra, Odisha and Chhattisgarh have issued a series of orders to integrate line department schemes with the forest rights land of title holders.

With reference to Rule 16, of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012, the ST and SC Development Department and Panchayati Raj Department of the Government of Odisha have issued the Following orders:

- Order Number 37518/II-WE-29/06(Pt.) dated on 25.11.2009: To cover the right holders under the National Rural Employment Guarantee Scheme (NREGS).

- Order Number 868 / SSD dated on 13.01.2017: For cent percent coverage of right holders under various government schemes.
- Order Number 7057/SSD Bhubaneswar, STSCD-FRA-POLICY-0001-2015 dated on 12.4.2016: Formation of District level Convergence Committee and Implementation of Convergence programmes
- Order Number 38708 /PR II-NREGS-43/09, No. 384/II-NREGS – 43/09, No. 22839 VI-NREGS-30/09 (Pt.) dated on 05.12.09, 4.1.2010 and 1.12.2011 respectively: To cover the right holders under National Rural Employment Guarantee Scheme (NREGS) for activities such as Land Development, Horticulture Plantation, Farm Pond and Multi-Purpose Farm Pond.

Ground Reality of Livelihood Enhancement Benefits (Convergence Schemes) Discussion with Gram Sabha members and beneficiaries of above schemes revealed that there is no impact and follow up of these orders at the implementation level. The orders issued by the government of Odisha emphasis that there should be 100% coverage of the Forest Rights Titles Holders through multiple convergence schemes for their socio– economic development. The only scheme that has benefited the IFR title holders is Pradhan Mantri Awas Yojana. However, it has been noticed that most people benefiting from the above schemes have not received the scheme by virtue of being FRA Rights holders. For example, forest right title holders of Teuria, Sarangjharria, Gopalpur of Hemgir Block illustrated that the people whose rights have not been recognised under FRA have also benefited from the housing scheme. They said that they are getting these house phase wise through panchayat and not because of their IFR Title. There are only few cases where we found people have availed work under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) in their recognised IFR land.

The major challenge in the integration of line department schemes with FRA title holders has been lack of awareness and

information about various schemes of government of Odisha for the title holders. For example, a number of Gram Sabhas in the study areas of Sundergarh have no idea about the above discussed convergence schemes and how they can avail the schemes and through what process. In many villages, it was found that the schemes are generally decided at the Panchayat level and no information is shared with Gram Sabha members. For example, people of Teuria, Uparginia and Dhukamunda, Gopalpur said that most of the government schemes are availed by people who are close to Sarpanch of the village and there is no transparency in identifying the beneficiaries. People further illustrated that there is no need based implementation of Convergence Schemes, for example one of the FRC president said that we don't need Pakka house as we have one, we needed a farm pond or fishery cultivation, but we were given a Pakka House.

Major Issues Identified in the District of Sundergarh in terms of Implementation of FRA are as follows:

1. Cancellation of 555 OTFD IFR Titles across Sundergarh District.

- As per the ST& SC Department of Government of Odisha, the Implementation status of the Forest Rights Act, 2006 in Sundergarh District of Odisha as on 31st June 2018 are as follows.

A. Individual Titles

Table No.30
IFR Status of Sundergarh as on 31st January 2019

Claims Filled at Gram Sabha		Claims recommended by Gram Sabha to SDLC		Claims Recommended by SDLC to DLC		Claims approved by DLC for Titles		Titles Distributed		Extent of forest Land for which titles are distributed (In hectares)		Claims Rejected	
ST	OTFD	ST	OTFD	ST	OTFD	ST	OTFD	ST	OTFD	ST	OTFD	ST	OTFD
39756	555	28674	555	21585	555	20385	555	18770	555	9870	413	17306	0

- As per the ST& SC Department of Government of Odisha, the Implementation status of the Forest Rights Act, 2006 in Sundergarh District of Odisha as on 31st January 2019 are as follows.

Table No. 31
IFR Status of Sundergarh District as on 31st June 2018

Claims Filled at Gram Sabha		Claims recommended by Gram Sabha to SDLC		Claims Recommended by SDLC to DLC		Claims approved by DLC for Titles		Titles Distributed		Extent of forest Land for which titles are distributed (In hectares)		Claims Rejected	
ST	OTFD	ST	OTFD	ST	OTFD	ST	OTFD	ST	OTFD	ST	OTFD	ST	OTFD
39756	555	28674	555	22606	555	21406	555	19367	0	10343	0	16864	0

Examination of the above table of the implementation status of FRA in Sundergarh shows discrepancy in the data. It states that as on 31st June 2018 555 IFR titles were distributed to OTFD and on the 31st January 2019 it shows that 0 IFR titles have been distributed to OTFD. Moreover this ambiguity increases when the claims rejected column also states that IFR Titles rejected of OTFD is 0. Thus the study reviews and examines the process of recognition of IFR Rights for OTFD in Sundergarh.

6.3. Timeline of the IFR Process (Title Distribution and Cancellation)

Table No.32
Timeline of Events in the Process of IFR Recognition in Sundergarh

Sl. No.	Timeline of Events in the Process of IFR Title	Year
1	The Implementation of the FRA started in the mission mode, letters were sent in all the Tehsil and Block level illustrating the process of FRA and intimating to initiate the Process.	2008
2	Retired RI and Amins were appointed and sent to all the villages. Forms were supplied and ROR and Sketch Maps were Prepared and Gram Sabha resolution was Passed forwarding the claims made by the people.	2008

3	Many civil society organisation also participated in the Process, SEWAK, Sundergarh was made the Nodal NGO For Implementation of FRA in the District. The Civil society Organisation helped in implementation of FRA 2006.	2008-2009
4	A large no of claims were filled at the SDLC level. Government officials could not strictly scrutinize the documents and the titles were passed and people got the title. Though some of the claims were rejected.	2009
5	There were emergence of cases of fraud and access to title without proper means and of non-eligible people, and also this issue was raised in the SLMC meeting by the MLA, Prafulla Majhi.	2013
6	It was intimated to all the Collectors to do re verification and find out whether people have acquired the Title, through adequate means and whether they are eligible or not. After Re verification the RI's were supposed to submit the report to the Sub Collector office for further Action.	2013-2015
7.	There is no Authenticity of Reverification. The FRC members of Sarangijharia told that there has been no reverification held in the village. They emphasised that money was sought for Re verification. In Teuria, false reports were prepared after re verification even if it was conducted along with village people.	2015
8	As per the Report it was found out that 285 ST are not in possession. 329 OTFD had no witness of staying there for 75 years and 280 were not in possession hence total 555 IFR Titles of OTFD were cancelled. They were asked to return the Title to Sub Collector Office. Some have returned the title and some have not, but there has not been any disciplinary action taken so far. It was reported that some of the Government officials had prepared a misleading report. They had not adhered to due process. In the DLC meeting it was said that action will be taken against them but, but so far, nothing has been initiated.	2016
9.	Response of the People regarding the Cancellation of Tittles are as follows: <ul style="list-style-type: none"> - Some have returned out of fear, such as Sarangijharia, Dhukamunda, Deruda. - Some have showed resistance, demonstration, dharnas and not returned the title such as Teuria. The FRC Members of Teuria have also submitted letter to sub collector and CM of Odisha - Some have file d petition in the High Court and also have received Stay Order on the basis of Intimation of 	2016
10.	As per the 2018 March Data of ST SC Development Department of Government of Odisha regarding recognition of titles under FRA, It shows that 555 is the IFR title granted to OTFD in Sundergarh.	2018

11.	When the Issue of Cancellation of OTFD was discussed with the government official , the previous data of 31st June 2018 showed 555 IFR Granted to OFTD has been removed and 31st Januray 2019 data shows 0 in the IFR distributed to OTFD column and even in the IFR OTFD rejected column it is 0. Thus, there is no record of cancellation of IFR Title of OTFD in sundargarh as per the government latest data. It seems that the government has been trying to hide issue.	2019
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Three Major Observation in terms of the Process and Timeline of Events

1. There has been no proper Investigation done before cancellation. Once the cancellation is done, blame is shifted to the claimants that they are not in possession.
2. There are legal Provision illustrated in the Act so as to Review, Reject, Recognition at all the level, Gram Sabha, SDLC and DLC. But legal procedure has not been followed.
3. They are misleading the Public by showing false data in the Government website, when the realities are completely different in ground, which shows not only there lack of coordination, reluctant nature in terms of FRA and in maintaining national ranking in FRA.

Habitat Rights and Adoption under Paudi Bhuiyan Development Agency

Even though the FRA 2006 illustrates the Provision of Habitat Rights, till now even after 13 years of the Act, Habitat Rights of the PVTG Villages of sundargarh District have not been recognised. The Dhukamunda, Budakhomon, Deruda, Uparginia have applied for habitat rights but have not received it yet.

There are many villages which have not been adopted by the Paudi Bhuiyan Development Agency. The village studied which have not been adopted by Paudi Bhuiyan Development Agency are Budakhomon, Dhukamunda, Deruda.

No Compensation to the People of Hemgir Block who are displaced by MCL(Mahanadi Coal Limited)

Mahanadi Coalfield Limited MCL has taken land of Gopalpur Revenue Village of Hemgir Block for minning. FRC members and the people of the village could not stop the land grabbing and agreed for land relocation because of the health hazards due to the coal Mines. People of this village have claimed for compensation for their IFR lands but MCL is reluctant in giving compensation for the forest land. They have filed petition at Supreme Court. The Supreme Court has given verdict that compensation should be given by the MCL for the forest land but they have not given and not willing to give compensation for forest lands under IFR. People of Sarangijharia village of Hemgir Block had applied for CFR, but have not been granted. MCL has taken 125 Acres of forest land of this village is under CFR to relocate the displaced people.

Challenges Faced in terms of Access of Non Timber Forest Produce and Minimum Support Price of Non Timber Forest Produce

Despite several orders and policy advocacy and struggles, regulation of NTFP continues in Odisha with exclusive power in the hands of Forest Department. In Sundergarh the Kendu Leaf is still regulated by the Forest Department. The District Forest Officer continues to hold power and denies permission to Gram Sabha to harvest NTFPs under FRA. The current process of collecting KL by the forest department is highly exploitative and non-transparent as seen in the surveyed villages. Forest dwellers in Sundergarh have expressed concern over delay in payment when they sell to forest department. It is also found that though the Minimum Support Price for certain number of NTFPs has been formulated but there is lot of variation in price at the local level. In the absence of state implementing agencies, the middlemen continues to exploit forest dwellers by arbitrarily deciding the price for NTFP.

Case Study of Recognition, Pending and Rejection of Claims of Sundergarh District Recognition of Titles:

a) Rosa Giri (PVTG), Uparginia Village of Phuljhar Panchayat of Lahunipara Block

Rosa Giri belongs to Paudi Bhuiya Community, which is under Particularly Vulnerable Tribal Groups (PVTG). The forest land on which he had applied for IFR title had been under possession with his ancestors. He came to know about FRA through the Civil society organisation working there called Jeevan Vikas. He applied for IFR Title in the year 2012 for 2 Acre along with his fellow villagers. In the year 2015, he received 50 Decimal which is less than what he had applied. On asked, why he got less acre of land than he had applied for, he said that he does not know why he has received less, as he has been in possession prior to 2005 as per the FRA and the land is a forest land. He further states that, he is happy as he has at least a piece of land which he can say is his own and cultivate over it without fear and earn his livelihood with dignity. He further said he has not been informed by the district administration as to why he has received less than applied, on asked whether he had filed petition with regard to partial recognition, he said. He has not applied as he did not know, and there was such provisions under the Act. He further said that, his family is dependent on forest produce and forest land and thus after receiving IFR Title under FRA he feels a secure and empowered.

b) Rudradev Naik (ST), Sarangijhari Village of Sumra Panchayat of Hemgir Block

Rudradev Naik belongs to Scheduled Tribe Community. The forest land on which he had applied for IFR title had been under possession with his ancestors. He came to know about FRA through the Civil society organisation working there named Centre for Integrated Rural and Tribal Development, (CIRTD), Sundergarh. He applied for IFR Title in the year 2009 for 4 Acre along with his fellow villagers. In the year 2010, he received 1 Acre which is less than what he had applied. On asked, why he got less land than he had applied for, he said that he does not know why he has received less, as he has been in possession prior to 2005 as per the FRA and the

land is a forest land. He further states that, he is happy as he has at least a piece of land which he can say his own and cultivate over it without fear and earn his livelihood with dignity. He further said he has not been informed by the district administration as to why he has received less than applied, on asked whether he had filed petition with regard to partial recognition, he said, he has not applied as he did not know, and there was such provisions under the Act. He further said that, his family is dependent on forest produce and forest land. After receiving IFR Title under FRA he feels a secure and empowered.

c) Phulomani Bhoi (ST), Teuria Village of Sumra Panchayat of Hemgir Block together

Phulomani Bhoi is a widow, she belongs to Scheduled Tribe Community. She came to know about FRA through the Civil society organisation working there named Centre for Integrated Rural and Tribal Development, (CIRTD). It was through the intervention of the CSO, that she was aware about the provisions for women regarding claiming of IFR Title. The Gram Sabha and the FRC Committees were also convinced by the CSO, that there are provisions for women and they are eligible for IFR title. She had applied for IFR Title in the year 2009 for 2 acres along with her fellow villagers. The forest land on which she had applied for IFR title had been under possession since her husband's ancestors. She received 1.2 Acre which is less than what she had applied. On asked, why she got less acre of land than she had applied, she said that she does not know why she has received less, as she has been in possession prior to 2005 as per the FRA and the land is a forest land. She further states that, she is happy as she has at least a piece of land which she can say her own and cultivate over it without fear and earn her livelihood with dignity. She further said she has not been informed by the district administration as to why she has received less than applied, on asked whether she had filed petition with regard to partial recognition, she said, she did not know, and there was such provisions under the Act. She further said that, she is dependent on forest produce and forest land and thus after

receiving IFR Title under FRA she feels a secure and empowered.

Pending of Claims:

a) Sanatan Oram (ST), Ratansara Village of Ratansara panchayat of Hemgir Block

Sanatan Oram, belongs to Scheduled Tribe Community. He came to know about FRA through the Civil society organisation working there named Centre for Integrated Rural and Tribal Development, (CIRTD), Sundergarh. He applied for IFR Title in the year 2009 for 2 Acre along with his fellow villagers. The forest land on which he had applied for IFR title had been under possession since his ancestors. It's been 10 years now, since he has applied for IFR title but he has not received it yet. He said none of the claimants of his village has received the title. On being asked, whether he had tried to find out the status of the claim from district administration office; he said he along with his fellow villagers had been to district administration, but there has been no positive response from them, every time, they say it is in process and will be done. It's been 10 years now, our neighbouring panchayat have received but they had not. We suspect, that because of establishment of Mining Company named as MCL (Mahanadi Coal Limited) our titles are kept in pending. He further said that, his family is dependent on forest produce and forest land for their livelihood. Pending of Title has led to a sense of uncertainty and threat of Eviction and Displacement because of mining.

b) Purnachandra Dehury (PVTG), Budakhomon Village, Dolesara Panchayat of Lahunipara Block

Purnachandra Dehury, Budakhomon belongs to Paudi Bhuiya Community, which comes under Particularly Vulnerable Tribal Groups (PVTG). He came to know about FRA through the Civil society organisation working there named Jeevan Vikas. He applied for IFR Title in the year 2016 for 2 Acre

along with his fellow villagers. The forest land on which he had applied for IFR title had been under possession with his ancestors.

It's been 3 years now, since he has applied for IFR title but he has not received it yet. He said none of the claimants of his village have received the title. On being asked, whether he had tried to find out the status of the claim from district administration office; he said that he along with his fellow villagers have been to district administration, but there has been no positive response from them. Everytime, they say it is in process and will be done. He further said they did not know the status of their IFR claim, whether it is rejected or recognised, and hence assumed it is pending as there has been no intimation from the government administration since they applied. He further said that, his family is dependent on forest produce and forest land for their livelihood. Pending of Title has led to a sense of uncertainty and threat of Eviction after the Supreme Court judgement, as they have come to know from their neighbouring villagers that those who have not received title will be evicted.

