

REPORT OF THE
FACT-FINDING COMMITTEE
ON THE IMPLEMENTATION OF THE
FOREST RIGHTS ACT, 2006



March 2024



Call for Justice

Delhi

About Call For Justice

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Composition of Fact Finding Committee on Implementation of Forest Rights Act, 2006

Hon'ble Justice (Retd.) S.N. Dhingra, New Delhi	Chairperson
Shri V.K. Bahuguna, IFS (Retd), Uttarakhand	Members
Shri Pratap Singh Panwar IFS (Retd), Uttarakhand	Members
Shri Chaitram Pawar, Maharashtra	Members
Shri Milind Thatte, Maharashtra	Members
Ms. Kiran Sushma Khoya, Advocate, Jharkhand	Members
Shri K.P. Sinha, Chhattisgarh	Members
Shri Ritwick Dutta, Advocate, New Delhi	Member Secretary

Glossary:

SDLC: Sub Divisional Level Committee

DLC: District Level Committee

FRC: Forest Rights Committee

ADC: Autonomous District Council

DFO: Divisional Forest Officer

DM: District Magistrate

DC: Deputy Commissioner

FRA: Forest Rights Act

IFR: Individual Forest Rights

CFR: Community Forest Rights

CFRR: Community Forest Resource Rights

OTFD: Other Traditional Forest Dwellers

FDST: Forest Dwelling Scheduled Tribe

PVTG: Particularly Vulnerable Tribal Group

BDO: Block Development Officer

SDO: Sub Divisional Officer

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FACT FINDING COMMITTEE:

OBJECTIVE, METHODOLOGY AND COMPOSITION

Call for Justice received requests from various organizations working for the welfare of tribals and forest-dwelling communities to undertake a fact-finding on the status of implementation of the Forest Rights Act (“FRA”) in the country. Given that it had been 15 years, since the law came into force, it was imperative to understand the present status of implementation of the Act. The assessment would help in identifying the key issues and concerns with respect to the implementation of the Act. The key findings and recommendations could be submitted to authorities at the central and state levels to ensure that the law was implemented in letter and spirit for the benefit of forest-dwelling communities.

In order to undertake the task, *Call for Justice* felt that a comprehensive study involving the entire tribal population was not feasible and a sample survey should be undertaken about the implementation by a multi-disciplinary team comprising of people who have been working on issues concerning tribals and forest dwellers, forest officials, and lawyers. Accordingly, a Fact Finding Committee (FFC) was constituted on the 15th of January, 2023.

The following were identified as the main objectives of the FFC:

- The social and economic benefits that have accrued to forest-dwelling scheduled tribes and other traditional forest dwellers as a result of the implementation of the Act
- The status and progress with respect to the grant of Individual Forest Rights
- Status with respect to Community Forest Rights (CFR)
- Status with respect to the conversion of Forest Villages into Revenue Villages
- Status of basic facilities concerning forest-dwelling communities
- Functioning of the Gram Sabhas
- Status regarding implementation of FRA in Protected Areas (National Parks and Sanctuaries)
- Land as an Asset for forest-dwelling Communities

A detailed discussion was held to determine the methodology that was to be followed for undertaking the study by the FFC. A questionnaire was prepared to objectively ascertain the status of implementation of the Act. The FFC ensured that advance information was provided to all individuals the FFC intended to meet and interact with. These included the officers of the state and district administration, Gram Panchayats and local organizations. The FFC commenced its field visits in mid-March, 2023 and completed the task by the end of July 2023. The choice of states and districts was done keeping in view various factors, including geographical representation; the applicability of different constitutional provisions (Fifth and Sixth Schedule Areas under the Constitution), poor and good performing states and districts, and a mix of Other Traditional Forest Dwellers (OTFD) and Forest Dwelling Scheduled Tribes (FDST). Based on these criteria, the states of Assam, Maharashtra, Karnataka, Odisha and Chhattisgarh were selected for the sample survey.

EXECUTIVE SUMMARY

India has the world's largest number of forest dwellers: numbering nearly 200 million¹. It constitutes about 16% of India's population and comprises both tribals and other communities.

The law governing forests in India is the Indian Forest Act, 1927 and State Forest Acts. The focus of the Indian Forest Act, 1927 enacted by the Britishers was on 'protecting the forest' from the 'forest-dwelling communities' so that the trees and other resources could be made available for the larger economic and strategic interest of the State. The fact that forests have to be 'protected' from the very communities who had lived there since immemorial times, was followed in the legislations enacted even in the post-independence era. Thus, Forest laws enacted by states such as Andhra Pradesh, Karnataka and Kerala followed the same framework as the Indian Forest Act, 1927.

The enactment of the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ['FRA'] marked a fundamental shift in the way forest dwellers were viewed within the legal framework. The FRA considers forest dwellers not an illegal occupant but rightful claimants, whose rights have been denied, resulting in "historical injustice". This historic injustice was sought to be corrected through a series of legal means, contained in the FRA, and the Rules enacted for the purpose.

The FRA has been under implementation for the last fifteen years. It was therefore imperative to review the working of the law and the challenges faced in implementation of the same. It was with this idea that the Fact Finding Committee (FFC) was constituted by 'Call for Justice'. Given the vast scope of the area and the intricate nature of the issue, achieving a comprehensive understanding of the Act's implementation was an extremely challenging task. Therefore, the aim of the FFC was to capture a 'birds eye' view of the law's implementation in select states. Within the states, the FFC focused solely on specific villages in the Taluks of the district. This strategy was chosen considering the magnitude of effort needed for a thorough assessment of the law's implementation status and the importance of conducting a pilot study to comprehend key challenges in implementation. However, efforts were made to ensure that even with these limitations, the FFC was able to gauge the manner in which the FRA was being understood and implemented at the village level. In order to accomplish this task, the FFC adopted a mix of formal and informal methods. It was ensured, as much as possible, that there was a direct face to face meeting with the Forest-Dwellers and the members of FFC without a presence of government officers. The FFC had detailed interaction with community members based on which questionnaires were filled up. The aim was to understand the practical constraints faced in securing forest rights.

Overall, the status of implementation of the law has been mixed. In Maharashtra, of the two districts assessed, the implementation in Gadchiroli has been found satisfactory, while in Nashik, the process

¹ UNDP, 2012, Recognition of Community Rights under Forest Rights Act in Madhya Pradesh and Chhattisgarh: Challenges and Way Forward

had yet to be completed. While Gadchiroli has become the model district in terms of Community Forest Rights, there are serious concerns concerning the diversion of CFR land for non-forest purposes. The experience with the Divisional Level Committee, a unique to Maharashtra, also needed a critical evaluation to ascertain its effectiveness, in terms of securing rights for forest dwellers.

It needs to be pointed out that the FFC has not verified whether the claims made by individuals, under FRA, were based on the actual forest land in possession of the claimant. Further, it was noticed that even where the claims of individuals for forest land, were rejected or recommended for rejection, no individual were evicted from the forest land, which were being used by them for agricultural and essential purposes.

In Odisha (within the chosen villages of Sundargarh and Kandhamal), substantial advancement had been achieved in implementing the FRA. However, it was observed that a significant gap existed in the districts with respect of IFR and CFR claims submitted and eventually recognized. Besides, there was no time frame followed for taking decisions on the recommendations of the Gram Sabha. Another substantive issue which needed immediate attention is the fencing of Reserved and Protected Forest selected for compensatory afforestation. Many of these areas are existing and potential CFR areas. In many of the villages visited by FFC, it was observed that dense forests have been fenced and plantation undertaken under compensatory afforestation. Another issue that deserve consideration, is the grant of Habitat Rights under the FRA. In Sundargarh, it was noticed that the Particularly Vulnerable Tribal Groups were granted Individual Forest Rights (IFR) but not Habitat Rights, though the same is mandatory under FRA.

The decision-making process was significantly delayed in Kanker and Korba, the two districts of Chhattisgarh where the FFC conducted the study. It was not clear as to why recommendations of the Gram Sabhas were pending at the Sub Divisional Level Committee (SDLC) for nearly 7 years. Effectively, the lack of decision, renders the appeal process redundant.

In Karnataka, the FFC visited two districts i.e. Ramnagara and Mysuru. As per the data of the Ministry of Tribal Affairs, only 5.17% of the claims filed for IFR were recognised, which showed that Karnataka had the highest rate of IFR claims rejection among the States surveyed. With regard to CFR, only 22% of the claims filed were recognised. This was evident during the field visit also, where a high level of rejections was noticed. It is matter of concern that even where IFR has been recognised, the actual land allocated on an average is 0.8 acres: too small an area to eke out a livelihood.

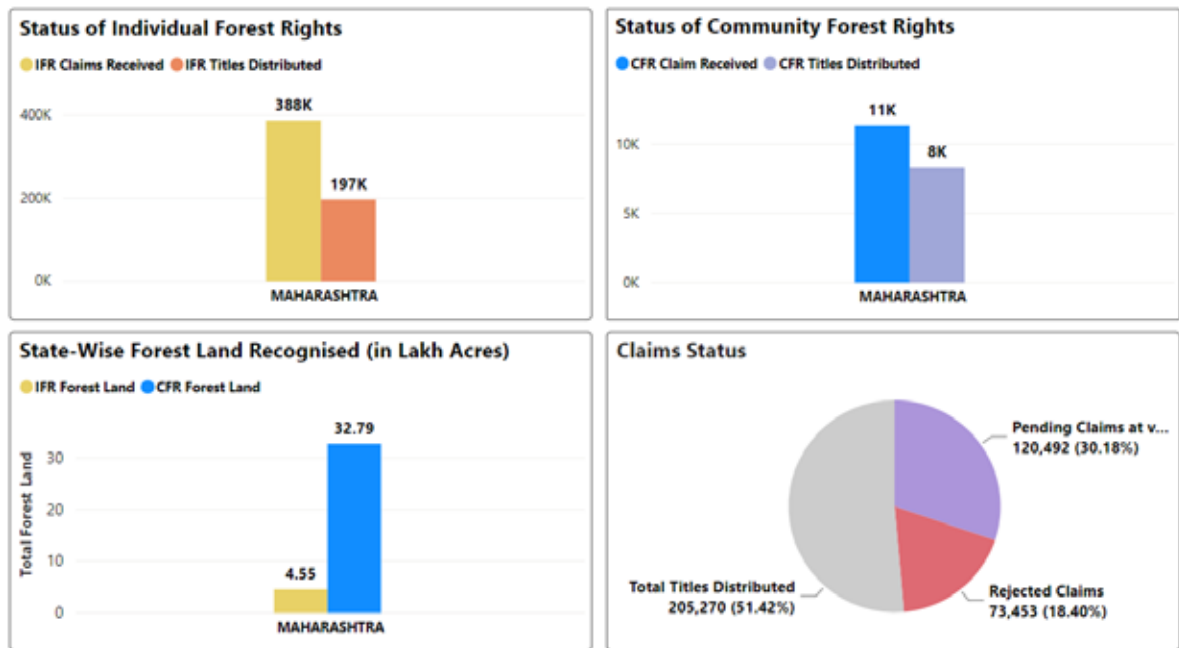
Assam, presents a unique case with respect to the implementation of the FRA. During visit to Dima Hasao, the District Administration stated that the FRA has not been implemented in the district since its inception. In the case of Hailakandi, there is ambiguity with respect to the status of the communities like Khasis, Nagas, Hmar, Reang, among others, who are considered as Scheduled Tribes in the neighbouring states but not in Assam.

VISITS AND FINDINGS

MAHARASHTRA

The implementation of the FRA in Maharashtra has been mixed. While in some aspects, it can be said to be the model state (so far as Community Forest Rights are concerned), in others it has lagged behind. In the Monthly Progress Report, for the year 2017, and the latest Monthly Progress Report for June 2023² with respect to IFR, 35,654 new claims had been received, and 90,626 new titles had been distributed since 2017. As for CFR, the number of claims have decreased, incorrect reporting in the Monthly Progress Report, but 1,290 new CFR titles have been distributed since 2017.

Status of implementation of FRA in Maharashtra³.



An analysis of the above data shows that titles have been distributed with respect to 51.42% of the claims submitted. CFR area accounts for 32.79 Lakh acres, whereas occupation over 4.55 lakh acres have been recognized by grant of IFR. However, the main cause of concern is the large number of pending claims. The fact that 30% of the claims are pending, as no decision has been taken, is an issue that deserves the attention of the concerned authorities. Keeping claims pending for long creates a sense

² <https://tribal.nic.in/FRA.aspx>

³ Source: FRA Dashboard, Ministry of Tribal Affairs (<https://dashboard.tribal.gov.in/>)

of insecurity and perpetuates the historic injustice among forest dwelling communities. The status of rejected claims amounting to 18 % is also a cause of concern, since this figure does not disclose the composition, in terms of either district, nor does it state whether it relates to FDST or OTFD. Evidently, the rejections seem to be more prevalent, especially concerning OTFDs, and there may also be regional disparities at play. It is, therefore, critical that publicly accessible data is made available district-wise, as well as category-wise, in order to oversee the progress in the implementation of the FRA.

The two districts selected for the assessment by the FFC are based on their performance, in terms of implementation of the FRA. Nasik district has been considered as a ‘poor performing’ district, in view of the fact that it has been able to achieve less than 33 % of its potential in terms of IFR and CFR; whereas Gadchiroli has been able to achieve more than 66% of its potential⁴.

THE ROLE OF DIVISIONAL LEVEL COMMITTEE

One of the important institutional mechanisms in Maharashtra with respect to the implementation of the FRA is the constitution of Divisional Level Committee. The Divisional Level Committee is headed by the Divisional Commissioner of the concerned revenue division, and also comprises of the Chief Conservator of Forest and three members belonging to Scheduled Tribe and the Additional Tribal Commissioner. The Divisional Level Committee was constituted only for areas under the Fifth Schedule of the Constitution, by the Governor of Maharashtra, in exercise of the power bestowed under the Constitution. The Fifth Schedule of the Constitution, *provides the Governor may, by public notification, direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area (referred to in clause (1) of Article 244 of the Constitution of India) or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to the exceptions and modifications specified in the notification.* As per the Notification, issued by the Governor under Section 6 of the FRA, the *decision of the District Level Committee on the record of forest rights shall be final and binding.* However, it has been reported that a large number of applications, relating to record of rights, were rejected by the District Level Committee. There is no provision in the Act for appeal against the decision of the District Level Committee. Therefore, it was felt that there needs to be a provision for appeal against the order of the District Level Committee to reconsider the rightful claims of applicants. In light of this, modifications were made to the FRA, specifically for Fifth Schedule areas in Maharashtra. These changes included the provision of the right to appeal granted that decisions of the District Level Committee to the Divisional Level Committee.

However, it needs to be pointed out that the FFC could not observe any tangible difference, so far as recognition and settlement of rights was concerned, after the setting up of the Divisional Level Committee. In almost all instances, it was noticed that Appeals were either kept pending or were sent

⁴ <http://www.fra.org.in/document/Maharashtra%20Promise%20and%20Performance.pdf>

back to the District Level Committee for reverification. Thus, other than adding another layer/ level to the hierarchy in the bureaucratic decision making process, it has not led to any change so far as correcting the historic injustice is concerned.

DISTRICTS IN FOCUS – NASIK & GADCHIROLI

The FFC assessed the implementation of the FRA in a few blocks of Nasik and Gadchiroli districts. The districts were chosen keeping in view the extent of forest cover, presence of forest-dwelling communities, and pre-existing concerns with respect to the implementation of FRA. While Gadchiroli is regarded as a model district so far as CFR's were concerned, the situation with respect to Nasik was quite the opposite: both from the point of IFR and CFR. Hence, it was decided to examine the implementation of the law in the two districts to gain a comprehensive understanding of the issues and concerns related to the FRA in Maharashtra.



NASHIK DISTRICT

Nashik district is the third largest district in Maharashtra in terms of Population, of the total population of 61,09,052, 1,562,207 are Scheduled Tribes (STs), constituting 25.62% of the population (Census of India 2011). The district is located in the northern region of the state covering an area of 15,582 square kilometres. It is bounded by Dhule district to the north, Jalgaon district to the east, Aurangabad district to the southeast, Ahmadnagar district to the south, Thane district to the southwest⁵, Valsad and Navsari districts of Gujarat to the west, and Dangs district to the northwest.. Out of 15 blocks in the district, as many as 8 blocks viz; Surgana, Peth, Igatpuri, Kalwan, Baglan, Dindori, Trimbakeshwar & Nashik are tribal blocks⁶. Of the three Particularly Vulnerable Tribal Groups (PVTG) in the state, namely *Katkari*, *Kolam* and *Maria Gond*, the district is i.e. Katkari home to the tribes (Census of India 2011).

The forest categorization in Nashik as per Government is in three categories – Reserved, Conservative⁷, Non Classified⁸

Department	Forest Area (Sq. Km)				Percentage With Respect To Total Geographical Area	Reference Year
	Reserved	Conservative	Non Classified	Total		
1	2	3	4	5	6	7
	2936.00	244.00	5.00	3185.00	20.5	2010-11
	32.00	0.00	0.00	32.00	0.2	2010-11
	45.00	0.00	12.00	57.00	0.4	2010-11
	161.00	0.00	0.00	161.00	1.0	2010-11
Total	3174.00	244.00	17.00	3435.00	22.1	

Source: District Forest Officer, Deputy Conservator of Forest, Data updated on May 9, 2013

STATUS OF FRA IMPLEMENTATION:

As there is no latest data available in the public domain with regard to FRA implementation, district level data of 2016 has been represented in the following tables. Nashik is one of the ‘poor

⁵ <https://nashik.gov.in/about-district/>

⁶ <https://environmentclearance.nic.in/DownloadPdfFile.aspx?FileName=/sSi8vMq0FSPagLR/EmbJVR/5wHBPIiwnZtmxSOWjSp8MEApCZWgMPdobgYGCRk+Dp+5NLBMuO/x+6Eh90sw=&FilePath=93ZZBm8LWEXfg+HAIQix2fE2t8z/pgnoBhDIYdZCxzVPEh4a7F53Cae7tleKGoXIDiA7chYePNgRJpehWx3dLsaLae8RS5VxBvVdCANIMg=>

⁷ It is not clear as to what is meant by ‘conservative’. The Indian Forest Act, 1927 does not refer to any category termed as ‘Conservative’.

⁸ <http://www.mahasdb.maharashtra.gov.in/home.do>

performing⁹ districts with respect to FRA implementation, as only 5 percent of total potential has been achieved¹⁰.

Table 1: Minimum CFR Potential with the CFRs/CRs Titles recognized by the State.

Total Geographical Area	Minimum CFR Potential	Total titles distributed	Total area of Titles distributed in ha	Total Titles distributed	Total area of Title distributed in ha	% of MIN Potential recognised until June 2016	% of MIN Potential recognised until Nov 2016
		Until June 2016		Until November 2016			
15,53,000	3,23,340	202	12,323	305	16,102	3.80%	5.00%

Table 2: Scheduled Tribes and Other Traditional Forest Dwellers Population benefiting from FRA

Estimated No of villages under CFR	Total Population benefiting from CFR	Total Population of Scheduled Caste	%	Total Population Scheduled Tribe	%	Total Population of All Others	%
1,174	19,17,683	1,03,919	5	9,78,279	51	8,35,485	44

Table 3: Claims Received, Approved, Pending and Rejected at Gram Sabha, SDLC and DLC Levels

Gram Sabha				Sub Divisional Level Committee				District Level Committee			
Claims received	Claims Rejected	Claims Approved	Pending Claims	Claims Received	Claims Rejected	Claims Approved	Pending Claims	Claims Received	Claims Rejected	Claims Approved	Pending Claims
1005	0	927	78	927	90	565	272	565	2	367	196

Source: Maharashtra | Promise & Performance: Ten Years of the Forest Rights Act | 2017 (Link: <http://www.fra.org.in/document/Maharashtra%20Promise%20and%20Performance.pdf>)

VISIT BY FFC

The FFC visited Nashik district from the 16th to the 18th of March, 2023. The FFC was led by **Chairperson Justice (Retd) S.N Dhingra** and included **Pratap Singh Panwar, Kiran Sushma Khoya, Chaitram Pawar and Member Secretary, Ritwick Dutta**. The FFC was assisted by local activists and grassroots organisations (Vayam) working on tribal rights as well as district level officers.

⁹ District where 0%-33% of total Potential achieved has been categorized as Poor Performing Districts).

