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# REVISITING THE FOREST RIGHTS ACT

Status of Implementation with respect to Land Tenures and  
Collection of Minor Forest Produce

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JULY 12, 2019

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## Introduction:

On February 13, the Supreme Court upheld the Writ Petition(s) (Civil No(s). 109/2008- e.g. (Wildlife First & Ors. v. Ministry of Forest and Environment & Climate Change, 2008). Subsequently, the Bench led by Justice Arun Mishra stayed its own order but stated, “the mighty and the underserving, who have encroached on forest lands would be shown no mercy.”<sup>1</sup> This order came in regard to an 11 year old case, where the petitioners comprising of wildlife conservation advocacy groups such as *Wildlife First, Nature Conservation Society and Tiger Research and Conservation Trust*, believed that the country’s forest and wildlife face continuous threat from 11,91,327 illegal forest dwellers whose claims over the forest land were previously rejected by the State Governments.<sup>2</sup> The court order could culminate in the eviction of over 1 million Adivasis and *other forest dwelling communities* (OTFDs), and has ignited a longstanding ideological dispute over India’s forest governance and the rights of Adivasi and other forest-dwellers, whose lives and livelihoods depend on these forests.<sup>3</sup>

India is home to nearly 20 Cr. traditional forest-dwelling Adivasis and OTFDs, who derive their subsistence and livelihoods from forest and forest resources over several generations and thousands of years. The passage of the *Scheduled Tribes and other Forest Dwellers (Recognition of Forest Rights) Act* (2006), recognizing both the individual and community rights over forest and forest resources is an attempt to redress the “historical injustice” meted out to tribals and OTFDs. But the state governments have failed to implement the FRA, as indicated by the high rejection rates, majority of them being wrongful and on flimsy ground. This paper offers an assessment of the FRA, along with a set of recommendations that could potentially help in improving the implementation of the Act. There are three sections in the paper. The first section offers a background of the nature of relationship between the traditional forest-dwellers and forests, and how it changed over time. This section also focusses on the evolution of forestry laws in the country from colonial to post-colonial India, which led to the enactment of the FRA and other legislations that were introduced by the Central Government. The second section assesses the performance of FRA with regard to land ownership and the Non-Timber Forest Products (NTFP),<sup>4</sup> in three states-Madhya Pradesh, Odisha and Jharkhand. The last section provides concluding remarks and range of policy recommendations meant for increasing the effectiveness of the FRA in its present form.

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<sup>1</sup> Rajagopal, K.(2019, February 28) SC stays Feb 13 order for eviction for tribals, forest dwellers. *The Hindu*. Retrieved on March 13, 2019 from <https://www.thehindu.com/news/national/sc-stays-feb-13-order-for-eviction-of-tribals-forest-dwellers/article26396154.eceorampor>

<sup>2</sup> Supreme Court of Record of Proceedings. Writ Petition (s) (Civil) No (s). 109or2008. For more details: <https://indiankanoon.org/doc/58553838/>

<sup>3</sup> Kohli, K.,& Menon, M. (2019, March 6). Why Adversarial Court Action Won’t Solve Dispute over Forest Governance. *The Wire*. Retrieved March 8, 2019 from <https://www.thewire.in/rights/supreme-court-adivasis-forest-rights-act>

<sup>4</sup> Section 2 (i) of FRA defines NTFPs or MFPs to include 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. For more details, check: <https://rcdciindia.org/PbDocument/fdf48d2dd62a80c-552b-4de8-9b1b-6afa37ffc9daNTFP%20Policy%20Regime%20after%20FRA.pdf>

## Section I: Background

In pre-colonial India, the state never *claimed* monopoly over forest resources. As a result, the community exercised control over forests and its resources (Dandekar 2016, p.12). But the concept of forests as community resource in pre-colonial India was rejected by the British Raj, which declared that the forests belong to the state (Dandekar 2016, p.12). The forest policies of colonial state was an assertion of the “imperial ambition” of commodifying natural resources. The Indian *teak* was highly prized for facilitating the global maritime expansion, especially in times of war (Gadgil and Guha 1992). Within the country, the forests were being exploited by the imperial authority for extracting timber for construction of the Indian railway system. In the 1870s, *sal*, *deodara* and *teak* were used for building sleepers<sup>5</sup> - over 24,000 miles of track had been laid by 1900, and each year million sleepers were required for the purpose.<sup>6</sup> The British established mode of forest governance imposed restrictions on local forest-dwelling communities. In 1860, the Company withdrew all access rights for using the forests (food, fuel, medicine and selling forest products) since the forests and forest-dwelling communities provided refuge to the rebels during the Sepoy Mutiny (Patnaik 2007). In 1864, the *Imperial Forest Department* was established to consolidate Government control over forests and resources to ensure its “scientific management.” Following the passage of the *Forest Act* (1865), the *Indian Forest Services* (1865) and the *Provincial Forest Services* (1867) were the other tools used by the colonial administration to take away the control of forest and forest resources from the forest dwellers by the colonial administration (Bijoy 2017, p.78). The *Forest Act of 1878* sought to consolidate the colonial State’s claim over the forested areas by classifying forests into reserved forests (complete Government control), protected forests (partial Government control) and village forests (managed by the villages). The *National Forest Policy of 1894*, aimed at securing the custodial rights of the Colonial Government over forested areas and resources, while restricting the rights of “users” as purposes of conservation.

In contrast, the two laws that would secure the rights of the tribal communities following waves of revolts against the colonial administration by the groups,<sup>7</sup> include the *Scheduled Districts Act* (1874), which was the precursor to the Schedule V and Scheduled VI, the special constitutional provisions such as Articles 371A and 371G for Nagaland and Mizoram respectively). The *Chota Nagpur Tenancy Act* (1908), was an important legislation for the Jharkhand Adivasis. Introduced as a direct concession to the demands of the *Munda rebellion*, this Act regulated the sale and purchase of tribal land, but with the permission of the Deputy Commissioner.

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<sup>5</sup> See for more details: <https://ororwww.ganesh.co.uk/orJoPubWeborcolonialism2.htm>

<sup>6</sup> Kerr, I. (1997) *Building the Railways of the Raj: 1850-1900*. Delhi: OUP. p 38-39.

<sup>7</sup> Bijoy, C.R. (2008) *Forest Rights Struggle. The Adivasis Now Await a Settlement*, American Behavioural Scientist (Volume 51, Number 12, 2008).

**Table 1: The Chota Nagpur Tenancy Act (1908)**

Section 46	An Adivasi could transfer land to another Adivasi of the same police station, with the permission of the Deputy Commission.
Section 49	Allows for sale of tribal land to non-tribals for industry or agriculture-but in this case, the permission of the Revenue Department is required.
Section 71	Offered reliefs against fraudulent purchases. Under this section, the victim (Adivasi) can apply for restoration of land.

But the most significant legislation introduced for colonising the forests and the forest dwelling communities, came with the passage of the *Forest Rights Act (1927)* (Bijoy 2007, p.78). Bijoy (2007) would go on to argue that this Act represented the “bulwark for forest governance even today.” (Ibid, p.78). The Forest Rights Act (1927) consolidated the law relating to reservation of forest cover, transit of forest-produce and the duty leviable on timber and other forest-produce. It was applied across Bihar, Bombay, Coorg, Delhi, Madhya Pradesh, Orissa, Panjab (*sic*), Uttar Pradesh and West Bengal (MoEF&CC website).

After independence from the British, several constitutional and legislative measures were put in place to protect the land rights of tribals in the country. Part X of the Constitution contains special provisions relating to administration of Scheduled Areas and tribal areas. Sub-paragraph 2 of Paragraph 5 of Part B of Schedule V, under Article 244(1) of the Constitution empowered the Governor to make regulations for ensuring good Government in Scheduled Area – prohibit or restrict the transfer of land by or among members of the ST in such areas, regulate the allotment of land to STs in the area; regulate the money-lenders providing credit to the STs in such area. In making any such regulations, the Governor could repeal, amend any Act of Parliament, the State legislature or existing laws, which applies to the Scheduled V areas. *The Wild Life (Protection) Act (1972)* was enacted with the objective of protecting wild animals, birds and plants against hunting or any other commercial activities. The Act empowered the *Central Bureau of Investigation (CBI)* to apprehend and prosecute wildlife offenders and illegal trade in wildlife and its products (MoTA, August 9, 2016). The *Forest (Conservation) Act (1980)* extended to the whole of India, with the exception of Jammu and Kashmir. This Act ensured that no State Government or any other authority (except, with the prior approval of the Central Government) issue an order for reserving forest land for non-forest purpose; clear forest land for cultivation of cash crops, horticulture or medicinal plants; engage in reforestation (but not including any work relating or ancillary to development, conservation, management of forests and wildlife and the establishment of infrastructure); leasing forest land to private stakeholders, including person, corporation, agency, any other organization not owned, managed or controlled by the Government; clearing trees from forest land, which have grown naturally in the land for the purpose of reforestation. The *National Forest Policy (1988)* aimed at ensuring environmental stability and restoring the ecological balance, including conservation of the natural heritage by preserving the natural forests with its variety of flora and fauna; soil and water conservation; increasing the forest and tree cover through participatory forest management-*Joint Forest Management (JFM)*<sup>8</sup>; increasing the

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<sup>8</sup> Since 1990, State Forest Departments were instructed to encourage involvement of local communities direct in forest management arrangements. Commonly known as Joint Forest Management (JFM). There are more than 1,6000 JFM Committees who manage an area of 22 million hectare in the country today (PIB, October 6, 2007).

productivity of forests to meet essential needs (fuel-wood, fodder, MFP, small timber of the rural and tribal population (PIB, January 19, 2010).