Rejection of Claims:

a) Kandra Naik (PVTG), Dhukamunda village of Dolesara Panchayat of Lahunipara Block

Kandra Naik belongs to Paudi Bhuiya Community, which comes under Particularly Vulnerable Tribal Groups (PVTG). He came to know about FRA through the Civil society organisation working there named Jeevan Vikas. He applied for IFR Title in the year 2012 for 3 Acres along with his fellow villagers. The forest land on which he had applied for IFR title had been under possession with his ancestors.

In the year 2015, when his fellow villagers received the IFR Title and he did not, he went to verify with the RI as to why he did not receive his title as he fulfils all eligibility criteria under FRA and is eligible to get his title. He further said that the RI then informed him verbally that his Claim has been rejected

because of lack of documents. When he further asked RI as to which documents are missing so that he can submit the same, the RI said that he does not know as it is only mentioned lack of Documents under the reason of rejection. Thus, he was dejected and now thinks that he will not receive his title as his claim stands rejected. On being asked, have you filed petition at the SDLC or DLC level; he said that he has not filed petition as he is not aware about such provisions under FRA. He further said that, his family is dependent on forest produce and forest land for their livelihood. He has still been cultivating over the land but as the claim stands rejected there is a sense of uncertainty and threat of Eviction, which has increased post the Supreme Court judgement, as they have come to know from their neighbouring villagers that those who have not received title will be evicted.

b) Benudhar Baisal (OTFD), Sarangijharia Village of Sumra Panchayat of Hemgir Block

Benudhar Baisal is a forest dwelling Communities and belongs to Gouda Caste. As per the Provisions pertaining to FRA, he comes under Other Traditional Forest Dwelling Communities. He came to know about FRA through the Civil society organisation working there named Centre for Integrated Rural and Tribal Development, (CIRTD), Sundergarh. He applied for IFR Title in the year 2009 for 2 Acre along with his fellow villagers. The forest land on which he had applied for IFR title had been under possession with his ancestors. While claiming he had submitted the oral evidence of the elderly person of his, but that was not accepted by the Officials and his title was rejected by the SDLC stating the reason that he lacks evidence of 75 years of occupation.

He further stated that the Government officials are not willing to accept the claims of OTFD, they are not looking or examining how they are dependent on forest, rather asking them which caste you belong to. And on the basis of caste rejecting the claims not on basis of eligibility and dependency.

On being asked, if he had filed a petition at the SDLC or DLC level; he said that he has not filed petition as he is not aware about such provisions under FRA. He further said that, his family is dependent on forest produce and forest land for their livelihood. He has still been cultivating over the land but as the claim stands rejected there is a sense of uncertainty and threat of Eviction, which has increased post the Supreme Court judgement, as they have come to know from their neighbouring villagers that those who have not received title will be evicted.

c) Raju Mundari (ST), Uparginia Village of Phuljhar Panchayat of Lahunipara Block

Raju Mundari belongs to Munda Tribe, Scheduled Tribes. He came to know about FRA through the Civil society organisation working there named Jeevan Vikas. He applied for IFR Title in the year 2012 for 2.5 Acres along with his fellow villagers. The forest land on which he had applied for IFR title had been under possession with his ancestors.

In the year 2015, when his fellow villagers received the IFR Title and he did not receive the same, he went to verify with the RI as to why he did not receive his title as he fulfils all eligibility criteria under FRA and is eligible to get his title. He further said that the RI then informed him verbally that his Claim has been rejected because of lack of Proof of Possession and Occupation. When he further asked RI as to how will he prove his existence, the RI asked for challans issued by the FD prior to 2005.

He did not have challans issued by the FD prior to 2005 and hence was unable to prove his possession and Occupation. Thus, he was dejected as his claim stands rejected. On being asked, if he had filed a petition at the SDLC or DLC level; he said that he has not filed a petition as he is not aware about such provisions under FRA. He further said that, his family is dependent on forest produce and forest land for their livelihood. He has still been cultivating over the land but as the claim stands rejected there is a sense of uncertainty and threat of Eviction, which has increased post the Supreme Court judgement, as they have come to know from their

neighbouring villagers that those who have not received title will be evicted.

d) Rajni Majhi (ST), Sarangijharia Village of Sumra Panchayat of Hemgir Block

Rajni Majhi belongs to Gond Tribe, Scheduled Tribes. She came to know about FRA through the Civil society organisation working there named Centre for Integrated Rural and Tribal Development, (CIRTD), Sundergarh. She applied for IFR Title in the year 2009 for 1 Acre along with his fellow villagers. The forest land on which he had applied for IFR title had been under possession with his ancestors.

While verification in the year 2009, the RI verbally said her that the land applied for title has a Kisam of Non Forest Land and hence her claim stands rejected. The RI verbally told her that her claim stands rejected, but she has not received any letter or intimation from the district administration stating that her claim stands rejected. She further said that, her family is dependent on forest produce and forest land for their livelihood. She has still been cultivating over the land but as the claim stands rejected there is a sense of uncertainty and threat of Eviction, which has increased post the Supreme Court judgement, as they have come to know from their neighbouring villagers that those who have not received title will be evicted.

e) Benudhar Sahu (OTFD Titles Distributed and Later Cancelled), Teuria Village of Sumra Panchayat of Hemgir Block,

Benudhar Sahu belongs to Other Traditional Forest Dwelling Communities. He came to know about FRA through the civil society organisation working there named Centre for Integrated Rural and Tribal Development, (CIRTD), Sundergarh and SEWAK. He applied for IFR Title in the year 2009 for 4 Acres along with his fellow villagers. The forest land on which he had applied for IFR title had been under possession with his ancestors. . In the year 2010, he received 2

Acres which is very less than what he had applied. On being asked, why he got less acre of land than he had applied, he said that he does not know why he has received less, as he has been in possession since his ancestors times and also proofs 75 years/ 3 generation of Possession as per the FRA and the land is a forest land. He further states that, he is happy as he has at least a piece of land which he can say his own and cultivate over it without fear and earn his livelihood with dignity. He further said he has not been informed by the district administration as to why he has received less than applied, on asked whether he had filed petition with regard to partial recognition, he said that he has not applied as he did not know that there were such provisions under the Act.

However after 4 years of Title Recognition, there was re-verification conducted across Sundergarh district, to check the status of the titles granted in 2010, whether they are still in possession or not as there had been a complaint filed in the district level regarding Title recognition of the false claims. Benudhar Sahu said that RI had come for re-verification, he took him to his land and showed his cultivation area and at that time of the year, there was rice cultivated in his year. In the year 2015, Benudhar sahu received a notice from the SDLC level stating that his title has been cancelled and was asked to return his title in the Sub Collector Office.

Benudhar asserted his rights and did not return his title as he has been in possession for years and has received title through proper way as enlisted in the Act. It was later found that the RI had given false re-verification report stating that he is not in possession of land, in spite of rice cultivated on his land, when he visited. He along with his fellow villagers and FRC members filed Petition at the collector office and Chief Minister Office stating that they are dependent on the forest land and this will hamper their livelihood, moreover they have received the titles after the due process was followed as per the Act. Thus, he says that there has been violation of law and illegally cancellation of titles, moreover the RI is the real

culprit who provided false report. He further said that how the title can be granted and later be cancelled, the onus of district administration's failure has been put on people.

He further said that, we are asserting our rights and we will assert our rights, but deep within there is a sense of uncertainty and threat of eviction, which has increased post the Supreme Court judgement, as they have come to know from their neighbouring villagers that those who have not received title or whose titles have been rejected will be evicted.

6.4. Observation and Analysis

Observation in terms of the Stakeholders Involved in the Process of FRA

A. Gram Sabha Members and FRC Committee

Lack of Capacity Building and Awareness

There is lack of capacity building and awareness at the village level because of which people are not clear about the provisions of the Act. The government official have not organised local level capacity building and awareness which has also led to misinterpretation of law by the people. As a result, many claims have been filled by the people who are not eligible. It is also because people have not been able to withstand pressure due to social factor such as caste, dominance of landlord.

Different Criteria for Recognition of Rights have led to Disparity among the People

The different criteria for recognition of rights under Forest Rights Act, 2006 have led to disparity among the People, as it is difficult to prove the 75 years evidence and because of which the other traditional forest dwellers are denied of their Rights. It is not only accepted by the people but also the Government official and Civil Society Organisation. It is difficult to fulfil the 75 years eligibility Criteria.

Lack of Support to Other Traditional Forest Dwellers during the cancellation of IFR Titles:

When the IFR Titles of the Other Traditional Forest Dwellers was cancelled in the year 2015, there was no support from the civil society organisation and the political leaders, the other traditional forest dwellers organised themselves and conducted few rallies in Sundergarh but there was no positive response from government officials. There was no support from the Scheduled Tribe Forest Dwellers in the rallies, none of them attended the rallies, and this particular incidence has also deepened the disparity among the people. The population of the OTFD is comparatively less than the ST. Thus, there has been no NGO Intervention either in the village level or district level in terms of advocacy to defend the OTFD or understand the issue.

There is a Caste Angle in recognition of Rights of the Other Traditional Forest Dwellers:

There is caste angle recognition of rights of the Other Traditional Forest Dwellers. They are looked as per their caste and not in terms of their forest dependencies and assumed to be privileged class. It is seen that the government official are more interested in which caste they belong to rather the eligibility criteria and as they know that they are not ST, they directly say that the title cannot be granted as they are SC and OBC. This treatment from the government official has made the people feel that just because they are OBC or SC they are not eligible and will not get the title.

Gaps in Employment and Livelihood

Considering the overall employment situation and livelihood opportunities in the district, the following outstanding issues emerge which needs attention:

- a. About 43 per cent of people within the working age-group are nonworkers.
- b. Earnings are very low in rural areas; about 89.9 per cent of households have the highest earning head with earning less than Rs. 5,000 per month. Income insecurity is also high, about 53 per cent rural households are dependent on manual or casual labor.

- c. Opportunities of livelihood enhancement around local resources undermined, particularly forest and agriculture based.
- d. Rural livelihood schemes (MGNREGS) ineffective in enhancing earnings, engagement of women in rural livelihood schemes such as women SHGs far lower than the potential.

All of these together contribute to insecurity in employment and livelihood, particularly for the poor and vulnerable sections of the society.

B. Non-Governmental Organization

More Emphasis on CFR than IFR

The Civil Society Organisation emphasises more on the CFR than IFR. The Rationale behind emphasising more on the CFR is that through CFR the entire village can access the forest resources. But as the people were more interested in the recognition of IFR, the NGOs facilitated the IFR claims as well but as it was not their sole priority, they have not given much emphasis on it.

No proper understanding as to who is Other Traditional Forest Dwellers

There is no proper understanding as to who is OTFD by civil society. Some of the activists feel that the Act is only for ST and OTFD are encroaching upon their rights. Some have the perception that the Act is only for ST and SC and not for OBC, hence there is lack of understanding as to who OTFD is and what provisions are prescribed for them in the Act.

Civil Society Organisation are Target Oriented rather than Empowering the Gram Sabha

During the initial phase of the claiming process, there has been too much handholding by the NGOs. The FRC Registers were also maintained by the NGOs and the entire process of claiming have been dominated or influenced by them as a result of which the

Gram Sabha has not been empowered. After the title distribution, when the NGOs have left the left, the people have become all the more vulnerable as they are not aware about the provisions of the Act and are unable emphasis on the Post title activities to enhance their livelihood. It was also observed that few NGOs have called the FRC committee members to their office and filled the claims as a result of which the gram sabha members are not empowered.

After the distribution of the titles, when the NGOs had left the village, it was during this phase that the titles were cancelled and as the NGO did not emphasis on empowering the gram sabha and were target oriented, being unaware about the provsions five out of the ten villages have returned the IFR title as they did not know what to do. They were also afraid of being jailed.

Funding is one of the Challenge Faced by the CSOs

Funding is one of the challenges faced by the CSOs, it is because of the funding challenge that many a times the CSOs have to restrict their intervention to limited areas. Even if they are willing to work they are unable to do so.

C. State Administration

Acceptance by the Government Officials that they were unable to verify Claims:

While interacting with the government officials of Sundergarh, they accepted that during the intial phase of the claim process they are unable to verify the claims as they were given particular time frame to speed up the recognition of the rights in a mission mode and so they were unable to scrutinize the claims. As a result, many titles of not eligible claimants were also recognised and when after few years the issue was raised that non-eligible OTFD were given the IFR titles. The entire process of re verification was initiated. Because of few non eligible cases, the genuine eligible OTFD IFR titles were also cancelled and the onus of the cancellation was put on the people. But if we analyse the entire process, it is because of the lack of scrutiny of the government official that the titles were granted, if in the initial phase there would have been proper scrutiny and only eligible people would have been granted titles, it

would not have led to a situation in which the titles of 555 OTFD right holders IFR titles would have been cancelled and the sentiments of the people would not have been hurt. The cancellation of the title has led to mistrust between the people and the government officials.

1. Violation of Forest Rights Act, 2006

There has been provisions in the Act under chapter-4 that in case of petition against any person, no petition shall be disposed of unless the person has been given reasonable opportunity to present his case whether it is in the SDLC level or DLC level.

But in this case of cancellation of IFR Titles of the OTFD, there has been no opportunity given to the people to present their view, their titles were directly cancelled on the basis of the re-verification report. To this, the people of these ten villages said that re verification has not been conducted in many villages and even in the villages where it is conducted, people were asked money for re-verification. At some places false report of Re-verification has been produced, even though no re-verification held in the villages. Money was asked for Re-verification and also false report was prepared even after re verification and even if it was conducted along with village people,

Thus, there has been violation of Act, and on this basis some people had filed petition in the High Court. The court stay order was for cultivated land. When the issue of false re verification report was raised, it was stated in the DLC meeting that if the government official will be found guilty will be punished but so far there has been no investigation conducted. One of the Government official have also agreed that there should have been an instance given to people to present their defence or opinion, there has been absolutely no intimation to the people, directly people were sent cancellation letter and were asked to surrender their titles.

The Forest Rights Act 2006, states that the Forest Land cannot be diverted for industrial purpose unless and until the FRA process have been completed. In the Hemgir Block, even if the

FRA process is not completed, MCL has given notice for displacement to the people and is also reluctant in giving compensation over forest lands.

2. No Coordination and Transparency between the Levels of State Administration

It is observed that there is no coordination among ST and SC Department, Revenue and Disaster Department, Panchayati Raj Department and Forest Department in the state level and it also reflects in the district level and Panchayat level functioning. It is because of the lack of coordination that there are hurdles in the implementation of the Forest Rights Act, 2006. While interacting with the district official it was figured out that the titles were cancelled by the sub collector office and both the DWO and the DFO were unaware about the reasons and the process undertaken to cancel the titles. There is lack of transparency in terms of the data management of the Claims filed and Titles Distributed. When the pressure is inbuilt by the higher authorities the district level or panchayat level officers somehow manage to send report or data without authenticity.

3. Poor Implementation of the Convergence Schemes

There is poor implementation of the Convergence schemes in these ten villages. Only few people have been covered under the convergence schemes. It has been observed that after the title is granted, there has been neither demarcation nor record of rights, moreover there has been no emphasis on enhancing the livelihood of the people. Even though there are many orders by the state government illustrating various convergence schemes for the FRA right holders and emphasising the implementation of convergence schemes but there has been poor implementation of this schemes. Only the housing convergence scheme under Pradhan Mantri Awas Yojana, Indira Awas Yojna, Biju Pakka Ghar has been implemented in most of the places, that to not specific for the IFR right holder but through panchayat for everyone

D. Vicious Circle of Development, Migration and Exploitation by the Forest Department

Development has led to Migration, which in turn has led to decrease in the labour of the village/ family members, so they are unable cultivate in the land where they earlier used to and hence, as per records of forest department, they are not in possession and they claim those land as it turns out to be either barren or forest.

Another instance is that due to various development projects, Elephant corridor has been destroyed, as a result of which in the past 5 years the ratio of elephants coming to the village has increased. Elephants have destroyed crops time and again, because of which people have stopped cultivating in those areas because of the losses incurred. Thus, leading to decrease in the use of forest land by the people dependent on it, to which forest department is claiming as the land is barren it belongs to them and the people are not in position. It is important to have a holistic view of the issue.