¹⁰ <http://www.fra.org.in/document/Maharashtra%20Promise%20and%20Performance.pdf> Data up to 2016

Village Devdongari, Trimbakeshwar Taluk

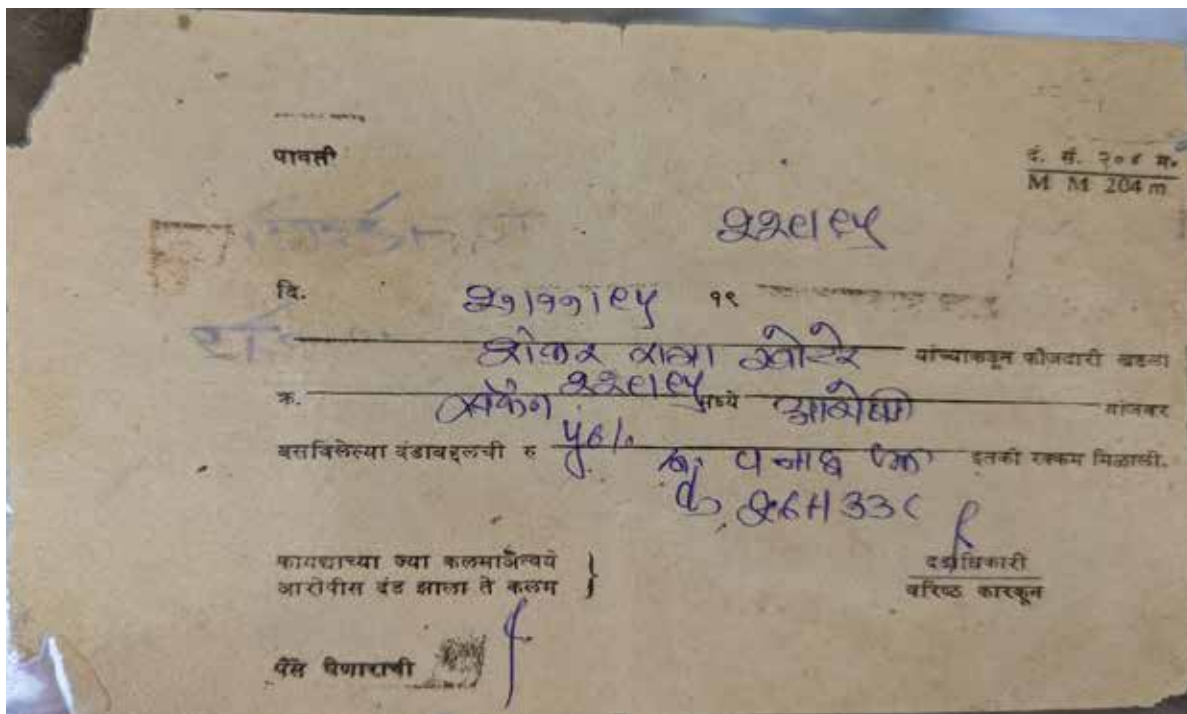
The FFC first visited Village Devdongari predominantly inhabited by the *Warli* tribe. The area formed part of an undulating terrain, with a mix of forest and agricultural land. The habitation is concentrated in a single area, rather than being spread throughout the land. The predominant occupation is that of agriculture rain-fed. As per the statements recorded during the visit, the *Warlis* have been residing in this land for at least 4 to 5 generations. However, given the low crop productivity, most of the families depend on manual labour to earn their livelihood. For this purpose, they undertake seasonal migration to nearby cities including Mumbai and Nashik. It was also stated that a significant number of families worked as farm labourers in the vineyards of the Nashik district.



Community interaction in Nashik

The FFC collected evidence from claimants, who deposited before the committee, on 16.03.2023. It was evident that the claims were first filed under FRA only in 2018: a decade after the FRA came into force. In response to the question, as to why it took a decade for the claims to be filed, the claimants stated that they were not aware of the law; whereas the District Administration could not provide any satisfactory explanation for the long delay in initiating the process. Considering that the FRA had a cut-off date of 13-12-2005 for recognising occupation, it was crucial to verify that the community claiming recognition did not occupy forest land after the FRA came into force in 2008. Simultaneously, it was

imperative to safeguard the legitimate rights of these communities who were denied the benefit of the claim due to lack of awareness.



Offence Report submitted as proof of occupation

The FFC interacted with the community members for the entire day, in order to have an in-depth understanding to the issues and concerns. The persons who deposed before the FFC were those whose claims were either rejected or were pending. None of the villagers who had secured their rights under FRA were present in the meeting. Thus, the interaction was limited to those who were aggrieved by the non-recognition of their rights. The FFC members filled up the questionnaire after posing question to the claimants. It was ensured that there was adequate representation in terms of gender and of marginalized communities.

The analysis of the submission made by the claimants before the FFC revealed the following:

1. All claims were submitted only in 2018 and not before that.
2. Out of rejected claims, in majority of the instances, there was total rejection of the claim both at the level of SDLC and DLCs.
3. The principal reason for rejection was that the claimants were not in occupation of the forest land as on 13.12.2005.

4. In almost all the instances, the main evidence adduced in the claim was a caste certificate / ration card / police *patil* certificate / statement of elder. In some instances, offence reports were also submitted which were considered as crucial evidence which was accepted.
5. In all the instances, the area under habitation was located at a distance from the forest area under cultivation. The above evidence did not disclose the occupation of forest land but only the homestead. Therefore, the certificates by itself did not disclose the area under occupation.
6. In many instances, satellite images had been submitted to show occupation as on 13.12.2005. These satellite images were in addition to other evidence that has been adduced.
7. In all the instances, the claims had been rejected by the SDLC and DLC and were pendings with the Divisional Level Committee.
8. It was found that the average claim made by almost everyone in Devdongari was 4 acres. It has been claimed that the area under occupation as on 13.12.2005 was the area for which claims have been submitted. The point that deserve consideration, is as to how, in almost all the claims, the area of land is rounded of either to 4 acres. In absence of any technical support for land measurement, the claimants seems to have written approximate areas; or they were advised to file claim for 4 acres irrespective of actual land holding.
9. The Divisional Level Committee does not seem to have any time frame for deciding the appeal. As a result, the appeals were kept pending indefinitely. There was lack of transparency as the claimants had no information on to the status of the pending appeals. This had created a situation, wherein despite the enactment of FRA, the forest dwellers/applicants continued to be in the dark, so far as their rights were concerned. With respect to community forest rights, no recognition has taken has taken place, and the process is yet to be initiated.
10. It was informed that some of the forest land allotted to the forest dwellers was subsequently transferred to outsiders for setting up tourism. It needs to be investigated as to whether this is true. In case the statement is true, it will lead to large scale illegal transfer of forest land from tribals to non-tribals for purely commercial purposes. This is against the letter and spirit of FRA. This issue deserves serious consideration by the Government.
11. The FFC, however noted that no one was displaced from the land in their occupation, whether residential or forest land.



Gramsabha resolution and rules to protect biodiversity in CFR area

Ranpada, Trimbakeshwar Taluk

The FFC collected evidence from claimants who deposed before the committee on 16.03.2023. The FFC interacted with the villagers on 16.03.2023. The predominant occupation was agriculture. The claimants were denied IFR on the ground that the area for which the claim was made was not under occupation as of 13.12.2005. This was despite the fact that in many instances, in addition to usual documents such as Aadhar card, ration card, caste certificate, punchnama, and a village elder statement, the claimant also submitted forest offence report i.e. receipt of committing of forest offences related to felling of trees prior to 13.12.2005. In case of Ranpada also, the appeal is pending at the level of Divisional Level Committee.

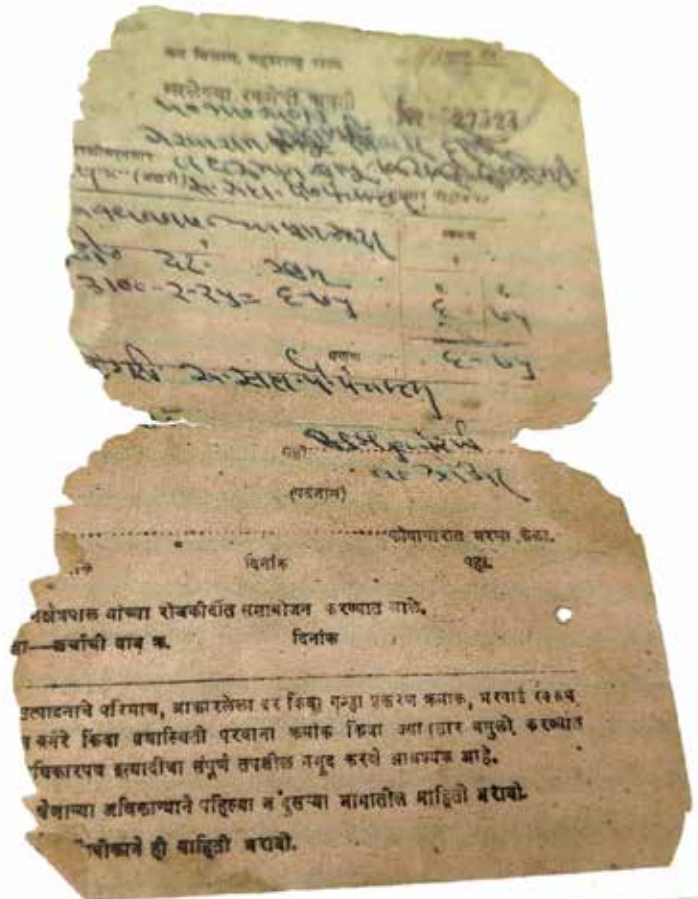


Comparative Google earth images as evidence of occupation

Bormaal, Trimbakeshwar Taluk

The FFC collected evidence from 5 number of claimants who deposed before the committee on 16.03.2023. In the case of Bormaal located in Trimbakeshwar Taluk, the claims were rejected on the ground that the claimants were not in occupation of the land prior to 13.12.2005. Further, the appeal filed before DLC and SDLC were rejected and were pending with the Divisional Level Committee for the last four years.

Similar to Ranpada and Devdongari, in the case of Bormaal also the process under FRA was initiated only in 2018. With regard to community forest resource (CFR rights), by Resolution dated 24.01.2022, the Gram Sabha approved the proposal for notifying 150 hectares as CFR area. However, only 50 hectares had been declared by the DLC. The deponents stated that the Forest Department, as a matter of practice only accepts 30% of the total area claimed as CFR by the Gram Sabha and rejects the rest without assigning any reason.



Offence Report submitted as proof of occupation

Kopurli

The FFC collected evidence from 2 claimants from Village Kopurli, Taluk Peth who deposed before the committee on 18.03.2023. Despite multiple evidence being submitted, the claims were rejected by the SDLC, and despite an appeal being filed after the rejection, a response was still awaited from the DLC. It is pertinent to point out that the claims were first filed in 2008 and 2010.

Village Gandole, Taluk Peth

The FFC collected evidence from 2 claimants, who deposed before the committee on 18.03.2023. The two claimants stated that their claim of 10 acres of land each was accepted by the Gram Sabha; however, the SDLC only accepted claims of 2 acres of land. In one instance, where a claim of 10 acres was made, the SDLC only approved 400 sq. yards. (10 acres is the maximum area for which claims can be made)



Chairperson Justice (Retd) S.N. Dhingra with Pratap Singh Panwar and officers of District Administration in Nashik district.

Hivali

The village Hivali is located in Trimbakeshwar Taluk. The FFC collected evidence from 3 claimants who deposed before the committee on 16.03.2023. The process in this case started in 2018; and the claims were rejected on the ground that evidence was produced in occupation prior to 13.12.2005.

Koswan, Taluk Kalwan

The FFC collected evidence from 9 claimants who deposed before the committee on 18.03.2023. The process under FRA was initiated in the years 2009 and 2010. In village Koswan, the FFC noted a wide gap between the claim made and accepted. In one instance (Malsabai Yevaji Gagude) a claim was made for 7 acres, but only 0.6 hectares was granted. However, no appeal was filed against the decision. In the other instance, also in Koswan despite rejection, no appeal was filed. This may be because people were not aware of the appeal procedure.

MEETING WITH DISTRICT ADMINISTRATION

A meeting was held between the members of the FFC and officials of the District Administration comprising of the Collector, Additional Collector, Assistant Collector, Deputy Conservator of Forest, Deputy Collector as well as Sub Divisional Officers on 17-03-2023 at the office of the Collector, Nashik. It was informed that the total of 21000 appeals were filed and pending at the DLC level. The Divisional Level Committee, headed by the Divisional Commissioner stated that no claims were pending at their level and all claims / appeals have been sent to SDLC for field level verification. To ensure effective coordination, daily reporting through WhatsApp are used to take place among field level officers. It was further submitted by the Collector, Shri Gangatharan D that all pending claims would be decided within the period of two months.

It was further stated that a total of 56122 claims were submitted, of which 32304 were found to be valid and 21395 were rejected on the ground that they had no documentary proof. It was further pointed out that with respect to 32304 claims that were found to be valid, approximately 15000 have claimed that they have more land in their possession However, they did not have the supporting documentary evidence. The District Administration informed the FFC that they had put in place a system for verification through use of satellite imagery.

GADCHIROLI DISTRICT

Gadchiroli district is situated on the North-Eastern side of Maharashtra State and shares the State borders of Telangana and Chhattisgarh. Total population of the district is 10,72,942; of which 4,15,306 are Scheduled Tribes (STs), constituting 38.7% of the population. (As per Census 2011). The district is categorised as Tribal district and most of the land is covered with forest and hills¹¹. The district has forests cover of 11,33,009 Hectare which is 75.96 % of the total geographical area. As per data of 2013 of the Forest Department, around 85 % of the total geographical area of the district is forest. The main tribes in Gadchiroli district are Arakh, Gond, Rajgond, Halba, Halbi, Kawar, Kau, Pardhan, Pathari, Saroti, and Halbikawa.

¹¹ <https://gadchiroli.gov.in/about-district/>

The District is having three Particularly Vulnerable Tribal Groups (PVTG), namely *Katkari, Kolam and Maria Gond* (Census of India 2011).



Pratap Singh Panwar, Member FFC, filling up survey questionnaire

The forest categorization in Gadchiroli as per Government are in three categories - Reserved, Conservative, Non-Classified¹²

Department	Forest Area (Sq. Km)				Percentage With Respect To Total Geographical Area	Reference Year
	Reserved	Conservative	Non Classified	Total		
1	2	3	4	5	6	7
	9415.00	2791.00	154.00	12360.00	80.1	2010-11
	481.00	38.00	0.00	519.00	3.4	2010-11
	0.00	0.00	144.00	144.00	0.9	2010-11
	N.A.	N.A.	N.A.	N.A.	N.A.	2010-11
Total	9896.00	2829.00	298.00	13023.00	84.4	

Source: District Forest Officer, Deputy Conservator of Forest, updated on May 9, 2013

¹² <http://www.mahasdb.maharashtra.gov.in/home.do>

STATUS OF FRA IMPLEMENTATION:

Gadchiroli is one of the “High Performing Districts” with respect to FRA implementation, as 77.90% percent of total potential was achieved. (Districts where <66% of total Potential achieved have been categorized as Poor Performing Districts)¹³. If Gadchiroli is taken out of the picture, Maharashtra’s average performance of CFR implementation, as compared to the minimum potential, would be approximately 10 per cent.

Table 4: Minimum CFR Potential with the CFRs/CRs Titles recognized by the State.

Total Geographical Area	Minimum CFR Potential	Total titles distributed	Total area of Titles distributed in ha	Total Titles distributed	Total area of Title distributed in ha	% of MIN Potential recognised until June 2016	% of MIN Potential recognised until Nov 2016
		Until June 2016		Until November 2016			
14,41,200	5,57,137	1355	4,34,181	1355	4,34,181	77.90%	77.90%

Table 5: Scheduled Tribes and Other Traditional Forest Dwellers Population benefiting from FRA

Estimated No of villages under CFR	Total Population benefiting from CFR	Total Population of Scheduled Caste	%	Total Population Scheduled Tribe	%	Total Population of All Others	%
1,590	9,08,382	96,809	11	3,92,206	43	4,19,367	46

Table 6: Claims Received, Approved, Pending and Rejected at Gram Sabha, SDLC and DLC Levels

Gram Sabha				Sub Divisional Level Committee				District Level Committee			
Claims received	Claims Rejected	Claims Approved	Pending Claims	Claims Received	Claims Rejected	Claims Approved	Pending Claims	Claims Received	Claims Rejected	Claims Approved	Pending Claims
1791	0	1791	0	1791	317	1474	0	1474	47	1355	72

Source: Maharashtra | Promise & Performance: Ten Years of the Forest Rights Act|2017 (Link: <http://www.fra.org.in/document/Maharashtra%20Promise%20and%20Performance.pdf>)

The FFC members comprising of Pratap Singh Panwar and Chaitram Pawar Visited Gadchiroli from 21.03.2023 to 23.03.2023.

¹³ <http://www.fra.org.in/document/Maharashtra%20Promise%20and%20Performance.pdf> Data up to 2016

Gram Panchayat Chadgaon

The village has a total population of approximately 4000 people. Despite, IFR claims made by the forest dwellers, the actual area allotted was less than what was initially claimed. The primary reason cited by the DLC for all instances of rejection, is the visibility of trees in the area as per satellite imagery taken in 2012; leading to the conclusion that the area was not under occupation.

FFC met with claimants of Kurkheda and Gondia villages. All the deponents stated that the process for declaration of CFR had been very smooth. According to them, the CFR was demarcated based on the Nistar book available in the Panchayat. As per the statement, out of 1681 villages, 1432 villages had been allotted CFR rights. Further, the Government of Maharashtra notified the CFR Gram Samitis as MNREGA implementation agencies. As such, many of the activities were carried out under the MNREGA fund within CFR areas. Further, Tendu patta collection and disposal had also become quite lucrative. Certain issues of concern were pointed out by the deponents were:

- Tendupatta collection was restricted only to the CFR areas and in instances where collection takes place outside CFR areas, the Forest Department initiates action against the forest dwellers. It was submitted that it was not always possible to limit collection to the CFR areas only, and depending on various climatic factors, the communities had to cross the CFR boundaries in order to earn their livelihood.
- Despite the CFR areas being vested with the Gram Sabha, the Forest Department still retains substantial control over these areas. Specifically, the Forest Department had fixed a target for *Tendupatta* collection without considering the needs and aspirations of forest dwelling communities. Further, the problem arises because the Forest Department also issues Tenders for collecting *Tendupatta* to outsiders within CFR areas, which was in complete violation of the FRA.
- An issue of serious concern was that the Forest Development Corporation undertakes felling operations / silvicultural operations in areas under CFR, despite resistance from CFR *Samitis*. Serious concerns were raised with regard to a large number of mining and other projects proposed in Garchiroli district. It was stated that the declaration of CFRs in areas proposed for mining and other projects was deliberately not done in order to facilitate diversion of these areas for these projects. It was specifically stated that in villages such as Chikli, Vihirgaon, Dongargaon, Bhagwanpur and Sirpur, the CFR claims had been pending since 2010-11. Moreover, the CFR areas lack sufficient legal protection. In specific cases, a substantial portion of CFR had been allocated for the construction of a dam, significantly impacting the livelihoods of communities dependent on CFR. There were also suggestion from some of the dwellers that a definite timeline should be established for the completion of title allocations under the FRA.

Muramgaon

In Muramgaon, it was stated that though the titles were given in 2011, the pattas/titles were subsequently canceled by the Patwari on the ground that the said patta and title were on Reserve Forest land. This was the case not only in Muramgaon but also Belgaon, Khedgaon, Ampaili and Hirangi.

In case of Ridnahi located in Gram Panchayat – Pannewara, Tehsil – Dhanora, it was observed that 67 cases with regard to IFR were pending for non-submission of Google maps, although other evidences were provided. This case aspect was also highlighted with respect to Umerpal and Muramgaon.

Kurkheda

In case of village Kurkheda, the CFR claims of 102 villages were not accepted since the same were not in accordance with the format (J' Format). Further, the *Nistar patrika* was not taken into consideration while considering the CFR claim.

LESSONS FROM GADCHIROLI

Despite some of the shortcomings and challenges in the implementation of FRA, Gadchiroli has important lessons for the country. These could help in strengthening the implementation of the FRA.

The first relates to the evolution of Gram Sabhas as ‘body corporate’ and the second relates to the manner in which the state focussed on the need to equip and train the Gram Sabhas to be an effective manager of the forests.

