

TRAINING MANUAL - I

**FOREST RIGHTS ACT TRAINING MANUAL
FOR GOVERNMENT FUNCTIONARIES
AND MEMBERS OF GRAM SABHA**



Prepared By:

**National Resource Centre at
Sch. Castes & Sch. Tribes Research and
Training Institute, (SCSTRTI), Bhubaneswar, Odisha (2015)**

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Training Institute, (SCSTRTI), CRPF Square, Bhubaneswar, Odisha**

Acknowledgement

**Ministry of Tribal Affairs, GOI & United Nation Development
Programme for Financial Support and Vasundhara, Odisha for
Technical Support**



ACKNOWLEDGEMENTS

Organizations

- Ministry of Tribal Affairs, GOI, New Delhi
- United Nation Development Programme
- ST&SC Development Department, Government of Odisha
- Sch. Castes & Sch. Tribes Research & Training Institute
- Vasundhara, Bhubaneswar

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PREFACE

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or in short, the Forest Rights Act (FRA), 2006, is one of the most important and popular Entitlement based laws ever enacted in India favouring the tribal and other traditional forest dwellers' rights over forest land.

The Rules for implementing the Act was framed in 2008 and further amended in 2012. The enabling provisions contained in the FRA seek to redress the historical injustice done to the forest dwelling people whose rights had not been legally recognized and recorded and who were denied their traditional rights to forest lands and resources in legislations prior to FRA. In spite of the lofty aims of the Act, recognition of the rights of the forest dwellers to live in the forest and use its resources as well as making it a duty for the forest dwelling communities to protect, regenerate, conserve and manage forest resources sustainably.

Odisha has made substantial progress in implementation of the Forest Rights Act. However the present status of implementation when compared to some of the estimates of forest dependent scheduled tribes and other traditional forest dwellers reveal that the full potential of the Act is yet to be realized. There is a great deal of variation across the states in terms of status of claims and recognition and the progress is limited to few pockets. From among the rights only individual rights have been addressed while recognition of community rights and community forest resource rights remain limited to only few states. Specific provisions dealing with the rights of vulnerable communities such as Particularly Vulnerable Tribal Groups (PVTGs) and their habitat rights, conversion of forest villages into revenue villages, rights of women etc. are yet to be addressed. There is also inadequate response to deal with the issue of rejected claims, which are pending at different levels leading to discontent among the STs/OTFDs claimants. There are also second generation issues which are coming up post recognition of rights such as final mapping of the forest land vested in the STs and OTFDs and creation of record of rights (RoR). Similarly, the implementation of minimum support price (MSP) scheme on Minor Forest Produce in the state for benefit of the STs/OTFDs forest rights holders has thrown challenges which need to be addressed. The Ministry of Tribal Affairs have recently issued guidelines, which address to the issues of CFR Rights, Habitat Rights, creation of RoR, governance and management of CFRs, support to right holders under convergence programs for their livelihood enhancement etc.

On the whole there is a need of refresher training and orientation of concerned government officials and other concerned stakeholders (such as PRI members) to further strengthen the process of implementation of the Act and to facilitate and ensure effective implementation of the empowering provisions of community rights and community forest resource rights which remain neglected. The National Resource Centre at SCSTRTI, Bhubaneswar Assigned two activities.

- 1- Preparation of FRA Training manuals for Government Functionaries and members of Gram Sabha including development of the manual.
- 2- Developing Manual on delineation and mapping of community rights and community forest resources including development of manual.

This assignment was conducted in 2014-15 with financial support from UNDP under the aegis of Ministry of Tribal Affairs, GOI, New Delhi, and ST & SC Development Department, Govt. of Odisha, and Technical supports from Vasundhara

The training manuals are in draft stage. They have been organized into two components, first one on Preparation of FRA Training manuals for Government Functionaries and members of Gram Sabha including development of the manual and second on Developing Manual on delineation and mapping of community rights and community forest resources including development of manuals, Besides, there are contents, bibliography, Annexures and a photo documentation on recognition of community forest resources.

I would like to complement the efforts of the Institutions and Individuals, especially the National Resource Center at SCSTRTI and Research Teams from Vasundhara, Bhubaneswar, who involved actively in accomplishment of the research results. In the lights of the debates and discussions made across the country on translating the forest rights in to reality, it is hoped that, this training manuals will be quite useful to Officials of different Ministries and Departments of Central and states Governments, and functionaries of different Institutions and Organizations dealing with FRA implementation and to the Gram Sabha at the grass root level.

Place: Bhubaneswar

(Prof. A.B. Ota, IAS)

Dated: August, 2015

Director, NRC, SCSTRTI.

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1.0. Introduction to FRA

Premise of the Act

The issue of community access and rights over natural resources has always been contentious in India. Pre-independence, forests were viewed as crown lands and extensive tracts of forests were declared as reserved forests which were managed largely for commercial use. The process of declaring reserve forests led to extinguishing the traditional rights of the forest dwelling communities (tribal and non-tribal). Post- independence, the second phase of extension of government control over forest area included the setting up of a network of Protected Areas which further eroded community rights. This has led to alienation, unrest and what is perceived as “encroachment” on forest areas by these communities. In the absence of clearly defined property rights, millions of forest dependent families living in or around forest land have been perceived as encroachers or illegal occupants. Not surprisingly therefore such areas have witnessed serious conflicts over land and forest rights.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has come on the basis that the central factor affecting livelihoods and identity of the forest communities is their lack of access to and control over natural resources in many parts of the country. Its enactment brings in some positive approaches in management of natural resources like:

- Provides an opportunity to democratize the nature of forest management
- Gives importance to the needs of local communities over forest
- Mandates that critical wildlife habitats are not diverted subsequently for any other use.

India, after independence, has enacted a number of progressive laws but in most cases the implementation has been poor due to limited awareness about the laws among the common people. This also has often led to a handful of persons using some provisions to exploit the poor and marginalized people. In some cases, the intention of various laws is still not understood by those for whom the laws were enacted.