Traditionally, people living near or in the forests for their lives and livelihoods, have been denied the right over forest land and resources, which became a barrier to forest conservation in the country. Recognizing this lacunae, two important legislations were introduced, including the *Panchayats (Extension to the Scheduled Areas) Act* (PESA), 1996 and the Forest Rights Act (2006). The PESA extended the idea of self-governance in tribal regions of India. The Act was introduced because the provisions of the Panchayat Raj (73rd and 74th amendments) legislations did not automatically apply to the Schedule fifth and sixth states. Following the introduction of PESA, the State Governments were directed to endow powers and authority to Gram Sabha and Panchayats, and introducing participatory democracy, specifically on matters of roles and responsibilities in approving all development works in the village (for e.g., identify beneficiaries, issue certificates of utilization of funds; powers to control institutions and functionaries in all social sectors and local plans); safeguarding and preserving the traditions and customs of people (for e.g., their cultural identity, community resources and the customary mode of dispute resolution); managing minor water bodies and power of mandatory consultation (for e.g., land acquisition; resettlement and rehabilitation and prospecting licenses or mining leases for minor minerals); and preventing alienation of land and restore alienated land. Finally, ownership of minor forest produce (PIB, August 8, 2014).

The *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) (FRA) Act* (2006) was a landmark legislation passed by the Indian Parliament following an intensely contested drafting process due to the presence of multiple stakeholders with conflicting agendas (Bose 2010; Samarthan Report July, 2011). The main impetus leading to the passage of the bill came from tribal activists and the *Campaign for Survival and Dignity* (CSD), a federation and national platform of tribal and forest dwellers' organisations, which drew attention to the plight of Adivasis (46% of the tribal population lived below the poverty line as opposed to the national average of 27%, 200,000 tribal households living across 5,000 villages did not have access to the land that they cultivated for generations, and 72% of the tribal population experienced seasonal food insecurity).<sup>9</sup> The Act aimed at reversing the "historical injustice" by restoring the rights of land-use (individual and community level) among the forest-dwelling Adivasis and other traditional forest-dwelling communities. while promising a more secure basis for control and management of forest resources. The Act came into force on January 1, 2008, and was expected to secure the lives and livelihoods of 100 million of the *poorest of the poor* (Baginsky et. al. 2008). Today, the legislation applies to the entire country with the exception of Jammu and Kashmir.

The FRA (2006) rests on recognizing the rights of the ST, pastoralist communities and OTFD communities<sup>10</sup> to hold and live in forest land<sup>11</sup> guaranteeing them individual, community tenure or both, and engage in cultivation for livelihoods (MoTA, August 7, 2014). The FRA also ensures that the traditional forest dwelling groups have certain rights that ensure control over forest and forest resources, which include the right of ownership, access to collect, use and dispose of MFPs, community rights such as *Nistar*, habitat rights for the members of the

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<sup>9</sup> Saxena, K.B. (2005). Development as destitution. Alternative economic survey 2005-06. Disempowering masses.

<sup>10</sup> "Other traditional forest dweller" referring to any members or community who has for at least three generation prior to the 13<sup>th</sup> December 2005 depending on the forests or forests land for their lives and livelihoods.

<sup>11</sup> "Forest land" means land within any forest area, which includes unclassified forests, un-demarcated forests, existing or deemed forests, protected forests, reserved forests, including National Parks and Sanctuaries.

*Primitive Tribal Groups* (PTGs) and pre-agricultural communities, other community rights<sup>12</sup>, the right to protect, manage, conserve and regenerate community forests using traditional protection and conservation techniques for sustainable use (MoTA, August 7, 2014).

The Act provided for the restitution of traditional forest rights to forest dwellers across India. The Act vested *Individual Forest Right* (IFR) and *Community Forest Rights* (CFR). Both the IFR and CFR recognized the rights of the forest dwelling community to live in the forested landscape (maximum of 4 ha.) and engaged in self-cultivation for ensuring livelihood and food security<sup>13</sup>. In addition, the IFR and CFR provisions helped individuals secure the right of ownership, access to collect minor forest produce, which have been traditionally collected both within and outside the village boundaries. Under the CFR, community tenure are extended to the Adivasis and the OTFDs for using, managing and governing forests with traditional villages of boundaries of and empowering the right-holders, and the Gram or Palli Sabha, for the conservation and protection of forests, wildlife and biodiversity, and their natural and cultural heritage (Section 5, FRA) (CFR-LA Report 2016, p.6). In fact, since the FRA was being implemented very few CFR claims have been filed. For the ones that were filed, the community was not involved and the rejection rate by the SDLC and DLC was high (Samarthan Report 2011, p.31). The Report also found that the low filing of Community claims could be attributed to the persistent information asymmetry<sup>14</sup> that prevented the community from filing community claims.

The FRA stipulates that IFR and CFR can be filed can only be filed with the Gram or Palli Sabha. In fact Section 6(1) of the Act, empowers the Gram or Palli Sabha to initiate the process for ascertaining the nature and extent of IFR and CFR, by receiving their claims, consolidating and verifying the claims, and preparing map that would demarcate the area of each recommended claim. The *Forest Rights Committee (FRC)*<sup>15</sup> constituted by the Gram Sabha, is entrusted with the role of receiving and preparing the list of claimants, verifying those claims (for e.g., Community Forest Rights in FORM-B and rights over community forest resources in FORM-C). After the FRC presents the findings on the nature and extent of the claims to the Gram Sabha or Palli Sabha, appropriate resolutions are passed and forwarded to *Sub-Divisional Level Committee* (SDLC).

The SDLC is entrusted with the responsibilities of increasing awareness about the various provisions of the FRA to the members of the Gram Sabha. Ensure transparency and fairness in the Gram Sabha meetings, ensure due diligence and speedy processing of claims by making forest, revenue maps and electoral rolls available to the Gram Sabhas (MoEF&CC, May 1,

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<sup>12</sup> Other community rights of uses or entitlements such as fishing or other products of water bodies, grazing and traditional seasonal resource access of nomadic or pastoralist communities. But these do not include but not including the right of hunting, trapping or extracting a part of the body of wild animal.

<sup>13</sup> To study the Act in details, please check:

<https://ororindiacode.nic.in/orbitstream/123456789/1/2070/1/orA2007-02.pdf>

<sup>14</sup> Information asymmetry is a commonly used phrase in Behavioral Economics, Public Policy and International Relations. It refers to a situation, when decisions are made by one party based on misinformation or limited information resulting in adverse or less than optimum solution. It is opposite of “perfect information,” which is a key assumption of Economics. In this case, the lack of knowledge about the benefits of the CFR and how to apply for CFR, prevents the Adivasi community from applying for CFR.

<sup>15</sup> The provisions for constituting of Forest Rights Committee was not mentioned in the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (2006). But a later amendment to the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, notified by the Ministry of Tribal Affairs on 1.1.2008 for implementing the provisions of the Act, however, provide for constitution of Forest Rights Committee by the Gram Sabha. For more details, please check: <https://ororhrln.org/wp-content/uploads/2018/08/Handbook-on-Forest-Rights-Act.pdf>

2008). The *District Level Committee* (DLC) serves as the final arbitrator on forest rights, (especially those of the PTGs, nomadic and pastoral tribes) including approving the record of forest rights prepared by the SDLC. The DLC also ensures that all the information pertaining to the Act reaches the Gram or Palli Sabhas through the SDLC. As per Section 6(7) of the FRA, the State Government constitutes the State Level Monitoring Committee to oversee the process of recognizing and vesting of forest rights, and submit it to the nodal agency (Ministry of Tribal Affairs) such return and reports as may be required by the agency (MoTA, August 6, 2014). In case the IFR claims are rejected by the Gram Sabha, SDLC or DLC level, the petitioners could appeal against the claim rejections.

Forests across generations have managed to sustain forest dwellers, while maintaining the ecological and environmental equilibrium (Verma and Paul 2015, p. 6865). Forest produce such as, MFPs or *Non Timber Forest Products* (NTFPs), helped tribal communities survive thousands of years and across many generation, by providing them with food, water, medicines, clothes and employment (Ibid, p.6866). According to a previous study (Shankar et.al. 2004), in India, 500 Cr. people depend on MFPs for their subsistence (food, fuelwoods, or fodder) and cash livelihoods (20%-40% of the Adivasi income came from selling of the MFPs generating 33 Cr. person years in employment). While forest dwelling Adivasis have traditionally protected forests and forest resources, this would change in colonial India. The colonial administration continued to commodify forest resources and continued to restrict tribal access. Following independence, tribal autonomy over the use of forests for collection of MFPs, continued to be threatened. In the Central Indian Tribal Belt, majority of the tribals and the OTFDs continued to depend on collection of the MFPs for earning their livelihoods (the forest dwellers also engaged in subsistence farming).

An integral part of the discussion on the FRA is related to the “diversion clause,” which allows for the diversion of forest land for development projects or wildlife conservation. Under Section 3(2) of the FRA, the Central Government (irrespective of the provisions of the Forest Conservation Act (FCA), 1980) reserved the right to allow for diversion of forest land (less than one hectare) for 13 categories of development related facilities such as, schools, hospital, Anganwadis, PDS shops, electric and telecommunication lines, tanks and other minor water bodies, water or rain water harvesting structures, minor irrigation canals, skills or vocational training centres, roads, community centres and drinking water supplies that are managed by the Government, which involve felling of trees not exceeding 75 trees per hectare (MoTA, August 7, 2014) . However, any Government decision pertaining to diversion of forest land for development projects, should consider the conditions recommended by the Gram or Palli Sabha;

However, political and economic pressures have prompted the Government to circumvent this provision (decisions pertaining to diversion of forest lands for development projects rests with the Gram Sabha) to implement development projects in forest lands in Central India, over the years. As the State continued to grant mining leases and transfer land in favour of non-tribals or leasing land at Scheduled Areas, they systematically undermined the legal and constitutional rights of the Adivasis to protect forests and forest lands for their subsistence and livelihoods. In 2018, India Spend reported that as many as 26 cases across 11 states show that forest land was acquired by the Government for development projects, including mining and dam construction by flouting the FRA provisions, forging consensus or ignoring the Adivasis and the OTFDs (India Spend, March 22, 2018).