In order to make the Gram Sabhas an effective institution, the state has taken steps to make the Gram Sabhas a ‘body corporate’. In legal terminology, the term body corporate is broadly defined as a corporate entity that has a legal existence. The Panchayat Act of many states defines Gram Sabha as a body corporate. For example, the Maharashtra Village Panchayat Act, 1959 under the clause incorporation of panchayats specifies that “Every panchayat shall be a body corporate by the name of *“the Village Panchayat of, having perpetual succession and a common seal, with the power to acquire and hold property, both movable and immovable, whether within or without the limits of the village over which it has authority and may in its corporate name sue and be sued”*. A similar provision exists in all other State Acts, which have been amended after the 73rd Amendment. The incorporation of panchayats as body corporate not only makes their legal entities but also enables them to carry out a variety of functions as detailed in XI schedule (Article 243 (G) annexed to the 73rd amendment). The panchayat therefore does not remain as a collective of representatives but becomes an institution having a perpetual character. Given the range of function that has been entrusted to the Gram Sabhas under the 73rd constitutional amendment it would have been good to consider Gram

Sabhas also as a body corporate. Though, legally, the Gram Sabha in Maharashtra is not designated as ‘body corporate’, it has all the elements of a body corporate.

One good instance of how a Gram Sabha has become a body corporate is evident in Mendha-Lekha in Gadchiroli district. Mendha-Lekha was the first village in the country to receive CFRs over 1809 hectares of surrounding forests under the FRA. After acquiring forest rights, it obtained a Permanent Account Number (PAN) from the Income Tax Department; and a tax deduction and collection account number (TAN) and it began to sell its bamboo and receive the proceeds from the contractors. The Gram Sabha maintained a separate bank account and also instituted the Village Development Fund. Recognising the body corporate nature of the Gram Sabha, the government declared the Gram Sabha as the nodal agency to implement its work under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). Mendha-Lekha implemented this decision so effectively that in November 2021, the government recognised all the CFR holding Gram Sabhas in the State as nodal agencies under the MGNREGA. Mendha-Lekha also declared itself as “Gramdani” village under the Gramdan Act in November 2013.

This transformation of a Gram Sabha from a general assembly to a body corporate is visible in other talukas of Gadchiroli. In Korchi Taluka and Korkheda Taluka, a significant number of Gram Sabhas have obtained PANs. In a study done by Bokil and Gogulwar (*Economic and Political Weekly*)¹⁴, it was found out that in the 85 Gram Sabhas studied in Korchi taluka, all of them had a Permanent Account Number. Further, in Korchi ten Gram Sabhas (12%) had established their own offices, whereas in Korkheda seven Gram Sabhas had done so. Holding immovable and movable property is a clear characteristic of a body corporate. Further, conducting statutory audit have to be another indicator of a corporation. In Korchi 19 Gram Sabhas either conducted the audits or were in the process of doing so.

The FFC interacted with officials of the District Administration. The District Collector submitted a detailed note on some of the innovations done in the district in order to ensure that the FRA was implemented in both letter and spirit. Project Ekal was launched by the Gadchiroli district Administration with the aim of strengthening Gram Sabhas by giving them community forest rights. The broad objective of the Ekal project was to enable biodiversity conservation and to assess improvement in local livelihood by empowering Gram Sabhas build capacity both at the community as well as the institution level so as to take responsibility for implementation of the FRA. The project aimed at facilitating the commercialization of Non-Timber Forest Produce (NTFP) as well as capacity building and training of Gram Sabha in developing forest conservation and management plans. Its aim was to ensure development in professional and technical skills among the Gram Sabhas. The project also aimed to provide a proper market for the Gram Sabhas to sell the NTFP. This was felt necessary since most NTFPs did not have a minimum

¹⁴ Vol. 58, Issue No. 37, 16 Sep, 2023

support price. The project, therefore, aimed at setting up a single window system for all services and support needed by Gram Sabhas (given the fact that the FRA empowers the Gram Sabha to issue transit permits). The district administration was implementing a program to help Gram Sabhas to issue transit permits.

Some major objectives of the project are:-

- (i) to facilitate the process of making policies at Gram Sabha more responsive to linkages between sustainable tribal livelihood and biodiversity conservation,
- (ii) to enhance the capacity of Gram Sabha, community and other institutions in the development, management and implementation of forest conservation and management plan,
- (iii) to develop an institution and administrative setup to support Gram Sabhas in matters related to minor forest produce.

In terms of structure, the project envisaged a three-tier structure comprising of district level convergence committee, a block level convergence committee and a project management unit. The district level convergence committee was headed by the District Collector and aimed at ensuring the convergence of government schemes and coordination of government agencies to provide benefits to those who had IFR and CFR. The block convergence committee was headed by the project officer. The committee delineated the nature and timeline of the work of village level committee. The project management unit was constituted under the District Collector to undertake the design, management and implementation of the project. This three major parts of the project are (i) Engaging Gram Sabhas in the project and with district administration. (ii) Capacity building and training of Gram Sabha. (iii) Developing and managing the *Ekal* Centre.

To ensure effective implementation a dedicated dashboard had been placed to monitor and review CFR/IFR distribution, progress in terms of training and development of conservation and management plan. In order to implement the above project, a memorandum of understanding had been signed between the community forest rights management committee and the district administration. To build capacities, a 15 days training was provided to five representatives of Gram Sabha. This involved 7 days of residential training and 8 days of practical training with the respective Gram Sabha. The training included three modules (i) Act related to tribal region, (ii) Minor forest produce and project management (iii) Record keeping and audits.

Once the training is completed, the Gram Sabhas are requested to register themselves as the implementing agency under NREGA. Once they are registered, they are empowered to undertake activities under NREGA as implementing agencies. Further, the Gram Sabha also develops the People's Biodiversity Register as well as forest conservation and management plan. In order to facilitate all the activities Ekal Centres are established, these are administrative units which act as a single window system

to provide government services and transit permits to the Gram Sabhas. Ekal Centres also aim to provide market linkage to the Gram Sabha by acting as a platform for buyers and sellers to come and exercise the process. The response to the project Ekal was quite encouraging, a total of 531 Gram Sabhas entered into a MoU with the district administration, 1093 Gram Sabhas have been trained comprising of 1066 participants. In addition, 65 Gram Sabhas have registered under NREGA and godowns and storage facility have also been sanctioned by NREGA.

Conclusion

The Forest Rights Act's implementation in the State of Maharashtra has important lessons for the rest of the Country. It is pertinent to point out that the Forest Rights Act itself owes its origin, to a large extent, to the long struggle of forest dwellers in Maharashtra, to decriminalise their occupation of forest land and to regard them as legitimate forest dwellers whose rights have to be settled and recognised. This change in terminology i.e., encroachers who have to be legalised to rights that have to be recognized and settled, is the essence of the FRA. It would not be correct to make a generalised conclusion about the status of implementation of the FRA based on data collected from a few villages located only in two districts of Maharashtra. However, this does give an idea about the progress with regard to the implementation of the Act and what needs to be done to ensure that the law is implemented both in letter and spirit. It is evident that there has been significant progress towards granting CFRs to Gram Sabha in Gadchiroli and making Gram Sabha an effective institution by making them a body corporate. However, there were still a significant number of CFR claims that had been rejected or pending. One probable reason for reluctance to grant CFR is attributed to plan to undertake large scale mining in forest areas and this is a cause of concern. The denial of rights, due to mining potential, is in violation of the FRA. Further, the diversion of CFR areas to non-forest use also undermines the effort of local communities to protect and regenerate the forest areas. Another issue of concern is the lack of representation of Other Traditional Forest Dwellers (OTFD) in any of the FRA Committees -FRC-SDLC-DLC and Division Level Committee, severely limits the effectiveness of the law, since it gets restricted only to those communities that are classified as Scheduled Tribes. Given the fact that OTFD as well as nomadic communities are equally the focus of FRA, it is imperative that the composition of the committees must fully reflect the intent of the law.

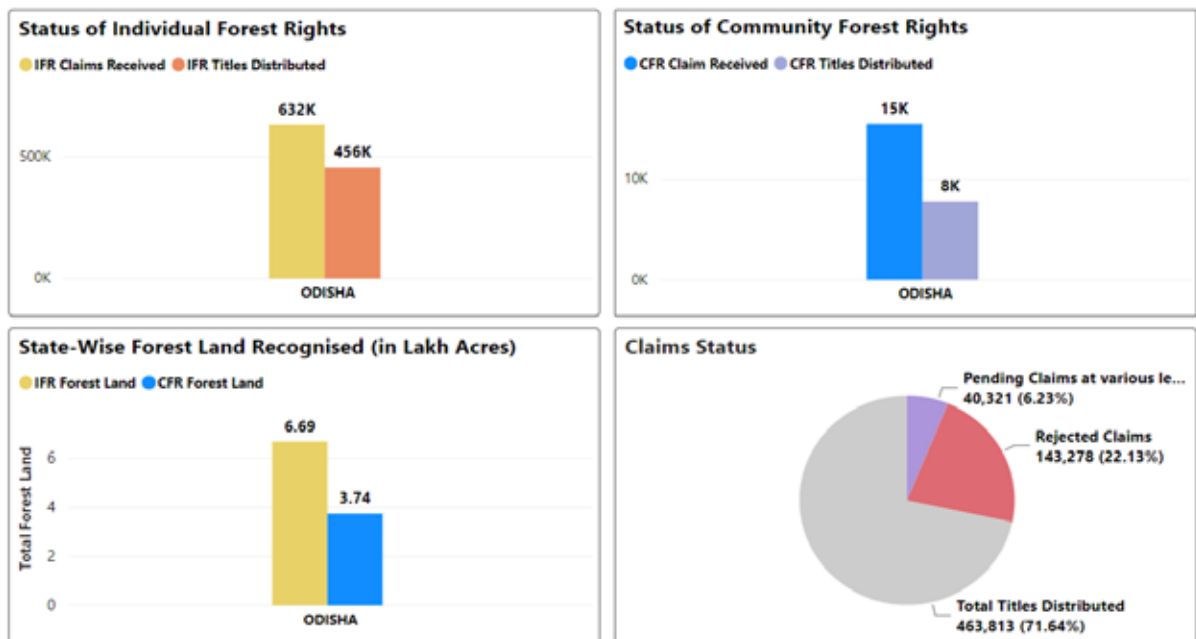
Finally, the Maharashtra government must undertake a thorough assessment of the Divisional Level Committee's functionality. While the intention may seem commendable, in reality, it has evolved into an additional bureaucratic layer. The Divisional Level Committee appears ill-equipped to handle appeals from the decisions of District Level Committees. In such a scenario, the existence of Divisional Level Committees seems to serve no practical purpose.

ODISHA

Odisha has been the subject of many studies and assessments in terms of implementation of FRA. In the Monthly Progress Report of the Ministry of Tribal Affairs, for the year 2017, and the latest Monthly Progress Report for June 2023¹⁵, since 2017, 10,704 new Individual Forest Rights (IFR) claims and 388 new Community Forest Rights (CFR) claims have been received, while 53,585 new IFR and 1,164 CFR titles have been distributed in the state.

In Odisha, a total of 632,326 IFR claims were received, with 456,923 distributed, resulting in IFR distribution rate of 72.26%. In the case of CFR, 15,461 claims were received, and 7,813 have been distributed, resulting in a CFR distribution rate of 50.54%. Furthermore, 6.70 lakh acres of forest land have been recognized for IFR, while 3.74 lakh acres have been recognized for CFR. There are currently 38,788 claims pending at various stages of processing, accounting for 5.99% of the total claims. Additionally, 144,263 claims have been rejected, constituting 22.27% of the overall submissions.

Status of implementation of FRA in Odisha.



Source: FRA Dashboard, Ministry of Tribal Affairs (<https://dashboard.tribal.gov.in/>)

¹⁵ <https://tribal.nic.in/FRA.aspx>



KANDHAMAL DISTRICT

A visit was made by the FFC members **Ritwick Dutta, Member Secretary and Kiran Sushma Khoya** on 19.04.2023 to villages of Darisuga, Kulikuda, Sorukui, Telapali, and Sulembi which are part of the Phiringi Taluk of district Kandhamal.



FFC Team with Forest Dwellers at Phiringi Taluk

Darisuga

In the village Darisuga, a resolution had been passed by the Gram Sabha to declare an area of 11.67 acres as a community forest resource. A copy of the resolution was also submitted to the FFC. However, the SDLC had only accepted 3.76 acres. The title deeds are yet to be issued for CFR rights for Darisuga. One of the main grievances of the people of the village was that the Forest Department had been planting Teak and cutting down fruit bearing trees. As a result, wild animals, especially monkeys, are causing major loss to crops due to frequent raiding. The common grievance of the forest dwellers was the large-scale replacement of native trees with timber and exotic trees, which were of no utility to the forest or to the community.

Kulikuda

In Kulikuda village, the FFC interacted with members of Other Traditional Forest Dwellers, belonging to the *Dumbal* community. It was informed that none of the community members had applied for IFR, even though they occupied forest land. This was because they mistakenly believed that the FRA applies exclusively to Scheduled Tribes and not to other communities.

In Kulikuda village, it was noticed that though claims for IFR were filed in 2008 by many forest dwellers, since the Gram Sabha was held in 2008, there had been no recognition of rights. Further, the rights were rejected in 2011 by SDLC and in 2014 by DLC.

Sorukui

In Sorukui village also, although a number of claims were made for Individual Forest Rights, the area that was finally allocated was only a fraction of the actual area for which the claim was made.

Telapali

In Telapali village, Taluka Phiringi there were instances where people were in occupation of both forest land as well as non-forest land. In those instances, claims were made for only those forest lands which were in occupation. A prevalent feature among the studied villages was the restricted application of the FRA: it was limited to members of the Scheduled Tribes and not to other traditional forest dwellers. Members belonging to the Scheduled Caste and other backward classes, who testified before the FFC, explicitly mentioned that they genuinely believed the FRA only granted rights to Scheduled Tribes, and not to Scheduled Caste and other backward classes. This misconception has resulted in the absence of any instances where rights have been conferred upon other traditional forest dwellers. It is therefore, important for both; the Central Government as well as State Government, to take note of this serious issue arising out of lack of communication of the true intent and scope of the FRA.



Submissions by forest dwellers to the FFC

The FFC held a meeting with officers of the District Administration, Tribal Welfare Department and Forest Department on 21.04.2023 at the Circuit House at Phulbani. The FFC also had the benefit of valuable inputs shared by Shri Pabitra Kumar Kanhar, Vice Chairperson, TRIFED, Ministry of Tribal Affairs, Government of India. It was informed that the total numbers of IFR claims received in the District is 60346, of which 57818 have been approved by the DLC and 2415 have been rejected. It was further stated that a total of 53529 pattas were distributed and demarcation were done in respect of 55787. As per the figures given of the total numbers of claims received, 95.81% have been approved by the DLC and 4% have been rejected while 91 IFR claims were remanded back to Gram Sabha in order to consider objections. Additionally, it was reported that titles have been distributed for 57,818 claims approved by the District Level Committee (DLC). Moreover, demarcation has been completed for all claims except 2,031, and pattas have been distributed for 53,529 claims.

1	Total IFR claim received:	60346
2	No. of IFR claims approved by DLC:	57818
3	No. of cases rejected:	2437
4	On Suo-Moto review finally rejected:	2415
5	No. of cases settled by DLC	22
6	No. of cases remanded to Gram Sabha to comply to objection:	91
7	No. of IFR title distributed after approval of DLC:	57818

8	No. of IFR claims in which Demarcation has been made:	55787
9	No. of IFR claims in which Demarcation is yet to be made:	2031
10	No. of IFR claims in which ROR/Map correction has been made:	53529
11	No. of Pattas distributed by the concerned Tehsildar after correction of ROR:	53529

Although the above figures tend to give the impression that the claims received were favourably considered by DLC, however, these figures do not reflect the actual forest land over which rights were claimed and what was finally approved by DLC. From the submission made by the forest dwellers before the FFC, it was clear that there was a significant difference between the land for which forest rights were claimed and the actual land on which the claims were finally recognised. In reality, even if a fraction of the land for which forest rights were claimed were accepted by the DLC, it would reflect in government record as 'approved'. There is no separate category of 'partially approved'. It is as a result of this, that despite a large gap between the land for which forest rights were claimed and which was finally recognised, it still reflects as 'approved'.



Field Verification of claims

So far as Community claims are concerned, it was informed that 2221 CFR claims were received, and in all instances, titles have been distributed; therefore, there is a 100% grant of CFR claims. However, demarcation has not been carried out in some instances, specifically in 667.

1.	No. of CFR claims received	2221
2.	No. of claims approved by DLC for distribution of Titles	2221
3.	No. of community forest title distributed till date	2221

Another issue of concern, is the lack of clarity as to whether the Community claim refers to Community Forest Resource (Form C) of the Forest Rights Rules or claim for Community Rights [Form B, Rule 11 (1) (a) and (4)]. It is crucial to emphasize that Community Rights are distinct from Community Forest Resources. Community Forest Resources refer to the area within the traditional or customary boundaries of a village or the seasonal landscape traditionally accessed by the community. This area is traditionally protected, regenerated, conserved, and managed by the community for sustainable use. These areas do not need to correspond to existing legal boundary. Thus, Community Forest Resource Rights are granted to Gram Sabha and not to individuals. Community rights, on the other hand, include specific rights such as Nistar rights over minor forest produce, grazing, fishing, and traditional resource access for nomadic and pastoralists. It is evident that the administration seems to be actually granting Community Rights and not Community Forest Resource Rights.

SUNDARGARH DISTRICT

The FCC, comprising of Chairperson **Justice (Retd) S.N. Dhingra, Pratap Singh Panwar and K.P Sinha** visited the following villages: Tiljora, Rasrajpur, Loran Verni, Gopoor, Subalaya, Pudajangla, Tumbikhhol, Sarangijharia, Rebdajore, Navrangpur, Lalbinwa, Dulinga, Patwabeda, Behradihi, Makarpendihi of Sundargarh district from 17th to 19th April, 2023.

Tiljora

The FCC visited Tiljora on 17.04.2023. The main tribes are *Kharia, Bhuyan, Oraon, Kissan, and Gond*. According to the deponents, the claims have been submitted by Gram Sabha in 2010. However, till date neither the SDLC, nor the DLC, have responded to the claims that were submitted. The villagers informed the FCC, that the Revenue Department had prepared spot maps of the area encroached, and each claimant / alleged encroacher had to pay Rs. 14,000/- for preparation of the spot map. However, despite the spot map being prepared, and the amount being given to the Revenue Department, there was no response from the SDLC, DLC or any other agency. This is despite the fact that it has been 13 years since the claims were first submitted by the Gram Sabha.

Rasrajpur

From the year 2010 to 2022, a total of 594 claims were approved by the Gram Sabha, however, till date, there has been no response either from the SDLC or DLC.

Loran Verni

32 claims were submitted on 2010, however, there was no response either from the SDLC or DLC.

Gopoor

From 2008 to 2022 a total of 54 claims have been submitted, and yet there was no response from SDLC.

Subalaya

151 claims were submitted in 2010, out of which only 12 were approved by DLC. It was informed to the FFC that only two government officials verified all the 151 claims on a single day. Based on that verification except 12, all others were rejected. The claimants subsequently approached the Orissa High Court and obtained a stay. It was brought to the notice of FFC that there were issues of internal dispute in Subalaya village. The issue of concern is that in the year 2022, fresh claims involving 108 claimants were submitted to SDLC, without any resolution passed by the Gram Sabha. Further, many non-tribals, who are not forest dwelling communities, and residing in the Municipal region of Sundargarh were given land titles. It was stated that about 40 cases fall into this category.

Pudajangla

Between 2008 and 2022 - 234 claims were recommended by the Gram Sabha, and to date the SDLC and DLC have neither accepted nor rejected nor even responded to these claims.

Navrangpur

A total of 303 claims were submitted, out of which 241 relate to OTFD and 62 to FDST. However, to date, there has been no response from the SDLC and DLC. The main grievance of the claimants was that a majority of the 241 OTFD claimants are actually residing within the municipal area of Sundargarh and are not dependent on forests for livelihood.