6.5 Recommendations

On basis of the above Analysis, here are few recommendations:

1. There should be proper investigation of the cancellation of IFR Titles of the OTFD, the eligible OTFD right holders should be given back their title. And all the officials who were involved in corrupt practises in producing false re verification report should be penalised.
2. A public interest litigation should be filed on the basis the people were not given the opportunity to present the views. It is violation of rights and attempt should be made to get stay order on all the 555 Title.
3. There is a need to emphasis on effective implementation of convergence schemes to enhance the livelihood of the people.
4. Demarcation of the Land and ROR correction needs to be undertaken in this villages.
5. There is a need to strengthen coordination among the government officials, so as to ensure fast and smooth implementation of the Act.

PROVISIONS AND PRACTICES**7.1 Overall Gap between the Provisions and Practices**

Working hurriedly with target based approach has been making dilution of the process of implementation at par with the objectives and spirits of the Act. Although FRA has been an empowering law, very little attention has been given and strategy made for empowerment of community through sensitisation and effective capacity building. Large numbers of complaints from the grounds have been occurred as a result of such gaps. Wherever, better presence or engagement of civil society actors in the facilitation and capacity building of Gram Sabha/FRCs by the district administration the outcome of implementation in those areas has been comparatively more qualitative. The case studies of all the villages have shown the same results. The poor sensitisation has actually deprived the actual customary rights of the forest dwellers through dominance and manipulation of the forest departments and other officials involved in the process.

As per the provisions and processes of FRA, the rights determination process should actually be done by Gram/ Palli Sabha rather than by government officials. The most critical gaps which lead to several other omissions and manipulations are that the Palli sabha/ FRCs are not aware about their role and authority vested in the FRA for determination of their forest rights. The case study villages have reported that issues like less areas recognised than the area claimed, Non-recognition of rights over pre-agricultural practices like shifting cultivation, pushing of JFM in place of CFR, etc. This kind of situation would not have happened if the people properly understood them clearly.

The status of claims is not known to the villagers/ Palli sabha/ claimants even after more than two years of submission of claims. This has been reported from all the case study districts. Although there are clear provisions for intimation and communication to the Gram Sabha and concern claimants by the SDLC/ DLC under the law nothing has been done on the ground.

This has created frustration among the people, who are not familiar with the complex bureaucratic procedures and do not go for complaint or appeal. By rote they go to the RIs/Amins, to face exploitation. Since the villagers are not aware about FRA, they do not know where to go or whom to complain to.

7.2 Gap between the Provisions and Practice for PVTGS

For the Particularly Vulnerable Tribal Groups, FRA, inter alia, provides a special rights to protect their habitat, resources and territory from exploitation u/s 3 (1)(e) “recognition of rights, including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities.” Odisha has 17 micro-projects working for the development of 13 PTGs. However, this provision has not been implemented, even after over four and a half years, in a single place out of 13 Micro-Projects working for these communities.

- The claim process facilitated and application submitted on Juang pirha, Keonjhar District to SDLC for more than two years has not received any conclusive response.
- The challenges for implementation of 'habitat rights of PTGs' may be the reason for such delay
- The FORM-B meant for CFRs claim does not have suitable space for such specific rights.
- No adequate understanding on what basically forms the habitat.
- How to prepare and submit the claims over larger customary habitat and habitations of such community?
- The challenges over technicality and procedures for submission of claims over the customary habitat of PTGs, which consists of multiple FRCs. Under the Act, FRC is authorized to verify the claims either through their community or traditional community institutions in the presence of the communities or their representatives. The question is how a village level FRC will receive and verify the claim for the entire habitat of a community, which consists of number of villages and FRCs?

- Evidential support for the claim is a more challenging task. The records from different sources show that PTGs have been residing within their specific customary boundaries with distinct settlement patterns. There is very little literature about the customary laws and habitations like Juang pirha and Bhuyanpirha. They are insufficient to inform us the territorial description/ demarcation of the community habitat and the spreading of new villages of PTGs. The villages covered under the Micro-Projects for the PTGs are only administrative boundaries, covering certain GPs or villages and not the entire habitation or villages of a PTG. It is challenging to identify large number of PTG villages lying outside the micro-project areas and support the evidence with clear physical boundaries for asserting their rights over customary tenure of habitat and habitation.
- For individual forest rights the govt has taken some pro-active steps for PTGs micro-project areas. It has provided a separate reporting format, issued a number of circulars especially focusing on the rights of PTGs, entrusted responsibility to the micro project officers & PA, ITDAs for proper implementation of various provisions of the Act.
- Only individual rights have been focused to date with very little on CFR and habitat rights.
- While habitat rights have been claimed by some of the PTGs, largely due to the facilitative efforts of civil society groups, the SDLC and DLC have neither facilitated nor positively responded to the claims. Habitat rights and claim processes have been ongoing amongst the *Juang* PTG in Keonjhar district and the *ChakutiaBhunja* in Nuapada district (See Nuapada Case study in annexure fore detail).
- The more focus on distribution of individual rights on forest land disregarded the customary communal land tenure system of PTGs and pre-agricultural communities.
- The issue of “the territory of customary habitat” and areas of intervention in micro-projects is still an undefined conflicting area to be seen.

7.3 Gap between the Provisions and Practice for Other Traditional Forest Dwellers

The issue of OTFDs rights over forest land and forest resources have been neglected and sidelined. Their eligibility has been misinterpreted at all levels, mostly higher level, as a result of which occurred massive discontent and frustration among the genuine other forest dwelling community. The differential interpretation of laws by the State bureaucracy and administration on understanding the eligibility and evidences for recognition of rights has led to alienation of forest rights of the so called OTFDs. The appropriate understanding and interpretation would help in addressing the historical injustice made to the OTFDs through recognition of rights under FRA.

(a) Tribes which are not scheduled also treated as OTFD:

Those communities presently treated as OTFDs, are deprived of their customary rights over forest land and forest resources due to their non-inclusion in the lists of Scheduled Tribes. They were regarded as hill tribes during British period. Nearly 166 tribes in Odisha are yet to be recognized as STs by Govt. of India, which has been already recommended by the State since 1978. As per the ethnic status prepared by the SC/ST RTI, Odisha all these communities are synonymous and have similarity to one or other enlisted 62 tribes of Odisha.

(b) Communities not tribes but inseparable part of forest:

Apart from the tribes and scheduled tribes, other communities are also integral part of forest based livelihood and living along with the scheduled tribes. Such Communities like Gouda, Gopal (Milkman) who are mostly dependent on Animal Husbandry, Komar, Lohar (Blacksmith), Fisher Men dependent on fishing in streams and rivers passing through forest, and other communities who are making their livelihood collecting Non Timber Forest Produces are also integral part of forest based support system. As per the FSI report there are around 29,000 forest fringe villages in the state. All these villages can be

categorized as forest dependent villages irrespective of their caste identity.

(c) **MoTA Clarification dated 09.06.2008:** It has already clarified on the interpretation of the phrase “primarily resided in and who depend on” includes persons “who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs” or “who are working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land”.

(d) **MoEF order in Case of POSCO Project:** The final order of MoEF on POSCO project dated 31st January 2011 said that “it is clear that POSCO project site is not a part of a Fifth Schedule area and is in fact, far away from the nearest fifth scheduled area" As per the FRA the OTFDs have to fulfil following three conditions for their eligibility to claim.

- They should have primarily resided in the forest for 75 years prior to the 13th December 2005
- They should be at present dependent on the forest or forest land for bona-fide livelihood needs
- They should have been in Occupation of the forest land before the 13th day of December 2005

(e) **OTFD as Understood and Suggested by National Committee on FRA⁶³**

For a non-ST person to be considered an OTFD under this Act, s/he must only demonstrate a) S/he resided in the vicinity of the forest or forest lands for at least 75 years prior to December 2005 and b) That s/he was dependent on the forest as of 13 December 2005 for her/his 'bona fide livelihoods needs as defined in Rule 2(b) of the FRA Rules. Rule 2(b) implies that a person either living in or cultivating a

⁶³ Manthan: Report of National committee on Forest Rights Act, Page No 57, December 2010

parcel of forest land or a person collecting firewood, grazing, non-timber forest products, or fish, etc. from forest lands qualifies as a bonafide user. A person who meets the above definition constitutes an OTFD regardless of whether s/he files any individual claim for land under sec.3 (1) (a) or not.

The improper and restrictive interpretations of the definition of OTFDs have been one of the major reasons for *en masse* rejection of their claims. The Committee reviewed and recommended that MoTA to issue an immediate clarification to all states explaining the following:

- a) That the requirement for three generations prior to December 2005” applies to the residency clause only. This relates to the recognition of a non- Scheduled Tribe person as an OTFD under the Act. It should not relate to the parcel of land for which a claim is being made, or to the forest on which other rights are being claimed. The claimant does not have to show possession and occupation of forestland claimed for 75 years.
 - b) The requirement “primarily residing in” includes those whose habitation may be outside forest lands but are dependent on forest lands for bona fide livelihood purposes,
 - c) That the land to which claim is being made should have been occupied before the 13th December 2005 applies equally to STs and OTFDs.
 - d) The two-stage process of verification as followed in Maharashtra must be followed in other states.
- (f) **Eligibility of claim to particular parcel of land:** When it comes to recognizing specific rights given under section 3, the FRA specifies in section 4(3) that the recognition and vesting “*shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005*”. Nowhere the distinction is made between STs and OTFDs on occupancy of the land before 13 Dec 2005. There is no need to show the occupation by OTFDs had happened more than 75 years ago. In other words, once a person has proved to be an OTFD as per section 2(o), for that

person to get (for instance) self-cultivation rights under section 3(1) (a), it is necessary that the person was engaged in that activity before December 13, 2005, that is all.

- (g) Eligibility of claim to forest resources:** As in the case of eligibility for claim to forest land for cultivation/occupation (Section 3(1) (a), for other claims under Section 3(1) also, OTFDs would be equivalent to STFDs.

7.4 Conflicts between JFM/VSS, STs and OTFDs

While the implementation process of FRA is ongoing for recognizing the rights over CFR, forest department people are rigorously engaged in promoting VSS over the community forest areas, alienating and obstructing the rights of the forest dwellers. This has resulted in confrontation and conflicts between forest dept and people, confrontation between an act of parliament (FRA) and a govt resolution (JFM), between the old and new (yet to come fully) regime of governance. The incidents are known to and experience of many of us that Forest Department officers have been consciously misleading and sabotaging the people and processes of FRA implementation all over Odisha. However, numbers of such cases are available to prove their constant non-cooperation and involvement in right deprivation process of the forest dwellers, a sincere effort to perpetuate the same historic injustice committed by FD to the forest dwellers.

7.5 Extending Convergence of Schemes (MGNREGS & CAMPA) for Livelihood support & conservation of Forest and wildlife

Forestry sector development money has been utilised for deprivation of forest rights of the tribals through plantation over their community land.

Plantation under JICA and CAMPA project in Burlubaru, Kusumunda, Rangapar and many other villages of the most vulnerable KutiaKondhs (PTGs) of Tumudibandh block had deprived them from their customary pre-agricultural practices of

communal shifting cultivation (*Gudia*) over hill slopes where the agricultural land is very scarce. The vast stretches of agriculture land and shifting cultivation land surrounding in Kusumunda and Rangaparu village has been covered with eucalyptus and other exotic species by clearing the vast stretches of natural forests. The forest dept did plantation over more than 70 hectares of forestland under CAMPA over the forestland customarily cultivated by KutiaKondhs of Kusumunda, Rangaparu, Pandamaska and Sadangi villages. These 70 hectares plus forestlands covering the customary boundaries of these four villages, where the Kondhs villagers had been communally practicing shifting cultivation (*Gudia* are covered under plantation). The department has taken over those lands under plantation without settling the rights of Kutia Kondh PTGs⁶⁴.

During the process of FRA implementation the compensatory should be stopped till the completion of the final process of determination of CFR is completed.

⁶⁴ Behera, S. (2010) Deprivation Of Forest Rights Through Plantation In Ptg Villages Of Kandhamal District: A Case study of Plantation issue in KuttiaKondh (PTG) Villages of Tumudibandh Block, Vasundhara-pp. 4-5.

FOREST RIGHTS ACT INTERFACE WITH CENTRAL & STATE POLICIES

8.1. Central

Sl No.	National Policies	Conflicts	Complementaries	Remarks
1	Indian Forest Act, 1927			
	Section 4: Notification by State Government. -(1) Whenever it has been decided to constitute any land into a reserved forest, the State Government shall issue a notification in the Official Gazette— (c) appointing an officer (hereinafter called "the Forest Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits or in or over any forest-produce, and to deal with the same as provided in this Chapter. Section 5. Bar of accrual of forest-	The 1927 Act, empowered the government to declare any area to be a 'reserved forest' or a 'protected forest'. The law says that, at the time a "reserved forest "is declared, a single official (the Forest Settlement Officer) is to enquire into and "settle" the land and forest rights people had in that area. These rights included: • land rights • rights to water courses, pastures and rights of way • forest produce and shifting cultivation.		Section 6 of the Forest Rights Act authorizes the Gram Sabha to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction. The Gram Sabha shall call for claims and authorize the Forest Rights Committee to assist the Gram Sabha in receiving

	<p>rights.—After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of the Government or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the State Government in this behalf.</p> <p>Section 6: Proclamation by Forest Settlement-officer.—When a notification has been issued under section 4, the Forest Settlement-officer shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised</p>	<p>The decision on whether or not to record these rights, however, was entirely that of the Forest Settlement Officer. Rights that were recorded were thus only those that had documentary proof or who belonged to socially powerful communities. Collective rights and powers were practically never recorded. In “protected forests”, a more vague category, the government could take over any land over which some kind of rights settlement had already occurred (such as a revenue settlement) and impose restrictions and regulations on a wide variety of uses and activities in</p>		<p>claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights. The Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee. Rule 11 and 12 of the Forest Rights Rules mentions about the operational details of the procedure of filing, determination and verification of claims by the Gram Sabha.</p>
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	<p>therein, a proclamation</p> <p>(a) specifying, as nearly as possible, the situation and limits of the proposed forest;</p> <p>(b) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and</p> <p>(c) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section, 5 within such period either to present to the Forest Settlement-officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof</p>			
	<p>Section 9. Extinction of rights.-Rights in respect of which no claim has been preferred under section 6, and of the existence of</p>	<p>The Preamble of the Forest Rights Act clearly emphasizes on recognition and vesting of</p>		<p>Under Sec 3 (1) (a) –(m) Forest Rights Act lists out in details the nature and extent of individual and</p>

	<p>which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.</p>	<p>forest rights and occupation in forestland in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded.</p>		<p>community rights.</p> <p>It does not mention about extinction of any rights excluding the traditional right of hunting or trapping or extracting a part of the body or any species of wild animal; [Sec 3 (1) (l)]</p>
Wild Life (Protection) Act, 1972				
	<p>Section 24- Acquisition of rights - (1) In the case of a claim to a right in or over any land referred to in Sec.19, the Collector shall pass an order admitting or rejecting the same in whole or in part.</p> <p>(2) If such claim is admitted in whole or in part, the Collector may either</p> <p>(a) exclude such land from the limits of the proposed sanctuary, or</p> <p>(b) proceed to acquire such land or rights, except where by an agreement between</p>	<p>As per the WLPA, before any Protected Area is finally notified, a process of settlement of rights needs to be carried out, and either the livelihoods or habitation rights are allowed (in the case of sanctuaries) or acquired by providing compensation or alternatives.</p> <p>The Act used the same system of</p>		<p>Forest Rights Act recognizes the rights of STs and OTFDs in all categories of forestland which includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks</p>

	<p>the owner of such land or the holder of rights and the Government the owner or holder of such rights has agreed to surrender his rights to the Government, in or over such land, and payment of such compensation, as is provided in the Land Acquisition Act, 1894 (1 of 1894)</p> <p>[(c) allow, in consultation with the Chief Wildlife Warden, the continuance of any right of any person in, or over any land within the limits of the sanctuary.]</p>	<p>“settlement” of rights that was present in the 1927 Indian Forest Act but imposed much more strict restrictions on people's use and livelihoods in these areas. In national parks, for instance, no rights were permitted at all. The Act also said that reserved forests could be converted into sanctuaries without any process of recognition or settlement of rights at all.</p>		
	<p>“The Supreme Court has passed an order on 14.2.2000 restraining removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses etc. from any national park or Game Sanctuary</p>	<p>In view of this, rights and concessions cannot be enjoyed in the Protected Areas (PAs).”</p>		