The other key legislations aimed at protecting the Indian forests, include the Biodiversity Act (2002) The federal legislation was enacted for the preservation of biological diversity, and provide a mechanism for equitable sharing of benefits arising out of use of traditional biological resources and knowledge (PIB, May 22, 2014). In the following year, the National Biodiversity Authority (NBA) (2003) was set up as Statutory and Autonomous Body to implement the Biological Diversity Act, including issues of conservation, sustainable use of biological resources and fair and equitable sharing of benefits arising out of the biological resources. The other key legislation being the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act (2013). The provisions of the Act<sup>16</sup> relate to land acquisitions, compensation, rehabilitation and resettlement, and also applies to the Government if it acquires land for its own use, hold and control, including for Public Sector Undertakings and public purposes.

Beyond legislative provisions, several Committees were set up over the years to evaluate the dual challenges of forest rights and securing land tenures for some of the most disadvantaged constituencies of India, namely the tribals from the Central Indian Tribal Belt (CITB). The Table 2 discusses the key issues and recommendations from these Committees.

**Table 2: Key Committees to set up to secure land tenures and forest rights for the Adivasis**

Bhuria Committee (1994)	<p>The Commission was set up under the chairmanship of Dilip Singh Bhuria (popularly known as the “Bhuria Commission”) to examine the various provisions relating to self-rule for tribals, in accordance to the provision of Part IX of the Constitution to the Scheduled Areas. The key recommendations of the Committee, include:</p> <ul style="list-style-type: none"> <li>• Reforming tribal land laws to limit land acquisitions;</li> <li>• Step-up public investment in agriculture and allied sector. Accordingly, the Tribal Sub-Plans (TSP) areas should get the projects for regeneration of degraded forest, watershed development and other infrastructural facilities, which could potentially reduce poverty in the tribal areas;</li> <li>• Providing impetus for sustainable development of the land, water and forest resources in the tribal areas of the country;</li> <li>• Ensure that the Joint Forest Management (JFM) function within the “canopy of the Panchayat” and converted into community forest management committees. The forest department should operate as advisers and monitor the programs.</li> </ul>
National Commission for Scheduled Tribes (2004)	<p>The Commission was set up with the objective of improving the socio-economic conditions of STs. Subsequently, Commission advised the State Governments to review the provisions of existing laws that resulted in tribal land alienation, plug the loopholes, and harmonise the provisions of the State laws with the provisions of the PESA for restoring illegal alienation of land of Adivasis.</p>
Joint Committee of Ministry of Environment and	<p>This Committee was headed by Dr. N.C. Saxena for reviewing the implementation of the FRA across the country. The Committee members were selected from a diverse range of stakeholders,</p>

<sup>16</sup> See for details on the Act: <http://ororlegislative.gov.in/sites/default/files/orA2013-30.pdf>

Forests and Ministry of Tribal Affairs (2010)	including retired bureaucrats, forest officials, tribal department and representatives of the CSOs and NGOs. The Committee identified critical flaws for the implementation of the FRA (for e.g., flawed constitution of the GS, lack of strategy for processing the FRA at various levels, illegal exclusion of the OTFDs, lack of national data on status of the FRA implementation for the PTGs, failure to grant CFRs, failure to constitute FRCs and other implementation challenges).
Report National Committee on Forest Rights Act (2011)	This Committee was set up with the goal of identifying factors that aid and impede the implantation of the Act. This include, identification of the roles of various agencies in facilitating conservation and management of forests by the forest-dwellers; defining a new role for the Forest Department vis-à-vis the Gram Sabha for forest conservation and regeneration; and identify opportunities and recommend measures to ensure convergence of various beneficiary oriented programs for the forest right holders taken up by various line departments in the states (FRA Report 2010, p.10). This Committee also proposed some key steps, including the setting up of the National Forest Rights Council to ensure the regular and systematic monitoring of the FRA implementation (Ibid, p.14). Conduct a second phase implementation of the FRA for States with primary focus on CFR Rights. Empower the GS would be responsible for ensuring sustainable use, conservation and protection, for which Gram Sabha would be empowered (Ibid, p.22). Finally, amend the Wildlife Protection Act 1972 to ensure better compliance with the FRA (Ibid, p.22).
Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India (2014)	This Committee chaired by Prof. Virginus Xaxa, noted that the FRA implementation was weak. According to the HLC chaired by Professor Xaxa noted that many of the findings and recommendations of the Joint Committee were relevant on the following issues: The prejudice against OTFDs in the FRA become evident following the under-recognition of the IFR due to absence of ST community certificate, <sup>17</sup> or their participation in the recognition phases of CFR Rights. In areas where JFM was in practice, there were complaints that the FRA was sought to kept out. <sup>18</sup> Further, attempts were made to convert the village forest committees to forest rights committees under FRA, which was incompatible with the law (Ibid, p.315). The Report also noted that the PVTGs derive their nutrition from the forest and habitat they live in, but implementation of FRA <sup>19</sup> has been the poorest for PVTGs, since there is a lack of clarity over the habitat rights that are not clearly defined or understood by the Forest Department (Ibid, p.317). As malnutrition rates continue to escalate

<sup>17</sup> Joint Committee Report, at page 75; Ministry of Tribal Affairs, 2012 Regional Consultations on Implementation of the Forest Rights Act: Amendments in the Rules and the Way Forward, at page 11.

<sup>18</sup> SCSTRTI, National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013 (Draft Report at page 199); see also Madhu Sarin, Presentation on Issues in State Action Plans (regional consultations) dated 16th March 2013; CFR LA Kalpavrikra – Vasundhara, A National Report on Community Forest Rights under Forest Rights Act: Status & Issues, 2012 at page 46.

<sup>19</sup> FRA made a special provision of PVTGs “for rights including community tenures of habitat and habitation” under Section 3(1) (e) (Ibid, p.317).

	for the geographically and socially excluded PVTGs, the Report calls for reorienting the programs or projects to address the depletion of resources, denial of access to the resources, and threatens the descent from poverty to vulnerability (Ibid, p.318).
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## Section II: Performance of Central Indian Tribal States with regard to the Forest Rights Act

To assess the performance of FRA with regard to its performance in restitution of deprived forest rights of the traditional forest dwellers across Central India (the region, we will rely on datasets from the Ministry of Tribal Affairs (MoTA), studies commissioned by International Agencies, and CSOs. We will also be looking at the Government and non-Governmental data along with the field studies conducted across three states from the CITB-Odisha, Jharkhand and Madhya Pradesh.

The implementation of the FRA is among the key challenges for high rejection rates of claims. On October 31, 2011, as per the information received by the MoTA, claims for the recognition of forest rights under the Act was received by the Gram Sabhas in 13 states<sup>20</sup> (Ministry of Panchayati Raj, November 25, 2011). By the next year, the MoTA informed that it had met its mandate of distributing 0.13 Cr. titles to the eligible claimants. Although it acknowledged that claims filed for securing CFR under the FRA remain extremely low compared to IFR (MoTA, August 24, 2012). In the HLC Report (2014),<sup>21</sup> it was reported that as late as 2012, the CFR were almost entirely ignored (HLC Report 2014, p.312). There were other instances, when the Forest Department actively impeded the process of recognizing the CFR – in Sarguja district Chhattisgarh, 27 CFR titles were claimed and conferred to the community, but the Forest Department does not recognize them<sup>22</sup>. Previously, the Joint Committee Report (2010) had cautioned that “the current status of community claims is not indicative of the potential of such claims. If the various shortcomings in implementation are removed, the claims could spread to several million hectares in the next few years.” (Joint Committee Report 2010, p.86).

Colour Code	
	Not reported before
	Reduction
	Increase

**Table 3a: Status of Community Rights Claims Received**

States	May-15	Aug-15	Sept-15	Oct-15	Dec-15	Jan-16	Mar-16	Apr-16	Jun-16	Aug-16	Oct-16	Dec-16	Jan-17
Andhra Pradesh	10,959	10,959	10,959	10,959	10,959	10,959	10,959	10,959	4,493	4,493	4,493	4,711	4,711

<sup>20</sup> Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujrat, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand and West Bengal

<sup>21</sup> To know in more details, please check: <https://ruralindiaonline.org/media/documents/17reportHealthEducationalStatusTribalsIndiaEN20140531.pdf>

<sup>22</sup> SCSTRTI, National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013 (Draft Report, p.216).