Patwabeda located in Block: Badgaon, Tehsil: Badgaon

Between 2011 to 2022, 661 claims were submitted and approved by the Gram Sabha, and yet not in a single instance, the forest rights have been recognised. In these instances, also, fees were charged by the

Revenue Department for field verification. Even for claims made in 2011, neither the SDLC nor DLC has responded yet. A similar situation existed in the Behradihi village, located in the Balisankara block and Tehsil, where between 2013 to 2022 - 55 claims were submitted by Gram Sabha, and not a single claim has been approved.

KEY FINDINGS FROM ODISHA

It was evident, that none of the claimants, were aware of or had any written order with respect to the rejection of the claims. It is imperative that the claimants are made aware of the reasons for rejection or modification of the claim. A perusal of the various orders revealed that the resolutions of the Gram Sabhas were rejected by the Sub-Divisional Level Committee purely on technical and procedural grounds without assigning any reason. Rule 12A(10) is relevant in this regard.

“12A(10) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution or recommendation of the Sub Divisional Level Committee shall give detailed reasons for such modification or rejection, as the case may be:

Provided that no recommendation or rejection of claims shall be merely on any technical or procedural grounds:

Provided further that no committee (except the Gram Sabha or the Forest Rights Committee) at the Block or Panchayat or forest beat or range level, or any individual officer of any rank shall be empowered to receive claims or reject, modify, or decide any claim on forest rights.”

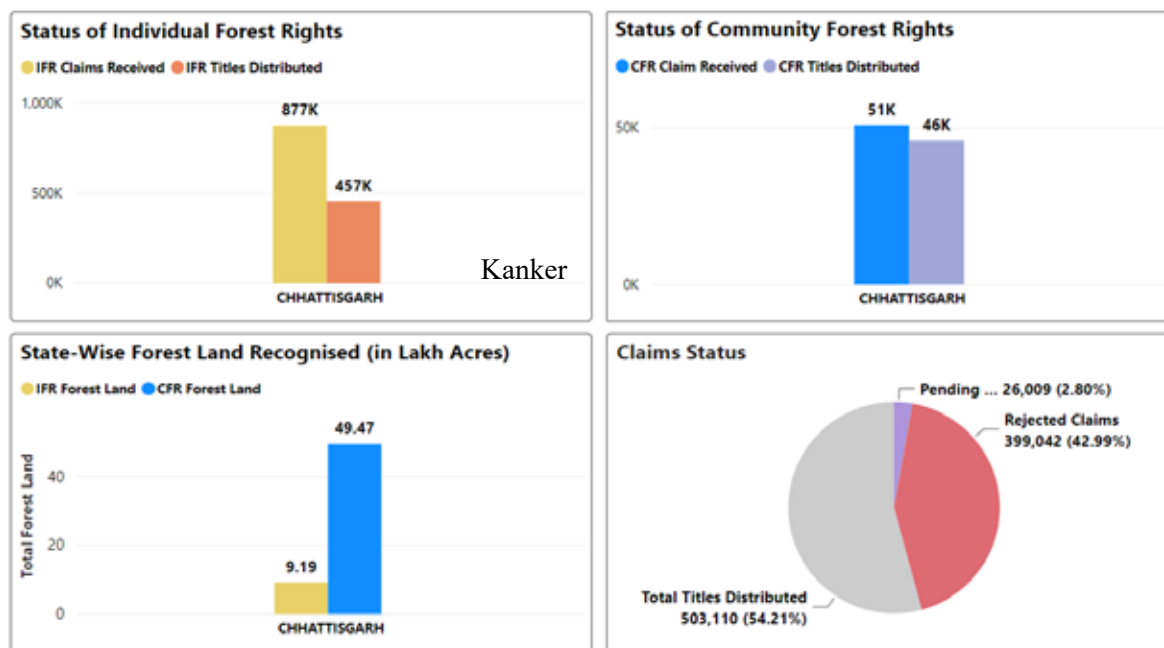
In Sundargarh, the FFC came across instances where after the change of the Sarpanch of the village, new claims of individuals were approved by the panchayats and sent to SDLC even in respect of recent settlers who are mostly outsiders, many of whom are alleged to be Bangladeshis.

CHHATTISGARH

A total of 877,173 Individual Forest Rights (IFR) claims were received of which of 457,145 claims were recognised, which is 52.11%. In the case of Community Forest Rights (CFR), 50,988 claims were received, and 45,965 have been distributed, resulting in a CFR distribution rate of 90.10%. Furthermore, 9.19 lakh acres of forest land have been recognised for IFR, while a substantial 49.47 lakh acres have been recognised for CFR. Currently, are 26,009 claims pending at various processing stages, accounting for 2.8% of the total claims. Additionally, 399,042 claims have been rejected, constituting 42.99% of the overall claims.

If one consider the Monthly Progress Report for the year 2017 and the latest Monthly Progress Report for June 2023¹⁶, in Chhattisgarh, since 2017, 34,448 new IFR claims and 19,430 new CFR claims have been received, while 87,777 new IFR and 23,998 CFR titles have been distributed.

Status of implementation of FRA in Chhattisgarh.



Source: FRA Dashboard, Ministry of Tribal Affairs (<https://dashboard.tribal.gov.in/>)

¹⁶ <https://tribal.nic.in/FRA.aspx>



KORBA DISTRICT

Korba district comes under Bilaspur division of Chhattisgarh, and is inhabited mainly by tribal communities including the PVTGs called Pahadi Korwas. It has a high tribal population and is also home to large scale industrial and mining activity. This district is situated in the northern half of the Chhattisgarh state and is surrounded by the districts Korea, Surguja, Bilaspur, Janjgir. The total area of the district is 714544 hectares of which 283497 hectares comprises of forest land. The main tribes in Korba district are *Pahadi Korwa, Gond, Raj Gond, Kawar, Bhaiyana, Binjwar, Dhanuhar Satnami, Ganda, and Panka* are the Scheduled Castes in the district. Tribals constitute the majority (41%) of the total population.



Tehsil: Pali and Korba in Korba District

The FFC members, comprising **Milind Thatte and K.P Sinha** visited the villages in Tehsils Pali and Korba in Korba district from 29.05.2023 to 31.05.2023.

Village Taraimar – Deh, Tehsil: Korba

According to the forest dwellers who deposed before the FFC, Community Forest Resource Rights and Community Forest Rights claims were submitted in 2016 and a receipt of the same was obtained on 21.03.2017 from the office of SDM / SDLC. It was also stated before the FFC that the villagers met the DFO as well as the Assistant Tribal Commissioner on the very same day and they were informed that positive action would take place with respect to the claim. However, to date, they have not heard back from any of the authorities on whether the claim has been accepted or rejected.

The main grievance of the individual claimants was that they received only partial approval of the claims i.e. they received a fraction of the land to which they laid claim. The government record shows that the claims have been approved, whereas in reality, there has only been partial acceptance. Further, problems arise out of the fact that the area/land where rights/claims have been recognised may be too small to be viable units for sustaining the livelihood of forest dwelling communities.

Village: Dhourabhatha, Tehsil: Korba

In this village, like Taraimar, the IFR titled claims have been pending since 2017 even though all necessary documents have been submitted. It was also pointed out that there is a complete lack of communication by both the SDLC and DLC. As a result of this lack of information, the forest-dwelling communities are living in a state of uncertainty. One of the important issues raised in Dourabhatha, was that in case of partial rejection, there is no intimation given by the SLDC or DLC to the claimants, as required under Rule 12A(3).

Village: Pasarkhet, Taluk: Korba

It was stated by many of the claimants, that they filed the claims in 2012. However, the Forest Department refused to accept the claim, and as a result, all the claim forms and details are lying with the claimants themselves. The claimants had no idea of the appeal process, and where to approach it in the event of non-compliance with the law. The claimants expressed their ignorance about the process under FRA. According to them, after the FRC and Gram Sabha had approved the claims, the same was submitted to the Range Officer of the Forest Department. It was informed that as a matter of practice, all resolutions and decisions of the Gram Sabha are placed before the Range Forest Officer. The villagers were unaware

of what happens to the claims once submitted to the Range Officer. Like other villagers, they were unaware of the appeal process. In Pasarkhet, there were serious concerns with respect to human-elephant conflict and large-scale damage had taken place, especially to mango trees which are growing on the land where IFR was claimed. However, since the rights were not recognised / no decision has been taken, therefore, none of the affected families could get compensation for the crop damaged due to human-elephant conflict.

Village: Darga, Gram Panchayat: Kera Kachhar, Taluka: Korba

This village is inhabited by Pahadi Korba tribes - a particularly vulnerable tribal group ("PVTG"). There is a low level of literacy and the nearest school is at a distance of 3 km, as a result of which not a single child goes to school. According to inhabitants, they originally lived at the top of the mountains however, over the last few decades, they have been shifted by the Forest Department to the plain areas. Despite the fact that they live in the plains, they have a strong affinity with the mountains due to both cultural, religious and economic factors. Their belief is that their ancestors lived in those mountains, and all the Gods also reside there. The livelihood of the Pahadi Korba is dependent on the collection of NTFP which are sold to middlemen. Unfortunately, despite such dependence on the forest of the Pahadi Korba, who are recognised as PVTG, they have not been conferred any Habitat Rights. Though the villagers have no habitat rights, most of the households have IFR titles. However, the villagers were not able to appraise the FFC as to what process was adopted in granting the IFR title. The villagers stated that all that happened was that the forest guards took some paper from them and later distributed titles. It is unclear whether these titles correspond to the area under occupation. The FFC was informed about the issue with respect to tribal versus non-tribal conflict. There were a growing number of incidents of PVTGs, such as Pahadi Korba having IFR titles being evicted by non-tribal Yadav farmers. This aspect needs further scrutiny.

Village: Andikachhar

In Andikachhar, although most of the claimants have received IFR titles, however, the extent of land is far less than the land which was approved by the Gram Sabha. Thus, many of the claimants have stated that they have received only half an acre which was based on the inspection done by the forest guard. It was also noted that though the IFR titles have been given the same does not seem very authentic. All the IFR titles in village Andikachhar were handwritten and signed by three officials of DLC and were undated.

KANKER DISTRICT

The FFC members comprising of **Pratap Singh Panwar** visited the villages Bangabari, Mavalipara, Mandabharri and Basanvahi, Tehsil Narharpur on 06.06.2023.

Bangabari

In Bangabari, 25 claimants have individual forest rights and at present the Gram Sabha is considering 134 new claims. However, those who deposed before the FFC informed that there is no grievance about disapproval of applications by the DLC or SDLC. However, none of them could explain satisfactorily why only 25 people applied for IFR claims in 2008 and 134 could not apply. Despite significant dependence on forests for livelihood, no proposal for CFR rights or CFRR rights was considered by the Bangabari Gram Sabha.

Mavalipara

In Mavalipara, 9 claimants received IFR in 2008, however, no CFR rights or CFRR rights were claimed.

Mandabharri

In Mandabharri, no IFR claims have been submitted by Gram Sabha so far. No satisfactory answer was given as to why the IFR claims were not submitted. In this village, there are 25 individuals belonging to the Pardhi tribe who are involved in making bamboo handicrafts on a seasonal basis. They have been demanding recognition of their traditional rights and have demanded a separate Gram Sabha to articulate their rights under the FRA.

Basanvahi

Basanvahi village comprises seven tolas; however, due to internal conflict, no IFR claims have been made.

Muddongari

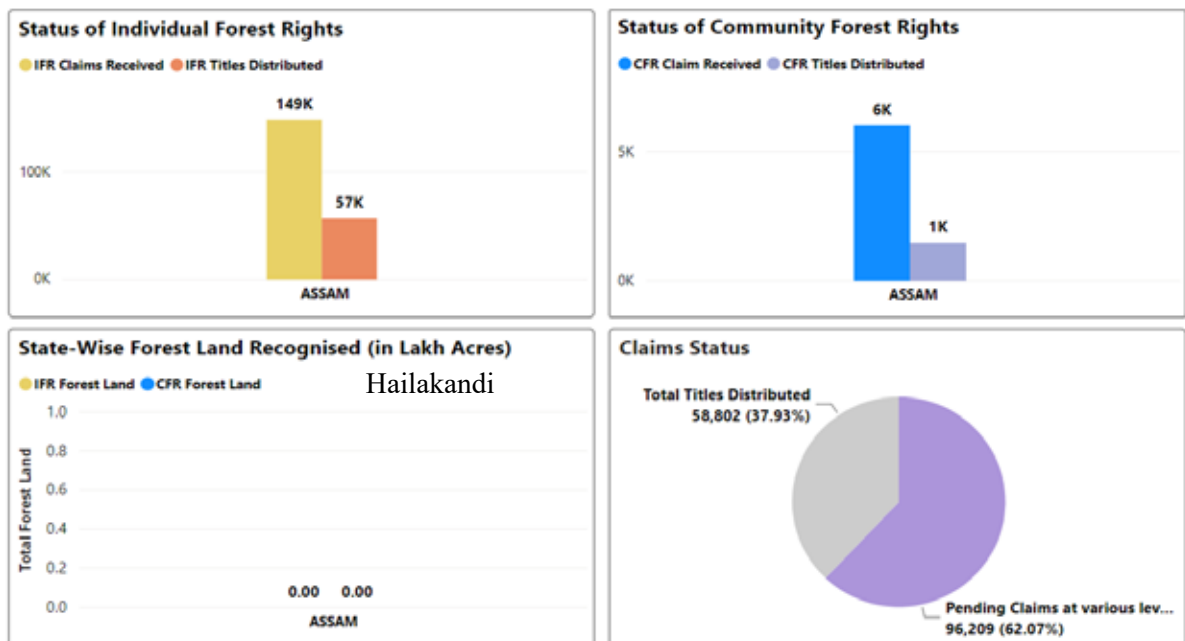
The FFC members visited village Muddongari, Tehsil Kanker on 07.06.2023. IFR rights were received in 2008 and CFRR comprising 49.830 hec. has been notified. However, the micro plan of the CFRR is yet to be prepared.

Devari	With the consent of nearby 7 villages, the proposal of CFRR has been submitted to SDLC / DLC.
Kirgoli	49.830 hec. CFRR proposal has been approved in 2014 but no microplan is prepared so far.
Kuapani	CFRR proposal is pending with DLC.
Kinari	CFRR proposal is pending with DLC.
Bhaismundi	1076 hec. CFRR is approved but microplan is not prepared so far.

ASSAM

The State of Assam has a more complex system of administration: both for forest and land, given the fact that some parts of the state are under Autonomous District Councils and Territorial councils under the Sixth Schedule of the Constitution. The forest dwellers comprise a range of communities, some of whom are relatively recent migrants. These factors adds layers of complexity so far as of implementing FRA is considered, which is not evident in other states. If we consider the Monthly Progress Report of Assam for the year 2017 and the latest Monthly Progress Report for June 2023¹⁷, there has been no change in IFR and CFR claims, and there has also been no change in the distribution of IFR and CFR titles since 2017.

Status of implementation of FRA in Assam.



Source: FRA Dashboard, Ministry of Tribal Affairs (<https://dashboard.tribal.gov.in/>)

¹⁷ <https://tribal.nic.in/FRA.aspx>

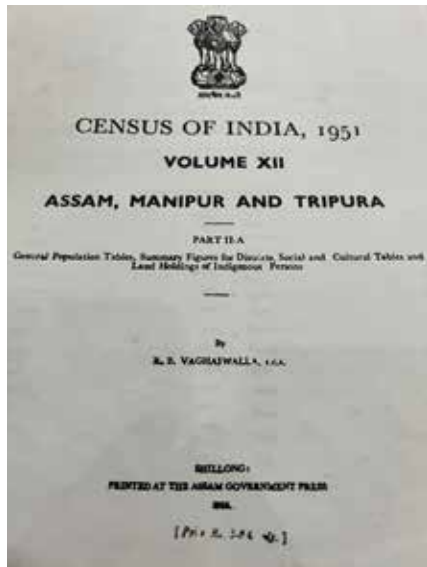


Table - 5 : POPULATION OF SCHEDULED TRIBES IN BARAK VALLEY

Name of Tribes	No. of villages	No. of Houses	Population
H'MAR	123	6,336	44,353
HRANGKHOL (H'mar sub tribe)	39	1,482	10,375
CHIRU (H'mar sub tribe)	04	320	2,244
CHAWRAI (H'mar sub tribe)	22	769	5,887
KHASIA	146	4,342	30,389
NAGA	41	2,075	14,547
RIANG	65	2,157	15,102
KUKI	26	1,082	7,576
MIZO	24	801	5,601
CHAKMA	15	385	2,693
VAIPHEI	20	735	5,139
KARBI	08	414	2,941
PAITE	09	405	2,411
SIMTE	07	54	378
GANGTE	06	53	375
Grand Total	555	21,410	1,50,011

Composition of various tribes in Barak valley as per 1951 census

DIMA HASAO DISTRICT

The FFC comprising **Milind Thatte and Ritwick Dutta, Member Secretary** visited the Dima Hasao district from 25.04.2023 to 27.04.2023. The district of Dima Hasao has three legally defined forest categories (1) Reserved Forest ('RF'), (2) District Council Proposed Reserved Forest ('DCPRF') (3) Unclassed State Forest ('USF').

Unclassed State Forest is under the control of the State Forest Department, whereas the other categories are under the control of the District Council. It was informed to the FFC, by the Divisional Forest Officers of Dima Hasao East Division and Dima Hasao West Division (meeting held on 27.04.2023) that as of date, no SDLC and DLC have been formed in the district. The process under the FRA is yet to be initiated and to date they have not received any communication from any agency as the State and Centre asking them the status of the implementation of the FRA. However, the committee interacted with Shri Hiranmoy Bathari, who is presently a social worker and retired DFO of Dima Hasao East Division. He informed that in 2008-09 SDLC and DLC were formed but no claims were filed.

Drang Bathari

The FFC members visited the village Drang Bathari, Sub-Division-Maibong on 26.04.2023. This is inhabited by the Dimasa tribe and forms part of the Langting Mupa Reserve Forest. It comprises a population of 2030, spread over 42 households. It was informed that the villagers first settled here in 2003, after they shifted from their original village Drangbathari-2. The village was relatively inaccessible in view of the fact that the nearest government office is located in Maibang which is 26 kms away. The nearest proper school is in Basabari which is located at a distance of 19 kms. The village has only one school which has only 1st standard. As a result of all this, only 12 persons who are educated beyond middle school. The village has practised jhum farming on the RF land since 1998. They cultivate rice, ginger, orange, areca nut, papaya, yam, banana, brinjal, chillies, pumpkin, watermelon, cucumber, maize, black sesame (for market) kakai daal (black gram etc. The villagers are dependent on food from the forest which includes wild banana flowers, bamboo shoot and mushrooms. While interacting with the communities, it was evident that not a single individual had heard about the FRA and the procedure for claiming forest rights. Consequently, no FRC has ever been formed or Gram Sabha convened. This is despite the fact the tribal communities are in occupation of forest land prior to 2005 and that there is predominant dependence on forests for livelihood and sustenance. The process under FRA should have been initiated and the rights recognised which clearly has not been done.

Thajudisa

The FFC members visited village Thajudisa on 26.04.2023. This is inhabited by the Dimasa tribe and is located in Langting Mupa Reserve Forest. It comprises a population of 280 spread over 61 households. The village has been in existence since 1972 and they moved from their original place Gamgdangkro. The total area under cultivation was 270 bighas which involves Reserve Forest land. The main crops grown are rice, pumpkin, brinjal and beans. Similar to Drangbathari, in Thajudisa also, the process under FRA is yet to be initiated despite the existence of the village before 13.12.2005. The FFC was shown a copy of an eviction notice issued by the Forest Department in 1998 to the Gaon-Burra. This clearly proves that they were in existence much before the cut-off date under FRA.