Wild Life (Protection) Amendment Act, 2002

<p>Sec 18 (2) states 'Till such time as the rights of affected persons are finally settled under sections 19 to 24 (both inclusive), the State Government shall make alternative arrangements required for making available fuel, fodder and other forest produce to the persons affected in terms of their rights as per the Government records.'</p> <p>Amendment to Sec 26. Destruction etc., in a Sanctuary Prohibited without a Permit</p> <p>"29. No person shall destroy, exploit or remove any wild life including forest produce from a sanctuary or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wild Life Warden, and no</p>	<p>In 2002, an amended Wild Life Act brought in much more severe restrictions. It mandated state governments to "provide alternatives" (Sec 18 (2)) for all resource use activities as soon as the intention was declared to notify an area a sanctuary (thereby assuming that no rights could continue inside the protected area, which actually contradicted another provision within the same act which explicitly did provide for such continuation (Sec 26 and Sec 35). It also prohibited any form of extraction of resources for</p>	<p>Sec 3 1 (c) of FRA recognizes the right of ownership, access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries.</p>
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	<p>such permit shall be granted unless the State Government being satisfied in consultation with the Board that such removal of wild life from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wild life therein, authorizes the issue of such permit:</p> <p>Provided that where the forest produce is removed from a sanctuary the same may be used for meeting the personal bonafide needs of the people living in and around the sanctuary and shall not be used for any commercial purpose.</p> <p>Explanation- For the purposes of this section, grazing or movement of livestock permitted under clause (d) of section 33 shall not be deemed to be an act prohibited under this section."</p>	<p>commercial use. This was necessary to stop industrial level extraction (e.g. of bamboo), but ended up bringing under its purview subsistence livelihood local activities such as removal of grasses, medicinal plants, and other NTFP for small-scale sale.</p>		
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	<p>Declaration and Management of Community Reserve 36C. (1) The State Government may, where the community or an individual has volunteered to conserve wild life and its habitat, declare any private or community land not comprised within a National Park, sanctuary or a conservation reserve, as a community reserve, for protecting fauna, flora and traditional or cultural conservation values and practices.</p> <p>Declaration and Management of a Conservation Reserve "36A. (1) The State Government may, after having consultations with the local communities, declare any area owned by the Government, particularly the areas adjacent to National Parks and sanctuaries and those areas which link one protected area with another,</p>	<p>Applicability of Forest Rights Act in such lands is not clear.</p>		<p>If Government lands/private lands other than forestland can be declared as conservation reserve for protecting landscape, flora, fauna and their habitat</p> <p>For the purpose of recognition of forest rights especially the habitat rights of the Particularly Vulnerable Tribal Groups, a clause can be inserted like wise in the FRA for the applicability of FRA beyond the forest land</p>
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	as a conservation reserve for protecting landscapes, seascapes, flora and fauna and their habitat			
	Circulars/Orders			
	<p>Circular No. 13-1/90-FP of Government of India, Ministry of Environment & Forests, Department of Environment, Forests & Wildlife dated 18.9. 90 addressed to the Secretaries of Forest Departments of all States/ Union Territories.</p> <p>FP (1) Review of encroachments on forest land FP (2) Review of disputed claims over forest land, arising out of forest settlement FP (3) Disputes regarding pattas/ leases/ grants involving forest land</p>		<p>FP 1 guidelines dealt with regularizing supposed ‘encroachments’ on forest land prior to enactment of the Forest Conservation Act, 1980,</p> <p>Guideline FP (2) dealt with recognition of rights not recognized by forest settlements.</p> <p>FP (3) required granting legal title to those allocated land by revenue departments despite the land also being recorded as forest land.</p>	<p>Sec 3 (1) of FRA provides for both individual or community tenure to those in occupation of forest land, and is equivalent to MoEF’s FP(1) guideline of 1990 permitting regularization of ‘encroachment’ on forest land prior to October 1980 i.e. before the Forest Conservation Act, 1980 came into force. Under the Forest Rights Act, this cut-off date has been moved forward to December 13, 2005 in the case of eligible Scheduled Tribes (STs) whereas ‘Other Traditional Forest</p>

				<p>Dwellers' (OTFDs) now have to prove continuous occupation of the land for 3 generations of 25 years each.</p> <p>Sec 3 (1) (g) of FRA is in line with the FP (3) of MoEF granting rights for conversion of pattas or leases or grants issued by any local authority or any State Government on forest lands to titles. Further Sec 3 (1) (f) confers rights in or over disputes lands under any nomenclature in any State where claims are disputed.</p>
Forest Conservation Act, 1980				
	<p>Section 2 of the Forest Conservation Act, 1980 mentions 'Restriction on the dereservation of forests or use of forest land for non forest purpose: Notwithstanding anything contained in any other law for the time being in force in a State, no State</p>	<p>Forest (Conservation) Act barred any dereservation of forests, or use of forest land for "non-forest purposes", except with the permission of the Central government.</p>		<p>Section 3 (2) of FRA mentions that 'Notwithstanding anything in the Forest Conservation Act, 1980, the Central Government shall provide for diversion of forestland for the following facilities</p>

	<p>Government or other authority shall make, except with the prior approval of the Central Government, any order directing-</p> <p>(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;</p> <p>(ii) that any forest land or any portion thereof may be used for any nonforest purpose;</p> <p>(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government;</p> <p>(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.</p>	<p>With this law, control over forest resources passed from the State governments into the Centre's hands.</p>		<p>managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:-....(13 development activities mentioned)</p> <p>Section 4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognizes and vests forest rights in-</p> <p>(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;</p> <p>(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.</p>
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				<p>Section 4 (7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.</p> <p>Section 13. Act not in derogation of any other law.- Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.</p>
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Orders/Circulars				
	<p>F. NO. 11-9/1998 – FC (pt), Government of India, Ministry of Environment and Forest (FC Division)</p> <p>Diversion of forestland for non forest purposes under the Forest (Conservation) Act, 1980 – ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.</p>		<p>Forest diversion: Granting permission to use forest land for “non-forest purposes” is currently entirely controlled by the Central government under the Forest (Conservation) Act, 1980. Such permission violates the rights of forest dwellers. Environment Ministry passed orders in July 2009 that required recognition of rights – and more importantly community consent – prior to diversion of forest land. This is the first case in Indian law of the consent of any democratic institution being required before resources can be seized.</p>	
National Forest Policy 1988				
	<p>Sec 4.6 associates tribals closely with protection, regeneration and development of forests.</p> <p>Sec 4.3 4.2 says that holders of customary rights be motivated to</p>		<p>National Forest Policy (1988) for the first time protected the interests of the tribal community that traditionally depended on forest resources for its livelihood, and included elements</p>	<p>The National Forest Policy of 1988 represents a major landmark in the evolution of thinking in the Indian forest sector in several ways. First, it set ‘ecological</p>

<p>identify with protection and development of forests.</p> <p>In Sec 3.5, MFP production is emphasized for rural population</p>		<p>of community ownership of resources. The National Forest Policy of 1988 recognized for the first time the relation between forest resources and tribal communities.</p>	<p>balance’ as the first objective of forest policy. Second, it recognized the meeting of local needs as the second priority of forest policy, and explicitly deprioritized revenue generation as an objective. Third, it gave a clear push for participatory forestry, and recommended creating a massive people’s movement with the involvement of women for achieving objectives of the policy which included conservation of biological diversity, increasing forest/tree cover, increasing productivity of forests etc.</p>
<p>Panchayat Extension to Scheduled Areas (PESA) Act (1996)</p>			
<p>Sec 4 (m) (ii) - “While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of</p>		<p>Ownership of minor forest resources endowed with the Gram Sabhas in the Scheduled Areas</p>	<p>Under Section 3(c) of FRA, the “right of ownership, access to collect, use and dispose of minor forest produce, which has been</p>

	self-government, a State legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with the powers of ownership of Minor Forest Produce".			traditionally collected within or outside village boundaries.” As per Section 5(d) of the same Act, the holders of any forest right, Gram Sabha and village level institutions are empowered to ensure that decision taken in the Gram Sabha to regulate access to community forest resources are complied with.
Supreme Court Orders				
	TN Godavarman Thirumalpad vs. Union of India & ors Judgment of 12.12.1996 reported in (1997) Vol. 2 Supreme Court Cases pg.267	<i>“The term “forest land”, occurring in section 2 (of the Forest Conservation Act, 1980), will not only include “forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership... ..The provisions</i>		

		<i>enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof."</i>		
Interim orders passed on Minor Forest Produce (by 'Forest Bench' in Godavarman case WP 202/95 from time to time)				
	<p>14.2.2000 (in I.A. No. 548 in WP 202 of 1995, unreported)</p> <p><i>"In the meantime, we restrain respondents No.2 to 32 from ordering the removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses, etc. from any National Park, Game Sanctuary or forest. If any order to this effect has already been passed by any of the respondent-States, the operation of the same shall stand immediately stayed."</i></p>			

Order passed modifying the order dt. 14.2.2000 subsequent to enactment of FRA				
	<p><i>“Application is disposed of giving liberty to the applicants to approach the Notified Authority under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and it is for the Notified Authority to consider their applications and to take appropriate decisions in accordance with law. Petitioners, if so advised, may also approach the State Legal Services Authority for legal assistance. Application is disposed of accordingly.”</i></p>		<p><i>In an application (IA No. 2637 in WP 202/95) filed by tribals from Kerala seeking modification of the order dated 14.2.2000, with particular reference to the extraction of shikakai, honey and wild turmeric (MFP) from WLS, the Amicus Curiae argued that under the FRA there is a vested right to extract MFP, and therefore forest dwellers are not required to approach this Court for modification of order dt. 14.2.2000 every time.</i></p>	
Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013				
	<p>Sec 8 (3) -Provided that where land is sought to be acquired for the purposes as specified in sub section (2) of 2, the appropriate Government shall also ascertain as to whether prior</p>	<p>Lack of clarity on consent requirements under FRA and the Land Acquisition Act, since under FRA, Gram Sabha resolution is required for</p>		<p>It is felt that the current land acquisition act contradicts the principle of justice for forest dependent communities and government</p>

	<p>consent of the affected families as required under the provision to sub section (2) of 2 has been obtained in the manner as may be prescribed.</p> <p>Sec 41 (3) – In case of acquisition of land in the Scheduled Areas, the prior consent of the concerned Gram Sabha or the Panchayats or the autonomous District Councils at the appropriate level in the Scheduled Areas under the Fifth Schedule to the Constitution, as the case may be, shall be obtained, in all cases of land acquisition in such areas, including acquisition in case of urgency, before issuance of notification under this Act, or any other Central Act or a State Act for the time being in force.</p> <p>Sec 42 (3) – Where the community rights have been settled under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of</p>	<p>any diversion of land, but the land acquisition act only seeks the consent of individual land owners (except in Scheduled Areas, where Gram Sabha consent is required). In case of acquisition of CFR, only individual compensation based on share in CFR is provided for</p>		<p>needs to bring it in line with the FRA.</p>
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	Forest Rights) Act, 2006, the same shall be quantified in monetary amount and be paid to the individual concerned who has been displaced due to the acquisition of land in proportion of his share in such community rights			
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8.2. Odisha State Laws and Policies

SI No.	National Policies	Conflicts	Complementaries	Remarks
Orissa Forest Produce (Control of Trade) Act, 1981				
	[sec2 g {i (a, b, c)}, Orissa Forest Act,1972].	State monopoly was created for control and regulation of trade in certain forest produces. Besides, the state was also empowered to notify all other produces as Specified Forest Produce from time to time. These products even when found on private lands and on non-forest commons were treated as specified. This implied that the State not only enjoyed a		

		<p>monopoly over Specified Forest Products (or Nationalised Products), such as Kendu leaves, Sal seeds and Bamboo but also over all such produces which were declared so in various points of time. This in effect enabled the state to exercise monopoly over trade of almost all NTFP. This was done through practice of granting exclusive rights for collection of these NTFP to TDCC, OFDC, Co-operatives like Agency Marketing Co-operative Society (AMCS) and many others, Joint Sector Companies like Utkal Forest Products Ltd (UFPL) and a number of private business</p>		
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		houses. The policies of various times ensured that no rights of forest dwellers are recognised but only as underpaid labour in the whole economy.		
Policy On Procurement And Trade Of NTFP, Government of Orissa Forest and Environment Department, Resolution, No.5503 / F&E, Bhubaneswar Dated 31st March, 2000				
	<p>Sec 3 (a) Forest Produce specifies that the items of Non-Timber Forest Produce listed in Annexure-A will be treated as Minor Forest Produce (MFP) and the term MFP will only mean and include items listed in Annexure-'A'. The list of items of NTFP to be treated as MFP may however be modified by Government from time to time. Gram Panchayat/ Gram Sabha in the scheduled areas will have the ownership over MFP produced within its territorial jurisdiction, i.e. in respect of the MFP produced in and collected from the Government lands</p>	<p>It is important to note that FRA includes bamboo and kendu under the definition of MFP. However in practice, both bamboo and Kendu are under the State Monopoly and controlled by the Forest Department. Bamboo and Tendu (kendu) are considered a “nationalized” MFP and the right of procurement and disposal (trade) is exercised by the State Government agencies exclusively.</p>		<p>Bamboo as per FRA is a minor forest produce; but Indian Forest Act, 1927 treats it at par with timber and the Forest Department is not ready to lose its stake in bamboo.</p> <p>The then Minister for Environment & Forest Mr.Ramesh wrote letters to state chief ministers to recognize bamboo as an MFP and transfer ownership of the same to local communities accordingly in deserving areas; but the</p>

	<p>and forest lands within the limits of the revenue villages comprising the Gram Panchayat. Under law, ownership of MFP in non-scheduled areas is not vested in Gram Panchayats. Gram Panchayats both in the scheduled and non-scheduled areas, will however, have the authority to regulate purchase, procurement (as distinct from collection by primary gatherers) and trading in MFP in accordance with the policy outlined in the succeeding paragraphs.</p>			<p>state forest departments are hardly willing to accept that.</p> <p>Monopoly rights of states are legally questionable though they still continue with that.</p>
	<p>Sec 3 (b) -No Gram Panchayat, whether situated within or outside the scheduled area will have ownership over MFP produce in Reserve Forests, in forest areas under Wildlife Sanctuaries and National Parks which are outside the limits of revenue villages. The Gram Panchayats will not therefore have the right to grant lease or licence to any</p>	<p>Restricts the ownership rights over MFPs in reserve forests, in Wild life Sanctuaries and National Park which is contradictory to the FRA which allows the rights of ownership, access to collect and dispose of minor forest produces from all categories of forestland</p>		<p>Sec 2 (d) of FRA describes forestland meaning land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks.</p>

	<p>individual or agency for collection of Minor Forest Produce from any Reserve Forest or Sanctuary or National Park. However, members of Vana Samrakshyana Samitis, and tribals, artisans, etc. as part of their customary rights will be free to collect Minor Forest Produce from forest areas excluding sanctuaries and National Parks. When any such MFP collected from forest areas is brought to a village, i.e. into the territory within a Gram Panchayat, it will come under the Gram Panchayat's powers to regulate procurement and trading. Where Vana Samrakshyana Samiti has been formed, the Samiti and its members will have priority over the Gram Panchayat in the matter of collection and disposal of Minor Forest Produce of the respective forest area.</p>	<p>within or outside village boundaries</p>		
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NTFP policy of 2000 and Resolution of Panchayati Raj Department in 2000				
	<p>In May, 2000, the Panchayati Raj Department came out with a set of guidelines (Resolution No. 8131/GP, 26.05.2000) providing for registration of traders and management of MFPs by the GP and outlining the roles of forest officials, TDCC and OFDC. The Forest Department issued yet another resolution in August, 2000 to hand over 7 more MFPs to the Gram Panchayat (Resolution no - 13285/F&E, 23-8-2000).</p>		<p>The policy of March 2000 recognized the importance of MFP in forest dwellers' life. It also recognized the importance of sustainability of resources. As per the requirement of PESA, it gave ownership rights over 'MFP's to GPs in scheduled areas, and only regulatory rights to rest of the GPs. MFP was defined under this policy in vague way, creating a pseudo-category of 'minor forest produce' (term used in PESA) under NTFP, and initially 60 items were declared as MFPs (later the number rose to 69).</p>	<p>In Orissa, atleast 76 items have been identified as NTFP; out of which initially 60 (later 69) items have been termed as MFP. Ownership over these 69 items (MFP) has been transferred to the Panchayats. The rest have been divided into nationalized items and lease barred items. The lease barred items are mostly gums, barks, and resins, etc. that are banned for commercial extraction except to a government agency provided sustainability is ensured. There is however no clarity on the category of certain NTFPs like lac. Bamboo and Kendu leaf are nationalized items.</p>