Assam	5,913	5,913	5,913	5,913	5,913	5,913	5,913	5,913	5,913	5,913	6,046	6,046	6,046
Bihar													
Chhattisgarh													23,949
Goa											361	361	361
Gujrat	7,228	7,228	7,228	7,228	7,228	7,228	7,228	7,228	7,228	7,229	7,229	6,998	6,998
Himachal Pradesh	283	283	283	283	283	283	283	283	283	283	283	68	68
Jharkhand	864	864	2,734	2,734	2,734	2,734	2,734	2,734	2,734	2,734	2,734	2,734	2,734
Karnataka	6,135	6,208	6,208	6,208	6,208	6,208	6,208	6,208	6,208	6,208	6,208	6,208	6,208
Kerala	1,395	1,395	1,395	1,395	1,395	1,395	1,395	1,395	1,395	1,395	1,395	1,395	1,395
Madhya Pradesh	40,669	40,615	40,913	40,913	40,913	40,913	40,872	40,872	41,235	42,516	42,516	39,802	39,816
Maharashtra	7,062	7,152	7,152	7,152	7,152	7,152	7,152	8,953	8,953	8,953	8,953	11,408	11,408
Odisha	12,502 (7,688 Community and 4,814 CFR Claims)	12,560 (7,717 Community and 4,843 CFR Claims)	7,727 Community and 4,892 CFR Claims)	12,651 (7,754 Community and 4,897 CFR Claims)	12,866	12,872	13,150	13,150	13,233	13,403	13,433	13,433	13,433
Rajasthan	650	654	654	654	654	654	654	685	685	685	685	755	755
Tamil Nadu	3,361		3,361	3,361	3,361	3,361	3,361	3,361	3,361	3,361	3,361	3,361	3,361
Telangana	4,814	3,672	3,672	3,672	3,672	3,672	3,769	3,769	3,769	3,769	3,427	3,427	3,427
Tripura	277	277	277	277	277	277	277	277	277	277	277	277	277
Uttar Pradesh	1,115	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124	1,124
West Bengal	10,119	10,119	10,119	10,119	10,119	10,119	10,119	10,119	10,119	10,119	10,119	10,119	10,119
All India- Total			108,999	109,026	114,138	114,138	116,310	110,482	110,482	112,051	113,295	112,429	136,275

**Table 3b: Status of Community Rights Titles**

States	May-15	Aug-15	Sept-15	Oct-15	Dec-15	Jan-16	Mar-16	Apr-16	Jun-16	Aug-16	Oct-16	Dec-16	Jan-17
Andhra Pradesh	2,107	2,107	2,107	2,107	2,107	2,107	2,107	2,107	1,319	1,319	1,319	1,415	1,415
Assam	860	860	860	860	860	860	860	860	860	860	860	1,477	1,477
Bihar													
Chhattisgarh													12,337
Goa											3	3	3
Gujrat	3,875	3,875	3,875	3,875	3,875	3,875	3,875	3,875	3,875	3,875	3,875	3,484	3,484
Himachal Pradesh	108	108	108	108	108	108	108	108	108	108	108	7	7
Jharkhand	494	494	1,434	1,434	1,434	1,434	1,434	1,434	1,434	1,546	1,850	1,850	1,850
Karnataka	144	144	144	144	144	144	144	144	144	144	144	628	628
Kerala													
Madhya Pradesh	19,491	21,285 (ready for distribution is 20,747)	21,727	21,830	21,909	21,909	22,915	23,139	24,694	27,252	27,252	27,422	27,422
Maharashtra	3,277	3,436	3,436	3,436	3,436	3,436	3,436	4,187	4,187	4,187	4,187	5,748	5,748
Odisha	5,000 (2,910 – Community and 2,090 CFR Titles)	5,004	5,036	5,151	5,159	5,205	5,384	5,513	5,891	5,891			
Rajasthan	65	69	69	69	69	69	69	69	69				
Tamil Nadu													
Telangana	744	744	744	744	744	744	744	761	761	761	761	721	721
Tripura	55	55	55	55	55	55	55	55	55	55	55	16	16
Uttar Pradesh	834	843	843	843	843	843	843	843	843	843	843	843	843
West Bengal	404 (346-Community)	431 (373-Community)	431 (373-Community)	616 (558-Community)	741	747	747	747	785	805	805	805	805

	and 58- CFR titles)	and 58- CFR titles)	and 58- CFR titles)	and 58- CFR titles)									
All India- Total			38,685	38,973	41,329	41,367	42,488	43,488	44,451	47,443	48,192	50,310	62,520

**Table 3c: Extent of forest land for titles distributed (acres)**

States	May-15	Aug-15	Sept-15	Oct-15	Dec-15	Jan-16	Mar-16	Apr-16	Jun-16	Aug-16	Oct-16	Dec-16	Jan-17
Andhra Pradesh									434,355	434,355	434,355	441,063	441,063
Assam													
Bihar													
Chhattisgarh													1,286,669.21
Goa											435,000	435,000	435,000
Gujrat		1,081,583.7	1,081,583	1,081,583	1,081,583	1,081,583	1,081,583	1,081,583	1,081,583	1,081,583	1,081,583	11,42,191.96	11,42,191.96
Himachal Pradesh												4670.28	4670.28
Jharkhand										85,615.57	85,615.57	85,615.57	45,503.71
Karnataka	26,246.57	26,274.79	26,274.79	26,274.79	26,274.79	26,274.79	26,274.79	26,274.79	26,274.79	26,274.79	26,274.79	26,465.31	26,465.31
Kerala													
Madhya Pradesh												1,302,165.93	1,302,165.93
Maharashtra	815,810.70	863,478.72	863,478.72	863,478.72	863,478.72	863,478.72	863,478.72	1,392,644.78	1,392,644.78	1,392,644.78	1,392,644.78	4,435,944.77	4,435,944.77
Odisha	109,391.46 for Acres. Comm. & 70772.04 Acres for CFR	109,391.46 for Acres. Comm. & 70772.04 Acres for CFR	109,391.46 Acres	109,391.46 Acres	179,663.50	185,902.98	191,131.15	191,612.09	335,354.27	335,599.07	2,83,884.97	284,109.67	284,109.67
Rajasthan	479.73	482.58	482.58	482.58	482.58	482.58	482.58	482.58	482.58	482.58	657.53	660.79	660.79
Tamil Nadu													
Telangana	503,082	503,082	503,082	503,082	503,082	503,082	503,082	1,274,327.90	1,274,327.90	1,274,327.90	12,74,327.90	454,055	454,055
Tripura	56.79	56.79	91.17	91.17	91.17	91.17	91.17	91.17	91.17	91.16	91.16	27.07	27.07
Uttar Pradesh										120,802.06	120,802.06	120,802.06	120,802.06
West Bengal										1,004.26	1,004.26	1,052.84	1,052.84

All India- Total														
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Source: Citizen's Report, 2015-17.

In fact, the MoTA continued to receive several complaints over a period of time concerning rejection of claims and eviction of tribals (MoTA, August 24, 2012). In a letter dated May 24, 2012 by the Minister in charge of MoTA to all the Chief Ministers of Schedule V and VI states, he drew attention to the to the poor implementation of the FRA. Among the “procedural lacunae” identified by the MoTA, which contributed to the poor implementation of the FRA include:

- The failure on the part of the State Governments to raise awareness about the campaigns that prevented eligible forest dwelling groups from filing claims for rights;
- The Act emphasises on the role of the Gram or Palli Sabhas as the authority for initiating the process for determining the nature and extent of the IFRs and CFRs to be given to the traditional forest dwelling Adivasis and the OTFDs within the limits of its jurisdictions. However, the Gram or Palli Sabhas for this Act have mostly been called at the Panchayat level. Consequently, such Gram Sabhas that constitutes many villages are too large; they cannot claim for the exercise village community rights and it is difficult to meet the quorum requirements;
- Claims were rejected for incorrect reasons, especially on the basis of the “encroacher lists” prepared by the Forest Department, which went against the spirit of the Act;
- The SLDC and the DLCs that were constituted for deliberating over the claims, often modified or rejected the claims without hearing or even informing the claimants;
- For the purposes of increasing transparency and accountability, Gram Sabha meetings (especially when critical decisions were being made) needed to be videotaped and made publicly accessible;
- In many areas, forest dwellers faced constant threats of eviction, forced relocation or displacement that appears to be a direct violation of the FRA. It is critical that the provisions and relevant laws (particularly the Ministry of Environment order (July 30, 2009) on diversion of forest land should be followed. In addition, the relocation of the Adivasis and the OTFDs from tiger reserves and protected areas under Section 4(2) of the Act, should be strictly followed;
- Right to collect MFPs, sell and dispose by the forest-dwelling Adivasis and the OTFDs have not been recognized by the Forest Department, as forest-dwellers continue to face incorrect restrictions in many areas;
- Other community rights such as use of and access to grazing areas by settled and nomadic communities, access to water bodies, or habitats of PTGs, have not been recognized;
- It is imperative for the respective State Governments to ensure that the FRA is not mis-interpreted, and the Forest Officials respect the decisions of the communities on forest protection.

The figures released by the MoTA reveal that the dream of correcting the historical injustice done to the traditional forest-dwellers, remain largely unfulfilled. From 2014 and 2018, the proportion of successful claims filed were between 38% and 45%. While the Act was an attempt to break the cycle of evictions from forestlands and rebellion by the traditional forest-dwellers, it failed to do so since it ran into entrenched opposition from the governmental and non-governmental stakeholders comprising of Forest and Revenue Department, Wildlife Conservationists, Mining Industries and land-grabbing by non-tribals.