1.1. What is Forest Rights Act

Forest Rights Act recognizes and vests forest rights in the scheduled tribes and other traditional forest dwellers who have been residing in forests for generations but whose rights could not be recorded. It provides for a framework for recording of the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

Forest Rights Act is a means to address some of the pressing issues affecting livelihood and conservation. By securing tenurial and access rights and providing an empowered authority for conservation it aims to,

- Ensure livelihood and food security of the forest dependent communities.
- Provide for basic developmental facilities for the forest villages.
- Provide legal recognition to the community conservation initiatives thereby strengthening traditional conservation practices that protect some of the critical ecosystems of the country.

- Protect traditional knowledge and intellectual property relating to biodiversity and cultural diversity.
- Protect customary rights of the forest communities.
- Empower communities to protect, conserve and manage forest and biodiversity.
- Conserve the common forest and biodiversity resources accessed by the community which are threatened by destructive activities.
- Establish empowered institutions at the community level for conservation and management of natural resources, thereby strengthening conservation governance at the grassroots.

FRA a) recognizes rights of STs/OTFDs, b) provides for a framework for vesting of the rights and c) protects rights till the process of recognition is complete.

1.2. Key concepts and definition

- * Forest dwelling Scheduled Tribes means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs and includes the Scheduled Tribes pastoralist communities.
- * Other traditional forest dweller means any member or community who has for at least last three generations prior to the 13th day of December, 2005, primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs. *One Generation means 25 years. Evidence of occupation over three generation is not a prerequisite of claims in case of OTFDs. Only residence evidence for three generation is required.*
- * Forest land means land of any description falling within any forest area and includes unclassified forests, un-demarcated forests, existing or deemed forests, protected forests, reserved forests, sanctuaries and National Parks.
- * Minor forest produce includes all non-timber forest produce of plant origin including bamboo, brushwood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like.
- * Community forest resource means customary forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as sanctuaries and National Parks to which the community had traditional access.
- * Critical wildlife habitat means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4.
- * Forest villages means the settlements which have been established inside the forests by the forest

department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of *taungya* settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government.

- * Gram Sabha means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women.
- * Habitat includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes.

Village means

- * a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or
- * any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or
- * forest villages, old habitation or settlements and un-surveyed villages, whether notified as village or not; or
- * in the case of States where there are no Panchayats, the traditional village, by whatever name called;
- * Wild animal means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

1.3. From the Rules (including Amendment Rules 2012)

- * Bonafide livelihood needs means fulfilment of livelihood needs of self and family through exercise of any of the rights specified in sub-section (1) of section 3 of the Act and includes sale of surplus produce arising out of exercise of such rights; (Amendment)
- * Claimant means an individual, group of individuals, family or community making a claim for recognition and vesting of rights listed in the Act;
- * “community rights” means the rights listed in clauses (b), (c), (d), (e), (h), (i), (j), (k) and (l) of sub-section (1) of section 3;
- * Disposal of minor forest produce under clause (c) of sub-section (1) of section 3 shall include right to sell as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihood;

Explanation:-

- (1) The transit permit regime in relation to transportation of minor forest produce shall be modified and given by the Committee constituted under clause (e) of sub-rule (1) of rule 4 or the person authorized by the Gram Sabha,
- (2) This procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of minor forest produce,
- (3) The collection of minor forest produce shall be free of all royalties or fees or any other charges;

* Forest Rights Committee means a committee constituted by the Gram Sabha under rule 3;

1.4. Typology of Forest rights

Section 4 (1) of the Forest Rights Act recognizes and vests forest rights mentioned in section 3 which are rights on all forest land which secure individual or community tenure or both (Section 3(1)) and Developmental rights (facilities) (Section 3 (2)).

Rights on all forest land which secure individual or community tenure or both (Section 3(1)):

- (a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

Explanation:

- i) Forest rights recognised and vested in respect of land mentioned in Section 3 (1)(a) shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares (Section 4 (6)). It is to be noted that the four hectare limit specified in Section 4 (6) applies to rights under section 3 (1)(a) of the Act only and not to any other rights under section 3 (1). (MOTA Guidelines of 12th July 2012)
- ii) The land rights for self-cultivation recognized under clause (a) of sub-section (1) of section 3 shall be, within the specified limit, including the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce (Amendment Rule 12A (8)).
- (b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;
- (c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;
- (d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;
- (e) rights, including community tenures of habitat and habitation for primitive tribal groups and pre- agricultural communities;
- (f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;
- (g) rights for conversion of Pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;
- (h) rights of settlement and conversion of all forest villages, old habitation unsurveyed villages and other villages in forest, whether recorded, notified, or not, into revenue villages;
- (i) right to protect, regenerate, or conserve or manage any community forest resource, which they have been traditionally protecting and conserving for sustainable use;
- (j) rights which are recognised under any State law or laws of any Autonomous District Council or

Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of concerned tribes of any State;

- (k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
- (l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;
- (m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement or rehabilitation prior to the 13th of December 2005.)

Note: The forest rights recognised and vested under this Act include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition. (Section 4 (8))

Developmental rights (facilities) (Section 3 (2))

The Act has provisions (*Section 3 (2)*) for securing rights of forest dwelling communities over developmental facilities such as Health and educational facilities, fair price shops, electric and telecommunication lines, tanks and other minor water bodies, drinking water supply and water pipelines, water or rain water harvesting structures, minor irrigation canals, non-conventional source of energy, skill up gradation or vocational training centers, and roads. In this case the pre-condition is that the development projects are to be provided by the Central Government only after the Gram Sabha recommends for the same.

2.0. Institutional Mechanisms: Role and Functions

2.1. Gram Sabha: Section 6 (1)

Gram Sabha is the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

GRAM SABHA

- (1) The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein at least two-third members shall be the Scheduled Tribes:

Provided that not less than one-third of such members shall be women;

Provided further that where there are no Scheduled Tribes, at least one third of such members shall be women.

- (2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.
- (3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.
- (4) The Forest Rights Committee shall not reopen the forest rights recognized or the process of verification of the claims already initiated before the date of coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendments Rules, 2012.]