Circular on Price Fixation			
	<p>Resolution (No.16467/F&E dated 12.10.2001) relating to price fixation mechanism of the NTFP</p>	<p>In order to ensure the payment of fair procurement prices of the NTFP to the primary gatherers, Government of Odisha on 12th October 2001 has brought out a resolution (No.16467/F&E dated 12.10.2001) relating to price fixation mechanism of the NTFP .The resolution came out as a modification over the earlier notification dated 9th July 2001 (Notification No.20665/SS D) through which the existing state level price fixation committee was dissolved and instead a system of price fixation at the district level has been introduced. The resolution says that the District</p>	<p>Whether select agricultural mandis can also undertake market support</p> <p>Price information and market intelligence</p> <p>Advisory body to suggest minimum support prices</p>

		<p>Collector is empowered to fix the minimum procurement prices with respect to all the NTFP items including 68 Minor Forest Products. In this regard District Collector shall consult DFO (Territorial), District Panchayat Officer, District Welfare Officer, Local representative of TRIFED, the local representative of the Odisha Forest Development Corporation Ltd. and the local representative of the Women and Child Development Department. Although the above changes made are quite encouraging, it is too early to assess its efficacy for which it has been made</p>		
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Orissa Gram Panchayats (Minor Forest Produce Administration) Rules, 2002				
	<p>Rule 5 Fixation of minimum price of the minor forest produce.</p> <p>(1) In the month of Septemeber every year the Panchayat Samiti shall, by adopting a resolution to that affect, fix up the minimum price of procurment of different Minor Forest Produces payable to the primary gatherers during the next trading year, which shall be applicable to all the Grama panchayats with in the Block Provided the Grama panahcayat shall be competent to modify the minimum price so fixed under this sub-rule or sub-rule (3) by the Panchayat Samiti according to the local need by adopting a resolution to that effect.</p> <p>The representatives of Divisional Forest Officer, Tribal Development Cooperative Corporation, Odisha Forest</p>		<p>The existing Odisha Gram Panchayat (Minor Forest Produce Administration) Rules 2002 is ultra virus the FRA 2006 since the former gives the ultimate power of price fixation to the District Collector and power of penalising to the DFO whereas the Gram Sabha is the ultimate authority of the right over minor forest produce as per Section 6 of Forest Rights Act 2006. This calls for amendment of existing Orissa MFP Rules in tune with the FRA 2006, which also covers all items including Kendu Leaf, Bamboo and Sal Seeds under the definition of MFP.</p>	<p>In Orissa, the state government has kept important MFPs like Tendu leaves and Sal seed under the firm control of the forest department, while state-owned corporations are involved in trading of these MFPs</p> <p>Orissa Gram Panchayat (MFP Administration) Rules- 2002 need to be amended in order to give due space in ownership right to Palli Sabha and not Gram Panchayat.</p>

<p>Development Corporation and Tribal Co-Operative marketing Development Federation of India Ltd., shall be invited to the meetings concerned under this sub-rule or under sub-rule (3)</p> <p>(2) The minimum price fixed under sub-rule (3) shall be notified in the notice board of the Panchayat Samiti and copies thereof shall be communicated to the collector ,Divisional Forest Officer, District Panchayat Officer , Sub-collector and all the Grama Panchayats within the Block.</p> <p>(3) If at any time or in any case it appears to the collector that a Panchayat Samiti has failed to fix up the minimum price for procurement of Minor Forest produce under sub-rule (1) of the collector shall convene a Special Meeting of the Panchayat Samiti Preferably in the month of October</p>			
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	to fix up the, minimum price of procurement of Minor Forest Produce. (4) On receipt of intimation under sub-rule 9 (2) regarding fixation of the minimum procurement price of the Minor Forest Produce fixed under sub-rule (1) or (3) the Grama Panchayat shall place the same before the Grama Sabha in its next meeting for ratification			
The Orissa Timber and Other Forest Produce Transit Rules, 1980				
	Rule 2 (h) defined “Minor Forest Produce” as forest produce other than timber, fire-wood, charcoal and bamboos;	Exclusion of bamboo as minor forest produce which is contradictory to the definition of MFP in the FRA		s per Clause 2 (1) of the Forest Rights Act “ minor forest produce includes all non-timber forest produce of plant origin including bamboo, brushwood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like”.
	Rule 4. Transit Permits –‘Except as provided in Rule 5, all forest produce in transit		Rule 2 (d) of FRA amendment Rules 2012 mentions that disposal of minor forest	Transit rules need to be amended to give the power to the Gram Sabha for

	<p>by land, land, rail or water shall be covered by a permit hereinafter called the "Transit Permit" to be issued freed of cost by the Divisional Forest Officer or by Assistant Conservator of Forest authorised by him in that behalf?</p> <p>Rule 5 Cases in which Permit shall not be required – 5 1(i) for transport of minor forest produce within the district except lac, tassar, myrabolan, gums and root of patalagaruda, sal seed, tamarind and hill brooms, subject to such limit of transport and storage without transit permit as may be notified by State Government in Official Gazette for different items;</p>		<p>produce shall include right to sell as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for their livelihood. The Rules further explains that the transit regime in relation to transportation of minor forest produce shall be modified and given by the Committee constituted under clause (e) of sub rule 4 or the person authorized by the Gram Sabha</p> <p>The procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of minor forest produce.</p> <p>The collection of minor forest produce shall be free of all royalties fees or any other charges.</p>	<p>issuing transit permit for the MFP on behalf of the Gram sabha/Palli sabha, and to the committee which a community enjoying ownership over the MFP constitutes for the conservation and management of the MFP. With this permit the MFP can be transported any where in the state.</p>
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Orissa Timber and other Forest Produces Transit Rules, 2002,				
	As per Orissa Timber and other Forest Produces Transit Rules with its amendment 2002 no transit permit is required for 'Minor Forest Produce' (transferred to GP) and for bamboo species that are not found in wild/forest		Under the amended Orissa Timber and other Forest Produces Transit Rules, 2002, 69 MFPs transferred to GPs can now be transported anywhere within the State without a Transit Permit.	
Orissa Excise Act				
		Orissa Excise Act needs to be amended to give Palli sabha/GP and/or appropriate 'owner' like a forest-right holder the powers of storage and trade in mahua flower within the GP area		

ISSUES & CHALLENGES

9.1. Faulty implementation of FRA; area recognised under IFR less than claimed by the claimants

Area recognised under Individual Forest Rights is very little. In most of the cases it is less than the area which was traditionally under cultivation by the individual. Convergences of programmes like IAY, plantation of commercial trees etc. in the IFR lands threatens to further reduce the land use under cultivation. There is also threat of losing the traditional /indigenous crop varieties like millets, pulses etc. which was used earlier as a staple food crop. Hence the entire purpose of convergence might backlash if not implemented sensitively taking into account the need and priorities of the individual/community.

9.2. Correction of Record of Rights

IFR titles have been distributed without proper demarcation of the land. In many cases, the right holders are not even aware of the exact location and status of the land over which they have received the title. If the title holders are covered under different programmes without RoR correction this may lead to conflicts in future.

9.3. Slow Progress in Recognition of community forest resource rights (CFR)

Till date, only 2909 CFR claims have been distributed which cover only 7.2% of the potential villages under FRA. In Odisha, at least, 29,000 villages (FSI, 1999) will be eligible for CFR rights recognition as they are forest fringe villages. These villages are concentrated in the tribal, upland districts of the state. As per a study conducted by RRI International in 2015 at least 23,000 sq. km. of forests are eligible for recognition as CFRs in Odisha. CFR rights recognition has been limited to a few districts of the State (Mayurbhanj, Kandhmal) which needs to taken up on a mission

mode by the State Government. Convergence of programmes to address the ecological restoration, community conservation, livelihood generation and development in forested areas is only possible once the CFR rights are recognised. Gram Sabha is empowered to manage their own forest and design their own action plan for livelihood and ecological enhancement of the forest.

9.4. Erroneous mapping of CFR areas

In most cases the mapping of community forest resource (CFR) rights area has been erroneous. It overlaps the area over which IFR rights have been recognized. Convergence of any programmes for the development of CFR areas without proper demarcation of the area may lead to conflict. Of late, in order to avoid overlaps between IFR and CFR areas in a village, corrective measures have been taken by Mayurbhanj and Kandhmal district administration. The CFR titles distributed in these two districts have demarcated the CFR area of a village exclusive of the area recognized under individual forest rights (IFR) in a particular village. The area recognized under IFR lands have been deducted from the total CFR area and CFR titles have been given for the rest of the area. This has helped in a clear cut demarcation of the exact area of forestland recognized under IFR and CFR. It is suggested that such corrections need to be done in all the CFR titles distributed in other districts as well.

9.5. Non participatory approach in the Convergence of programmes/schemes

Process of identification of beneficiaries under different programmes/schemes is completely a top-down process. It has no involvement of Gram Sabha. In the study villages the allotment of IAY houses had not been done as per the list of people approved by the Gram Sabha. The selection of beneficiaries was mostly done by the line department officials at the block or district level. The involvement of Gram Sabha in finalizing the list of individuals to be covered under different programmes is not being considered or integrated in the plans of any of the line departments.

9.6. Target driven approach

The different line departments were implementing various programmes in FRA lands just to fulfil their targets. For e.g plantation is primarily being taken up in the IFR land either through Horticulture or Forest Department, without consultation of the Gram Sabha or without reference to the needs assessment of the title holder. Horticultural plantations done in small patches of IFR land have no immediate benefits for the individual. Instead it affects the subsistence cultivation of the right holder. There is also uncertainty regarding the economic returns from the horticulture plants in future because that depends upon the survival rate of the plants. Similarly plantation of commercial species like teak, eucalyptus plantation is taken up by the Forest Department after without the consent of the Right holders.

9.7. Scope of convergence of FRA with different programmes/schemes not explored

The nature of convergence of programmes seems to be limited to housing schemes and plantation programmes. It was observed during the field study that in the CFR areas no other land development programmes except plantation is being promoted. Even under plantation, in most of the areas plantation of commercial species was being taken up which do not have any ecological value or add to the food security of the forest dependent poor. Land development programmes as per the soil conditions/slope and requirement of the individual, enhancement of forest based livelihoods targeting at food and ecological security have not been taken up at the ground level with priority.

9.8. Delay of payment under MGNREGS

FRA title holders in the study district have availed the 150 days wages for labour under MGNREGA. But the delay in payment is one of the major issues according to the villagers and officials during field visit. Because of which the people do not continue with the work. During the field visit to Keonjhar and Kandhmal, it was observed that there is around 15-20 crores outstanding payment under MGNREGS in the district⁶⁵. Similarly crores of

⁶⁵ As shared by BDO and discussion with officials of the District MGNREGS cell

rupees worth of wages is yet to be cleared to the poor labourers in other districts as well. Fund shortage is the main reason for the delay in payment. Since funds have recently come from the Centre, it is expected that outstanding payments will be made but no new work can be taken up. This is acting as a major hindrance in the land development and other activities under MGNREGA.

9.9. Conflict between FRA and JFM

Identification of villages and selection of VSS to implement 'Ama Jungle Yojna' scheme by the Forest and Environment Department threatens to bypass the FRA altogether. As per the Government of Odisha, Ama Jungle Yojana emphasises preservation of forest and its sustainable management through community participation. The state government plans to spend Rs 1133.34 crore under the scheme in seven years (2015-16 to 2021-22). It targets to develop 3.5 lakh hectares of forest land under 44 different forest divisions. The budgetary requirement would be met from Compensatory Afforestation Management and Planning Authority, National Rural Livelihood Mission and Mahatma Gandhi National Rural Employment Guarantee Scheme funds. Under the Ama Jungle Yojana, the state government plans to assign each VSS management of 50 hectares of forest or afforestation on 10 hectares of land. The state has a total of 12,503 VSSs out of which **7,000 Vana Samarakhana Samitis (VSS)** are to be covered under the Ama Jungle Yojana to develop forest resources. It is to be noted that Forest Rights Act empowers the Gram Sabha/Palli Sabha through the FRC to delineate and claim its customary community forest resource. This provides the authority to conserve and manage it for sustainable use. Ama Jungle Yojana, on the other hand promotes the Joint Forest Management framework of the Forest Department without vesting any rights or authority. This is inconsistent with the provision for CFR management under FRA.

9.10. Lack of adequate funds and functionaries with TDCCOL for proper implementation of MSP scheme

There is very little awareness amongst the rights holders related to MSP scheme for minor forest produce. TDCCOL is not

empowered with adequate funds and functionaries for effective implementation of Minimum Support Price. Adequate funds need to be allocated for sensitization and training of PPAs on FAQ parameters on quality control of MFPs and machinery need to be provided to PPAs for quality check at their level.

9.11. Ownership over MFP

One of the major points of dispute between the Forest Department and the Forest Rights Act is the ownership rights over minor forest produce. The State has monopoly rights on bamboo and kendu leaf, and some advantages of this monopoly do go to the local people. These two resources require a skillful and well-coordinated commercial management for successful returns which the communities do not normally possess. Still, the monopoly rights have other issues of concern which the FRA attempts to address by putting many such monopoly items in the list of minor forest produce (MFP) first and then recognizing the ownership rights of the forest-right holders over such 'traditionally collected' MFPs thereby making them free to harvest, process, and/or sell the MFP as they please. The state forest rules however did not conform to this, and continued their old ways by imposing various restrictions on the collection, transit, processing, and business of a number of these items. In Odisha in case of Jamguda villagers, Kalahandi district ownership rights over the bamboo of their forests, the Forest Department, Government of Odisha ultimately issued a notification dated 28-12-2012 conferring the ownership rights on bamboo to the forest-right holders with the conditions that the transit permits to be issued by the concerned Gram Sabhas shall be supplied by the Department free of cost, and that the ST and SC Development Department will make arrangement, with technical support from the Forest Department, to assist the Gram Sabhas to prepare microplan for harvesting of bamboo. This has however been followed in few cases only in the state and the neighbouring villages of Jamguda did not receive adequate support (like supply of permit book) from the Forest Department. Incidentally, the ST & SC Development Department too doesn't seem to properly play its supporting role for capacitating the Gram Sabhas making their microplans.