According to the advocacy group CFR-LA (2017), the data in question (published by the MoTA) is both confusing and inconsistent. There were several instances when the data provided by the State Nodal Agencies did not match those of the MoTA. Moreover, the MoTA failed to segregate between the number of beneficiaries for IFR and CFR. While the FRA has extraordinary potential to alleviate poverty, address food security and establish livelihoods security through sustainable and community-based management of forests, the FRA implementation continued to suffer due to competing interests of the diverse stakeholders and the colonial legacy of “scientific management of forests.” The Citizen’s Report (published in 2017) by CFR-LA, confirms the disparity in title distribution and the extent of forest land for which titles were distributed between IFR and CFR. As per the latest figure released by the Ministry of Tribal Affairs, in the CITB states, almost all the tribal communities applied for the IFR than the CFR titles for maximising their agricultural income and information asymmetry about the application process for CFR. But for those communities that applied for the CFR, majority of their claims (51%) have been approved, as compared to the IFR (46%). With regard to the total FRA claims accepted in the CITB states-Odisha accepted maximum proportion of all claims (69%), followed by Jharkhand(56%) and Andhra Pradesh (54%). States such as, West Bengal (7%) and Rajasthan (7%) fared very poorly with regard to the proportion of CFR titles distributed. Jharkhand was the only state in Central India, where majority of the communities were successful in receiving both the IFR (56%) and the CFR (57%). In 5 states of Central India, the tribal communities were more successful in receiving the CFR than the IFR. These include, Chhattisgarh, Gujrat, Jharkhand, Madhya Pradesh and Maharashtra. Although, the proportion of CFR claims that were filed were far fewer than IFR.

**Table 4: Status on FRA Claims Approval-Central Indian Tribal Belt as on 31.03.2019:**

States	No. of claims received			No. of titles distributed			Extent of forest land for which titles are distributed		
	Individual	Community	Total	Individual	Community	Total	Individual	Community	Total
Andhra Pradesh	97.8	2.2	118,508	98.6	1.4	98,049	239,554	453,384	692,938
Chhattisgarh	96.5	3.5	890,240	94.8	5.2	423,218	843,100.69	2,038,146.15	2,881,246.84
Gujrat	96.2	3.8	190,056	96	4	87,215	129,571.16	1,161,351.49	1,290,923.10
Jharkhand	96.6	3.4	110,756	96.6	3.4	61,970	153,395.86	103,758.97	257,154.83
Madhya Pradesh	93.3	6.7	624,975	89	11	254,275	812,345.19	1,465,013.16	2,277,358.35
Maharashtra	96.8	3.2	374,716	95.9	4.1	172,116	392,928.73	2,736,660.68	3,129,589.41

Odisha	97.8	2.2	631,761	98.5	1.5	436,776	642,542.12	235,205.91	877,748.02
Rajasthan	98.1	1.9	75,855	99.7	0.3	38,110	57,730.26	2993.64	60,723.90
Telangana	98.2	1.8	186,679	99.2	0.8	94,360	300,284	454,055	754,339
West Bengal	92.9	7.1	142,081	98.5	1.5	45,130	21,014.27	572.03	21,586.29
ALL INDIA	96.5	3.5	4,237,853	96.1	3.9	1,964,048	4,133,891.33	8,804,870.81	12,938,762.14

**Table 4b: Percentage of FRA Claims Approval-Central Indian Tribal Belt as on 31.03.2019:**

States	Percentage of claims received		
	Individual	Community	Total
Andhra Pradesh	54.48	33.83	54.02
Chhattisgarh	46.73	69.61	47.54
Gujrat	45.77	48.92	45.89
Jharkhand	55.93	56.50	55.95
Madhya Pradesh	38.82	66.50	40.69
Maharashtra	45.50	58.85	45.93
Odisha	69.62	47.48	69.14
Rajasthan	51.08	7.15	50.24
Telangana	51.10	21.04	50.55
West Bengal	33.68	6.78	31.76
ALL INDIA	46.17	51.17	46.35

Source: MoTA

The field studies were undertaken across two years (2018-2019). Madhya Pradesh and Odisha is considered to be among the top performing states in the CITB, with regard to accepting both the IFR and CFR claims under the FRA. Jharkhand has performed relatively well with regard to accepting both the IFR and CFR claims. To examine the ground realities, we held several rounds of group discussions (through structured and semi-structured questionnaires) with hundreds of Adivasi in the three states- Shivpuri and Damoh districts of Madhya Pradesh; Sambalpur district in Odisha; Latehar and Palamau districts in Jharkhand.

**Table 5: Scope of Field Study**

States	Adivasi Groups	Districts	Blocks	Villages
Madhya Pradesh	Sahariyas, Raj Gonds, Baigas	Shivpuri, Damoh	Shivpuri, Tendukheda	Binega, Foolar, Pateria Mal, Sarsela
Odisha	Gond, Kisan, Oraon and Munda	Sambalpur	Jamankira	Bhaluchuan, Chandiposh, Hetkhamar, Jemamal, Kalapat, Kumakapali, Kuturachuan,
Jharkhand	Oraon, Paharia	Latehar, Palamau	Chhatarpur, Manika	Bariatu, Bihra, Bisaipur, Doki, Jamho, Hulsam, Hutukdag, Kurdi, Sardandag, Sewdhara

## Madhya Pradesh<sup>23</sup>

Today, the success of the FRA implementation is contingent on community participation and the role of CSOs in mobilizing the community to file for land titles and gaining access to forests for collection of the Non-Timber Forest Products (NTFP). In Madhya Pradesh, after Sahariyas lost their right to live in forests and forest lands, they were forced to take up farming or work as casual manual labour. Most Sahariyas live in extreme poverty and nutritional vulnerabilities with little access to health care. In November 2016, each of the 88 households belonging to the Sahariya lost at least one child to malnutrition in Shivpuri district (Hindustan Times, November 21, 2016). In Binega village of Shivpuri block in Shivpuri district, majority of the 325 Sahariyas secured IFR under the FRA. After securing the IFR, the Sahariyas applied for the Pradhan Mantri Awas Yojana-Gramin (PMAY-G) and secured the first instalments of the total sanctioned loans of INR 1,50,000-1,60,000 (MoRD website). But the Sahariya failed to secure CFR, when similar rights were secured by members of non-tribal community. At the time of the field study, the community was fighting to secure the CFR rights in court. With regard to NTFP collection, the Sahariyas no longer rely on forests because of massive deforestation and the high-handed attitude of the Forest Department officials.

The second study was conducted in Tendukheda Block of Damoh district in Madhya Pradesh. During the study, we visited few villages comprising of mostly Adivasis. The first Focus Group Discussion was held in Foolar village of the Tendukheda Block that is also part of *Nauradehi Wildlife Sanctuary* buffer zone. The village comprising of mostly Raj Gond with total population of 743. Prior to the passage of the Forest Rights Act, distress migration was widespread. On an average, a household spent 10 months (September-July) working outside the villages in the districts of

<sup>23</sup> The study was conducted in support of BRLF CSO partners-Parhit Samaj Sevi Sanstha (Shivpuri, MP) and Manav Jivan Vikas Kendra (Katni, MP)

Jabalpur, Bhopal, Sagar and Narsinghpur. They operated as bonded labourers working in agriculture and managed to save 1-2 quintals of food grains. They would return to the villages to engage in subsistence farming.

In Foolar, 117 community members received land titles under the FRA, while 40 community members were yet to secure land under the FRA. For those with land titles, they have started farming during the Kharif season, and continue to grow wheat, millet, corn, sesame, moong, tuwar and arhar. Today, the tribal household with the land titles has been able to limit their distress migration from 10 to 3 months. Moreover, the entire household no longer needs to migrate outside the villages. Interviews with the tribal households revealed, while some of them stay back to farm and children attend schools. In rural Madhya Pradesh, the prevalence of *Purdah system*, prevented women from stepping out of their homes and working in the fields. Following the passage of the FRA, rural tribal women started stepping out of their homes and working in farms.

The study further revealed that in Pateria Mal, the community on receiving the land titles have started taking loans from banks using the Kisan Credit Cards (KCC)<sup>24</sup> or even the Mahajans (interest rate of 3%) to engage in land levelling, field bunding and construction of wells, which contributed to increase in income and limiting the scale of distress migration. Today, the farmers are able to grow 50-60 quintals of wheat, chana, arhar and moong during the Kharif season. The villagers have also come together and set up kitchen gardens to add to their nutritional security. The 10 months period of distress migration that majority of the households undertook, previously is now limited to one or two members of each household for 6 months. Unlike other villages in the block, the relation with the Forest Department has improved, after they secured IFR and CFR, and the absence of major forests in the area. Today, 70 households out of 150 households have land secured under the IFR. The villages has also secured the CFR land, which is used for the construction of 5 farm ponds. Unlike majority of the tribal villages in the area, the tribal community of the villages were successful in getting all the land they claimed during the filing process. Majority of them received land, one and half years to two years after filing for their IFR. The experience of this community with regard to the FRA has been good largely due to their own mobilization efforts, including filing cases against the Forest Department when they tried to create administrative roadblocks, which would delay the process of securing IFR and CFR.

In 1988-89, the Raj Gond started occupying the ancestral land across the Tendukheda Block. The State Government at that time told the community that they could occupy the ancestral land, and eventually they would receive legal ownership over land. In 2006, the struggle over Adivasi land rights started intensifying in the region. Raj Gond and Baigas in the region joined the *Ekta Parishad*<sup>25</sup> with 45 people from Foolar and 341 from Jabera Tehsil. Following the passage of the FRA, the Sub Divisional Magistrate (SDM) asked the community to file their IFR claims. Over the

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<sup>24</sup> *Kisan Credit Card* (KCC) (1998) was introduced by the Central Government to provide agricultural households with easy access to short-term credit to purchase agricultural inputs-seeds, fertilizers and pesticides and financing other crop production requirements.

<sup>25</sup> *Ekta Parishad* evolved as people's organization in 1991, In 2007, the organization launched a national action, when the *Ekta Parishad* launched 350-kilometers yatra from Gwalior to Delhi along with 25000 landless poor, mainly Adivasis, demanding extensive land reforms. For more details, please check: [https://en.wikipedia.org/wiki/Rajagopal\\_P.\\_V.](https://en.wikipedia.org/wiki/Rajagopal_P._V.)

years, the community through the *Van Vikas Samity* (the equivalent of the Forest Rights Committee constituted as per the FRA rules 4(1)(e) have filed their claims.