2.1.1. Functions of the Gram Sabha: (Rule 3, 4):

(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 forests 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 sale of produce, or modification of management plans.
- (2) The quorum of the Gram Sabha meeting shall be not less than one-half of all members of such Gram Sabha:

Provided that at least one-third of the members present shall be women;

Provided further that where any resolutions in respect of claims to forest rights are to be passed, at least fifty per cent of the claimants to forest rights or their representatives shall be present;

Provided also that such resolutions shall be passed by a simple majority of those present and voting.

2.2. Sub-Divisional Level Committee

The Sub-Divisional Level Committee is constituted by the State government with the following members:

- a. Sub-Divisional Officer or equivalent officer - Chairperson;
- b. Forest Officer in charge of a Sub-division or equivalent officer - member;
- c. Three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member;
- d. An officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

1.2.1. Functions of the Sub-Divisional Level Committee

Raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules ;

- Provide such information and records as has been asked by the Gram Sabha or the FRC and to facilitate clarification of the same through an authorized officer, if required.

- Provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- Ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.
- Ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A, B & C) of these rules;
- Collate all the resolutions of the concerned Gram Sabhas;
- Consolidate maps and details provided by the Gram Sabhas;
- Examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
- Hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- Co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims ;
- Prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records;
- Forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;

2.3. District Level Committee:

The District Level Committee is constituted by the State Government with the following members:

- District Collector or Deputy Commissioner - Chairperson;
- Concerned Divisional Forest Officer or concerned Deputy Conservator of Forest - member;
- Three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member; and
- An officer of the Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in charge of the tribal affairs.

2.3.1. Functions of District Level Committee

- Ensure that the requisite information under clause (b) of rule 6 has been provided to Gram Sabha or Forest Rights Committee;
- Examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;
- Consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;

- Co-ordinate with other districts regarding inter-district claims;
- Issue directions for incorporation of the forest rights in the relevant government records including record of rights;
- Ensure publication of the record of forest rights as may be finalized;
- Ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexures II and III to these rules, is provided to the concerned claimant and the Gram Sabha respectively ;
- Ensure that a certified copy of the record of the right to community forest resource and title under the Act, as specified in Annexure IV to these rules, is provided to the concerned Gram Sabha or the community whose rights over community forest resource have been recognized under clause (i) of sub-section (1) of section 3

2.4. State Level Monitoring Committee:

The State Level Monitoring Committee is constituted by the State Level Monitoring Committee with the following members,

- a. Chief Secretary - Chairperson;
- b. Secretary, Revenue Department - member;
- c. Secretary, Tribal or Social Welfare Department - member;
- d. Secretary, Forest Department - member;
- e. Secretary, Panchayati Raj - member;
- f. Principal Chief Conservator of Forests - member;
- g. Three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
- h. Commissioner, Tribal Welfare or equivalent who shall be the Member- Secretary.

2.4.1. Functions of the State Level Monitoring Committee

- Devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;
- Monitor the process of recognition, verification and vesting of forest rights in the State;
- Meet at least once in three months to monitor the process of recognition, verification and vesting of forest rights, consider and address the field level verification and vesting of forest rights, consider and address the field level problems, and furnish a quarterly report in the format appended as Annexure V to these rules, to the Central Government on their assessment regarding the status of claims, the compliance with the steps required under the Act, details of claims approved, reasons for rejection, if any and the status of pending claims;
- on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;
- monitor resettlement under sub-section (2) of section 4 of the Act;
- Specifically monitor compliance of the provisions contained in clause (m) of sub-section (1) of section 3 and sub-section (8) of section 4.

3.0. Determination and Recognition of Forest Rights Individual Forest Rights/ Right over Land under Occupation for self-cultivation: Provisions and Processes.

Individual forest under FRA include “rights to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Schedule Tribes or other traditional forest dwellers” enumerated under section 3(1)(a)

3.1. Steps for recognition of Individual Claim

Step – 1-Intimation to FRC Members for Preparatory Meeting for Claim Verification

1. Secretary of FRC in consultation with the President, FRC would fix a date for FRC meeting.
2. Due intimation to all FRC members for the meeting needs to be given ('due intimation' includes issuance of notices to each member)
3. The purpose of the meeting, date, time and venue needs to be specified while intimating the FRC members. .
4. Signature's from each member needs to be taken after intimation.

Step – 2-Preparation of Record of Claims and Evidence by the Forest Rights Committee

1. This consolidation of claims can only take place after the expiry of the last date of the submission of claim forms as fixed by the Gram Sabha/ Palli Sabha.
2. Before the preparation of a consolidated report of claims received, FRC should ensure that all the claimants have submitted their claim forms.
3. FRC should prepare a tabular format for consolidation of information provided by the claimants in the form.
4. During the preparation of the Consolidated Report, if it is found that some of the claimants have not signed/ not duly filled up the claim form/not annexed the documents/evidence as required under the Act/Rule, please intimate the claimant and ask him/her to furnish all the required information/ document or you can help him/her in filling up the form or in collecting requisite information/document.
5. FRC should collect the village map, RoR, forest map (RF, DPF, PF), which would help in identifying the forest land or status of land for which the claimants have applied. The village map and RoR are available in the Tehsil Office and the forest map is available in the Divisional Forest Office (DFO).

Step – 3- Forest Rights Committee Meeting for Fixing of Date and Time for Claim Verification

1. Ensure attendance of all the members of FRC
2. Share the purpose of the meeting

3. Share the consolidated report prepared prior to the meeting
4. If there are some conflicting claims or cases, please share it with the members, which would help in strategizing the verification process
5. Ensure participation of all members in the meeting
6. Fix date and time for claim verification
 - While fixing date and time for claim verification, please ensure that the date and time suits all claimants
 - Ensure that there is at least a ten to fifteen day gap between the date of issuance of notice and date of verification (for both the claimant and FD/Revenue)
 - It is not necessary to complete the verification process in a day.
 - If the number of claimants is more, you can make a group and accordingly fix a date and time for each group
 - During the consolidation of the claims, if you find conflicting cases like, for a single patch of land more than one person has applied, either you fix same date for those claimants or fix separate dates and listen to their view separately and try to resolve it.
7. Before conclusion of the meeting, please share the decisions taken in the meeting and ensure that all the members who have attended the meeting have signed the register (attendance register/ proceedings book).