Dimrucherra

The FFC members visited village Dimrucherra, Sub-division-Haflong on 27.04.2023. Dimrucherra village is inhabited by *Khasi* tribe who originally came from an area which now forms part of Meghalaya. It was stated that they originally came to this part in 1970 in order to cultivate betel leaves (pan) in a village which was designated as Taungyya village. The *Khasi* tribes follow a unique method of cultivation in which they use the existing trees of the forest as support for the pan creeper. No trees are felled and the area remains a forest. The human intervention is limited only to planting and plucking the leaves. Therefore, the forest character remains unchanged with dense growth of trees seen all across the landscape, with a significant number of old and tall trees. The FFC were shown a copy of an order dated 03.11.1970 issued by the North Cachar Hills, District Council wherein non-residential Taungya villagers were permitted to reside temporarily in Dimrucherra to protect the paddy from destruction by wild animals. The permit was valid up to 31.12.1970. The FFC was also shown a copy of an agreement dated 13.01.1948 entered between the Governor of Assam and the villagers represented



Forest under betel leaf cultivation

through the Headman wherein the government gave the right to the villagers to cultivate up to 4 bighas of land for pan cultivation. As per the agreement, the 4 bighas will continue to be cultivated until fungus attacks the vines after which a fresh area will be allotted. The agreement also allows that the forest produce from the Taungyya which includes cane, thatch, and bamboo may be cut and collected free of charge by the villagers provided it is not for sale, gift or barter. The agreement further stated that free grazing of up to 5 animals will be permitted and 10 heads of cattle may be held in the reserved forest by each family. The FFC also showed a subsequent order issued by the Sub-Divisional Office, NC Hills on the petition filed by Mr. Roton, Headman of Boralukha village wherein the SDO allowed the people of Boralukha to cultivate, in addition to pan, all other kinds of fruit bearing trees. The committee could not ascertain the genealogy of Mr. Roton to the current GB Niwansing Sutnga. However, the RFO present during the interaction said that these villagers were part of the Taungyya village mentioned in the agreement.

**Form Of Agreement For Pan Taungyya Villagers,
Forest Division.**

Articles of agreement made and entered into this day of 13th
January 1948, between the Governor of Assam (hereinafter called
"the first party") and Mr. Kaban son of Mr. Kaban
(hereinafter called "the second party").

Whereas the second party desires to render service in the Forest Department
in lieu of the privilege of being granted for cultivation service land at
Dimroo village in the Borail Reserved
Forest situated in the N.C. Hill Range in the District of Cachar

I. FIRST PARTY'S COVENANTS.

1. The first party shall give service land to the second party to cultivate upto four bighas of pan-cultivation per adult and hold 2 bighas of bari land per household free of land revenue. This 4 bighas will continue to be cultivated for pan until fungus attacks the vines when a fresh area will be allotted and that only after the second party has stocked it with approved forest-species.
2. The Forest Authorities will allot land referred to in the preceding clause, according to second party's choice within certain limits provided this does not involve cutting of "Jati" timber.
3. Forest produce from taungya areas which has not been sold by the Forest Authorities and unreserved species from forest areas adjacent to the village, together with cane, thatch, bamboo may be cut and collected free of charge by the second party for his own use but not for sale, gift or barter.
4. The second party will be permitted free grazing for five animals (excluding buffalo) per adult male. Not more than 10 heads of cattle may be held in the Reserved Forests by each family.
5. The cost of any stamp duty in respect of this instrument shall be borne by the Forest Department.

II. SECOND PARTY'S COVENANTS.

1. The Second party shall hold the service land given by the first party under clause I - 1 so long as he performs the duties and observes the conditions prescribed in this agreement.
2. Each family of the second party must yearly do taungya cultivation of forest species over 1 acre (or 8 bighas) in a place indicated by Forest Authorities. The yearly area will be pointed out by the Forest Authorities who will take over the plot at the end of the 1st year. No land revenue will be levied on this land. No free labour will be levied, but 20 days paid labour when required must be given by each adult according to the Forest village rules. The new fellings should be completed by January of each year and burnt in the following March.

Part of the Agreement entered between Taungyya villagers and Governor of Assam in 1948

Order of the Sub-Divisional Officer, North Cachar Hills
 on the petition dated 5.3.49 of Roton, Headman of Bor-
 Lukha.

In supersession of my order No. 2217 G dated 5.3.194
 I hereby allow the people of Borlukha to cultivate pans
 or any other kind of plant or fruit trees in the area
 bounded as below :-

West and NW	_____	Boundary of Doliadisa.
North	_____	Boundaries of Doliadisa and Rekho.
East	_____	Mulkois Boundaries of Mulkois.
South	_____	Boundary of Silchar Sub-Division. (Reserve Forest).

A sketch of the place and the exact boundaries on the
 land will be drawn by the Civil Works Overseer after the
 rains or as soon as he can.

In the meanwhile, the people of Borlukha can cultivate
 within the above boundaries. If any encroachment is made
 by them, they do so at their own risks.

Sd. E.H.Pakynstein.
 Sub-Divisional Officer
 North Cachar Hills. 8/6/49.

G. Dated Haflong, the _____ th June 194

P. T. O.

SILCHAR SUB-DIVISION, JALPAIGURI DISTRICT, ASSAM TO GOVT. SECRETARY

Agreement between forest dwellers and Forest Department / State Government for use of forest land. There has been no upgrading to Forest Rights as per Sec. 3(1)(g)

HAILAKANDI DISTRICT

The FFC comprising **Ritwick Dutta, Member Secretary and Kiran Sushma Khoya** visited the Hailakandi district from 29.04.2023 to 01.05.2023.



Meeting with members of different tribals communities at Hailakandi

Village: Domecherra

It is inhabited by the *Reang* community and they are solely dependent on jhum cultivation for their livelihood and sustenance. They have been residing in this area for more than three generations. However, not only have rights under FRA not been granted to them, but in some instances the Forest land has been taken away by the Forest Department. In the case of this village, the Gram Sabha was held for initiation of the FRA process in the year 2013, however, no rights have been recognised to date.

Nunai

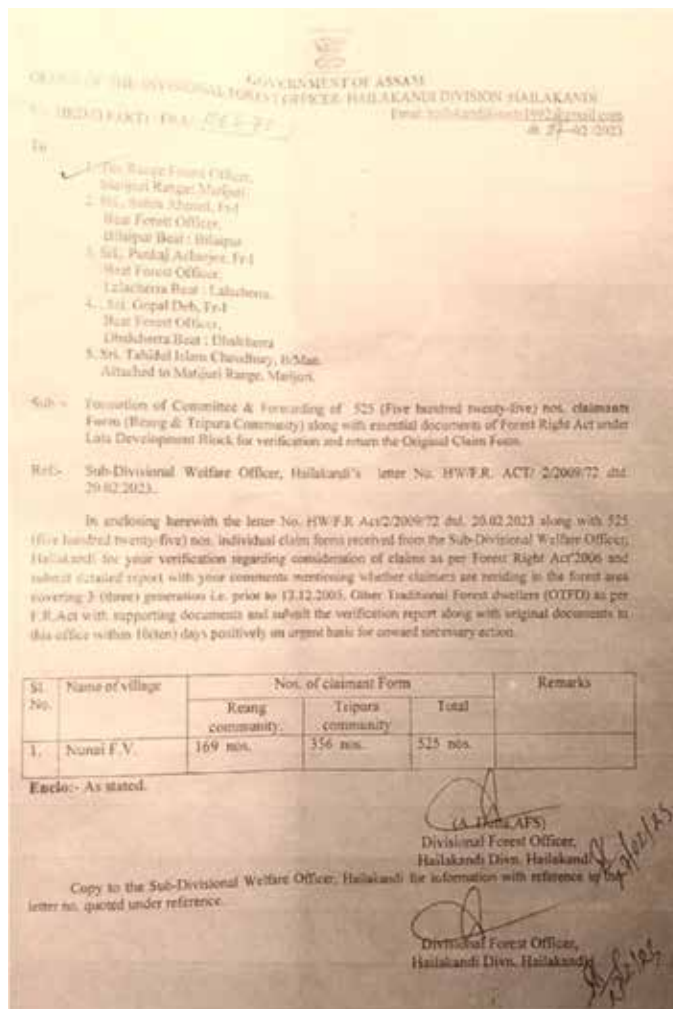
Nunai forest village comprises of *Reang* and *Tripuri* community numbering 169 and 356 individuals. 525 claims were also filed under the FRA. As per communication dated 27.02.2023, the Divisional Forest Officer, Hailakandi Division, wrote to Range Forest Officers asking them to verify as to whether those who have claimed rights are actually residing in the area for three generations i.e. prior to 13.12.2005. There was however no mention of either SDLC or DLC in the entire communication. The FFC also showed a copy of the Public Notice issued by the Deputy Commissioner, Hailakandi on 18.11.2022. The contents of the said Public Notice are as follows:

“It is for general information to all the Schedule Tribe and Other Traditional Forest Dwellers who are settling in the Forest areas of Hailakandi district can apply for claims of Land Title/Patta under Forest Rights Act, 2006 and submit application and required documents to concern BDOs.

Moreover, it may be mentioned that Barmans are the notified Scheduled Tribe in Hailakandi district as per Govt. Gazette. However, the Scheduled Tribe (H) and the other forest dwellers may also apply under Other Traditional Forest Dwellers (OTFD) if they had settled in any forest land for 3 generation i.e. 75 years by submitting documentary proof as mentioned in the Forest Rights Act, 2006.

Applications forms may be submitted to the concern BDO till 9th December 2022.”

The FFC notes with concern, that though, the intention seems to be to implement the FRA, however, the Public Notice is not in consonance either in letter or spirit with the provisions of the FRA. There is no reference to Gram Sabha or FRC. There is no provision in the FRA to submit application forms to Block Development Officers. It is not known as to under what provision of law, the Public Notice was issued for submission of the application, since no such procedure is contemplated in the FRA.



GOVERNMENT OF ASSAM
OFFICE OF THE SUB-DIVISIONAL WELFARE OFFICER ::::: HAILAKANDI

PUBLIC NOTICE

It is for general information to all the Schedule Tribes and Other Traditional Forest Dwellers who are settling in the Forest areas of Hailakandi district can apply for claims of Land Title/Patta under Forest Right Act 2006, and submit application and required documents to concern BDOs.

Moreover, it may be mentioned that Barmans are the notified Scheduled Tribe in Hailakandi District as per Govt. Gazette. However the Scheduled Tribe (H) and the other forest dwellers may also apply under Other Traditional Forest Dwellers (OTFD) if they had settled in any forest land for 3 generation i.e 75 years by submitting documentary proof as mentioned in the Forest Right Act2006.

Applications forms may be submitted to the concern BDO till 9th December 2022.


(Nisarg Hivare, IAS)
Deputy Commissioner
Hailakandi.

Memo No. HW/F.R.Act/2/2009/

Dated Hailakandi, the 18th Nov. 2022

Copy to:-

1. The Director of Tribal Affairs (Plain) Assam, for favor of kind information.
2. The District Development Commissioner, Hailakandi for favour of kind information
3. BDO's of Hailakandi/ Katlicherra/ Lala/ Algapur/ South Hailakandi are requested to circulated the above notice in their respective areas and collect their claim forms for further action.
4. Swami Barman, Chairman ST Dev. Board Hailakandi to circulate the above notice in his area.
5. The District Information and Public Relation Officer, Hailakandi are request to publish the above notice for wide circulation.
6. Office Notice Board


Deputy Commissioner
Hailakandi


The Public Notice issued by the Deputy Commissioner, Hailakandi is contrary to the provisions of the Forest Rights Act and Rule 12A(10), which relates to the process of recognition of rights, which clearly provides for the hierarchical process for the recognition of rights. This starts from the Gram Sabha calling for claims and the Forest Rights Committee which will receive and verify the claims as well as prepare list of claimants in accordance with the Forest Rights Rules. There is no provision for claims to be filed before the Block Development Officer. The order passed by the Deputy Commissioner is therefore illegal. Rule 12A(10) is specifically states as follows:


“Provided further that no committee (except the Gram Sabha or the Forest Rights Committee) at the Block or Panchayat or Forest Beat or range level or any individual officer of any rank shall be empowered to receive claims or reject, modify, or decide on any claim on forest rights.”

It is therefore, clear that the Forest Rights Act and Rules do not allow any authority except the Gram Sabha and the Forest Rights Committee to accept, reject or decide on forest rights.




FFC member, Milind Thatte at Dimruchera with the head woman of the village


অসম চৰকাৰ
GOVERNMENT OF ASSAM
 মহকুমাধিপতিৰ কাৰ্যালয়
OFFICE OF THE SUB DIVISIONAL OFFICER (CIVIL)
LAKHIPUR SUBDIVISION OFFICE
CACHAR DISTRICT
 (Assam e-District Project)



আবেদন নং
 Application No. : SSDG/ED/CASTE/8102033
 তাৰিখ / Date: [REDACTED]


 2504202300107325532

জাতিৰ প্ৰমাণ পত্ৰ
CASTE CERTIFICATE

WINAL MONTHLU
JIBON PALONG

ইয়াৰ দ্বাৰা প্ৰমাণিত কৰা হ'ল যে
 পিতা **MACHKI [REDACTED]** : অঃ **BINNAKANDI TE**
 গাঁও/নগৰ : **LAKHIPUR** জিলা : **CACHAR**
 আৰক্ষী চকী : **KHASI** জনজাতি/জনজাতীয় সম্প্ৰদায়ৰ লোক হয়.
 অসম ৰাজ্যত, নিটো ওপৰোক্ত জিলাত অনুসূচিত জনজাতিৰ অৰ্হভুক্ত নহয়, কিন্তু অৰ্থনৈতিক, শৈক্ষিক আৰু নিয়োগৰ সুবিধা লাভৰ বাবে অসম চৰকাৰে
 ভৈয়াম এলেকাত পৰ্বত্য জনজাতি হিচাপে স্বীকৃতি দিছে।

This is to certify that [REDACTED] Daughter of JIBON [REDACTED] KHA
ARUN PUNJEE P.O BINNAKANDI TE PS LAKHIPUR District- CACHAR in the State of Assam belongs to
KHASI Tribes or tribal community which is not a Scheduled Tribe in the above mentioned district, but is recognize
 the Government of Assam as a **Hill Tribes in Plains** for the purpose of giving economic, educational and employm
 benefits.

Signature of Approving Authority
 Validity unknown Signature
 Digitally signed by Joy Chandra Nigral
 Date: 2023.04.25 14:54
 Reason: e-District Portal
 Location: Assam

Certificate issued by State Government on Hill Tribe in Plain

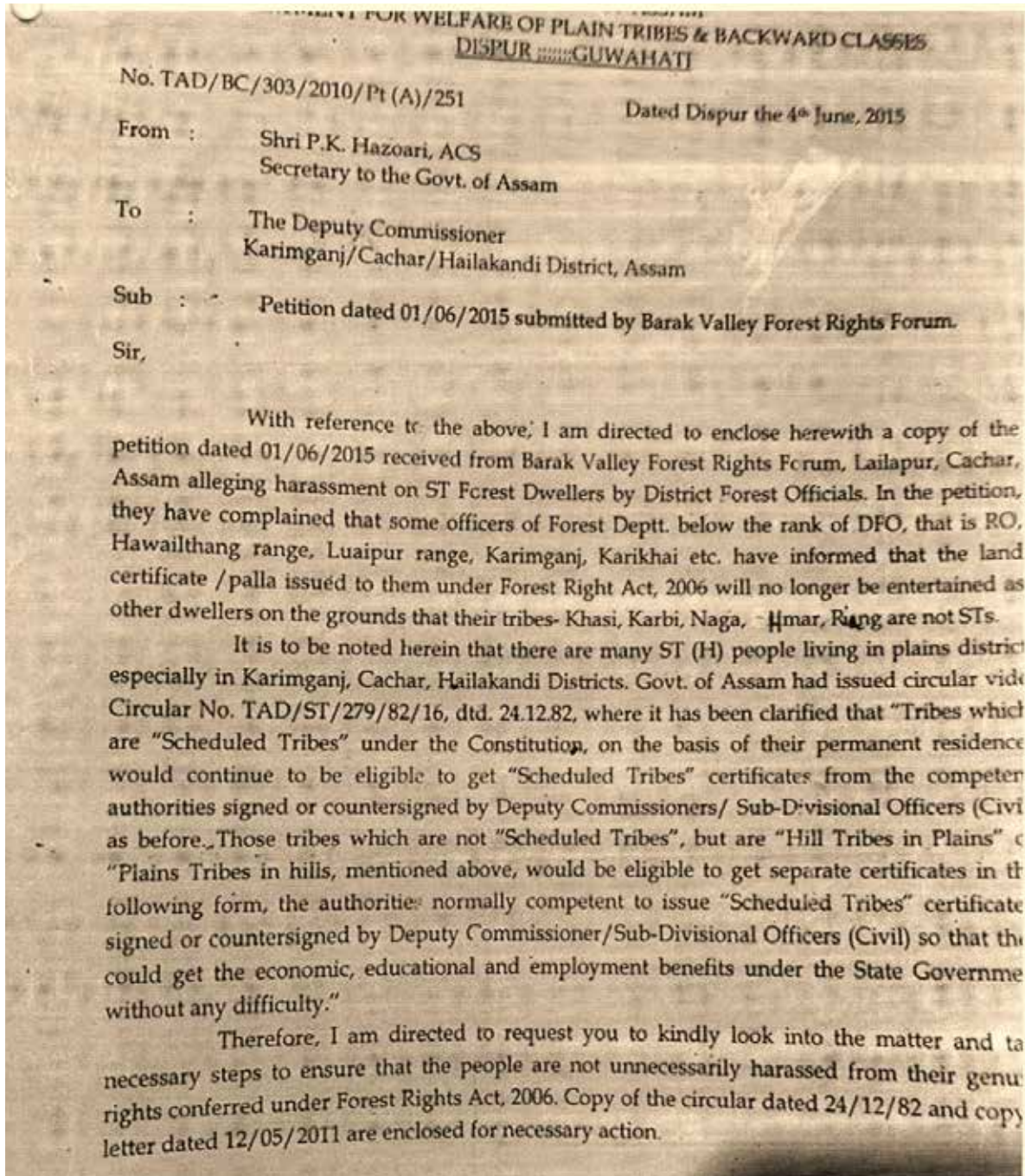
In a representation of All Assam Tribal Sangha, Hailakandi District Committee, dated 29.04.2023 to the FFC, it was brought to the attention of the FFC of the lack of implementation of FRA. It was submitted that in the State of Assam there are two types of Scheduled Tribes. Scheduled Tribes (plain) and Scheduled Tribes (hill). The tribal people staying in autonomous District Council areas are given the status of ST hills; and those living in plain districts are given the status of ST plain. The issue of Forest

Rights assumes significance in view of the fact that various tribal communities reside in the forest areas of both Dima Hasao and Hailakandi. The issue becomes complex, since communities, which are considered as tribes in one State are not necessarily categorized as tribes in the above districts. In Assam, thus, while the Khasi is a Scheduled Tribe in Meghalaya; they are not treated as a Scheduled Tribe in Assam. This is also the situation with the Naga tribe which is a Scheduled Tribe in both Nagaland and Manipur, but not in Assam. The FFC was shown certificates issued by the District Tribal Sangha, affiliated with the All Assam Tribal Sangha. These certificates are countersigned by the Deputy Commissioner or SDO of the concerned district or sub-division. The certificates states that the person belongs to a particular tribe which is not a scheduled tribe in the aforementioned district, but is recognised by the Government of Assam as a “hill tribe in plains” for the purpose of giving economic, educational and employment benefits, against quotas reserved for Scheduled Tribes ‘hills’. It was submitted by the Tribal Sangha before the FFC, as well as the repeated request that those who fulfil the definition of ‘hill tribes in plains’ and are given the economic, educational and other benefits similar to that of the scheduled tribe (hills) should be treated as ‘forest dwelling scheduled tribes’ and therefore entitled to forest land, if they were in occupation on 13.12.2005. The main concern was that at present the communities belonging to Reang, Naga, Khasi are not Scheduled Tribes and therefore have to prove occupation over three generations (which is 75 years); whereas in reality many of the communities are unable to show occupation over three generations because of the peculiar nature of agriculture practised i.e. jhum cultivation. Since, the location of agricultural land is not static. Further, many of the communities moved into this part of the Assam only after the 1940s and 1950s, because of political developments, therefore, to insist on three generations as the basis for recognition of forest rights amounts to gross injustice on the forest dwelling communities. There was considerable confusion about the status of non-scheduled tribe forest dwellers who do not fulfill the criteria of other traditional forest dwellers. The FFC was provided with a copy of a letter dated 04.06.2015 from the Secretary, Department for Welfare of Plain Tribe and Backward Classes, Government of Assam addressed to all Deputy Commissioner of the district Karimganj / Cachar, Hailakandi. The letter draws attention to the representation received from the Barak valley Forest Rights Forum on the harassment of forest dwellers by forest officers. In the representation, they brought to the notice of the government that the pattas and land titles issued to them under the Forest Rights Act would no longer be valid since the tribe to which they belong i.e. *Khasi, Karbi, Naga, Hmar, Reang* are not scheduled tribes. In view of the fact that this tribe are not scheduled tribes in Assam, any certificates issued to them are not legally valid. In response to this issue the Department for Welfare of Plain Tribes and Backward Classes in the above-mentioned communication clarified as follows:

“It is to be noted herein that there are many ST (H) people living in plains district especially in Karimganj, Cachar, Hailakandi districts. Govt. of Assam had issued circular vide Circular No. TAD/ST/279/82/16, dtd. 24.12.82, where it has been clarified that “Tribes which are “Scheduled Tribes” under the Constitution, on the basis of their permanent residence would continue to be eligible to get “Schedule Tribes” certificate from the competent authorities signed or countersigned by Deputy Commissioners / Sub-Divisional Officers (Civil) as before. Those tribes which are not “Scheduled Tribes”, but are “Hill Tribes in Plains” or “Plains Tribes” in hills, mentioned above, would be eligible to get separate certificates in the following form, the authorities normally competent to issue “Scheduled Tribes” certificate signed or countersigned by Deputy Commissioner / Sub-Divisional Officers (Civil) so that they could get the economic, educational and employment benefits under the State Government without any difficulty.”