Today, Madhya Pradesh has the highest tribal population in the country as per the Census 2011 (constituting 15% of the total tribal population) and with a “high dependency on forests is one of the most important states from the perspective of FRA implementation.”<sup>26</sup> More than a decade after the implementation of the Act, Madhya Pradesh received the third highest number of claims (624,975) after Chhattisgarh (890,240) and Odisha (631,761). However, the percentage of rejected claims in the state has been quite high at 59% (IFR-356,614 and CFR-14,086) was rejected as per the latest figures. This is much higher than some of the other CITB states, which have fewer rejections-Andhra Pradesh (17.3%) and Odisha (30.9%) and Jharkhand (44%).

The field studies conducted this year corroborate the Government data. Unlike Odisha and Jharkhand, the Forest Department plays a very prominent role in determining the fate of FRA claims. They help to demarcate and identify land for the IFR claims. In fact, the relation between the community and the Forest Department is characterised by mutual suspicion and mistrust. Once the community started the process of filing for the IFR claims by convening a special Gram Sabha meetings (January 28, 2008 and February 4, 2008), the Forest Department accused the community members of illegal encroachments over forest land and started putting the Adivasis behind bars. Till date, there are several instances when the community members were rightful owners of land through FRA, but the community continue to have pending cases against them in the High Court (filed a decade back by the Forest Department levelling charges of illegal encroachment in forest land). At the time of the interviews, many of the community members mentioned that they were incarcerated for 3 months up to a year due to the false charges of encroachment levelled by the forest officials.

At present, the Forest Department conduct spatial (geo-location) surveys for identifying and demarcating land under the FRA, using GPS facilitated Personal Digital Assistant (PDA). But corruption is rampant as community members are asked to pay bribes before the Forest Department starts the process of identification and demarcation of land under the FRA. There are additional challenges of the staff lacking in technical expertise to conduct such surveys. In one of the villages, the Forest Department denied FRA claims on the ground that it was plantation land. But the ground of rejections are unacceptable and against the spirit of the Act since the land in question had no such plantation nor do plantations qualify as forests. In Pataria Mal, the community filed for their IFR in 2008. At that time, the Forest Department attempted to derail the process by setting up nurseries in the same land being claimed by the community as FRA land.

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<sup>26</sup> For more details on the Report, please check:

<http://www.aiggpa.mp.gov.in/images/files/pdf/Taking%20Stock%20and%20Identifying%20Challenges%20in%20Implementation%20of%20the%20Forest%20Rights%20Act%20in%20Madhya%20Pradesh.pdf>

In Sarsela village, 19 community members successfully filed IFR claims. One of the community revealed that through the FRA, he secured 6.5 acres of land last year. However, he is being denied the right to cultivate his own land due to Forest Department. As per the Forest Department officials, he was denied the right to till his land using a rented tractor, since the area is part of forested land. While he and some of the community members have attempted to initiate dialogues with the Forest Department, they have encountered setbacks each time.

With regard to the NTFP collection, the surrounding forests offer Mahua, Char, Kendua, Amla, Bel, Chironjee and Fuelwood, the Forest Department resorts to the using brutal force and threats of imprisonment against the Adivasis, to deny access to forests. The limited NTFP collection is carried out discretely and illegally, which is against the provisions of PESA and FRA. To address the plight of the community, villagers in Foolar and surrounding villages approached the police and demanded action against Forest Department. But their complaints were never taken seriously and the police failed to register FRIs against the accused. According to the Foolar Gram Sabha Sachiv, being denied access to forests and forest products (despite the provisions of the legislation) is a result of the unholy nexus between the police, the Forest Department and the *Jungle Mafia* in the area. The *Jungle Mafia* refers to organized group of individuals (non-tribals mostly), who are directly linked with indiscriminate logging of timber, and significant cause of deforestation in the area. The experience if the community members with regard to collection of NTFP has been slightly positive. While the area does not have any major forest cover, the community has been collecting some NTFP and selling them in nearby markets. For instance, they sold Kendu leaves for INR 120-130 last year, and INR 250 per kilo this year.

The status of the Other Traditional Forest Dwellers (OTFDs) is worse than that of the Adivasis, the tribal community from Tendukheda Block was no exception. In order to file for the IFR claims for the OTFDs, they are required to provide evidence of residence of three generations (about 75 years). But individual claims of OTFDs have negligible acceptance level, since they are expected to provide instead evidence of continuous evidence of residence in the area for 75 years. Unlike the *Panchnama*<sup>27</sup>, but the OTFDs have no such documentation that could establish continuous residence in the area for 75 years.

## Odisha<sup>28</sup>

In Odisha, Bhaluchuan has become a classical example of how the FRA can be successfully implemented based on active community engagement and participation. The fact that there was considerable presence of village members in the decision-making process and high level of awareness, became evident from the high rate of claims acceptance by the DLCs - 80% IFR claims that were raised got accepted, since the FRA was implemented. On an average, the community received between 2.5 to 5 ha. of land. For the Bhaluchuan community comprising of members of Kisan, Oraon and Munda tribes, the forest is an extension of themselves. Majority of the community members would further comment on the necessity of sustainable management of forests and forest resources. In fact, the community has an established strategy of forest conservation,

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<sup>27</sup> Panchnama is a record of witness testimony that is signed off by few of the village elders (aged over 60 years) that establishes proof of residence for the tribals.

<sup>28</sup> The study was conducted with the support of BRLF CSO partner-Sambalpur Integrated Development Institute (Sambalpur, Odisha)

including the setting up of rudimentary gully control structures to prevent soil and water erosion, community vigilance to prevent illegal felling of trees or stealing of MFPs.

For the community members of the Kuturachuan village, the FRA did not bring about any monumental changes in their lives. According to a community member, he managed to receive land title for the same piece of land that the family has been cultivating for a hundred years. A majority of the households practice subsistence agriculture. Following the FRA implementation, they continue to engage in subsistence farming as there was a marginal increase in ownership of land. Out of 30 households in the village, 20 of them have received pattas. For the ones that have received a patta, they received far less than what they had claimed at the time of filing of the IFR under FRA. In the Hetkhamar village, 94% households secured land titles under the FRA, and allowed them to engage in subsistence farming. However, for communities that filed for the IFR in 2007, they received the pattas in 2014 (after gap of seven years). This is also the case with the forest dwelling Adivasis from the Kalapat village. In this village, 38% households have received land titles under the FRA till date. For the remaining, while claims have been filed and has reached the SDLC, the status of the claims remain undecided.

Odisha relies extensively on subsistence farming, including vegetable and rice cultivation. Once the community members received land through the FRA, they have started exploring the possibility of taking up commercial cultivation. Although the ability of the community to invest in seeds, fertilizers or other forms of agricultural input is limited, considering that they traditionally engage in subsistence farming with no access to institutional credit. In fact, during the group interview, the issue of lack of access to formal credit came up. In Bhaluchuan, while the households did own land (including those that were secured through FRA), they failed to secure the KCC. In fact, an Adivasi woman from the group made an observation to this effect at the time of the group discussion. She asked, “what was the point of having an FRA certificate, when one cannot even use it to get a Caste or Income certificate?” While FRA titles have offered them legal ownership of the land, the FRA certificate is not recognised as a legal tender for receiving other entitlements such as a Caste or Income certificate. In the case of Chandiposh, majority of the families have successfully claimed land under FRA, and received them within the first two years of FRA implementation. For the remaining demarcation of land has taken place but they are yet to receive patta. There has been a gradual slowdown of the process since its inception. Involvement of too many administrative level officials in the acceptance of claims even after it is successfully forwarded by the FRA committee hinders the progress even more.

In Odisha, *Amar Jongol Yojana* (AJY) was a program initiated by the Orissa Forestry Sector Development Society (OFSDC), Government of Orissa. The main purpose of this program was to constitute *Van Suraksha Samity*s (VSS), which would operate to improve the strained relationship between the forest-dwelling tribals and the Forest Department. From colonial times, the Forest Department was responsible for safeguarding and protecting the forest and forest resources, and preventing “unauthorised” access by the forest dwelling tribals and other groups. When in reality, the traditional forest dwelling tribes and other groups maintained strong bonds with the forests, due to their dependence on forests and forest resources for their lives and livelihoods. In Kuturachuan, till date, when bamboo shoots within the forests reach maturity, the forest guard (even

after implementation of the FRA) would cut the shoots and sell them in the market. If there are protests from the community, a small portion of the bamboo shoots would be returned to the community by the Forest Department.

Following the setting up of the VSS, the Forest Department was expected to support the traditional forest dwelling tribes and other groups, in ensuring community-based protection and management of forests. But field studies revealed that in Western Odisha, the Forest Department response to the VSS vacillated between not showing any interest as in the case of the VSS in Kumakapali, to complete dependence of the community on the Forest Department for operations of the VSS. The VSS in other villages operates as an extension of the Forest Department whereby the community has to wait for the permission of the VSS and the Forest Department to gain access to the forest for collecting MFPs. The VSS also depend on the Forest Department for securing seeds for mushroom cultivation, financial and technical assistance for building staggered trenches and contour bunding. In addition, there is not much certainty regarding the future of the AJY project. If the project suddenly stops there is a lack of alternative plans and measures to sustain forest conservation practises.