1. The political repercussions of the bamboo issue led the state government to deregulate kendu leaf through a notification dated 10 April 2013 in the Nabarangpur KL Division which chiefly applies to the Nabarangpur district. People were allowed to sell their kendu leaf to anyone. Gram Sabhas were allowed to issue permits for transportation of this produce. The initial period for which it was applicable was the 2013 KL crop year. This however did not have any significant impact. It was too late when the decision came. By then KL producing villages/areas were not prepared to manage things on their own unless private traders turned up. Though it is true that they could still sell their produce to the state agency, there was a lack of adequate awareness and understanding. Later on the provision was extended to the Malkangiri district where it is said to have had some success.
2. Prior to the deregulation of KL, another important policy decision was taken though that did not receive much public attention, probably because the Forest Department itself did not highlight the same. On 11 February 2013, the Special Secretary of the Department wrote to the PCCF that forest-right holders in areas where CFR title have been conferred or pending would be free to trade in leaves on their own, and that no royalty should be imposed on sal leaf in such areas.
3. In all these three cases the Forest Department formally recognized its conformity with the mandate of FRA, but lac is one of the items that has yet to see conformity.
4. Lac is produced in the state both in the forests (wild) and homestead lands (cultivated). The state has a huge potential of producing good quality lac because of the abundant kusum trees – the lac host) chiefly in the tribal areas. There are government schemes to promote this cultivation as it is a sustainable and environment-friendly livelihood option. Most of the lac currently produced in the state is from the homestead lands or private lands. However, the Forest Department still exercises its control over this produce, that too to such an extent

that the Minimum Support Price on lac could not be implemented in the state despite the provisions from the Govt. of India. The Department knowingly ignores the fact that most of the lac production is from privately owned trees, and requires transit permits for transportation. The permit can be issued by the Forest Department only, and people have seen how complicated is the process. The Departmental restrictions have hampered the healthy growth of the lac sector in the state. As such, in 2013 representatives of a lac-trading cooperative society from the lac producing Lahunipada Block of Sundargarh district filed public interest litigation in the Odisha High Court for a legal intervention on this issue, citing the provisions under FRA and PESA Act, 1996. Soon after this, the Additional Secretary to the government in the ST and SC Development Department wrote a letter dated 13 April 2013 to the PA-ITDA, Sundargarh in response to the petitioners' letter to the ST and SC Development Department to intervene in this issue. It instructed him to intimate the concerned cooperative functionaries that as per the Amendment Rules of 2012 the Gram Sabha is the authority to issue the transit permit in case of all MFPs listed under FRA, including lac. The PA-ITDA was also asked to inform the concerned Gram Sabhas too for their information and necessary action. When a copy of this letter was shown to the concerned DFO of the area by the Secretary of the said cooperative, he (DFO) said he has not received any such instruction from his authorities, and that unless he gets that he will not be able to follow it⁶⁶. Since the Forest Department has so far not adopted the definition of MFP provided by the FRA, and is still continuing its old stand; so unless community rights over lac are recognized, the Gram Sabha cannot issue the transit permit itself or regulate the MFP trade. So the FRA could not help the petitioners immediately. Moreover, the verdict of the Hon'ble High Court also did not help to ease the matter. Hence, the restricted regime of the Forest Department still continues on lac.

⁶⁶ Communication with Nilamani Mohanta, Secretary, Khandadhar Hort-Agriculture and Forest Producers Cooperative Society.

5. As regards some other MFPs like siali leaf or hill broom, 69 items were deregulated before the FRA came, and were placed under the panchayats, to conform to the provision of PESA Act. People are free to trade these items, and the panchayat issues a license to the traders. No permit is issued in this case. However, when the Gram Sabhas get their authority over the MFPs recognized and start exercising the same, the traders would be required to be regulated as per the decisions of the concerned Gram Sabha. For these 69 items there has not been any major issue and FRA too has not changed the scenario except for the regulation by Gram Sabha, as has happened in Bilapagha (Mayubhanj). One more change that has happened, though not uniformly, throughout the state is that the FRA recognizes ownership rights over MFPs in all forest areas including Protected Areas unlike the previous regimes. On the other hand, FRA has also not been able to relax the restrictive regime of the Forest Department for items like gums and resins, etc. despite its mandate.

9.12. Non applicability of programmes/schemes inside Protected Areas

MSP is not being applicable in Sanctuary areas based on letter (No. 20220/F&E) issued by the Forest and Environment (F&E) Department, on 3rd November 2014 stating that the collection of minor forest produce is prohibited in protected areas. Forest Rights Act 2006 vests the community rights with the Gram Sabhas over forest resources including right to collect, dispose and manage the minor forest produces in all kinds of forestland including National Parks and Sanctuaries. Based on the provisions of FRA, State Government has also recognised community rights and Community forest resource (CFR) rights inside the sanctuaries and national parks as well. So now the order of the Forest & Environment department regarding the non applicability of MSP in the Sanctuary areas stands contrary to the legal position. It severely affects the livelihood of the tribal population.

9.13. Absence of monitoring mechanism to track the benefits accrued to FRA right holders under different programmes

No tracking mechanism at the district and block level to know the exact data/information of number of FRA right holders and the area of land covered under different programmes and schemes.

9.14. Absence of disaggregated database of FRA right holders

At the District level and below no disaggregated data is maintained to track the actual number of FRA title holders covered under different programmes. It is advisable that number of FRA title holders with the actual area covered under different programmes need to be maintained at the Heads of the Department level for proper monitoring of the convergence activities. Lack of database at the ITDA level regarding the village wise/Panchayat wise list of FRA right holders and the actual area covered under different programmes/schemes.

9.15. Lack of coordination between line departments

Lack of coordination between line departments for implementation of convergence plan is a major challenge. Non-integration of Gram Sabha planning into the district plan leads to imposition of schemes without the consent of the individual.

9.16. Institutional Framework for Convergence

No convergence plan can be successful without specific and institutional mechanism. All convergence plan need to be steered and regulated through proper institutional framework. Currently the line departments are functioning in parallel with their own targeted mandates and objectives. Integration of Gram Sabha level planning processes is lacking in the district plan. An institutional framework for convergence is suggested at Pg. No 62 in the report which may be taken up by the State Government for smooth and effective implementation of convergence of programmes and schemes.

RECOMMENDATION & WAY FORWARD

1. **Institutional framework :** Convergence plan needs to be steered and regulated through proper institutional framework placed at different levels. It is utmost important to have convergence and coordination among the line departments in order to ensure proper identification of individuals for allotment of schemes. *(Proposed Institutional framework suggested in Chapter 14)*
2. **Restructuring of ITDAs:** ITDA offices should be upgraded and made functional at the district level. The project Administrator of ITDA should be made members of all development related bodies along with Project Director DRDAs to ensure proper coordination of convergence activities.
3. **Gram Sabha Plan should be the basis of convergence:** Plan prepared by the Gram Sabha should form the basis of district and block level planning. Plans prepared by the Gram Sabha have to be submitted and approved at the Panchayat level. Thereafter they need to be integrated in the District Planning Process. Plans prepared by the Gram Sabha along with copies of the resolutions must be with ITDA office so that the PAITDA can appraise about the village level needs and priorities during the district planning meetings.
4. **Need to maintain updated database for tracking the coverage of the right holders:** Disaggregated database of village wise list of FRA right holders, area of land recognised under FRA and no. of right holders and area of land covered different programmes/schemes by different line departments need to be maintained and updated on a regular basis at the ITDA office in TSP areas and DWO office in non TSP areas. *(Suggested format for reporting of IFR and CFR claims given in Annexure I and II)*

5. **Coordination between line departments:** District level meetings need to be held at fixed intervals with participation of all line departments to review the programmes and schemes to converge with the FRA right holders. Roles and responsibility of the line departments must be clear. Instructions should come from the State to bridge the gap between departments and avoid duplications.
6. **Priority/need based mapping of FRA right holders for coverage under different programmes:** Selection of individuals for coverage different schemes should be based on the needs of the individual and should not be done just to achieve the departmental targets.
7. **Correction of Record of Rights:** Correction of Record of Rights need to taken up on a priority basis and the titles received under FRA need to be incorporated in the ROR. Certified copies of the RoR need to be given to the title holders.
8. **Recognition of community rights and community forest rights to be done on a priority basis:** Recognition of community rights and community forest resource rights should be geared up in all the districts. It should be ensured that areas recognised under CFR do not overlap with the area recognised under IFR. Correction of CFR titles has to be done in areas where such overlaps have happened. The CFR areas recognised under FRA has to be incorporated in the RoR and such areas need to be brought under the management and control of the Gram Sabhas instead of the Forest Department.
9. **Investment in land development activities:** Land development activities need to focus on increasing the fertility of the soil and crop production. Due priority must be given to enhance the livelihoods of the individuals by investing in forest based livelihoods, revival of traditional cropping systems, investing in soil and water conservation based on the landscape in order to maintain the ecological security of the area.

- 10. Convergence Plan in conjunction with the socio cultural and traditional practices of the tribals/forest dwellers:** Convergence need to be planned very sensitively and not imposed on the individuals. Any convergence initiative/activity should not alienate the forest dwellers from their age-old traditional practices, knowledge and wisdom and create social or ecological imbalance. For e.g. currently IAY houses are being allotted to FRA right holders as per the government's mandate irrespective of taking into account the need of the individual. Further, if IAY houses are constructed randomly in the forestlands recognised under FRA, the whole landscape may change in near future. Hence a need-assessment must be done and priority must be given to the plan of the Gram Sabha for any interventions in the village.
- 11. Encourage development of agro forestry microenterprises:** Apart from increased number of days of employment under MNREGS, concerted efforts should be made to establish microenterprises based on forest or agricultural raw-material or animal husbandry. The capital and working costs for establishing and running such enterprises should be borne by the Govt. of India, Ministry of Tribal Affairs. The working capital so provided, should be kept in a joint account to be operated jointly by one representative of the group of villagers running the enterprise and one Govt. official nominated by the designated officer of the State Govt.
- 12. FRA right holders need to be treated as 'Special Category' and included in all development and social welfare schemes:** It is suggested that convergence of programmes need to look beyond the realm of housing and plantation schemes. Apart from addressing the food security from land based programmes, government may consider FRA right holders as a '**Special Category**' and extend all necessary government programmes related to health, education, skill development and other social security schemes.

13. Ecologically/culturally sensitive education: The children of right holders should be provided with good, locally relevant, and ecologically/culturally sensitive education, including higher education, at Govt. costs under the existing schemes of the Tribal Department of the State. This assistance would include the boarding and lodging fees of the hostel also which will include the private hostel if Govt. run hostel is not available at the place where ward of the right holder wants to study. Local methods of learning and teaching, such as working within the community or with village elders, should be an integral part of the educational system (examples of this are available from various schools in MP/Maharashtra/AP, and the college under Adivasi Academy in Gujarat).

14. Skill Building and Vocational Training: The vocational training should be provided on priority basis to the right holders and their family members. Emphasis may be given on such trades which may create employment opportunities in and around their habitation, building on and enhancing local skills where available, and giving a prominent place in the training to local experts along with outside ones. However, if any right holders or his family members want to get training in such trade which can get them better employment in around outside their homes, the facilities should also be created for such training. Some of such trades could be computer training, food and vegetable preservation, artificial jewellery, tailoring, electrical repair, motor winding, mushroom cultivation, cooking, carpet making, vehicle repair, sericulture, handicrafts, fish rearing, fabrication, welding, driving, building works masons making etc.

15. Value Addition and Market Linkage for MFPs: For facilitating the utilisation of community rights relating to collection and marketing of NTFPs, grazing, to bring fuelwood etc., action be taken to –

- i. Establish storage, value addition, and marketing channels to facilitate MFPs collection and trade,

- ii. Raise and/or develop and manage grazing lands on scientific principles in and around the villages.
- iii. To create 'Urja Vans' for enhancing the production of wood in nearby areas of the villages so that the right holders or their family-members especially women need not travel long distances to bring fuel wood. Eventually fuelwood should be replaced with decentralized renewable sources.

16. Revamping the programmes/schemes of Tribal

Department: The Tribal Welfare Department's programmes be examined and modified in such a way that the tribals in general and all other right holder under FRA in particular become self-reliant in the future.

17. Management Committees under Sec 41(e) of FRA:

For monitoring the implementation of works relating to upliftment of socio-economic condition of forest right holders it is recommended that the Committees proposed in the Forest Rights Act and Rules on future structure of forest governance may be authorized.

18. Consultations with Civil Societies, tribal experts for designing specific convergence modules:

The inputs from Civil Society/NGOs, tribal experts, be taken in developing, implementing and monitoring site specific Convergence modules.

19. Unique identify Code for the FRA right holders:

Every attempt should be made to avoid delay in transfer of benefits to the right holders or their family members under various schemes of development. For meeting this end, the attempt by Maharashtra TRTI for integrating the data base of all forest right holders on GIS platform by giving a thirteen digit code to all claimants could be studied and used with local level modifications.

20. Gram Sabha to be the centre of development plans:

Gram Sabhas need to be empowered to prepare and execute their village plan. Technical and financial assistance needs to be extended by the concerned line departments to the Gram

Sabha. Gram Sabha and management committee formed under Section 4 1(e) should be the nodal point in the village for management of the community forest resources and finalization of different programmes implemented in the village. This is an inherent and inbuilt component within the FRA and needs to be honoured during convergence of programmes by all line departments.

KANDHAMAL DISTRICT:**A. List of Study Villages:**

Sl. No.	District	Block	Village
1.	Kandhamal	Phulbani	Panaspadar
2.	Kandhamal	Phulbani	Madikhol
3.	Kandhamal	Tumudibandh	Kadapanna
4.	Kandhamal	Tumudibandh	Dupi

B. Demographic Profile of Study Villages:

District	Block	GP	Village	Type of Village	No. of HHs			
					ST	SC	Other	Total
Kandhamal	Phulbani	Jamjhari	Madikhol	Revenue Village	29	0	6	35
	Phulbani	Tudipaju	Panaspadar	Revenue Village	23	0	10	33
	Tumudibandh	Belghar	Dupi	Revenue Village (Protected Areas)	45	21	1	67
	Tumudibandh	Belghar	Kadapanna	Revenue Village (PVTG)	24	1	0	25

C. Status of Individual Rights in the Study Villages:

District	Block	GP	Village	No. of Claims applied		No. of Titles Recognised		No. of Women Title Holder	No. of Claims Rejected	Reason of Rejection
				ST	OTFD	ST	OTFD			
Kandhamal	Phulbani	Jamjhari	Madikhol	29	6	29	0	2	Not Known	
	Phulbani	Tudipaju	Panaspadar	23	0	18	0	2	5	Parbat Kisam of land
	Tumudibandh	Belghar	Dupi	37	14	37	0	1	Not Known	
	Tumudibandh	Belghar	Kadapanna	24	0	24	0	1	0	

D. Status of Community Rights in the Study Villages:

District	Block	GP	Village	Titles Distributed
Kandhamal	Phulbani	Jamjhari	Madikhol	Yes
	Phulbani	Tudipaju	Panaspadar	Yes
	Tumudibandh	Belghar	Dupi	Yes
	Tumudibandh	Belghar	Kadapanna	Yes

E. Status of Community Forest Resource Rights in the Study Villages:

District	Block	GP	Village	Process Initiated (in Claim form C)	Mapping Done (Yes / No)	Claims Approved by DLC	Titles Distributed
Kandhamal	Phulbani	Jamjhari	Madikhol	Yes	Yes	Yes	No
	Phulbani	Tudipaju	Panaspadar	No	No	No	No
	Tumudibandh	Belghar	Dupi	No	No	No	No
	Tumudibandh	Belghar	Kadapanna	No	No	No	No

F. List of Title Holders in Kadapana Village:

Sl. No.	Name of the Block	Name of the G.P	Name of the Village	Name of the Title Holder	Area Recognised (in Hect.)		Total	
					Rev Forest	RF / PRF	In Hect.	In Acre
1	Tumudibandh	Belghar	Kadapana	Sanjiba Majhi	0.800	2.980	3.780	9.340
2	Tumudibandh	Belghar	Kadapana	Goutama Majhi	0.872	0.144	1.016	2.511
3	Tumudibandh	Belghar	Kadapana	Mukteswara Majhi	0.404	0.320	0.724	1.789
4	Tumudibandh	Belghar	Kadapana	Basanta Majhi	0.762	2.344	3.106	7.675
5	Tumudibandh	Belghar	Kadapana	Samanta Majhi	2.653	0.000	2.653	6.556
6	Tumudibandh	Belghar	Kadapana	Trinath Majhi	1.120	2.880	4.000	9.884
7	Tumudibandh	Belghar	Kadapana	Baneswara Majhi	0.090	0.576	0.666	1.646
8	Tumudibandh	Belghar	Kadapana	Ganesha Majhi	0.858	3.142	4.000	9.884
9	Tumudibandh	Belghar	Kadapana	Lankeswara Majhi	0.344	0.640	0.984	2.431
10	Tumudibandh	Belghar	Kadapana	Pramod Majhi	0.600	3.400	4.000	9.884
11	Tumudibandh	Belghar	Kadapana	Mindadu Majhi	0.240	0.528	0.768	1.898
12	Tumudibandh	Belghar	Kadapana	Niranjana Majhi	0.640	1.120	1.760	4.349
13	Tumudibandh	Belghar	Kadapana	Ananda Majhi	0.576	1.120	1.696	4.191