Therefore, I am directed to request you to kindly look into the matter and take necessary steps to ensure that the people are not unnecessarily harassed from their genuine rights conferred under Forest Rights Act, 2006. Copy of the circular dated 24/12/82 and copy of letter dated 12/05/2011 are enclosed for necessary action.”

The FFC was provided copies of the title of forest land under occupation granted in the year 2012 issued in favour of two claimants who belong to the *Khasi* community. In the said title it is clearly mentioned that they are Scheduled Tribes.



All Assam Tribal Sangha



Hailakandi District Unit
Regd. No. 504/1976-77
H.O.: Tribal Rest House, Solapar, Paltan Bazar, Guwahati



TRIBE CERTIFICATE

This is to certify that Sri/Miss/Smt. Kachekliu Kabui wife
 Son/Daughter of Son/Daughter of
 Sri/Late Jamsu poro Kabui
 of Smt/Late Dinsiliu Kabui/Solajo Singh Village/Town Ward No. 1, Hailakandi
 PO Hailakandi P.S. Hailakandi District Hailakandi
 in the State of Assam belongs to Scheduled Tribe (Hills) Community Rongmei Naga
 which is not a Scheduled Tribe in the aforementioned district, but is recognised by the Govt. of Assam as a
 "hills tribe in plain" ~~"plains-tribe-in-hill"~~ for the purpose of giving economic, educational and employment
 benefits against quota reserved for Scheduled Tribe (Hills). This Certificate is issued as per the Govt. circular
 No. TAD/ST/279/82/16 dtd 24/12/1982. 24/12/1982.

Sri/Miss/Smt. Kachekliu Kabui and his/her family ordinarily
 resides in the Village/Town Hailakandi Ward No. 1 P.O. Hailakandi
 P.S. Hailakandi District Hailakandi in the State of Assam.

Countersigned by   19/8/07

Certificate issued by State Government on Hill Tribe in Plain

It is clear that considerable ambiguity remains as to whether forest dwelling communities who are tribal in the neighbouring states are entitled to be considered as forest dwelling scheduled tribes in the State of Assam. In all the villages that the FFC visited, this ambiguity has led to uncertainty among the forest dwelling community. This is an issue that deserves immediate consideration. Given the fact that all economic, educational and employment benefits under the state government are extended to "hill tribes in plains" and "plain tribes in hills", the rights under FRA should also be extended to both these categories. This is because grant of forest rights is critical for achieving economic, educational and employment benefits.



FFC Meeting at Hailakandi

The Ministry of Tribal Affairs and the Ministry of Environment and Forest constituted a Joint Committee to study the Implementation of the FRA in the state of Assam¹⁸. The Committee submitted its Report in 2010. (It is important to highlight that some of the key issues highlighted in the Report are relevant even today which seems to give the idea that recommendations were not followed). Some of the recommendations are relevant even now:

- The Committee suggested that due procedure (viz. formation and composition of FRCs, definition of Gram Sabha as the lowest level of village structure, survey of claimed land, entry of woman names into the land titles, etc.) as laid down under the rules and provisions of the Act be

¹⁸ [http://www.fra.org.in/Assam%20Report_National%20Forest%20Rights%20Act%20Committee%20\(Upload\).pdf](http://www.fra.org.in/Assam%20Report_National%20Forest%20Rights%20Act%20Committee%20(Upload).pdf)
The report was prepared by a team comprising of Vasavi Kiro, Roma, Jarjum Ete, Dr. Arupjyoti Saikia

followed while implementing the FRA. This also implies that ad hoc approach to implementing FRA should be avoided at the earliest.

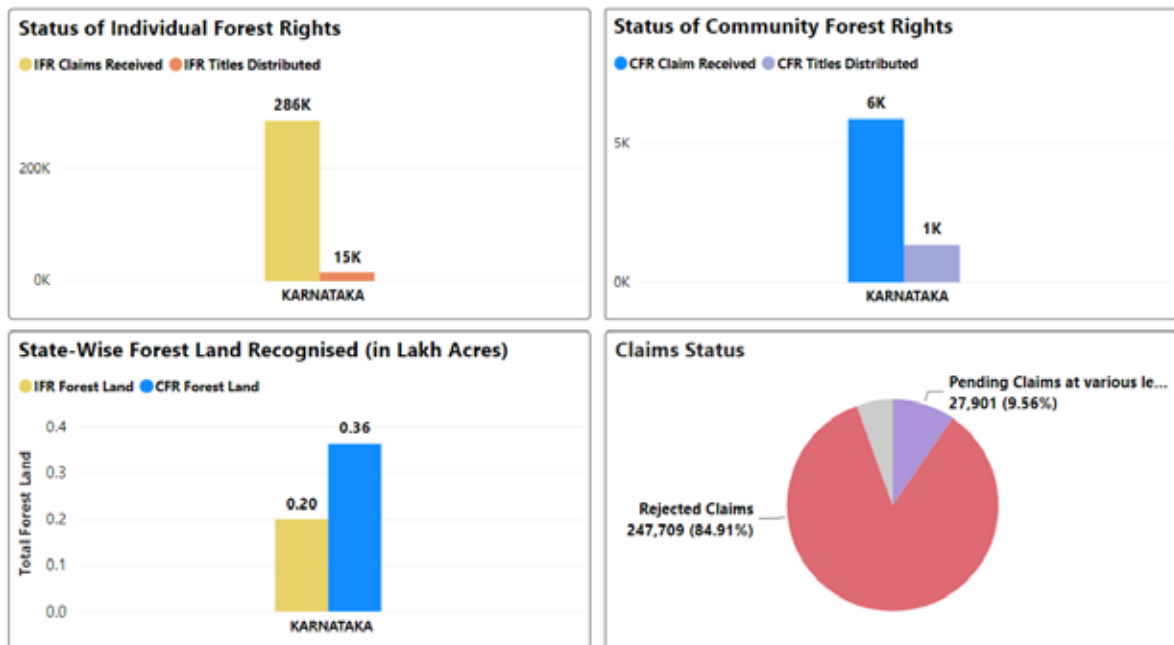
- The Government of Assam should urgently take up the case of the need to implement the FRA in the Sixth Schedule Areas. The specific example is that of the BTC areas. The Government of Assam should also urgently seek clarification from the MoTA in this regard.
- The state government must be taken seriously and urgently in addressing the claims of OTFDs. The Committee suggested the urgent need for serious cooperation in providing bureaucratic support for generating/finding evidence for the OTFDs. The government may take note of MOTA's clarification on OTFDs' definition and requirement
- The Government of Assam should urgently take up the case of the need to implement the FRA in the Sixth Schedule Areas.
- Notifications should be issued from time to time issuing clarification to various layers of officials involved in the implementation of FRA. Similarly the State Government should also regularly communicate with the MOTA to seek clarification. The Community Forest Rights claims should be encouraged. Steps should be taken for effective implementation of these rights and privileges.

It appears that in the implementation of FRA is still in its initial stage in Barak valley and Dima Hasao. Specific action required by the State to implement FRA is given in the chapter on recommendation.

KARNATAKA

As per data of MoTA, a total of 285,874 Individual Forest Rights (IFR) claims were received, with 14,782 distributed, which amounts to only 5.17%. In the case of Community Forest Rights (CFR), 5,863 claims were received, and 1,345 have been distributed, resulting in a CFR distribution rate of 22.95%. 0.2 lakh acres of forest land have been recognised for IFR, while 0.36 lakh acres have been recognised for CFR. However, it's worth noting that a substantial number of claims remain pending; with 27,901 claims at various stages of processing, accounting for 9.56% of the total claims. Considering the Monthly Progress Report for the year 2017 and the latest Monthly Progress Report for June 2023¹⁹, concerning CFR, the number of claims and title distribution has remained the same since 2017. Regarding IFR title distribution, 2,361 new titles have been distributed since 2017.

Status of implementation of FRA in Karnataka.



Source: FRA Dashboard, Ministry of Tribal Affairs (<https://dashboard.tribal.gov.in/>)

¹⁹ <https://tribal.nic.in/FRA.aspx>



RAMNAGARA DISTRICT

Ramanagara district, with a total population of 108,636, is home to a diverse demographic composition. Among its residents, the Scheduled Tribe (ST) population is 22,946, constituting approximately 2.12% of the district's inhabitants. Among the ST communities, the Bavacha/Bamacha people, who speak the Bavchi dialect, are a distinct group with 960 individuals. This district also boasts an abundant natural resource in the form of its total forest area, spanning 164.85 square kilometers, adding to its unique ecological and cultural richness. The FFC comprising **Pratap Singh Panwar and K.P Sinha** undertook the visit to Ramnagara district from 23-07-2023 to 25-07-2023.

Village: Jodagatte, Iruligara Colony, Gram Panchayat: Anchekuppe, Taluk: Magadi

The FFC members visited the following villages: Jodagatte, Iruligara Colony, Gram Panchayat: Anchekuppe, Taluk: Magadi on 23.07.2023. This is inhabited by the Iruligara Community. Of the 50 claims for IFR that were submitted in 2015, all of which were rejected by the SDLC. No order with respect to rejection was given to the claimants. In 2008, many of the encroachers on forest land, whose pending claims were evicted and arrested. The FFC recorded the statement of 8 claimants, 6 of whom are women, who are jailed for encroaching on forest land, despite the Forest Rights Act coming into force.

Villages: Siddeshwara Colony, Haranya Colony, Panchayat: Ajjanahalli, Taluka: Magadi

All the 16 claims submitted by the Gram Sabha were rejected by the SDLC for a technical reason that the land on which the claim has been made i.e. the Khata Number does not exist. However, the FFC was informed that it was only a typographical error, since instead of Khata No. 11 in the Gram Sabha resolution, it was wrongly mentioned as Khata No. 01. After this rejection, no fresh claim has been filed and it was evident that the Forest Rights Committee is inactive and exist only on paper.

Village: Budugayanna Doddi, Taluk: Harohalli

The FFC members visited Village: Budugayanna Doddi, Harohalli Taluk on 24.07.2023. It is inhabited by the Iruligara community. 43 claims of IFR were submitted in 2016 by the Gram Sabha to the SDLC. All of these claims were rejected by SDLC on the ground that at as per satellite imagery no such encroachment was noticed before 13th December 2005. However, the claimants have shown letters to the FFC which clearly shows that the letters issued by the Revenue Department, which clearly reveal that they were under occupation in Survey No. 48 in 1998.

Village: Tattekeri Iruligara Colony, Taluk: Harohalli

In this, the FFC was informed that 45 claims were submitted in 2016 to the Gram Sabha of which 30 were rejected by the Gram Sabha. Even with respect to the 15 claims that were accepted by the Gram Sabha, the same was not forwarded to the SDLC. The interaction with the villagers and the forest rights committee clearly revealed that none of them were aware of the procedure contemplated under the FRA. It was also clear that no effort has been made by the Tribal Welfare Department of the State in the last many years to inform the forest dwelling communities about the rights and obligations under the Forest Rights Act.

Village: Annayan Doddi

This village comprising 70 families, belongs to the *Iruligara* tribe. Even though all were residing in the forest area and depend on forest land for their livelihood, the Gram Sabha is yet to initiate the process for recognition of forest rights under FRA. It is disturbing to note that the process under FRA is not being initiated despite the law coming into force 15 years back. On the contrary, the Forest Department has issued notices for eviction in 2003.

Madiwala village – Uyamballi Gram Panchayat

The FFC members visited the village Madiwala, Taluk Ramnagara on 25.07.2023. The Gram Sabha approved 45 claims which were submitted to SDLC. However, the SDLC approved only 9 claims. The analysis of the rejected claims as well as claims submitted by claimants show that both the claimants as well as the SDLC adopted a mechanical approach while submitting and dealing with the claims. This is evident by the fact that each claimant stated that they are in occupation of 10 acres of land and therefore, sought title over 10 acres. This is the maximum permissible area over which individual forest rights can be conferred. Evidently, the figure of 10 acres has been arrived only to secure the maximum possible land permissible under the Forest Rights Act. The SDLC on its part approved uniformly 0.5 acres of land in respect of all claims made for 10 acres. Clearly, the Forest Rights Act was neither implemented nor understood in terms of its letter and spirit.

Golaradoddi village

In Golaradoddi village, all 23 claims that were approved by the Gram Sabha were rejected by SDLC.

MYSURU DISTRICT

The FFC members comprising of **V.K Bahuguna and Ritwick Dutta, Member Secretary** visited villages Anemala and Malada Hadi, Taluk - H. D. Kote on 27.07.2023 and village - Chikkahejjuru and Kolavige Hadi, Taluk - Hunsur on 28.07.2023. Shri Shantaram Siddi, Hon'ble member of the Legislative Council of Karnataka was present during the FFC meeting at the field level and gave valuable insights on the implementation of the FRA in the State.

In the Mysuru districts, five talukas have forest dwelling scheduled tribes and particularly vulnerable tribal groups. There are a total of 219 tribal settlements in the Mysuru district called Hadi. The particularly vulnerable tribal groups (PVTG) comprise *Jenukuruba* tribals. The *Jenukuruba* inhabitants the forest area that forms the conclaves of three states of Karnataka, Tamil Nadu and Kerala. The main concentration is in the Mysuru and Coorg of Karnataka district covering 3,000 sq. k.m. The population is more than 40,000. This tribe is distinct in its appearance and cultural practice. Jenu in Kannada means honey and Kuruba is the caste. As the name suggests, Jenukuruba are honey gatherers. Their main occupation is to food gathering in the forest, and collecting of minor forest produce, including honey. They usually live in small *hadis*, though they had a nomadic existence at one time. They are presently settled in the hamlets and practice agriculture.



Public Meeting of FFC in Nagarhole National Park (Buffer)

The district of Mysuru comprises two sub-divisions, Mysuru and Hunsuru. Information was provided with regard to the four talukas in Mysuru, which comprise H.D. Kote, Hunsur, Piriapatna and Nanjangud. There is a total of 146 Forest Rights Committees, with a maximum in H. D. Kote at 90 and Nanjangud with the lowest, at 5. In terms of the number of applications received by the forest rights committee, it is important to point out that 7,149 applications were received from scheduled tribes; however, not a single application was received from other traditional forest dwellers. In terms of community rights, 126 claims were filed. In terms of actual grant of title, the picture is rather dismal. This is evident from the following figures:

- Of the 4,395 claims filed before the forest rights committee in H.D. Kote taluk, occupation were recognised and IFR was granted to only 534 families. Thus, only 12.15% of the claims submitted were recognised.
- In the case of Hunsuru Taluk 1,311 claims were filed before FRC, however, not a single claim was recognised.
- In Piriapatna of the 1,177 claims filed, 188 was accepted and titles distributed. This amounts to less than 15.97%.

- In Nanjangud 266 claims were filed however, not a single claim was recognised.
- The extent of forest land over which IFR has been recognised is 434 acres in case of H.D. Kote and 129 acres in case of Piriapatna. Thus, this amounts to an average of 0.77 acres per claimant.
- So far as community rights are concerned it is not clear as to whether the chart refers to Community Rights or Community Forest Resource Rights. In the case of H.D. Kote, where 70 claims were filed, 14 were recognised, involving a total of 2093 acres. In the case of Hunsuru out of the 30 claims filed only 3 were granted, amounting to 559 acres. In the case of Nanjangud, 5 community claims were filed and not a single one was recognised as all were rejected. In the case of Piriapatna, the 21 Forest Rights Committee made claims over 21 community rights and all 21 were granted.
- There has been a high percentage of rejections in H.D. Kote; of the 4395 claims filed, 3123 were rejected. This amounts to 71% rejections.
- In Piriapatna, out of 1177 claims filed, 930 were rejected, amounting to 79% rejections.
- The FFC detailed representation as well as submission made by the committee and organizations:
 - 1) Village Forest Right Committees from different hadis of Hunsur, Piriapatna, H.D. Kote Taluks (VFRCs).
 - 2) President, Budakattu Krushikara Sangha, Hunsur Taluk, Hunsur.
 - 3) President Adivasi Mahila Sangha, Hunsur Taluk, Hunsur.
 - 4) President Adivasi Peoples Parliament, Hunsur.
 - 5) Secretary DEED H.D. Kote Road, Hunsur-571105
- The common concern raised by all the organization was that even though 168 of the 209 hadis are inhabitant by PVTGs, no Habitat Rights have been recognised. It was therefore, suggested that ITDP, Mysuru should help the Gram Sabhas to file claims for seeking Habitat Rights. The large number of rejections of claims were on grounds which are not sustainable in law. According to them, the principal reason for rejections have been the following:
 - 1) That the forest dwellers are living not on forest, but on fringe areas.
 - 2) They were not in occupation on forest land on 13.12.2005.
 - 3) No official sketch was submitted, but only handwritten submission were made.
 - 4) Claims were rejected en masse on the ground that the land on which claims were made are part of prohibited areas under Wildlife Protection Act.
 - 5) There was no evidence submitted about displacement of family from forest areas.
- The following are some of the suggestions made by the organizations:

“Regarding CFR title recognition, out of 219 tribal hadis in Mysuru district only 126 hadis filed CFR, out of these only 38 have received CFR title for an area of 8230 acres that is per hadi 216 acres area is available for community rights. They have ignored all provision of the law. 56 CFR were rejected on the grounds that wild life area and people

are living out of the forest as have been displaced earlier. These 56 CFR need to be recognized as per the law. The pending 32 CFR be issued title soon. 93 tribal hadis who have not filed CFR need to be helped by ITDP to file through their VFRC. Similarly, there are 168 tribal hadis belong to PVTG these hadis not filed Habitat right proposal as per FRA Sec 3.1.e. this is very important to protect the rights of PVGT- Jenukuruba tribes. Their habitats and habitation rights be recognized to sustained their quality life.

In Hunsur 26 PVTG hadis are there. All these hadis be helped to file habitat right proposal as per FRA 3.1.e. They are all in fringes of the forest and they were displaced in 1972 due to Wild Life Act implementation. There are 4000 tribal families in Hunsur, out of these, 3000 are PVTG families. All of them are living on daily wages- Coolie. Only 500 have some peace of agricultural land due to their struggle not as rehabilitation package. Remaining 2500 families are depending on coolie only. This is not a state of happiness and dignity. Therefore, FRA implementation is very important.

In H.D. Kote 4395 IFR filed, 3123 rejected, 734 pending, 538 IFR recognized. Total land given 434 acres. That is less than 0.8 acres. The villages visited by Fact Finding Committee on 27th has seen Anemala and Malada hadi were per family IFR land area is 5 guntas, 10 guntas ext. this need to be corrected. Though, they are living in the forest, Forest Department not allowing them to cultivate land since 1972 as area comes under wild life. FRA provides justice and implementation creates injustice. But historical injustice done to Adivasi remains even though FRA is there.

In Piriapatana 1177 IFR filed. 188 recognised and 129 acres land given, which again 0.8 acres per family. 989 rejected again on the reasons stated above. CFR title given for 21 hadis. But land area per village 216 acres. Another 17 hadis have not filed CFR proposal. Piriapatana taluk has 32 PVTG hadis. These villages need to be assisted to file habitat right proposals.

Similarly, in Najangudu there are 5 PVTG villages in fringe of Bandipur National Park. 256 IFR filed and 5 CFR filed, but all have been rejected on the same reason explained above.