During the field visits in Odisha, we also had the opportunity to interview the PRI representatives, representative of the Gond group and the staff members of the CSO. With regard to the status of land ownership, following the implementation of the FRA, all the PRI respondents felt that in their constituencies, majority of the forest dwelling communities secured land through the IFR under the FRA. According to a female sarpanch, the FRA has been more beneficial in distribution of land to the landless. For others, land distribution through the FRA has not been equitable. While some individuals received up to 4 ha. of land, the remaining ended up receiving much less than what was initially demarcated for them. The land given to some farmers was different from the land that was originally identified by them. According to Dholapur sarpanch, the Act proved to be a double-edged sword and ended up doing more harm than good to fewer families. According to a very senior member of the Gond community in the area, lands that were previously considered, fallow had been rendered cultivable due to the tireless efforts of the Adivasis for 10-15 years. But the Forest Department during the claims verification process, continued using Cadastral maps that failed to take into account the farming potential on previously fallow lands, and ended up rejecting valid claims on such land.

In Western Odisha, the MFPs that are collected by the traditional forest-dwellers and sold to the local traders or the ones from the neighbouring states. The Palli Sabha plays a prominent role with regard to issuing licenses for MFP products. Palli Sabhas are responsible for collecting revenues by issuing transport permits for ferrying MFPs. The rates of tax vary according to products and their quantity. The Forest Department, on the other hand, is responsible for ensuring that the trucks being used for transportation of the MFPs, are carrying products as per the license permits. If the trucks carrying MFPs do so, beyond the quantity that is permitted by the Palli Sabhas, the Forest Department could fine them, but the entire money (from the fine) will go to the coffers of the Palli Sabhas, so as to pay for infrastructure and development projects. With regard to mobilizing the community and increasing awareness on issues of storage, stocking or pricing of the products, the Panchayats did not play any role, either in Odisha, Jharkhand or Madhya Pradesh. In Madhya Pradesh, the market for NTFPs was non-existent as the tribal communities have negligible access or no access to forests or forest products.

In Western Odisha, for instance, the upper limit on stocking and storing of Tamarind is 40 kilos for each household. Yet, for the forest dwelling groups, they majorly lack the required capacity or knowledge of large scale storage of MFPs. In addition, since most of the communities tend to sell the MFPs on a daily basis to local traders, owing to the lack of institutional mechanisms for price-setting (both in terms of the products and quantity for sale), the communities suffered from information asymmetry that prevented them from achieving better bargaining position with the traders and middlemen. According to the Gond chief, who was interviewed for the study, if the communities are better educated about such licensing of the MFP products, and provided access to improved storage facilities through the efforts of the Gram Sabha, Palli Sabha or the Panchayats, then the situation could improve for the forest dwellers.

Under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the forest dwelling communities have a rights over collection of Kendu leaves, which is considered an MFP. But in Odisha, the Kendu leaves are considered a nationalised product and trading of the leaves is monopolised by the State Forest Department. In recent years, the forest-dwelling Adivasis and the OTFDS, have been demanding ownership of the Kendu leaves. The forest-dwelling communities of Jemamal, is one of the communities that have been in the forefront of the protest and would like to break the monopoly in Kendu leaves trading. While forest right activists support the claims made by forest-dwelling communities. According to the Kendu Union President, B.K. Mohanty, such protests from the forest-dwelling communities should not be acknowledged considering that the State Government has always prioritised the welfare of the traditional forest-dwelling communities. In fact, each year the Odisha Government disburses the profit (running into several crores) from the sale of Kendu leaves back to the community, by providing scholarships to students, monetary support for daughters' weddings and the digging of borewells near the Kendu leaf collection centres. The compensation tends to increase every year along with gratuity facilities offer to the retired seasonal labourers.<sup>29</sup>

## Jharkhand<sup>30</sup>

In Palamau and Latehar districts of Jharkhand, the FRA experienced limited success – 5 out of 249 households secured IFR in Oraon Tola, 1 out of 249 households secured IFR in Kuraon Tola of Patna, and 1 out of 100 households secured IFR in Jamho village. The Kurid village had modest success in securing IFR – 54 out of 200 households secured the rights. Sardandag was very successful in securing IFR – 28 out of 30 households enjoyed the land tenure under IFR. None of the Adivasi households secured IFR in Sewdhara and Uchawal villages that were home to a total of 90 households. In Bisaipur and Bihra villages, none of the 635 households managed to secure IFR, even if they filed for claims between 3-5 years. During the community discussions it was further revealed that the beneficiary always received less land that they claimed, as part of IFR under

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<sup>29</sup> Kukreti, I, (August 14, 2018) *Disagreement between Odisha Kendu pluckers union and forest activists*. Down To Earth. Retrieved on May 3, 2019 from <https://www.downtoearth.org.in/news/forests/disagreement-between-odisha-kendu-pluckers-union-and-forest-activists-61395>

<sup>30</sup> The study was supported by BRLF-CSO partner-Vikas Sahayog Kendra (Palamau, JH).

FRA. In Kurdi, Mangal, an Adivasi filed for two acres of land under the FRA. However, he received 1.85 acres of land under the IFR. The discussions held with the community also revealed several contributing factors leading to the poor implementation of FRA and these include:

- There prevalence of rampant corruption for securing IFR titles. In Oraon Tola of Patna village, those few with land titles (under the FRA) got them after paying bribes to the local Government officials. During the community interviews, it was further revealed that those with FRA titles were the ones with sizeable amount of land. Corruption was so rampant in Jharkhand that for every Government scheme, the beneficiary needed to pay a bribe. In Patna village, a beneficiary needed to pay a bribe of INR 10,000 and would be charged 2% on bank loans (INR 70,000) for availing the benefits of PMAY-Gramin.
- Gram Sabhas in Patna, Jamho, Bisaipur and Bihra villages played limited role in increasing awareness about the FRA and its filing process. There were several instances, when the Gram Sabhas failed to meet, regularly to discuss issues and processes. In the villages of Patna and Jamho, Gram Sabha meetings are held on the twentieth of the month to discuss domestic disputes and Government schemes. However, these meetings never discussed the documentation and trajectory of the FRA filing process or Minimum Support Prices (MSPs) for NTFPs. In the village of Sardandag, the community experienced 93% success rate in filing and claiming of IFR. The community attributes the success of filing of the IFR claims to the mobilization efforts of the local CSO. The Gram Sabha continued to play no role in the discussions of FRA and the claims process. In Sewdhara, the community felt that the Gram Sabhas did not provide any assistance with regard to the filing of FRA. In the Gram Sabha, the voices of the Adivasis continue to be silenced due to the domination of other castes, including the OBCs and the SCs. However, for communities from the Doki (as they secured CFR under FRA) village, Gram Sabhas played significant role in addressing the socio-economic marginalization of the Adivasis. According to Subeda Oraon, it was the successful collaboration with the Gram Sabhas that allowed them to file for the CFR and conserve the surrounding forests.
- Information asymmetry about the nature and scope of the FRA posed major challenge for the Adivasi beneficiaries. In the village of Uchawal, none of the Pahariyas could secure IFR under the FRA. According to the community members, they filed for the IFR, 6-7 years ago, but they did not hear anything from the SDLCs and the DLCs. The community sent two letters to the concerned authorities, but they never heard back on the status of the filing. According to discussions held with the community members, failure to receive *pattas* could be attributed to the information asymmetry faced by the community. Higher castes from the neighbouring tolas refused to share any information related to the claiming of the pattas. Previously, the Pahariyas would graze their cattle in common grasslands. But these cattle would stray into the land belonging to the upper caste (Yadav) communities, which generated tremendous animosity with the Pahariyas. Yadavs did not share information relating to FRA, since they feared it would intensify the problem of cattle (belonging to the Pahariyas) straying into the Yadav fields and destroying the crops.
- Considering the extent of distress migration in Jharkhand, the demand for land continues to be low as the tribals tend to migrate outside their villages to neighboring districts and urban centers. With the low demand for land to cultivate, fewer tribals file for FRA claims through the respective Gram Sabhas. Documentation errors can pose further challenges in the FRA filing process, which contributes to low FRA claims being submitted and secured.

In Hulsam village of Jharkhand, villagers were constantly denied KCCs on two grounds. First, banks refused to provide Adivasi households with KCCs because they would not accept FRA land titles as legitimate documents. Second, tribal cultivators were denied KCCs because they owned less than 1.5 acres. This was direct violation of the KCC Scheme, where owner and tenant cultivators could avail loans to meet their agricultural needs, irrespective of the land size. In the absence of access to institutional credit for securing short-term loans, Adivasi households relied on money-lenders (charging an exorbitant interest rates of 12-15%). In the Sardandag, CSO mobilization has set up a *Kisan Sansadhan Kendra* (KSK), which allows the community to take short-term loans for farming (for e.g, buying HYV seeds, pesticides and fertilizers). The KSK operations are similar to that of the SHG, as community members secure access to low-interest loans. But similar set up are missing in other villages, which increases the financial distress and adds to seasonal migration.

A key component in the discussion of FRA relates to the issue of recognizing and vesting individual forest-dwellers with the right to own, collect, use and dispose of MFPs. For majority of the respondents, the collection of MFPs is of critical importance from the perspective of subsistence and livelihoods. During the time of our interviews, most of the discussion around the MFPs are in relation to the marketing of the MFPs. When we asked the community about marketing of MFPs, especially Mahua, they told us they entirely depended on traders from Bihar and Jharkhand to sell their products without any knowledge of the MSP. In fact, none of the respondents indicated any knowledge of the MSP for MFPs as they were never declared by the Gram or Palli Sabhas. For instance, with regard to the sale of Mahua, the community sold the Mahua fruit for INR 20 per kilo, when the MSP for Mahua was set at INR 25 per kilo. In Jemamal, for instance, the livelihoods of all villagers depended on selling MFPs such as, Mahua, Mushroom, Kendu Leaves, Char and Sal, in the market. But even after implementation of the FRA, the Forest Department refused to recognize the rights of the traditional forest-dwellers and sought to restrict (illegally) their access to forests for collecting MFPs. Few years back, the forest guards asked for bribe from an Adivasi family, who was settled within the forests, on ground that they used forest wood for constructing their house. Since the family could not afford to pay, the Forest Guards took away one of their goats as fine for violating the law. Following this incident, the villagers came together to protest and the Forest Department launched an investigation to examine the allegations. Consequently, the incident was found to be true and all the six guilty forest officials were suspended from their jobs.