Step – 4- Due Intimation to Claimants and the Forest Department

- 1) Intimate all the claimants regarding the decision taken in the FRC meeting
- 2) Share the purpose of verification and intimate them about the date and time fixed for verification
- 3) Take signature in the notice book after intimating the person
- 4) Intimate the DFO and SDLC with due process (such as through a letter) and send a copy to the SDLC.
- 5) Keep a copy of the letter sent to the SDLC in the record file.

Step – 5 - Site Visit, Physical Verification of Claims and Preparation of Maps

- 1) Before moving for field verification, please ensure all records like claim forms, consolidated report, village map, forest map, RoR, white paper/ note book, are with the verification team.
- 2) Ensure attendance of all the claimants to whom notices have been served including FD and Revenue Department
- 3) Before moving for field verification and demarcation, share the purpose with the claimants and representatives of the authorities concerned (FD/Revenue)

Visit each site and verify the nature of the claim. With help of cadastral village map/RoR / forest map assess whether the claim made is on forest land or not
- 5) If the land is forestland, then record the extent of total area claimed; if the land is not forestland, please intimate the claimant and record the finding.

- 6) If the area claimed does not match with the area as mentioned in the claim form, please inform the claimant and make the necessary changes.
- 7) During physical verification, collect further evidence or record from the claimant and witnesses.
- 8) Prepare the map delineating the area of each claim indicating identifiable marks (such as East, West, South and North, location of the land etc)
- 9) After the preparation of the map, either write the name of the claimant or give a number and mention that number on the claimant form, which would later help in identifying the land, or tag the sketch map with the claim form.
- 10) While carrying out physical verification, record findings/field observations, such as physical attributes of the claims like improvements made to the land including levelling, bunds, check dams and the like, traditional structures like wells, burial grounds, sacred places etc.. This is most essential as these observations would also act as evidence for the claimant.
- 11) Before moving for the next verification, please write the details in the note book or white paper or in the claimant register.
- 12) Complete the physical verification of all claimants as per the process cited above.

Step – 6- Preparation of Final Maps Delineating the Area of Each Claim Indicating Recognizable Landmarks and Verification Report

- 1) After the field verification is complete, please prepare a rough sketch map, indicating the area claimed by each claimant - its location, total area, name of the claimant etc.
- 2) If the maps are available, then write the plot number in each claimed area if the forestland is located inside the village boundary; if the forest land is with the Forest Department, then please write the name (both local and legal name) and number of the
- 3) In the index, please mention the name of claimant against the plot number as mentioned in the sketch map
- 4) Finalize the observation made during the field verification and record the findings properly.
- 5) Either the observation/findings can be written in the remark column of consolidation report or in a separate note or in the claimant register.
- 6) Prepare a final verification report on the findings.

3.2. Step to be followed for Conflict Resolution

Intra Village Conflict due to Conflicting Claims

- 1) In case of conflicting claims, please identify and prepare a list where claims on particular land is overlapping with different claimants as mentioned in the pre-preparatory work
- 2) Discuss this matter in the FRC meeting and develop strategy for resolving the issue at the village level.
- 3) If necessary, take help of elderly persons or record the view of elderly persons
- 4) During field verification either you can call all the claimants and discuss the matter at that point of time Or, give separate dates to each claimants

- 5) Record the view of each claimant
- 6) Ask more evidences or information during physical verification or call elderly person during verification
- 7) Document each processes adopted for conflicting claims
- 8) If conflict is not resolved at that point of time, please share the observation made by during the verification process at Gram Sabha/Palli Sabha meeting.

Inter Village Conflict due to Conflicting Claims

- 1) Intimate to FRCs of conflicting village with due process (like letter or notice)
- 2) Intimation letter should specify the purpose of joint meeting, date, venue and time
- 3) If the proposed time or date is not convenient to other village, please sit with them mutually fix a date, time and venue
- 4) Please invite the elderly persons of that area, who can share the past history and help in resolving the issue at local level
- 5) Discuss the issues in the joint meeting and try to resolve it.
- 6) If the issue is resolved at Joint Meeting, please write the decisions taken for resolution of conflict and get signed by all the members attended in the meeting and share a copy with them. Submit the findings of the joint meeting to the respective Gram Sabhas in writing.
- 7) If Gram Sabhas are not able to resolve the conflicting claims then refer the cases to SDLC for resolution. While forwarding it to SDLC, Please mention in brief about the conflict and attach the letter issued for conflict resolution and copy of the proceedings.

3.3. Correction of R.O.R. and Map

Rule 8(f) of the aforesaid rules provides that the District Level Committee shall issue directions for incorporation of the forest rights in the relevant government records including record of rights. Rule 8(g) further provides that the Committee shall ensure publication of the record of forest rights as may be finalized.

1. Manner of Correction of R.O.R. and Map:

In the view of the above provisions of law, the Tahasildar who maintains the records of right shall on receipt of copies of title for forest land under individual tenure in Annexure – II issued under rule 8(h) of the ST & OTFD (RFR) Rules, 2007 and the sketch map of the said land from the District Level Committee in respect of revenue village, proceed to incorporate the contents of the title in the Record of rights of the Revenue village and correct the R.O.R. and Map accordingly. Wherever necessary, bata plots shall be carved out of original plots as is done during correction of records of rights to give effects to orders in mutation cases and such bata plots given bata numbers in the manner provided in paragraph 81 of the Orissa Mutation Manual.

2. Joint records in the name of both Spouses:

The record shall be prepared jointly in the name of both the spouses in case of married person and in the name of single head in the case of a household headed by a single person as required under sub-section (4) of section of the Act.