Though joint letter was issued by Ministry of Environment and Forest and Ministry of Tribal Affairs represented by Secretary MEF Shri. R.P. Gupta and Secretary MoTA Shri. Anil Kumar Jha on 6th July 2021 to the State Chief Secretary, expressing deep commitment of Government of India in implementing FRA in letter and spirit. This has not been percolated down to SDLC and DLC, particularly Forest Department wild life. Kindly take this letter seriously to provide justice to the Adivasis to recognized their forest rights and remove historical injustice.”



Public Meeting in Mysore District

The FFC after interacting with the forest dwellers at village Anemala and Malada Hadi, Taluk - H. D. Kote on 27.07.2023, village Chikkahejjuru and Kolavige Hadi, Taluk - Hunsur on 28.07.2023 and meeting with officials at Mysore ITDP office on 29.07.2023, it was clear that the historical injustice on forest dwelling communities which were sought to be corrected as a result of the implementation of FRA, is yet to bear fruits so far as Mysuru district is concerned. Given the fact that the tribal population comprises of a significant number of PVTG, it was imperative for the government and all its agencies to have implemented the FRA on a mission mode. This is especially important, given the fact that the habitat rights should have been conferred on the PVTGs over and above the other rights under the FRA. As per section 2(h) of FRA habitat, includes the area comprising the customary habitat and such other habitats in a Reserve Forest and Protected Forest of primitive tribal groups, pre-agricultural communities and other traditional forest groups. The very fact that in two talukas there is en-masse rejection of every single claim filed requires a detailed inquiry and investigation by the concerned agencies both the Central and State Government. It was also apparent that the Gram Sabhas have largely failed to become effective institutions to initiate, verify and recognise the forest rights in the district. In view of the fact, a significant part of the forest area forms part of the protected areas including the Tiger Reserve (Nagarahole), it is imperative on the part of the concerned departments, both revenue, forest, and tribal welfare to have work out a mechanism in which the rights of forest dwellers are recognised and protected; and at the same time, the interest of wildlife conservation is not compromised. Given the fact that there has been marginalisation of the Jenukuruba tribe; there is a statutory and constitutional duty, that the provisions

of the FRA must be so interpreted and implemented to not only undo the historical injustice; but also work towards the upliftment of Jenukuruba tribe. It was evident from the records, that not only the IFR was rejected: the community forest rights were also not recognized in the majority of instances. In view of the fact that the *Jenukurubas* depend on forest for sustenance, adequate efforts should be made to recognise both Community Forest Rights and Community Forest Resource Rights and Habitat Rights of the Jenukurubas. This, unfortunately, has not been done, resulting in the perpetuation of the historical injustice. The FFC observes that the district administration and other agencies seem to be oblivious to the need to implement the FRA, both in letter and spirit. None of the agencies, whether it is the Gram Sabha, FRC, the SDLC or DLC seem to be equipped to implement the Forest Rights Act and Rules. This situation has emerged due to a lack of proper implementation of the law over the last many years.

It was evident to the FFC that there is a lack of knowledge about not only the FRA, but also of the Rules which are critical for ensuring effective implementation. The Rules were framed in 2008 and were amended in 2012. Unfortunately, the FFC noted that not only in Karnataka, but also in other states, the amended Rules were not known. It is evident from the Rules that a huge set of responsibilities is bestowed on the Gram Sabha, Village Panchayat and Forest Rights Committees. It was evident that efforts need to be made to make the institutions function in a manner which facilitates the implementation of the FRA. The process of recognition, identification, and settlement was done in a largely ad hoc manner without following the due process as contemplated under the Forest Rights Act and Rules. This is not just limited to panchayats and Gram Sabha, but also extends to offices at the sub-divisional, district and state level. Rule 4 the functions of the Gram Sabha are stated as follows:

“4. FUNCTIONS OF THE GRAM SABHA - (1) The Gram Sabha shall -

- (a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;
- (b) prepare a list of claimants of forest rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;
- (c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;
- (d) consider resettlement packages under clause (e) of sub-section (2) of section 4 of the Act and pass appropriate resolutions; and
- (e) Constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act.

- (f) monitor and control the committee constituted under clause (e) which shall prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling Scheduled Tribes and other Traditional Forest Dwellers and integrate such conservation and management plan with the micro plans or working plans or management plans of the forest department with such modifications as may be considered necessary by the committee.
- (g) approve all decisions of the committee pertaining to issue of transit permits, use of income from the sale of produce, or modification of management plans.”

The Forest Rights Rules therefore confers a range of functions on the Gram Sabha which is not limited only to the process of determining the nature and extent of forest rights and issues related to claims. The Gram Sabha is also required to consider resettlement packages; constitute a committee for protecting wildlife forest and biodiversity; prepare a conservation and management plan for community forest resources, and deal with issues pertaining to transit permit non-timber forest produce and income from sales of forest produce. Clearly, unless the Gram Sabha are informed and trained in these important statutory functions and responsibilities, it would be rather naïve to assume that merely because a law has been passed by Parliament, it will be followed. The role of both the Central and State Governments in building the capacity of institutions to implement the law becomes even more crucial when it relates to social welfare legislation. The role of the Government in communicating the aim and purpose of the law cannot be a one-off process, but a continuous one.

The Sub-Divisional Level Committee, which is headed by the SDO also has a number of functions assigned under Rule 6. These include providing information to each Gram Sabha about the duties and duties of holders of forest rights and others towards protecting wildlife, forest, and biodiversity with reference to critical flora and fauna which need to be conserved and protected. In addition, it has to collate all the resolutions passed by the Gram Sabhas; consolidate maps and details provided by Gram Sabhas; examine the resolutions and examine the veracity of the claims; hear petitions from persons including state agencies aggrieved by resolutions of the Gram Sabhas. In addition to the above, the SDLC is also entrusted with the responsibility of raising awareness among forest dwellers about the objectives and procedures laid down under the Forest Rights Act.

It was evident to the FFC, that in almost all instances, the SDLC is neither willing nor able to undertake the functions assigned to it. As is evident from the perusal of the functions mentioned in Rule 6, the SDLC has to play a key role in ensuring that the FRA is implemented in letter and spirit. It is duty-bound to educate and inform the Gram Sabhas not only about their role in the recognition of rights but also in terms of the protection of wildlife and biodiversity. It was evident that in almost all instances, the role of

the SDLC were limited only to consider the claims made, as well as the Resolution of the Gram Sabha and nothing beyond that. This is clearly contrary to their role as envisaged under the Forest Rights Act and Forest Rights Rules.



Meeting with District Official at Mysuru

There are issues and concerns about the composition of the Forest Rights Committee, the SDLC and the DLC. One of the key shortcomings is the fact that in all the three entities: Forest Rights Committee, SDLC and DLC there is a mandatory requirement for the inclusion of scheduled tribes as members of the committee. However, there is no requirement for Other Traditional Forest Dwellers. Given the fact that the Forest Rights Act concerns both Forest Dwelling Scheduled Tribes, as well as Other Traditional Forest Dwellers. It is imperative to include of other traditional forest dwellers as members of the committee. In respect of in case of the District Level Committee, it is stated that only in the event when there are no scheduled tribes in that situation two members from other traditional forest dwellers shall be members of the District Level Committee and Sub-Divisional Level Committee. Given the fact that both scheduled tribes and other traditional forest dwellers stand on the same footing so far as the Forest Rights Act is concerned, it is inconceivable as to why a distinction has been made between scheduled tribe forest dwellers and other traditional forest dwellers. It is a trite law that the Rules can only supplement the main legislation, but cannot supplant it. It was observed by the FFC, that in almost all the states, the OTFD are underrepresented or absent in the decision-making process and also have a higher rate of rejection so far as claims that have been made. It is therefore important to ensure that there is adequate representation of OTFD at all levels of decision making.

FINDINGS AND OBSERVATIONS

The FFC after studying the implementation of the Forest Rights Act in select districts of five states recommends the following to ensure the effective implementation of the Act.

- i. The task of initiation as well as completion of recognition of rights both at the level of the individual and the community must be completed at the earliest. The FFC notes that there has been inordinate delay in completing the process under the FRA, resulting in the continuation of historical injustice of forest dwelling communities. The FRA came into effect in 2008; however, even after 15 years, either the process for recognition is yet to be initiated in many districts; or the process for recognition is yet to be completed.
- ii. There was inadequate focus on Community Rights - both Community Forest Rights and Community Forest Resource Rights. The FRA was intended to cover both individual as well as community rights. It is clear that in almost all the states (except the Gadchiroli district of Maharashtra), the focus is only on IFR and not CFR.
- iii. The Gram Sabha, Forest Rights Committee, SDLC and DLC generally lack the capacity to implement the FRA. The lack of knowledge of the FRA and the process has led to an ad hoc process for recognition of rights which is contrary to the provisions of the FRA. There seems to be no effort on the part of any agency, both at the state and central level, to build the capacity of the Gram Sabhas, FRC, SDLC and DLC. In such a situation, these institutions are in the dark about how to effectively implement the Act.
- iv. The 'Gadchiroli model' of empowering *Gram Sabhas* to be effective 'body corporate' to implement the FRA should be replicated in other states. It is important for the state to direct its resources to build the capacity through skill development and training of Gram Sabha's to make them effective institutions for implementing the FRA.
- v. It has been observed that generally Other Traditional Forest Dwellers (OTFD) have been left out of the FRA recognition process. There is a misconception that FRA applies only to Scheduled Tribes. The composition of the SDLC and DLC also refers to representation of Scheduled Tribes and not OTFD thus giving the impression that the Act is for the benefit of Scheduled Tribes only. This needs to be rectified.
- vi. There is ambiguity with respect to Community Forest Rights and Community Forest Resource

Rights. Though these two are related, yet they are distinct rights. It was observed that no distinction was made between CFR and CFRR in the states covered by the FFC. This is also true for the data made available by MoTA, which only refers to CFR without specifying whether it belongs to CFR or CFRR.

- vii. The potential of CFRR and CFR are being restricted due to the implementation of compensatory afforestation. Plantations undertaken under CAMPA were done in dense forest areas where community had traditional rights. The fencing of this forest to protect the plantations not only denies the right of access to the forest but also limits the declaration of areas as CFR. The use of existing and potential CFR areas for plantations; especially those involving fencing under CAMPA, should be avoided. Under no circumstances should community access for forest land be restricted. It was also observed that such large-scale fencing is also detrimental to wildlife, since it significantly restricts the movement of wild animals thereby disturbing traditional movement routes and corridors besides aggravating human animal conflict. Any use of forest land for any activities under CAMPA must be done strictly in consultation and with the consent of the Gram Sabhas and of the communities directly impacted.
- viii. The FRA in its current form does not address the unique situation that exists in the North East. The strict definition of Scheduled Tribe as well as OTFD has meant that forest dwelling communities in Assam such as *Khasi, Naga, Reang, Bru* and *Hmar* among others, who though were living in the forest for generations and depend on the forest for livelihoods do not come under the category of either FDST or OTFD. This has led to a significant population who deserve to benefit from FRA being kept outside the purview of the law. Specifically, it is important to consider the 'Hill Tribe in Plains' and 'Plain Tribe' in hills within the scope of FRA by issuing specific guidelines.
- ix. There is a need to recognize Shifting cultivation - jhum as a practice that is adapted to the ecological and cultural needs of the forest dwelling communities. It is therefore important to devise a method of recognition of rights, which does not place primacy on the permanent occupation of land. The FRA extensively relies on documentary evidence to prove occupation which is impossible for shifting cultivators (jhumiya).
- x. There are obstacles in obtaining 'developmental rights' as contemplated under Section 3 (2) of the FRA which provides for allowing activities involving direction of forest land for the benefit

of the Forest Dwelling Communities. These include pipelines, schools, dispensaries and other facilities which are essential to meet the developmental needs of the community. The focus has been on IFR and to some extent on CFR/ CFRR. However, the fact that in most of the forest areas the FFC visited, basic facility were not available. It was evident that there was no emphasis on ensuring that adequate public utility and facilities are available in forest areas for forest dwellers.

- xi. There is a need to ‘de bureaucratize’ the forest rights recognition process. In its present form, though the FRA states that the authority to recognise and vest forest rights will be the *Gram Sabha*; the real power and authority, however vests with the DLC headed by the Collector/ District Magistrate/ Deputy Commissioner. In a way, the FRA has not fundamentally changed the pattern of governance as the *Gram Sabha* is de jure and de facto only an ‘advisory body’ and the real decision-making body is still the office of the Collector (through the DLC and SDLC). There is thus a need to review the powers and function of the *Gram Sabha* vis a vis the District Administration.

RECOMMENDATIONS

The findings with respect to the state are confined to the specific areas that covered by the FFC and do not necessarily reflect the state of implementation of the FRA in the state as a whole. However, this study is intended to give an idea of the state of implementation of the FRA and challenges being faced by the Forest Dwellers and Schedule tribes, as well as the District Administration and State Government in implementing the Act.

1. **Maharashtra:** The State made significant progress in implementing the Act, however, regional disparity remains. While in Gadchiroli, it was evident that the implementation of the Act has been prioritised by the District Administration resulting in the recognition of rights, the situation in Nasik is the opposite. The Gram Sabha in Gadchiroli has emerged as a focal point for the implementation of not only the FRA but also schemes under NREGA. The Gram Sabhas have been conferred CFR over significant forest areas and in many ways the Gram Sabha has become a 'body corporate'. The District Administration has been involved in building the Gram Sabhas's capacity to implement the Act. Notwithstanding, these positive developments, there are issues which need urgent attention. First is the non-recognition of CFR with respect to forest land which is proposed for mining. It came to the notice of the FFC that there are plans for opening up large tracts of forest land for mining and there are fears that recognition of CFR will create hurdles in the grant of mining leases and obtaining forest clearance. This selective denial of CFR rights defeats the purpose of the legislation. If the customary boundary of the village includes forest areas, the same should be recognised for grant of CFR irrespective of whether they are proposed for mining or not. Second, the issue of concern is with respect to the diversion for non-forest use of forest land for which CFR has been granted. The use of CFR for non-forest purposes (transmission line in case of Gadchiroli) without the approval of Gram Sabha is contrary to the FRA which placed a duty on the Gram Sabha to protect forests and wildlife. The non-recognition of this statutory function of the Gram Sabha by the state undermines the role of the Gram Sabha as an institutions for the conservation and protection of biodiversity and forest.
2. **Odisha:** The FFC covered the districts of Kandhamal and Sundargarh in Odisha. As per the data of the Ministry of Tribal Affairs 72% of the claims submitted under IFR have been recognised whereas 50% of CFR claims have been recognised. However, issues and concerns came to the notice of the FFC during its visit to the two districts. One of the major concerns is with respect to the claims which were set to have been recognised and approved by the DLC. It was evident that in many instances in Kandhamal, it was observed that although IFR claims

were recognised, it was done in only a fraction of the area for which the claim was made. Since, there is no separate category of partially approved in the data maintained by the Ministry of Tribal Affairs, all these partially approved forest rights also get recorded as approved. Therefore, the figure of 72% in terms of recognition of IFR does not necessarily reflect the true extent of land which is actually been transferred to the forest dwellers. A similar issue also exists about CFR rights where CFR over 3% have been granted as against a claim of merely four times more. The major concern about Kandhamal is the fact that the FRA has been applied only with respect to forest dwelling scheduled tribes and not to other traditional forest dwellers. It was evident that the general impression among the public and the district administration is that FRA applies only to scheduled tribe communities and not to others. Another substantive issue which needs immediate attention is the fencing of forests (Reserved Forest and Protected Forest) which are potential CFR areas for compensatory afforestation. In many of the villages visited by FFC in Phirangi taluk, it was observed that dense makes forests have been fenced and plantation undertaken under CAMPA. Such plantations are deeply problematic in view of the fact that firstly, no purpose is served by planting trees in already dense forests. Second, the chain-link fence which encircles these plantations completely denies access to the local community to the forest resources. This has a serious impact on livelihood and food security.

In Sundargarh, it was evident that there was no timeframe within which the SDLC or DLC were deciding on recommendations of the Gram Sabha. There were instances where decisions of SDLC and DLC have been pending for the last 13 years. The FFC found that in one instance, 151 claims were submitted in 2010 and only 12 were approved by the DLC. The decision about 151 claims was decided on a single day. It was also brought to the notice that non-forest dwelling communities who are residing within the municipal limits of Sundargarh were also given IFR titles.

- 3. Chhattisgarh:** The districts of Korba and Kanker were covered by FFC. The principal concern with respect to the fact that despite significant lapse of time i.e. 6 to 7 years since the Gram Sabha resolution was submitted to the SDLC, there has been no response from any of the authorities. Further, concerning IFR claims, the communities have received only a fraction of the land to which the claim was made. In fact, in most instances, the Gram Sabhas are not even aware of the status of claims i.e. whether they have been accepted or rejected. The lack of any website / portal which is publicly accessible makes it extremely difficult for the communities to know the status of the claims. It is important that not only should the information be available online; it is important that the same is available on the notice board of the Gram Sabha - Panchayat as well as the office of the Block Development Officer. In instances where the claims have been

accepted it was informed that no reason was assigned as to why the actual land recognised for grant of title is substantially less than the land to which the claim was made. Another important aspect brought to the notice of the FFC is the fact that the public was not aware of the appeal procedure under the FRA. One issue of serious concern is the fact that families who do not have IFR titles are not eligible for seeking compensation under the man-animal conflict scheme. In Sundargarh, there are PVTG comprising of Pahari Korba. However, they have been granted only IFR titles and none of them have been conferred Habitat Rights. Even with respect to the grant of IFR it was informed that the process under IFR was not followed since no Gram Sabha meeting or resolution was passed. IFR titles were simply distributed by the forest guards. In certain villages, in Korba the FFC also noted that Pahari Korbas having IFR titles were being evicted by non-tribal farmers. In Kanker, it was noticed that many fresh claims have been filed for seeking IFR. It was unclear why these claims were not filed in 2008 when the law came into force. It was evident that in most of the villages visited by FFC in Kanker district, the Gram Sabha and other institutions were unaware of the FRA process. As a result, in many of the villages no claims were filed either for IFR or CFR. It is important that awareness camps were organised in order to make the people aware of the provisions of FRA.

4. **Assam:** The situation about the implementation of the Forest Rights Act in Assam is complicated because of varied constitutional, legal, ethnic and administrative issues. The fact that certain areas are part of the Sixth Schedule of the Constitution has further complexity to the situation. The FFC undertook a study of the Dima Hasao and Hailakandi districts. It was clear that in the district of Dima Hasao the process under FRA has yet to be initiated. No IFR or CFR have been granted even though the tribal communities depend on forests for their livelihood. No FRC has been formed or Gram Sabha convened in order to implement the FRA. In Hailakandi district the implementation of FRA has become even more complicated because of the fact that many of the communities such as Khasi, Naga, Hmar and Reang who are considered scheduled tribes in the neighbouring States of Assam are not considered as scheduled tribes in Assam. As a result, they have to prove occupation on forest land of more than three generations which is difficult to prove due to lack of proper documentation as well as the fact that due to the practice of shifting cultivation many of the communities keep moving from one location to the other. The issue of serious concern with respect to Assam is the public notice issued by the Deputy Commissioner of Hailakandi in 2022 directing that all forest dwellers should submit the claims to the concerned Block Development Officer. This is contrary to the provisions of the FRA which clearly states that the authority to initiate the process under the FRA shall be the Gram Sabha and not the Block Development Officer. It seems that the State of Assam has devised

its own procedure for recognition of forest rights, which clearly violates the Forest Rights Act. There is ambiguity concerning the status of ‘hill tribes in plains’ and ‘plain tribes in hills’ so far as the rights of FRA are concerned. This ambiguity has led to uncertainty among forest dwelling communities especially those belonging to Khasi, Reang, Hmar and Bru communities. The fact that these communities are categorised as scheduled tribes in the neighbouring States of Meghalaya, Mizoram and Nagaland should be considered while granting rights under FRA. The fact that the above States were carved out of Assam should be taken into consideration while implementing the Act. The Ministry of Tribal Affairs and the Government of Assam along with the National Commission of Schedule Tribes should urgently consider this aspect in order to address the continuing uncertainty facing the ‘hill tribes in plains’ and ‘plain tribes in hills’ in Assam.