Kendua and Mahua are the two predominant NTFPs being collected by the tribals in Jharkhand. In Jharkhand, the forest department did not object to the collection of the NTFP. In Sevdhara, a PVTG village, the Forest Ranger had filed a case as they caught the villagers trying to carry wood out of the forests. However, they never objected to collecting of Kendua leaves. Unlike Odisha, the forest cover had rapidly deteriorated, which also prevented the tribals from depending on the forests for collection of range of MFPs. Today, for the tribals of Jharkhand, they no longer have access to certain MFPs, including Lac, Kusum, Kewan, Piyaar, Amla, Kamraj, Katai, Sator and Bale. In Hutukdag, the tribals would collect Korra, Khiran, Van Tulsi, Chakor along with Kendua. Once collected they would be sold to local traders and middlemen. But the tribals have no bargaining power, with the Gram Sabha or Panchayats making no effort to list the MSP for MFPs. On the issue of Mahua trading, the MSP for Mahua was set at INR 25 per kilo. But with heavy demand for Mahua in the region, INR 25 to 30 per kilo, as per the VSK estimates. The community in

Bisaipur and Bihra, sold Mahua at INR 40 to 50 per kilos. Kendu leaves are sold for INR 130-140 per 100 leaves, and the prices were higher than the previous year when it was sold for INR 107 per 100 leaves.

Today, the presence of a vibrant Gram or Palli Sabhas is a key to the success of the FRA in Odisha, both with regard to recognition of land rights and communities being provided with ownership of the MFPs. But the Jharkhand experience proved to be completely different, as majority of the community members, complained about how Gram Sabhas have continuously failed to take up their responsibilities in organizing regular meeting, informing the audience about the eligibility and documentation requirements for filing IFR and CFR under FRA. In Jharkhand, across 2 districts and 13 villages, 9.3% (n=1233) Adivasis managed to secure IFR under the FRA. Doki and Bariatu villages of Jharkhand secured CFR under FRA. In Doki, the community received 700 acres of land under CFR. Even though the community filed for 900 acres, when they filed for CFR under FRA. In Bariatu village, 128 acres of land was allocated CFR under the FRA. With the CFR in place, these two villages played crucial role in preservation and management of forests. Unlike other villages, the community members have applied for the CFR and the IFR. Once they received their CFR, the Gram Sabha played an important role in providing assistance and approving the community-based management of forests. This is in contrast to Odisha and Madhya Pradesh, where communities were yet to apply for CFR under FRA.

### Section III: Conclusion and Recommendations

Considering the extraordinary potential of the FRA in sustainable management of forestland and securing the food and livelihoods of 20 Cr. traditional forest dwellers in India, the implementation of the Act has been limited. According to a study by (CFR-LA) (2016) in areas, where communities (forest dwelling Adivasis and the OTFDs) have managed to secure CFR, they have earned substantial amount of money from the sale of bamboo and Kendu leaves (Narmada district in Gujarat, Gadchiroli and Chandrapur in Maharashtra)<sup>31</sup> and through the convergence of FRA programs with Government programs, such as the MGNREGA and IAY (Kandhamal and Mayurbhang districts of Odisha).

Today, the institutional and structural challenges associated with the Act, has contributed to poor implementation of the Act. Following the passage of the FRA, several court cases were filed in the High Courts and Supreme Courts by Wildlife Conservation Groups and retired forest officials. These cases questioned the legal standing of the FRA, as the petitioners came to believe that there were adequate provisions with the Constitution for safeguarding the interests of local communities (Indian Forest Act, 1927 and the Wildlife Protection Act, 1972). Moreover, the Act was passed without taking into account its impact on wildlife. Some argued that by recognizing the rights of forest dwellers ended up increasing the possibility of encroachment on forest land following the filing of “false” claims (Community Forest Rights At A Glance Report, 2015-17).

The CFR-LA (2016) study noted that the presence of weak Central and State level Nodal Agencies exacerbated the poor performance of the Act (CFR-LA Report 2016, p. 20). Implementation challenges associated with the FRA implementation could also be linked with the long-standing conflicts over territorial jurisdiction between the Forest Department and the traditional forest-dwellers. Forest Department have been systematically obstructing the recognition of land rights under the FRA. Across many States, the Forest Department continued to veto the IFR and CFR claims, often illegally, imposing JFM on areas already claimed by CFRs, refusing to sign claims approved by DLCs, or conducting illegal evictions where claims have been filed or yet to be filed by the STs and OTFDs (CFR-LA Report 2016, p. 21). The poor performance of the SDLCs and the DLCs in reviewing the FRA claims, and subsequent rejections (mostly on ground of documentation) without following the due process, further contributed to the poor implementation status with regard to recognising land rights through the FRA.

Procedural lacunae, including the assumption that the FRA is meant for traditional forest-dwelling Adivasis, have resulted in very high claims rejections that were filed by the OTFDs, at the SDLC and DLC. Considering the ambiguity in the wording of the Act, OTFDs are required to prove continuous residence or dependence in the areas for three generations (75 years). Oral history and testimonials from village elders serve as legally acceptable forms of evidence, but the bureaucratic nature of the claims process prevented the production of these documents as supporting evidences (The Wire, July 1, 2018). The same report argued that non-tribal are given low priority for by the Nodal Agency, the MoTA, who tend to view them with

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<sup>31</sup> See:<http://blogs.timesofindia.indiatimes.com/Swaminomics/tribals-finally-get-land-rights-using-gps-technology/>

suspicion<sup>32</sup>, while the MoEFCC consider the OTFDs as being ecologically insensitive. Finally, irrespective of the provisions in the FRA (Section 3(1)( c)), the respective State Forest Department tend to deny the traditional forest-dwellers with the right to access MFPs and sell them. States continue to retain monopolistic control over critical NTFPs, especially Bamboo and Kendua leaves, and generate substantial profit. In addition, the State Department continues to deny the Gram Sabhas the right to issue permit for transporting NTFPs, irrespective of amendment to FRA Rules.

Today, the status of FRA implementation is based on an understanding of competing interests with regard to forest governance among Government and non-Government stakeholders. Theoretically, the FRA has the potential to benefit the “poorest of the poor,” and help in the sustainable management of the forests. Keeping in mind this goal, the next few paragraphs, we will offer some policy recommendations aimed at improving the FRA implementation from the perspective of land ownership and access to MFPs.

**Need for recognition of FRA land title as a valid legal document:** FRA certificate is currently not regarded as a valid document through which communities can get access to other form of entitlements like caste certificate, income certificate. As it has been observed even if the size of FRA land is more than property land the FRA certificate is not regarded as a valid document. Thus, for communities and particularly their future generations to be able use the benefits of the Reservation Policy, particularly with regard to education and employment.

**Fast tracking the process of settlement of claims under FRA-**The FRA provision with regard to filing and settlement of the claims is not a time bound process. This is also evident from our study, when it took 7-8 years (on an average) for a claim to be accepted by the concerned authority. In order to address the backlog for thousands of pending claims , it is imperative that we look at making the filing and verification process simpler by engaging fewer people. Today, the IFR and CFR claims is based on a long drawn process of filing, verifying and then accepting or rejecting the claims, along with the Involvement of DLCs, SDLCs, Forest and Revenue Departments, Gram or Palli Sabhas and the FRCs. It is proposed that the task of claims verification rests with the FRA committee that is often best suited for making the decision based on their proximity to the location and the community.

**Updating the Cadastral Maps:** It has been observed that there are certain tracts of land which were previously fallow land but over the years agricultural practises of the villagers have made those land suitable for cultivation. When land is demarcated under the FRA, the Forest Department uses the Cadastral Maps to identify the land. There are several instances, when a Cadastral Map would identify such “fallow” land resulting in immediate rejections. Accordingly, we recommend the use of GIS technology and updating the Cadastral Maps for accurate identification of land for the FRA.

**Educating and training communities in storage of MFPs:** Communities have failed to capitalise on their ownership over NTFP to improve their lives owing to the conditions imposed on them by local traders and middle men in the business chain process. Since they have a low bargaining power compared to the traders, they often must accept the price that is offered which might even be less than MSP of such products. Since they lack the knowledge and resources to store such products, they have to sale them daily to such traders. Educating them on such

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<sup>32</sup> The prejudice against non-tribals stems from possible encroachments by non-tribals into forests and Scheduled Areas, which could have an adverse impacts on the population mix, legitimise inward migration, erode traditional NTFP regimes and lead to forest cover loss (The Wire, July 1, 2018).

storage facilities will not only reduce their dependency on traders it will also enable them to receive fair prices for NTFPs.

**Organizing more meetings at the Gram or Palli Sabha:** By organizing more meetings in these forums, the core issues affecting the lives of the forest-dwelling communities could be discussed, further. At present, many of the states continue to organize Gram or Palli Sabhas at the Panchayat level (comprising of several villages), which has potential to alienate members of the community or adopt decisions that fail to take into account the interest of a particular community. To help the Gram or Palli Sabhas conduct meetings with the concerned demography, we envision a much bigger role for the local CSOs and grassroots organization, who could help to mobilise the community, considering their proximity to the community.