14	Tumudibandh	Belghar	Kadapana	Dibana Majhi	0.480	1.723	2.203	5.444
15	Tumudibandh	Belghar	Kadapana	Dambrudhara Majhi	0.320	0.000	0.320	0.791
16	Tumudibandh	Belghar	Kadapana	Ramesha Majhi	0.608	0.000	0.608	1.502
17	Tumudibandh	Belghar	Kadapana	Purna C. Majhi	1.663	2.331	3.994	9.869
18	Tumudibandh	Belghar	Kadapana	Bipini Majhi	0.768	0.000	0.768	1.898
19	Tumudibandh	Belghar	Kadapana	Smt. Srambada Majhi	0.000	3.324	3.324	8.214
20	Tumudibandh	Belghar	Kadapana	Bamadeba Majhi	0.000	1.376	1.376	3.400
21	Tumudibandh	Belghar	Kadapana	Ajaya Majhi	0.000	1.120	1.120	2.768
22	Tumudibandh	Belghar	Kadapana	Prabesha Majhi	0.000	2.866	2.866	7.082
23	Tumudibandh	Belghar	Kadapana	Telugu Majhi	0.000	0.600	0.600	1.483
24	Tumudibandh	Belghar	Kadapana	Sheekanta Majhi	0.000	1.876	1.876	4.636

G. List of Title Holders in Dupi Village:

Sl. No.	Name of the Block	Name of the G.P	Name of the Village	Name of the Title Holder	Area Recognised (in Hect.)		Total	
					Rev Forest	RF / PRF	In Hect.	In Acre
1	Tumudibandh	Belghar	Dupi	Asoka Majhi	0.547	0.176	0.723	1.787
2	Tumudibandh	Belghar	Dupi	Baladeb Majhi	0.230	0.384	0.614	1.517
3	Tumudibandh	Belghar	Dupi	Basant Majhi	0.000	0.386	0.386	0.954
4	Tumudibandh	Belghar	Dupi	Damburudhar Majhi	0.646	0.282	0.928	2.293
5	Tumudibandh	Belghar	Dupi	Gambera Majhi	0.216	0.160	0.376	0.929
6	Tumudibandh	Belghar	Dupi	Garenja Majhi	0.446	0.000	0.446	1.102
7	Tumudibandh	Belghar	Dupi	Geda Majhi	0.611	0.624	1.235	3.052
8	Tumudibandh	Belghar	Dupi	Gila Majhi	0.450	0.000	0.450	1.112
9	Tumudibandh	Belghar	Dupi	Gopabandhu Majhi	0.096	0.464	0.560	1.384
10	Tumudibandh	Belghar	Dupi	Gura Majhi	0.429	0.134	0.563	1.391
11	Tumudibandh	Belghar	Dupi	Haguru Majhi	0.106	0.416	0.522	1.290
12	Tumudibandh	Belghar	Dupi	Kamud Jani	0.000	0.380	0.380	0.939
13	Tumudibandh	Belghar	Dupi	Laxmidhar Majhi	0.467	0.240	0.707	1.747
14	Tumudibandh	Belghar	Dupi	Lenbhura Majhi	0.374	0.547	0.921	2.276
15	Tumudibandh	Belghar	Dupi	Lingaraj Majhi	0.976	0.830	1.806	4.463
16	Tumudibandh	Belghar	Dupi	Livara Jani	0.000	0.679	0.679	1.678
17	Tumudibandh	Belghar	Dupi	Lokanath Majhi	0.630	0.000	0.630	1.557
18	Tumudibandh	Belghar	Dupi	Madhab Majhi	1.690	0.515	2.205	5.449
19	Tumudibandh	Belghar	Dupi	Madhab Malik	0.211	0.136	0.347	0.857
20	Tumudibandh	Belghar	Dupi	Malakadu Majhi	0.144	0.554	0.698	1.725
21	Tumudibandh	Belghar	Dupi	Narayan Majhi	0.590	0.288	0.878	2.170
22	Tumudibandh	Belghar	Dupi	Pitabash Majhi	0.320	0.331	0.651	1.609
23	Tumudibandh	Belghar	Dupi	Praneswar Majhi	0.359	0.534	0.893	2.207
24	Tumudibandh	Belghar	Dupi	Prashant Majhi	0.080	0.416	0.496	1.226
25	Tumudibandh	Belghar	Dupi	Ranga Majhi	1.147	1.118	2.265	5.597
26	Tumudibandh	Belghar	Dupi	Rapunga Malik	0.000	0.282	0.282	0.697
27	Tumudibandh	Belghar	Dupi	Rupunga Majhi	0.220	0.000	0.220	0.544
28	Tumudibandh	Belghar	Dupi	Santash Majhi	0.000	0.640	0.640	1.581

29	Tumudibandh	Belghar	Dupi	Saprenja Jani	0.643	0.000	0.643	1.589
30	Tumudibandh	Belghar	Dupi	Singapuri Pujari	0.026	0.320	0.346	0.855
31	Tumudibandh	Belghar	Dupi	Smt.Kapigeladu Majhi	0.229	0.282	0.511	1.263
32	Tumudibandh	Belghar	Dupi	Subash Malik	0.550	0.957	1.507	3.724
33	Tumudibandh	Belghar	Dupi	Sudhakar Majhi	0.000	0.224	0.224	0.554
34	Tumudibandh	Belghar	Dupi	Sukrenja Majhi	0.000	0.160	0.160	0.395
35	Tumudibandh	Belghar	Dupi	Tilanga Malik	0.185	0.040	0.225	0.556
36	Tumudibandh	Belghar	Dupi	Tito Jani	0.505	0.096	0.601	1.485
37	Tumudibandh	Belghar	Dupi	Trinnath Pujari	0.043	0.144	0.187	0.462

H. List of Title Holders in Madikhol Village:

Sl. No.	Name of the Block	Name of the G.P	Name of the Village	Name of the Title Holder	Sex	Area Recognised (in Hect.)		Total	
						Rev Forest	RF / PRF	In Hect.	In Acre
1	Phulbanii	Tudipaju	Panaspadar	Aka Kanhar	M	0.624	0.000	0.624	1.542
2	Phulbanii	Tudipaju	Panaspadar	Ashok Kumar Kanhar	M	0.789	0.000	0.789	1.950
3	Phulbanii	Tudipaju	Panaspadar	Bhaskar Kanhar	M	0.408	0.000	0.408	1.008
4	Phulbanii	Tudipaju	Panaspadar	Debeswara Malika	M	0.324	0.000	0.324	0.801
5	Phulbanii	Tudipaju	Panaspadar	Duryadhana Kanhar	M	0.403	0.000	0.403	0.996
6	Phulbanii	Tudipaju	Panaspadar	Fakira Kumar Kanhar	M	0.624	0.000	0.624	1.542
7	Phulbanii	Tudipaju	Panaspadar	Gopinatha Kanhar	M	0.624	0.000	0.624	1.542
8	Phulbanii	Tudipaju	Panaspadar	Goutama Kanhar	M	1.044	0.000	1.044	2.580
9	Phulbanii	Tudipaju	Panaspadar	Kanista Kanhar	M	0.624	0.000	0.624	1.542
10	Phulbanii	Tudipaju	Panaspadar	Lankeswara Kanhar	M	1.306	0.000	1.306	3.227
11	Phulbanii	Tudipaju	Panaspadar	Mahendra Kanhar	M	0.894	0.000	0.894	2.209
12	Phulbanii	Tudipaju	Panaspadar	Narotamma Kanhar	M	1.361	0.000	1.361	3.363
13	Phulbanii	Tudipaju	Panaspadar	Ramanath Kanhar	M	0.624	0.000	0.624	1.542
14	Phulbanii	Tudipaju	Panaspadar	Ranjita Kanhar	M	0.625	0.000	0.625	1.544
15	Phulbanii	Tudipaju	Panaspadar	Sachidananda Kanhar	M	1.127	0.000	1.127	2.785
16	Phulbanii	Tudipaju	Panaspadar	Sarangadhara Kanhar	M	0.624	0.000	0.624	1.542
17	Phulbanii	Tudipaju	Panaspadar	Smt. Baidei Kanhar	F	0.624	0.000	0.624	1.542
18	Phulbanii	Tudipaju	Panaspadar	Smt.Sumati Kanhar	F	0.624	0.000	0.624	1.542

LIST OF RESPONDENTS OF KANDHAMAL DISTRICT

- A. Gram Sabha Members:
- B. FRC Members:
- C. IFR Claimants
- D. Revenue Inspector
- E. Ranger
- F. District Officials (DLC)

A. Gram Sabha Members:

The Gram Sabha members of 4 villages of Phulbani and Tumudibandh blocks of Kandhamal district were interviewed to know the claim facilitation process and the recognition of nature of rights under Forest Rights Act, 2006. Through the interview process we came to know about their socio-economic condition as well as their relationship with forests in day to day life.

B. FRC Members:

FRC President, Secy and other members of 4 villages were interviewed to know about the process of constitution of Forest Rights Committee and the role of FRC members under Forest Rights Act. The President, Secretary and other members of Forest Rights Act explained that they were involved in claim filing process and verification process.

C. IFR Claimants:

IFR Claimants of both Phulbani and Tumudibandh blocks were interviewed to understand their awareness about the Act, claim filing process, rejection/ pending of claims, recognition of rights, the nature of rights recognized, whether the area recognized fully or partly over their occupied land or not, whether rights leads to enhancement of livelihood through convergence or not, the pros and cons of the implementation of law etc.

D. Revenue Inspector:

NAME: Manoj Kumar Adak (Revenue Inspector, Belghar)

Revenue Inspector Mr. Manoj Kumar Adak was interviewed about the role and responsibility carried out by him under FRA in his RI Circle. He said that he was involved in the claim facilitation process in the Phulbani block and explained the entire claim facilitation process of Kandhamal district. The demarcation was done by the stick and chain in the presence of President and Secretary of Forest Rights Committee. The sketch map and case records were prepared in Tehsil office. Revenue Settlement staff (RI, ARI, Amin & Forester) involved in settlement of rights of the claimants under Forest Rights Act in the district. He also shared the process of RoR correction and said that only RoR Correction has been done in Revenue forest only in the year 2017, but the areas recognized in Reserve Forest/ Protected Forest/ DPF/UDPF which are under the control of Forest Department are still pending for RoR Correction.

E. Ranger:

NAME: Ghanashyama Dora (Ranger, Tumudibandh Range)

Mr. Ghanashyama Dora, Ranger of Belghar range, under Tumudibandh block, of Kandhamal district. He was interviewed about the role and responsibility of a forest beat guard in the implementation of Forest Rights Act. How much area comes under the jurisdiction of a forest beat guard? Types of forest land record maintenance? Awareness about the FRA? Who else accompany with forest officials during claim verification process? The process and technology used in survey/ verification process? Number of claims approved/rejected/pending in his range? Has the JFM programme been implemented in his jurisdiction or not? Types of forest rights given in JFM, Implementation of CAFA and its utilization, Types of tree planted under CAFA, 2016, on whose land plantation has been done? Etc.

According to him, the forest beat guard and foresters were involved in verification process in the implementation of Forest

Rights Act. There are 11 Forest Beats under Tumudibandh Range. Each Forest Beat has specific area. The forest land records of Reserve Forest (RF), Proposed Reserve Forest (PRF), Demarcated Protected Forest (DPF) and Un-demarcated Protected Forest (UDPF) have been maintained by the Forest Department. He has trained on FRA organized by PAITDA, Kandhamal. During verification process documents like map and plot no. of UDPF are required. They are using GPS machine for demarcation of land. As he was new to that area, he has not able to provide information about claim status of his range under FRA. In response to JFM, he admitted that JFM programme has been implemented in his jurisdiction. Under JFM, Free MFP and Fuel wood are allowed to the communities and 50% share to the communities during harvesting. Fruit bearing trees (like Jackfruit, mango, Amla), Dharua, Sahaj, Karanj, Tamarind, Teak have been planted in forest land under CAFA, 2016. The local communities hired as wage labourer for plantation under CAFA by the Forest department. STs and OTFDs are allowed to use and access forest resources in protected areas.

F. District Officials (DLC Members)

PAITDA, Phulbani (Birendra Kumar Das)

PAITDA was interviewed about his role and responsibility for the implementation of Forest Rights Act, No. and name of DLC members, Constitution of DLC in the district, No. of DLC Meetings held to take decision on claim approval, process of verification, determination and recognition of Individual and Community rights, Claim status like no. of claims approved,

Rejected, Pending and Recognised and RoR correction under Forest Rights Act.

According to him, awareness generation, claims approval, engagement of Forest and Revenue officials in verification of claims, RoR correction are the major work of DLC under Forest Rights Act. The District Administration organized several Orientation Training programme on the implementation of Forest

Rights Act for Revenue officials, Forest officials, FRC members in district, block and GP level. District Level Committee has been constituted as per law. Till the reporting period, 23 nos. of DLC meeting held in the district. Earlier DLC was held in monthly / bi-monthly/quarterly. In Urgent, 2 times in a month. But now the DLC meeting is sitting as and when required. Total no. of claims received is 60,346 of which 57,818 claims have been recognized over an area of 34980 Hect. (29,572.868 Hect. in Revenue Forest and 5407.132 Hect. in Reserve Forest) of forest land. About 2435 claims have been rejected and 91 claims have been remanded back to the Gram Sabha due to incomplete documents. RoR correction only done the titles recognized in Revenue forest i.e. 51376. RoR correction not made in rest 6442 recognised in Reserve Forest due to non-co-operation of forest department. Single women title holder in the district is 727 of which single women are 5 and rests are widows. The district administration implemented the Forest Rights Act with the help of Civil society organisations namely VASUNDHARA, AHINSA, CARE INDIA, SWATI, JANA VIKAS, PRADATA, ORISSA, AJKA, MAITRI ODISHA, SHANTIMAITRI, FARRELL, VASA etc.

List of the Respondents:

Sl. No.	Typology of Respondents	Name of the Respondent	Designation
1.	Govt. Officials (DLC Member)	Birendra Kumar Das	PAITDA, Phulbani
2.	Govt. Officials (Implementers)	Manoj Kumar Adak	RI, Belghar
3.	Govt. Officials (Forest Dept.)	Ghanashyama Dora	Ranger, Tumudibandh Range
4.	FRC Members	Jalandhar Kanhar	FRC Secy, as well as Advisory committee member of CFRMC, Madikhol village of Phulbani Block
		Subash Mallik	Secy. Dupi village of Tumudibandh block
		Bhaskar Kanhar	Secy. Panaspadar village of Phulbani Block
5.	IFR Claimants	Srambada Majhi	Gram Sabha member (Women Title holder)
		Srikanta Majhi	Gram Sabha Member
		Niranjan Majhi	Gram Sabha Member
		Basanta Majhi	Gram Sabha Member
		Trinath Majhi	Gram Sabha Member

		Telugu Majhi	Gram Sabha Member
		Pramod Majhi	Gram Sabha Member
		Mukteswar Majhi	Gram Sabha Member
		Purna ch. Majhi	Gram Sabha Member
		Sanjib Majhi	Gram Sabha Member
		Sarpenja Jani	Gram Sabha Member
		Trinath Pujari	Gram Sabha Member
		Biswanath Mallik	Gram Sabha Member
		Lambura Majhi	Gram Sabha Member
		Basanta Majhi	Gram Sabha Member
		Baladev Majhi	Gram Sabha Member
		Madhav Majhi	Gram Sabha Member
		Narayan Majhi	Gram Sabha Member
		Gambaradu Majhi	Gram Sabha Member
		Santosh Majhi	Gram Sabha Member
		Dambarudhar Majhi	Gram Sabha Member
		Lingaraj Majhi	Gram Sabha Member
		Madhav Mallik	Gram Sabha Member
		Ranunga Mallik	Gram Sabha Member
		Singapuri Pujari	Gram Sabha Member
		Tito Jani	Gram Sabha Member
		Sampati Kanhar	Gram Sabha Member (Women Title Holder)
		Susila Sandha	Gram Sabha Member (OTFD Claimant)
		Samanti Kanhar	Gram Sabha Member (Women Title Holder)
		Kailash Kanhar	Gram Sabha Member
		Rashmita Bindhani	Gram Sabha Member (OTFD Claimant)
		Basanta Kanhar	Gram Sabha Member
		Sanaphula Kanhar	Gram Sabha Member
		Sukanti Kanhar	Gram Sabha Member
		Ranjana Kanhar	Gram Sabha Member
		Sarojini Kanhar	Gram Sabha Member
		Purna Ch. Sandha	Gram Sabha Member (OTFD Claimant)
		Sankar Kanhar	Gram Sabha Member
		Medini Kanhar	Gram Sabha Member
		Kulamani Kanhar	Secy. of CFRMC (Community Forest Resource Management Committee)
		Manjura Kanhar	Gram Sabha Member