3. Status of the land:

In view of the peculiar status of land, new Khatians shall have to be prepared for such land covered under forest rights after the existing Government Khatas of the village and allotted new numbers following the last in serial of Government Khata. The status column of the R.O.R. in respect of such forest land under individual tenure shall record the status as “Forest right recognized under the ST & OTFD (RFR) Act, 2006”

4. Non –transferability of the land:

The forest right conferred under the act is heritable but not alienable or transferable as mentioned earlier. The special incidence column of the R.O.R. should, therefore, contain the note that the right is heritable but not transferable or alienable.

5. Kissam:

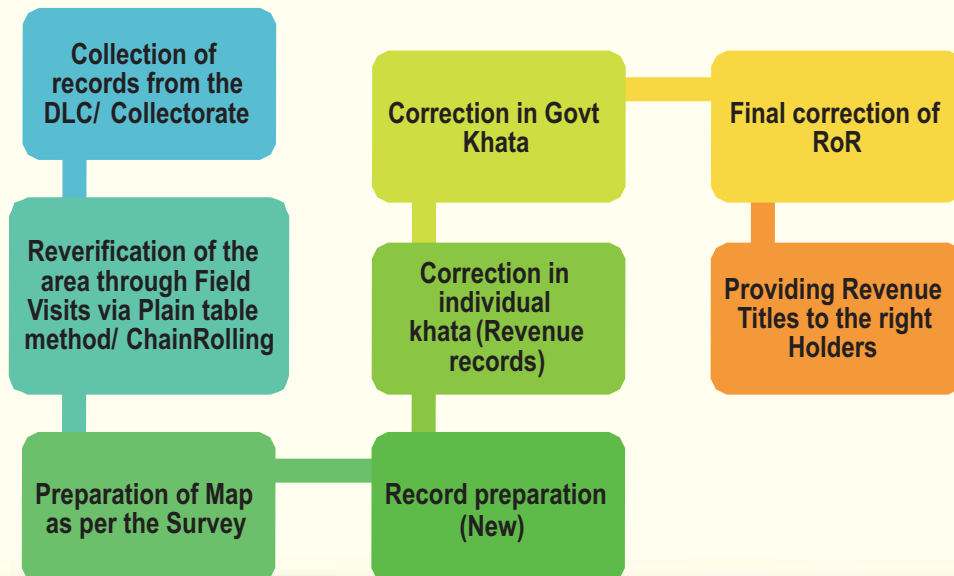
Sub-section (7) of section 4 of the Act of 2006 provides that the forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the ‘net present value’ and compensatory afforestation’ for diversion of forest land, except those specified in this Act. The jungle kissam of such forest land over which the forest right of individual occupants is recognized will remain unchanged.

6. Supply of certified copy of R.O.R. to the claimant:

Rule 8(h) of the Rules of 2007 provides that the District Level Committees is to ensure that a certified copy of the record of forest rights is provided to the concerned claimant. A certified copy of the records of right newly created shall, therefore, be provided to the occupants.

7. Correction of records maintained by the R.I.:

The records maintained by the Revenue inspector shall be similarly corrected for which intimation slip and sketch map may be sent to the Revenue inspector in duplicate of which one copy will be returned by the R.I. with an endorsement that he has retained one copy with him.



4.0. Habitat Rights under FRA

The FRA recognises diverse individual and community forest rights. This includes the right to community tenures over the habitat' of Particularly Vulnerable Tribal Groups (PVTGs) and pre-agricultural communities.

There are 75 centrally recognised PVTGs in the country. The centrally recognized special category from among the Scheduled Tribe was constituted on the basis of the report of the Dhebar commission (1960-61) which suggested that there exists inequality amongst tribal communities in terms of their development. This sub-category was originally categorised as 'Primitive Tribal Group' (PTG). Such groups were identified by one or more of the following features: Existence of pre-agricultural practices, Practice of hunting and gathering, Zero or negative population growth, relatively low level of literacy as compared to their tribal groups

The communities were identified based on the recommendations Tribal Research Institutes (TRIs) of the respective state governments. By 1993-94, 75 groups had been identified and placed on the list of PTGs. Since then, neither new groups have been added nor there any deletion. In 2006, Government of India replaced the term PTG with Particularly Vulnerable Tribal Groups (PVTGs) considering the derogatory connotations of the term 'primitive'.

PVTGs are among the most marginalised and vulnerable groups in India today. They are often not settled agriculturists, are often regarded with hostility or indifference by other communities (including other tribal communities), tend to live in remote areas and are outside most systems of education and social provisions in the country. There is also a great deal of diversity within these communities, ranging from those such as the *Katkaris* of Maharashtra, who have been reduced to destitute landless labour in most areas; to the *Baigas* of MP or the *Dongaria Kandhas* of Odisha, who have a defined sense of territory and habitat and practice collective and other forms of cultivation within it; to the *Mankadia/Birhor* of Odisha, who are nomadic; to the *Chenchus* of Andhra Pradesh or other communities that continue practice of hunting and gathering as their means of survival. The communities of the Andaman and Nicobar Islands form an even more distinct subgroup within this wide canvas.

4.1. PVTG an Introduction

Article 366 (25) of the Constitution of India refers to Scheduled Tribes as those communities, who are scheduled in accordance with Article 342 of the Constitution. This Article says that only those communities who have been declared as such by the President through an initial public notification or through a subsequent amending Act of Parliament will be considered to be Scheduled Tribes.

The list of Scheduled Tribes is State/UT specific and a community declared as a Scheduled Tribe in a State need not be so in another State/UT. The essential characteristics, first laid down by the Lokur Committee, for a community to be identified as Scheduled Tribes are –

- Indications of primitive traits;
- Distinctive culture;
- Shyness of contact with the community at large;

- Geographical isolation; and
- Backwardness

The 1991 Census figures reveal that 42.02 percent of the Scheduled Tribes populations were main workers of whom 54.50 percent were cultivators and 32.69 per cent agricultural labourers. Thus, about 87 percent of the main workers from these communities were engaged in primary sector activities. The literacy rate of Scheduled Tribes is around 29.60 percent, as against the national average of 52 percent. More than three-quarters of Scheduled Tribes women are illiterate. These disparities are compounded by higher dropout rates in formal education resulting in disproportionately low representation in higher education. Not surprisingly, the cumulative effect has been that the proportion of Scheduled Tribes below the poverty line is substantially higher than the national average. The estimate of poverty made by Planning Commission for the year 1993-94 shows that 51.92 percent rural and 41.4 percent urban Scheduled Tribes were still living below the poverty line.