5. **Karnataka:** As per the data of the Ministry of Tribal Affairs only 5.17% of the claims filed for IFR were recognised which shows that Karnataka has the highest rate of rejections of IFR claims. With regard to CFR only 22% of the claims filed were recognised. The FFC undertook visits of two districts i.e. Ramnagara and Mysuru. In Ramnagara district the FFC came across villages located in Harohalli taluk where all claims of IFR were rejected. There were villages where even the recognition process is yet to be initiated and no FRC has been found. The situation in Mysuru was no different even though most of the villages visited by FFC comprised of Jenukuruba tribe which is a PVTG. In many of these villages almost 80% of the claims were rejected. No habitat rights were recognised. What is of concern is that even in instances where IFR has been recognised, the actual land allocated on an average is 0.8 acres, which is too small to eke out a livelihood. It was noted none of the agencies whether it is the Gram Sabha, SDLC or DLC seems to be equipped to implement the Forest Rights Act. This situation has emerged because of the lack of proper implementation of law in Karnataka over the last many years. Due to this lack of implementation the historical injustice continues to be perpetuated against forest dwelling communities including Schedule Tribes.

MINISTRY OF TRIBAL AFFAIRS

The Ministry of Tribal Affairs (MoTA) has to play a leadership role in implementation of the FRA. There are several teething problems in the implementation of the FRA which needs clarity as well as clarification from MoTA. The following are the key issues that needs to be dealt:

- 1) There is considerable lack of clarity with regard to Community Forest Rights and Community Forest Resource Rights. In the States where FFC undertook its study as well as in the portal of the MoTA, there is no distinction being made between CFR and CFRR. Under the FRA, both the rights are distinct and independent of each other. However, both are shown as community rights. It is therefore, not known as to the extent of each of the rights.
- 2) The implementation of FRA in the North Eastern States deserves special attention. In view of the unique constitutional status as well as ethnic diversity there is a need to frame specific guidelines for effective implementation of FRA. The existing law creates ambiguity so far as conferring Forest Rights are concerned. This is led to a situation where FRA is largely unimplemented in the North Eastern States of India.
- 3) The FRA focuses on both forest dwelling, scheduled tribe and other traditional forest dwellers. There seems to be misconception that the benefit of this Act is only for forest dwelling scheduled tribes and not to other traditional forest dwellers. The ministry may consider take effective steps to clear this misconception.
- 4) Despite a decade and a half of the FRA coming into force, there is still limited understanding among officers at the field level about the FRA and its scope. The ministry must take proactive steps to build capacities of government officers especially at the field level to ensure effective implementation of the Act.
- 5) Specific directions should be issued to all States to ensure that the forest lands on which IFR has been granted could be mortgaged or given a security for the purposes of loan from Banks.
- 6) The Gram Sabha, SDLC and DLC are critical for the effective implementation of the Act. However, there is lack of understanding above the FRA and its scope. Capacity buildings programs is therefore critical and should be a regular process given the fact that officers get transferred at frequent intervals.
- 7) There is no time frame for deciding appeals and recognizing the rights. As a result, claims remain pending for long. There is need for guidelines or rules which specify the time frame for deciding on appeals.
- 8) There has been large number of rejections in some States which needs to be probed in order to ascertain the cause of such rejection. This is important, since such disproportionate rejection defeats the purpose of the law which was enacted to correct historic injustice of forest dwellers.

MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE

The Ministry of Environment, Forest & Climate Change (MoEF&CC) has to play a proactive role in the implementation of the FRA. This has to be at to different levels- policy level and capacity building. The following areas deserves the attention of the MoEF&CC:


- 1) There needs to be regular coordination between the MoTA, MoEF&CC and States Government in order to ensure that there are no bottlenecks in the implementation of the Act.
- 2) There needs to be specific directions to ensure that while considering proposals for diversion of forest land for non-forest purposes under FCA, 1980 due consideration must be given to forest lands which are part of CFR.
- 3) MoEF&CC being the controlling ministry for officers of the Indian Forest Service must focus on capacity building on FRA with specific focus on sensitizing officers about the need for undoing the historic injustice to forest dwelling communities.
- 4) Implementation of compensatory afforestation under CAMPA must be done in such a manner so as to not impact the rights of forest dwelling communities. Compensatory afforestation must be done strictly in compliance with the rights conferred under FRA and with consent of Gram Sabhas.
- 5) Any legal changes as well as reforms undertaken with respect to forest must take into consideration, the rights that have accrued to communities under FRA.

NATIONAL COMMISSION ON SCHEDULED TRIBES

The National Commission on Scheduled Tribes (NCST) as a Constitutional body under Article 338A has an important role in ensuring that the rights of the Scheduled Tribes are safeguarded under the FRA. Based on the study done by FFC, the following are the recommendations:

- 1) The Commission may constitute an Inquiry Committee to evaluate the implementation of the FRA across the country given the fact that it has been sixteen years since the law has been in force.
- 2) The commission may consider reviewing the status of FRA in the north-eastern States given the fact that many of the States are yet to initiate any steps to implement the Act. Even in States where the law is being implemented, there are districts where it is yet to be initiated.
- 3) There are serious gaps in the implementation of FRA in Sixth Scheduled Areas of the North East. In addition, there has to be clarity with regard to the application of FRA on 'hill tribes in plains' and 'plains tribes in hills' in Assam. The Commission may consider focusing on these critical issues and resolving the same.
- 4) The Commission may consider conducting regional / State level consultation annually in order to review the implementation of the Act.

Annexure A



Call for Justice
न्याय की पुकार

Date 15th January, 2023

Constitution of Fact-Finding Committee

On the request of NGOs and Voluntary Organisations working for the development and welfare of the *Janjatis*, [the Scheduled Tribes (STs)] in different parts of the country, *Call for Justice* is pleased to constitute a Fact-Finding Committee (FFC) to investigate into the implementation and Progress of the Forest Rights Act, 2006 as under:

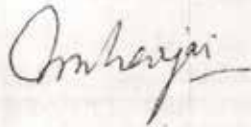
1. Hon'ble Justice S. N. Dhingra , (Retd), Delhi, <i>Former Judge, Delhi High Court, Former Member of the Competition Commission of India and Former Chairperson Appellate Authority under CAs, CSs and ICWA Acts</i>	Chairperson
2. Dr V. K. Bahuguna , IFS (Retd), Delhi <i>Former PCCF and former Principal Secretary, Government of Tripura and Former DG-ICFRE, Dehradun.</i>	Member
3. Sri Chetram Pawar , Village Baripada, Dist. Nandurbar, MH <i>Renowned ST social leader working for forest protection and village development. Recipient of IFAD and UNDP-India Biodiversity Project Award, And other National and International Awards</i>	Member
4. Sri Pratap Singh Pawar , IFS (Retd), Dehradun, <i>Former Commissioner, Health, Former Director Health Education and Former APCCF-Chhattisgarh</i>	Member
5. Sri Milind Thatte , <i>PESA & FRA Activist, Nashik, Maharashtra, Governor-nominated Expert Member, Tribal Advisory Council, Maharashtra Member Expert Committee, CFR Management Committee, Ministry of Tribal Affairs</i>	Member
6. Sri K. P. Sinha , Raipur - Chhattisgarh, <i>An FRA implementation & livelihood activist, Member, State MANREGA Lokpal, Chhattisgarh.</i>	Member

न्यायार्थ पथात् प्रविचलन्ति पदं न धीराः - (भृत्तरि) | वीर एवम न्याय के मार्ग से एक पद भी विचलित नहीं होते ।
THE STEADFAST NEVER DEVIATES EVEN A STEP FROM THE PATH OF JUSTICE.

REGISTERED OFFICE- 11/68, SHANTI CHAMBER, PUSA ROAD, NEW DELHI-110085

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|--|-----------------------------|
| 7. Dr Madhav Govind , Delhi.
<i>Asst Professor JNU,
Centre For Studies in Science Policy</i> | Member |
| 8. Ms Kiran Sushma (urf Pinky) Khoya, Ranchi, Jharkhand
<i>An activist and Advocate specialising land matters</i> | Member |
| 9. Sri Ritwick Dutta , Advocate, NGT and Supreme Court
Delhi.
<i>A renowned scholar on Environment, Forest and
Wildlife laws. Recipient of Right Livelihood Award, 2021
and other National Awards.
Guest Faculty IGNFA, CASFOS and other academic institutions.</i> | Member
Secretary |

- The committee will decide its own methodology, working and visits to concerning states.
- The Terms of Reference are given attached herewith separately.



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Note: Prof. Madhav Govind could not join the FFC due to academic engagement

Annexure B**Terms of Reference for the Fact Finding Committee to investigate into the implementation and Progress of the Forest Rights Act, 2006.****Background**

India's Forest laws are a legacy of the Colonial era based on 'command and control' regime where traditional rights of forest dwelling communities were reduced to mere 'privileges' and 'concessions', which could be taken away on the whims and fancies of the rulers. The post-independence era did not see much change since most of the forest laws were based on the colonial structure which viewed forest dwellers as 'rank encroachers' on forest land who needed to be either removed/ evicted or 'civilised' by making them leave their traditional way of life. This approach has had drastic consequence on India's forest dwelling communities spread of the length and breadth of the country. The gravity of the seriousness can be gauged from the fact that India has the world's largest number of forest dwellers since there is an estimated number of 250 million forest dependent people in India who have integral ties to the forest and various irreplaceable social, cultural and economic links.

Given this background, the enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA in short) is regarded as landmark legal development which aimed to correct the historic injustice against Scheduled Tribes (STs) and other forest dwelling communities. From being considered as 'encroachers and law violators', the forest dwellers were given the status of rightful owners of forest land which was under their control for generations. In addition to individual rights to forest land, the forest dwellers were also conferred Community Forest Rights (CFR) over forest land over which they had traditional access. The Gram Sabha's were also empowered to protect and conserve forest and wildlife.

After nearly one and a half decades of implementation of the Act, the impact on forest dwellers have been mixed. On the one hand, significant forest land have been vested on forest dwelling communities; Forest Villages have been converted to Revenue Village; the Gram Sabha's have become key decision makers when it comes to forest land diversion. However, the implementation has not been uniform and the conflict between the Forest Department and the Tribal Communities continue. The progress with respect to Community Forest Rights have been particularly slow and the functioning of the Forest Rights Committee have severe shortcoming. There is also a general impression that the implementation of the FRA has led to diversion of large stretches of forest land and has increased conflicts in rural landscape.

The Supreme Court has been hearing for more than a decade a Writ Petition against the Constitutional validity of the Act (Wildlife First versus Union of India). The case has been expanded to also include the implementation of the Act. Though the case is pending, there have been interim orders of the Court

seeking update on the status of the both claims accepted and rejected. There have been interim directions seeking the state governments response with respect to the status of eviction. Though, the orders have not been enforced due to subsequent modification, the fear of eviction still looms large among the forest dependent communities.

There is overall a lack of clarity with respect to the status of implementation of the Forest Rights Act. Though, there has been documentation at state and regional level about the status of settlement and recognition, significant gap still remains. Further complexities arise because of varied statutory and constitutional provisions that exists in different states – Fifth Schedule States and Sixth Schedule States and other states.

It therefore becomes imperative to undertake an investigation into the actual implementation of the Forest Rights Act, with view to ascertain the following by forming a Fact Finding Committee:

- **The social and economic benefits that have accrue to forest dwelling scheduled tribes and other traditional forest dwellers as a result of the implementation of the Act:** It has been more than a decade and a half that the FRA has been implemented. It is important to understand to what extent it has helped address the issue of historic injustice towards forest dwellers. The FFC will focus on the change in terms of dignity, economic benefit and social upliftment that has taken place after the commencement of the **FRA**.
- **The status and progress with respect to grant of Individual Forest Rights** – Under FRA, forest-dwelling communities are entitled to two types of rights: the individual forest right (IFR) of settlement and cultivation on forestlands, and a wider set of rights, referred to as community forest rights (CFR), under which communities can manage, collect and sell Non-Timber Forest Produces (NTFPs) like bamboo and tendu leaves. Specifically, the actual status with respect to claims made, claims accepted by the Forest Rights Committee and the number of Claims rejected. This will also involve examining the manner in which the Sub Divisional Level Committee (SDLC) and District Level Committee (DLC) and State Level Monitoring Committee (SLMC) have responded to the Claims. Specifically, it is important to examine the nature of evidence that were accepted or rejected for the purpose of grant of forest rights. This is important given the fact that there have been large scale rejections of IFR claims without assigning any reason. Besides, there are grievances that claimants have, they were not informed or allowed to appeal against the rejection by the District-Level committee (DLC) or the Sub-Divisional Level Committee (SDLC).
- **Status with respect to Community Forest Rights (CFR):** Community forest rights recognized under the Forest Rights Act are important for securing livelihoods of the forest communities and for strengthening local self-governance of forests and natural resources. The Act defines “community forest resource” as, “customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community

had traditional access.” It has been observed that that the implementation of **CFR** provisions has been a different experience not only for each state, but also for different districts within the same state. The recognition of **CFR** claims across India has been slow and ineffective. Without crucial evidence and effective implementing agencies to facilitate the claim process, thousands of Gram Sabhas across India are yet to claim their **CFR** or have submitted claims without proper evidence, as a result they are either pending or have been rejected at different stages.

The FFC will therefore focus on the status of **IFR** and **CFR** claims in selected states. This will include examination of the claims made by individuals and the community and the actual recognition of the Rights.

- **Status with respect to conversion of Forest Villages into Revenue Villages:**

The Forest Rights Act provides for the conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue villages has been recognized as one of the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands under Section 3(1)(h) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Nodal Ministry for implementing the **FRA**, Ministry of Tribal Affairs (MoTA) has last year issued comprehensive guidelines to all the State/UT Governments on various aspects of implementation of the Act, which also emphasized the need to implement the provisions of the **FRA** regarding conversion of forest villages and other such villages into revenue villages, without any exceptions or exemptions being provided to such villages in any category of forest lands. The State Governments were advised to convert all erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. 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.

It is therefore imperative to ascertain the status and progress made with respect to conversion of forest villages into revenue villages. This will also include assessment of the actual change that has taken place in villages which have been declared as Revenue Village from the earlier forest village.

- **Status of basic facilities with regard to forest dwelling communities:** The **FRA** allows for basic facilities aimed at upliftment of the conditions of the forest dwelling communities – schools, shops, dispensary, communication facilities, roads among others. Despite the enactment of the **FRA**, there is still hurdles in getting these basic facilities approved in forest areas. It has been observed that even though there are specific legal provisions for basic amenities, there have been multiple obstacles in making the facilities available.

There is thus a need to examine the status of facilities available to Forest dwelling communities.

- **Functioning of Gram Sabha:** Under the Forest Rights Act, the Gram Sabha is the body to initiate the process for recognition of forest rights. Besides, the recognition of Forest Rights has to be also done by the Gram Sabha. However, the Gram Sabha’ has not always fulfilled its statutory role due

to multiple reasons. It is therefore important to examine critically the actual functioning of the Gram Sabha so far as initiation and recognition of forest rights is concerned. With respect to rights over NTFPs, despite the enactment of the FRA and provisions for community rights to NTFP, Gram Sabhas continues to face hurdles and harassment at the hands of contractors and the forest department. Even after the enactment of the FRA—which clearly defines the role and responsibilities of Gram Sabhas and implementing agencies in facilitating and supporting forest dwellers in the enforcement of the act—local elite capture contractor hegemony, and forest department monopoly over forestlands and resources continue in several parts of India.

In view of this a deeper understanding of the functioning of the Gram Sabhas vis a vis the FRA is called for. In addition, whether Verification Gram Sabhas were called or not as per Rules and/or Guidelines.

- **Focussing on specific aspects related to FRA:** There are state specific issues which needs closer investigation in order to comprehend the situation with respect to implementation of the FRA. Thus, one of the state specific issues relates to the classification of areas termed as ‘orange areas’ in Madhya Pradesh. It is generally accepted that disputes between forest Department and Revenue Departments particularly those related to the orange areas have not only constrained effective forest management in Madhya Pradesh but have also curtailed the ability of landowners and forest communities to exercise their legal rights and derive sustained economic benefits from land and forests.
- **Status regarding implementation of FRA in Protected Areas (National Parks and Sanctuaries).** There is a general consensus that the FRA implementation on Protected Areas have been weak. There is a need to examine the status of implementation of FRA in the protected areas in the selected states so that the goal of the wildlife protection and recognizing rights of local communities can be reconciled.
- **Land as an Asset for Forest Dwelling Communities:** Forest dwellers like others require bank loans to meet many of their needs. However, there are restrictions on the mortgage of IFR titles for securing loans despite the clear guidelines. Moreover, the Forest departments are prohibiting the recognised cultivators, IFR holders to develop their land by way of digging wells, tube wells, cattle sheds or electrification. This has greatly restricted the flow of financial resources for the STs on one hand and yielding better agricultural crop and increasing agricultural productivity on other. These aspects need a closer scrutiny.

States to visit for Undertaking the Fact Finding

The FFC will concentrate on the following states based on the needs considering the varied situation with respect to the implementation of the FRA - **Madhya Pradesh, Odisha, Maharashtra, Karnataka and Assam.** Selection of these states is done and districts, blocks and Villages (GS) therein is to be done to ensure that it is representative of the areas included in the Fifth and Sixth Schedule of the Constitution as well as non-Schedule Areas where different issues and concerns with respect to the implementation of the FRA exists.

Uttar Pradesh may be considered to include at a later stage if time permits.

Logistics and Travel

The FFC will involve travel to the respective states and the Districts and Blocks in order to ascertain the ground level situation. The mode of travel will be decided based on location. For local accommodation, it will be the endeavour to make use of public facilities maintained by the Government such as Circuit House, Forest Rest Houses and Dak Bungalows wherever appropriate.

There is substantial background work required in terms of secondary research and other activities related to collection of information. In order to undertake this research, at least two full time persons will be required during the entire duration of the FFC to collect and analyse the information.

An office space will be required in Delhi for the duration of the FFC for purposes of meeting, correspondence and storage of materials collected. The FFC in consultation with the *Call For Justice (CFJ)* may arrange these requirements.

All the expenses stated above and in achieving the objectives of the FFC, shall be borne by the CFJ. This being a noble and voluntary public cause, all the members have extended their services voluntarily in this very spirit.

TERM

This task will commence on the day, the 1st meeting of the FFC is held in the month of January 2023 and will be completed on or before 15th June, 2023.

Annexure C

Sample of Questionnaire

Questionnaire of Fact Finding Committee on Forest Rights Act
ODISHA

Individual Forest Rights (IFR)

1. Name of the Claimant (दावेदारचे पूर्ण नाव).....Age ... ST or OTFD.....

2. Village(गाव):..... Taluk (ता.दु.क):..... District.....

4. Primary Occupation of Claimant/ family (व्यवसाय)
.....

5. Secondary Occupation of the Claimant.....

6. Time since when they have been in the Village (कधीपासून या गावात राहता)
.....

7. Other Family Members/ Members of Household
.....

8. Secondary Source of livelihood (उत्सर्गाचे इतर साधन)
.....

9. Area under Habitation and Claim filed for Habitation (परगाठी दावा केला असल्यास परावे व दावाचे क्षेत्र).....

10. Whether, the area under habitation is on forest land under occupation? if no, distance of the habitation to the forest area under occupation
.....

11. When Claim for IFR was filed (दावा कधी केला, तारीख किंवा वर्ष).....

12. Area under Cultivation/ Occupation as on 13/12 2005 रोजी कच्चासाडी असलेले क्षेत्र
.....

13. Total Area for which claim has been filed (दावाचे क्षेत्र).....

14. The proof submitted while seeking claim.....
.....

15. Other Members of the Family who have made claims
.....

16. Whether Claim has been accepted or not? (दावा मान्य झाला की अपयश) if Accepted how much is the land area involved? (मान्य असिल तर क्षेत्र कितीचे)
.....

17. If Claims have been Rejected, reasons for Rejection by the relevant authority - Gram Sabha- SDLC or DLC (दावा अपयश केला असल्यास कारण काय आहे)
.....

18. Whether Appeal was preferred before: SDLC and DLC and outcome of the same दावा अपयश झाला असल्यास अपील केले होते का (होय/नाही) कोणत्या समितीसमोर (प्रारंभिक/द्वितीयक)
.....

19. The nature of economic and non economic benefit that has accrued to the Claimant (दावा मान्य झाला असल्यास परावे व शेती सुधारकेकरिता सामाजिक कोणत्या योजनांचा लाभ मिळाला)
.....

20. The nature of hardship caused to the community/ person / family due to non recognition of IFR Title
.....

FFC Member _____ Date _____ Claimer _____

Call for Justice
Delhi