		Premananda Kanhar	Gram Sabha Member
		Mahindra Kanhar	Gram Sabha Member
		Lemuna Kanhar	Gram Sabha Member
		Biswambar Kanhar	Gram Sabha Member
		Bhisma Kanhar	Gram Sabha Member
		Shyama Kanhar	Advisory Committee member of CFRMC
		Kalia Kanhar	Advisory Committee member of CFRMC
		Priyajan Kanhar	Advisory Committee member of CFRMC
		Jibardhan Kanhar	Advisory Committee member of CFRMC
		Ashok Kumar Kanhar	Gram Sabha Member
		Kanistha Kanhar	Gram Sabha Member
		Gopinath Kanhar	Gram Sabha Member
		Sarangdhar Kanhar	Gram Sabha Member
		Ranjit Kanhar	Gram Sabha Member
		Ramanath Kanhar	Gram Sabha Member
		Baidei Kanhar	Gram Sabha Member (Women Title Holder)
		Sumati Kanhar	Gram Sabha Member (Women Title Holder)
		Narottam Kanhar	Gram Sabha Member
		Goutam Kanhar	Gram Sabha Member
		Eka Kanhar	Gram Sabha Member
		Jalandhar Kanhar	Gram Sabha Member
		Tuna Nayak	ST Claimant whose claims have been rejected
		Nakula Nayak	ST Claimant whose claims have been rejected
		Duryodhan Kanhar	ST Claimant whose claims have been rejected
		Purna Ch. Kanhar	ST Claimant whose claims have been rejected
		Prahalad Paraseth	Gram Sabha Member (OTFD Claimant)
		Sukanta Paraseth	Gram Sabha Member (OTFD Claimant)
		Kharka Paraseth	Gram Sabha Member (OTFD Claimant)
		Kalakanhu Paraseth	Gram Sabha Member (OTFD Claimant)
		Makaphul Nayak	Gram Sabha Member (OTFD Claimant)
		Ashok Majhi	Gram Sabha Member

		Gila Majhi	Gram Sabha Member
		Laxmidhar majhi	Gram Sabha Member
		Ranga Majhi	Gram Sabha Member
		Santosh Majhi	Gram Sabha Member
		Tine Jani	Gram Sabha Member
		Livara Jani	Gram Sabha Member
		Singapuri Pujari	Gram Sabha Member
		Banamali Bindhani	Gram Sabha Member (OTFD)
		Ranunga Mallik	Gram Sabha Member
		Baladev Majhi	Gram Sabha Member
		Lingaraj Majhi	Gram Sabha Member
		Bibana Majhi	Gram Sabha Member
		Ananda Majhi	Gram Sabha Member
		Mukteswar Majhi	Gram Sabha Member

SUNDARGARH DISTRICT**A. List of Study Villages:**

Sl. No	District	Block	Village
1	Sundergarh	Hemgir	Teuria
2.	Sundergarh	Hemgir	Sarangijharia
3.	Sundergarh	Hemgir	Gopalpur – Telendih (FV)
4.	Sundergarh	Hemgir	Ratansara
5	Sundergarh	Lahunipara	Dhunkamunda
6.	Sundergarh	Lahunipara	Budakhomon
7.	Sundergarh	Lahunipara	Uparginia
8.	Sundergarh	Lahunipara	Deruda – Badbil (FV)

B. Village Profile of Study Villages:

Sl. No.	Name of the Block	Name of the Village	Name of the Panchayat	PVTG/ Non-PVTG PBDA/ Non-PBDA	Status of the village Revenue /Forest Village
1	Hemgir	Teuria	Sumra	Non PVTG	Revenue Village
2.	Hemgir	Sarangijharia (FV) of Sumra	Sumra	Non PVTG	Forest Village of Sumra Revenue Village
3.	Hemgir	Gopalpur – Telendih (FV)	Gopalpur	Non PVTG	Gopalpur Revenue Village Telendih Forest Village of Gopalpur
4.	Hemgir	Ratansara	Ratansara	Non PVTG	Revenue Village
5	Lahunipara	Dhunkamunda	Dolesora	PVTG/ Non PBDA	Revenue Village
6.	Lahunipara	Budakhomon	Dolesora	PVTG/ Non PBDA	Revenue Village
7.	Lahunipara	Uparginia	Phuljhar	PVTG/ PBDA	Revenue Village
8.	Lahunipara	Badbil (FV) of Deruda	Mahulpada	PVTG/ Non PBDA	Forest Village of Deruda Revenue Village

CFR Status of the Study Village:

Sl. No.	Name of the Village	CFR Applied	CFR Recognised	CFR Rejected	CFR Pending
1	Sarangijharia	Yes	No	Don't Know	Yes
2	Gopalpur RV (Gopalpur & Telendih FV)	Yes	No	Don't know	Yes
3	Ratansara	Yes	No	Don't Know	Yes
4	Teuria	Yes	No	Don't Know	Yes
5	Dhukamunda	Yes	No	Don't Know	Yes
6	Budakhomon	Yes	No	Don't Know	Yes
7	Badbil - Deruda	Yes	No	Don't Know	Yes
8	Uparginia	Yes	No	Don't Know	Yes

C. Status of Habitat Rights of the Study Village:

Sl. No	Name of the Village	Habitat Right Applied	Habitat Right Recognised	Habitat Right Rejected	Habitat Right Pending
1.	Dhukamunda	Yes	No	Don't Know	Yes
2.	Budakhomon	Yes	No	Don't Know	Yes
3.	Badbil - Deruda	Yes	No	Don't Know	Yes
4.	Uparginia	Yes	No	Don't Know	Yes

D. NTFP Collection Details of the Village:

Sl. No.	Name of the Village	List of NTFP Collected	Months of Collection	Consumption /Sale	Details of earning, rate, wages and use	Individual /Community collection
1	Sarangijharia	Mahul, Char, Toll (Duri), Kendu Leaves Sal Leaf	Sal Leaf is Collected all throughout the year. Rest other NTFP are collected from March – May.	Both	Rs 1500/- 2000/- annually	Individual
2	Gopalpur RV (Gopalpur & Telendih FV)	Mahul, Char, Toll (Duri), Kendu Leaves Sal Leaf	Sal Leaf is Collected all throughout the year. Rest other NTFP are collected from March – May.	Both	Rs 2000/- 3000/- annually	Individual
3	Ratansara	Mahul, Char, Toll (Duri), Kendu Leaves Sal Leaf	Sal Leaf is Collected all throughout the year. Rest other NTFP are collected from March – May.	Both	Rs 1500/- 2000/- annually	Individual

4	Teuria	Mahul, Char, Toll (Duri), Kendu Leaves Sal Leaf	Sal Leaf is Collected all throughout the year. Rest other NTFP are collected from March – May.	Both	Rs 2000/- 3000/-	Individual
5	Dhukamunda	Mahul, Char, Toll (Duri), Kendu Leaves Sal Leaf Honey	Sal Leaf is Collected all throughout the year. Rest other NTFP are collected from March – May.	Both	Rs 2500/- 3000/-	Individual
6	Budakhomon	Mahul, Char, Toll (Duri), Kendu Leaves Sal Leaf Honey	Sal Leaf is Collected all throughout the year. Rest other NTFP are collected from March – May.	Both	Rs 2500/-3000/-	Individual
7	Badbil – Deruda	Mahul, Char, Toll (Duri), Kendu Leaves Sal Leaf Honey	Sal Leaf is Collected all throughout the year. Rest other NTFP are collected from March – Individual May.	Both	Rs 2000/- 3000/- annually	Individual
8	Uparginia	Mahul, Char, Toll (Duri), Kendu Leaves Sal Leaf Honey	Sal Leaf is Collected all throughout the year. Rest other NTFP are collected from March – May.	Both	Rs 3000/- Rs 4000/- annually	Individual

LIST OF RESPONDENTS FROM SUNDERGARH DISTRICT

Following are the list of respondents from Sundergarh district:

A. Gram Sabha Members/ Leaders

The Gram Sabha members and leaders of the villages of both Lahunipara and Hemgir Block of Sundergarh District were interviewed to understand the claim process of the villages and also to get the insights whether they have followed the procedures as per the law while claiming. The Gram Sabha members and leaders also gave an over all view of the history of the village its socio, cultural and economic conditions.

B. Forest Rights Committee (FRC) Members

The FRC members of both Lahunipara and Hemgir Block of Sundergarh District were interviewed regarding the Formation of Forest Rights Committee: if the FRC formation was as per the law and to understand the functioning of the Committee.

C. IFR Claimants

IFR Claimants of both Lahunipara and Hemgir Block of Sundergarh District were interviewed to understand dependency and livelihood pattern of the claimants with respect to forest resources, also to know when they have been in possession? How much amount of land is under their possession? How they came to know about the Forest Rights Act 2006? If they have received IFR titles or not? If yes how? If not, why?

D. District Administration

District Administration of Sundergarh District were interviewed to understand the implementation of FRA and other enabling and Contradictory Provisions such as Convergence Schemes and CAMPA Respectively. A special emphasis was

also on the challenges faced by the Government; why even after 11 Years of the Act, there has been no Proper Implementation of the Act.

Following are list of Government Officials Interviewed:

Sl. No.	Officials who were Interviewed
1	Collector, Sundergarh
2	Sub Collector, Sundergarh
3	Chief Section Officer, FRA, Sub Collector Office
4	Project Administrator, ITDA Sundergarh
5	Section Officer, FRA, ITDA Sundergarh
6	Divisional Forest Officer (DFO), Sundergarh

A. Civil Society Organisation

Civil Society Organisation who are working in Lahunipara and Hemgir Block of Sundergarh District were interviewed to understand the implementation status of FRA in Sundergarh and challenges faced by the people. What are the major gaps in the implementation that need to be addressed? What are the roles in enabling people to assert their rights?

Following are list of Civil Society Organisation Interviewed;

Sl. No.	Civil Society Organisation who were Interviewed
1	Centre for Integrated Rural and Tribal Development , (CIRTD), Sundergarh
2	Jeevan Vikas,

The List of Gram Sabha members/ Leaders, FRC Members and IFR Claimants are as Follows:

Sl. No.	Name of the Person	Gram Sabha members/ Leaders or FRC Members or IFR Claimants	OTFD/ ST/ PVTG	Men/ Women
1	Benudhar Sahu	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	OTFD	Men
2	Premanand Malik	IFR Claimant	OTFD	Men

3	Pratap Majhi	IFR Claimant	ST	Men
4	Surendra Minz	IFR Claimant	ST	Men
5	Ramesh Majhi	IFR Claimant	ST	Men
6	Deepak Baa	IFR Claimant	ST	Men
7	Jogendar Bhoi	IFR Claimant	ST	Men
8	Phulomani Bhoi	IFR Claimant	ST	Women
9	Lulima Majhi	IFR Claimant	ST	Women
10	Manimala Bhoi	IFR Claimant	ST	Women
11	Jaga Makar	IFR Claimant	OTFD	Men
12	Kishore Kumar	IFR Claimant	OTFD	Men
13	Santosh Munda	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	ST	Men
14	Karna Kishan	IFR Claimant	ST	Men
15	Gurucharan Giri	IFR Claimant	ST	Men
16	Rosa Giri	IFR Claimant	ST	Men
17	Sudarshan Behera	IFR Claimant	OTFD	Men
18	Roibu Giri	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	ST	Men
19	Astho Naik	IFR Claimant	PVTG	Men
20	Kandru Dehury	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	PVTG	Men
21	Puda Naik	IFR Claimant	PVTG	
22	Dinabandhu Naik	IFR Claimant	PVTG	Men
23	Murli Naik	IFR Claimant	PVTG	Men
24	Bhukla Dehury	IFR Claimant	PVTG	Men
25	Andharu Dehury	IFR Claimant	PVTG	Men
26	Dharmo Naik	IFR Claimant	PVTG	Men
27	Kandra Naik	IFR Claimant	PVTG	Men
28	Soilo Dehury	IFR Claimant	PVTG	Men
29	Sibo Dehury	IFR Claimant	PVTG	Men
30	Jagannath Munda	IFR Claimant	ST	Men
31	Govind Mundari	IFR Claimant	ST	Men
32	Komodi Naik	IFR Claimant	PVTG	Women
33	Debo Munda	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	ST	Men
34	Raju Mundari	IFR Claimant	ST	Men
35	Sukdev Mundari	IFR Claimant	ST	Men
36	Mahadev Mundari	IFR Claimant	ST	Men
37	Raya Dehury	IFR Claimant	PVTG	Women
38	Arjun Dehury	IFR Claimant	PVTG	Men
39	Hira Dehury	IFR Claimant	PVTG	Men

40	Kulho Giri	IFR Claimant	PVTG	Men
41	Radha Giri	IFR Claimant	PVTG	Women
42	Tikeshwar Naik	IFR Claimant	PVTG	Men
43	Phaguno Dehury	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	PVTG	Men
44	Duware Dehury	IFR Claimant	PVTG	Women
45	Balram Naik	IFR Claimant	PVTG	Men
46	Bhikari Dehury	IFR Claimant	PVTG	Men
47	Jadu Munda	IFR Claimant	ST	Men
48	Gobil Mundari	IFR Claimant	ST	Men
49	Budni Mundari	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	ST	Women
50	Gobilu Munda	IFR Claimant	ST	Men
51	Roibu Munda	IFR Claimant	ST	Men
52	Parmeshwar Naik	IFR Claimant	PVTG	Men
53	Debalina Naik	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	PVTG	Women
54	Purnachandra Dehury	IFR Claimant	PVTG	Men
56	Benudhar Baisai	IFR Claimant	OTFD	Men
57	Ganesh Rout	IFR Claimant	OTFD	Men
58	Tunia Bhaisai	IFR Claimant	OTFD	Men
59	Guresh Rout	IFR Claimant	OTFD	Men
60	Sanatan Oram	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	ST	Men
61	Rajni Majhi	IFR Claimant (Women)	ST	Women
62	Rudradev Naik	IFR Claimant	ST	Men
63	Usunga Naik	IFR Claimant	ST	Men
64	Ravi Oram	IFR Claimant	ST	Men
65	Dhenka Naik	IFR Claimant	ST	Men
66	Jadumani Mahar	IFR Claimant	OTFD	Men
67	Narayan Mahar	IFR Claimant	OTFD	Men
68	Chandan Mahar	IFR Claimant	OTFD	Men
69	Rana Rout	IFR Claimant	OTFD	Men
70	Shiv Bhaisai	IFR Claimant	OTFD	Men
71	Sanatan Oram	IFR Claimant	OTFD	Men
72	Sukdev Mundasu	IFR Claimant	ST	Men
73	Ramani Kishan	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	ST	Men

74	Rita Naik	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	ST	Women
75	Tinamani Tirkey	IFR Claimant	ST	Women
76	Harman Oram	IFR Claimant	ST	Women
77	Karnakar Kishan	IFR Claimant	ST	Men
78	Biren Oram	IFR Claimant	ST	Men
79	Tulsiram Naik	IFR Claimant	ST	Men
80	Ramakant Naik	FRC Member & IFR Claimant & Gram Sabha members/ Leaders	ST	Men

About the B. N. Yugandhar Centre for Rural Studies

The B. N. Yugandhar Centre for Rural Studies (BNYCRS) is a Research Centre of Lal Bahadur Shastri National Academy of Administration, Musoorie. It was set up in the year 1989 by the Ministry of Rural Development, Government of India, with a multifaceted agenda that included among others, the concurrent evaluation of the ever-unfolding ground realities pertaining to the implementation of the Land Reforms and Poverty Alleviation Programmes in India. Sensitizing of the officer trainees of the Indian Administrative Service in the process of evaluating of land reforms and poverty alleviation programmes by exposing them to the ground realities; setting up a forum for regular exchange of views on land reforms and poverty alleviation between academicians, administrators, activists and concerned citizens and creating awareness amongst the public about the various programmes initiated by the government of India through non-governmental organizations are also important objectives of the B. N. Yugandhar Centre for Rural Studies. A large number of books, reports related to land reforms, poverty alleviation programmes, rural socio-economic problems etc. published both externally and internally bear testimony to the excellent quality of the Centre.



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