In order to give more focussed attention to the development of Scheduled Tribes, a separate Ministry, known as the Ministry of Tribal Affairs was constituted in October 1999. The new Ministry carved out of the Ministry of Social Justice and Empowerment, is the nodal Ministry for overall policy, planning and coordination of programmes and schemes for the development of Scheduled Tribes.

The mandate of the Ministry includes social security and social insurance with respect to the Scheduled Tribes, tribal welfare planning, project formulation research and training, promotion and development of voluntary efforts on tribal welfare and certain matters relating to administration of the Scheduled Areas. In regard to sectoral programmes and development of these communities, the policy, planning, monitoring, evaluation as also their coordination is the responsibility of the concerned central Ministries/Departments, State Governments and UT Administrations. Each Central Ministry/Department will be the nodal Ministry of Department concerning its sector. Ministry of Tribal Affairs supports and supplements the efforts of State Governments/U.T. Administrations and the various Central Ministries/Departments for the holistic development of these communities.

Particularly vulnerable tribal group (PVTG) (earlier: Primitive tribal group) is a government of India classification created with the purpose of enabling improvement in the conditions of certain communities with particularly low development indices.

The Dhebar Commission (1960-1961) stated that within Scheduled Tribes there existed an inequality in the rate of development. During the fourth Five Year Plan a sub-category was created within Scheduled Tribes to identify groups that considered to be at a lower level of development. This was created based on the Dhebar Commission report and other studies. This sub-category was named "Primitive tribal group". The features of a such a group include a pre-agricultural system of existence, that is practice of hunting and gathering, zero or negative population growth, extremely low level of literacy in comparison with other tribal groups.

Groups that satisfied any one of the criterion were considered as PTG. At the conclusion of the Fifth Five year plan, 52 communities were identified as being a "primitive tribal group", these communities were identified on the basis of recommendations made by the respective state governments. At the conclusion of the Sixth Five year plan 20 groups were added and 2 more in the Seventh Five year plan, one more group was added in the eighth five-year plan, making a total 75 groups were identified as

PTG. The 75th group recognised as PTG were the Maram in Manipur in 1993-94. No new group was declared as PTG on the basis of the 2001 census.

In 2006 the government of India proposed to rename “Primary tribal group” as particularly vulnerable tribal group”. PTG has since been renamed *particularly vulnerable tribal group* by the government of India.

4.2. Legal Provisions

The historic Forest Rights Act of 2006 for the first time provided scope for the recognition of the PVTGs’ forest and habitat rights. **Section 2 (h)** of the FRA defines habitat as,

‘Habitat’ includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes

The definition thus extends the recognition of habitat rights to other STs in addition to PVTGs and pre-agricultural communities.

Section 3 (e) recognises:

‘Rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities’

Rules 5(c) and 7(c) for the FRA provide for representation of PVTGs in the Sub-Divisional Level (SDLC) and District Level Committees (DLC), (authorities constituted for implementation of the law). For example, Rule 7(c) requires the following composition of the DLC:

*‘Three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, **or who belong to members of the primitive tribal groups**, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member, or in areas covered under the Sixth Schedule of the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member’*

Requiring special attention being paid to the recognition of the habitat rights of PVTGs, Rule 8 (b) provides that the DLC shall:

‘Examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act’

Rule 12B (1) requires involving the traditional institutions of PVTGs in the recognition of their habitat rights by stating:

*‘The District Level Committee shall, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups as described in clause (e) of sub-section (i) of section 3 amongst the forest dwellers, ensure that all Particularly Vulnerable tribal Groups receive habitat rights, **in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups** and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas’*

Thus, the FRA and its Rules give special emphasis on ensuring recognition of the habitat rights of PVTGs and pre-agricultural communities.

Section 5 (c) of FRA which empowers forest right holders and their institutions to:

'Ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage'

In the year 2014 MoTA has carried out research study for recognition of Habitat rights of PVTG under FRA with an objective to determine the process of recognition of habitat rights and specific role and responsibility of various committee under FRA. Annexure 1 to 4 include the detail recognition process of habitat rights under FRA (proposed under the above mentioned study) which may be referred for the facilitation of the process.

Recently in the month of April 2015, the Ministry of Tribal Affairs (MoTA) sent a letter to the Chief Secretaries of all state governments to make an 'all-out effort' to recognize the habitat rights of all 'Particularly Vulnerable Tribal Groups' (PVTG) in their states. This implies that the state governments, through their respective District Level Committees (DLC), need to ensure that all PVTGs receive habitat rights in consultation with the concerned traditional institutions. The states must also initiate processes to help the PVTG communities to file their habitat rights claims and where the claims have already been filed, the DLC should take appropriate steps to ensure recognition of their rights along with mapping their customary territories.



5.0. Governance and Management of Community Forest Resources under the Forest Rights Act

5.1. Introduction

About 275 million people in India, mainly scheduled tribes and forest dwellers, directly depend on forest and forest land for livelihoods. According to one estimate, 40 percent of India's poor live in about 1.73 lakhs forest-fringe villages. Poverty in forest areas is mainly due to insecurity of tenure and deprivation of access rights to forest resources - both pointing to the need for forest tenure and governance reforms

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights Act, 2006, commonly referred to as the Forest Right Act (FRA), is considered a milestone legislation that acknowledges the historical injustice meted out to India's forest dwellers, particularly tribals. The legislation was promulgated to "recognise and vest forest rights and occupation in forest land in forest dwelling" to tribals and other traditional forest dwellers "who have been residing in forests for generations but whose rights could not be recorded". It has been enacted to secure tenure and recognise pre-existing access rights of the STs and OTFDs and to facilitate community forest resource governance. In the process of implementation claims and recognition of community forest rights, which hold the key to livelihoods and community forest governance, remain a major challenge.

Forest right act 2006 brings a paradigm shift in the governance and management of forest in India. FRA recognizes and vests rights and legal authorities to the Gram Sabhas to conserve and manage community forest resources.

5.2. Legal provisions

Section 3 (1)(i)-right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use.

5.3. Module for Gramsabha

Exercise of the empowered authority and provisions under the rules

Duties of holders of Forest rights

- Section 5-The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to-
- Protect the wildlife, forest and biodiversity;
- Ensure that adjoining catchment areas, water sources and other ecologically sensitive areas are adequately protected;
- Ensure that the habitat of forest dwelling STs and OTFDs is preserved from any form of destructive practices affecting their cultural and natural heritage;
- Ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

Rule 4. Functions of the Gram Sabha-(1) The Gram Sabha shall-

- (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 STs and OTFDs 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 sale of produce, or modification of management plans

The Ministry of Tribal Affairs issued a guideline pertaining to CFR rights and their subsequent management clarifying the following:

- i. As per section 3(1)(i) and section 5 of FRA, the authority to protect, regenerate or conserve or manage CFRs, is the Gram sabha along with the committee for protection of wild life, forest and biodiversity constituted under forest rights rule 4(1)(e). The meaning of Gram sabha shall be as defined in Section 2(g) Section 2(P) of FRA.
- ii. Each Gram sabha shall be free to develop its own simple format for conservation and management plan of the CFR which its member can understand with ease and may also comprise with the rules and regulations governing forest access, uses and conservation.
- iii. The Gram sabha and the committee under FR rule 4(1) (e) shall be the authority to modify the micro plan or working plan or management plan of the forest department to the extent necessary in order to integrate the same with the conservation and management plan for CFRs as passed by the Gram sabha

5.4. Module for Govt Functionary

Functions of SDLC

- Rule 6(a) provide information to each Gramsabha about their duties and duties of holders of forest rights and others towards the protection of wild life, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected.
- Rule 6(a) raise awareness among forest dwellers about the objective and procedures laid down under the Act and Rules

Role of State functionaries

Rule 4(3) The Gramsabha shall be provided with the necessary assistance by the authorities in the State.

The Ministry of Tribal Affairs issued a guideline pertaining to CFR rights and their subsequent management clarifying the following:

- i. The state Government shall make available through its departments, funds available under Tribal sub plan, MGNREGA, funds for forestry available with the Gram Panchayat, funds under CAMPA to the committee of the gram sabha constituted under forest rights rule 4(1)(e) for development of CFR. The state government may also send proposals to Ministry of Tribal affairs for development of CFR as Rule 16.
- ii. Community Forest Resource (CFR) area as recognized under section 3(1)(i) of FRA shall constitute a new category of forest area which should be recorded as CFRs in the records of Rights and be suitably incorporated in the record of the Forest Department.
- iii. Further as per Rule 12(B) (4) in case where no community forest Resource right are recognized in a village, the reason for the same shall be recorded in writing by Secretary of the District Level committee.
- iv. The state governments while furnishing their monthly and quarterly progress report should also invariably provide the disaggregated information on the CFR claims, CFR rights recognized and the extent of forest land recognized for the same under FRA.

6.0. Women and Forest Rights Act

6.1. Introduction

Women of forest dwelling communities have a direct dependence on land and forests.. Forests& land are considered the most basic resources for women's contribution to household livelihoods, economic empowerment and, to some extent, their struggle for equality¹. They depend on forests in multiple ways: traditional patterns of cultivation, food production, foraging for wild fruits, vegetables, tubers and medicines, saving seeds and breeds, collecting fuel wood, forest produce and materials to build homes, worshipping their ancestors and gods, cattle grazing etc. Despite being major forest users women's role is poorly recognized and when it comes to decision making they are pushed to the background². As per a UN Women report 2013, the traditional exclusion of women from property and ownership over resources on gender grounds is the most damaging global human rights violation experienced by the women³.

Significant gender biases persisted both in land reform legislation and in personal laws. Most of the land reform legislation was enacted during the 1980s before women's land rights were considered worthy of policy attention (Agarwal 1994). Women and land rights is one of the most crucial issues of any society that is trying to bring in equity and justice. In the context of a developing country, land rights are crucial as they are linked to issues like right to food, work and other human rights. It is now increasingly understood that the denial of inheritance of land rights especially in a patriarchal system has contributed to the subordinate status of women⁴.

Throughout the world, gender inequality when it comes to land and other productive resources is related to women's poverty and exclusion. Barriers which prevent women's access to, use of and control over land and other productive resources often include inadequate legal standards and/or ineffective implementation at national and local levels, as well as discriminatory cultural attitudes and practices at the institutional and community level. ⁵

In the above context, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is the first law requiring titles over forest land being issued in the joint names of both the spouses.

¹ Ramdas. S, 2009, Women, Forest spaces and the Law: Transgressing the Boundaries, Economic and Political Weekly, Vol. XLIV No. 44,

² Singh, N.M., 2000, *Women's Voice in Community Forest Rights Debate in Orissa*, (Draft)

³ <http://www.unwomen.org/en/digital-library/publications/2013/11/realizing-womens-right-to-land> (accessed on 18.4.2015)

⁴ (2008) : A Status Report- Land Rights and Ownership In Orissa., UNDP and Govt. of India

6.2. Concept: Women & FRA

Forest Rights Act provides for women's participation in decision making that may greatly enhance their opportunity to share information and knowledge and voice their priorities which can help in effective forest management. Women tend to be very effective in sustainable forest management which is environmentally appropriate, socially beneficial and economically viable as they primarily depend on need based extraction of forest resources. Therefore, they need to be actively involved in the process of formulating and implementing the conservation and management plans of community forest resources.

6.3. Forest Rights Act and Women

Forest Rights Act provides legal space for involvement of women and ensuring their participation and representation of women in the process of decision making relating to forest rights. The relevant provisions in the law are discussed below.

6.4. Legal Provisions

In 2006, a historical law was passed i.e, Forest Rights Act. Under Section 4 (4) of the Act a right conferred by Sub-Section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the names of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person.



⁵ Realizing women's rights to land and other productive resources - UN Women and OHCHR <http://www.unwomen.org/en/digital-library/publications/2013/11/realizing-womens-right-to-land#sthash.QzMhK1qF.dpuf>. (22.4.2015)

6.5**CaseStudy:

Pakeradu Jani of Desughati Village of Jhiripani G.P., Tumudibandh Block, Kandhmala District. Belongs to KutiKondh community which (otherwise belongs to Particularly Vulnerable Tribal Groups) holds 0.124 Hect. of forest land within the precincts of the proposed reserve forest area since long along with her husband Klanta Jani.

They had been cultivating since long, which got recognized under Forest Rights Act and she had been the owner along with her husband on the same patch of land which is a new thing for her. When asked what her husband does in relation to land, she said that, “my husband knew all about the land that was under the possession of our family. I was never aware of how much land we had, I was only engaged in cultivation and household chores and taking care of the family. But now that I have my name on the titles, I know exactly the places that my family possess... I feel the land is mine as well... not just a piece of land where I do cultivation.” Having a title is not just a piece of paper to this women, it is in fact more than right. She could understand that she has become not only a proud owner of land but thereby she gained confidence and self-respect. She exclaimed by saying “it’s really nice to see that I have become the owner, I will definitely work hard to improve the patch of land.” (*2010-2015, Vasundhara’s Learning and Findings during the field intervention in villages in Ranpur Block, Nayagarh District, Odisha) “

Participation of Women in SDLC/DLC

Rule 5 (c) requires that at least one of the three PRI members nominated to the SDLC shall be a woman.

Similarly, Rule 7 (c) requires that out of the three members of the district panchayat to be nominated to the DLC by the district panchayat, at least one shall be a woman

**Case Study:

In SDLC/DLC, as per provisions under FRA, women PRI members act as a member in both, but unfortunately, it has been observed that, the women members are always present as mute spectator and barely participate in the decision making process. (*Based on the findings from study undertaken by Vasundhara in 2013-14 on Women and Land Scope under Forest Rights Act, Odisha) “

Participation of Women in Gram Sabha & FRC

Section 2(g) of the act provides for the full and unrestricted participation of women in Gram Sabhas.

Rule 4 (2) provides that “The quorum of the Gram Sabha meeting shall be not less than one-half of all members of such Gram Sabha: Provided that at least one-third of the members present shall be women

Gram Sabha shall elect members of Forest Rights Committee, consisting of not less than 10, but not exceeding 15 persons, of which at least 2/3rd members shall be Scheduled Tribes and at least 1/3rd of such members shall be women under Amended Rule 3(1)

“*Case Study:

In Nayagarh District of Odisha, the women of LuniSahi village are engaged in protecting the forest located on the periphery of the village. All the posts in the FRC are held by women of LuniSahi and these women are the same who are engaged in forest protection. Presently, SakuntalaSahoo and Basanti Pradhan are the President and Secretary of the village FRC respectively. The women sit together in the meetings have finally filled claims for the CFR/CR rights.

(*2010-2015, Vasundhara’s Learning and Findings during the field intervention in villages in Ranpur Block, Nayagarh District, Odisha) “

Section 3 Ensuring women’s active participation in the Process of Determination of Forest Rights including Claim Making and Verification (IFR/CR/CFR), Habitat Rights, Governance, Management and Convergence

It is mentioned under the, Amended Rule 3(1) of the Act that 1/3rd of the women should be present in order to have a mandated Gram sabha. So as to legally validate the Gram sabha and other process of implementation of FRA, the SDLC/DLC should also focus on awareness building of the implementing authorities regarding the participation of women in all of the processes and the Gram sabha as well.

Apart from that as mentioned specifically in the Amended Rules, 2012 Section 6- sub section (k), the SDLC who is the nodal authority has to do awareness building on the Forest Rights Act. The executive body or the FRC after undergoing the awareness has to disseminate the knowledge to the entire Gram sabha, wherein, focusing the following mentioned in the role of FRC/Gram sabha, ensuring women’s active participation in the Process of Determination of Forest Rights including Claim Making and Verification (IFR/CR/CFR), Habitat Rights, Governance, Management and Convergence.

7.0. Forest Rights Act and Convergence

7.1. Introduction

After recognizing the rights under Forest Rights Act, having the mandate to promote livelihoods of the forest rights holders. There are number of programmes being implemented by different departments of the Government having a direct bearing on people's livelihoods.

Most of the convergence schemes are related to land development under MGNREGS, horticulture digging of farm ponds, house construction under Indira AwasYojna and various other government schemes/programs under the National Bamboo Mission, National Horticulture Mission, ect. with the objective of enhancing the livelihoods of the right holders.

Concept Livelihood: A livelihood means fulfilment of the livelihood needs of self and family through exercise of forest rights recognized under the FRA. Forests play an important role in the livelihoods and welfare of a vast number of people in tribal society;

7.2. Legal Provisions

The Preamble of Forest Rights Act, 2006 states that the rights on forest land in forest dwelling Schedule Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers.

Rule 16 provides that the State Government shall ensure through its departments especially tribal and social welfare, environment and forest, revenue, rural development, Panchayati raj and other departments relevant to up-liftment of forest dwelling scheduled tribes and other traditional forest dwellers, that all government schemes including those relating to land improvement, land productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act .

The recent guideline issued by Ministry of Tribal affairs (MoTA) on 23rd April about CFR and its Management where it mentioned in the (iv) point that the state government shall make available through its departments, funds available through tribal sub-plan MGNREGA, funds for forestry available with the grampanchayat , funds under CAMPA to the committee at the gramsabha constituted under FR 4(1)(e) for development of CFR, the State government may also send proposals to Ministry of tribal affairs for development of CFR as per FR rule 16 .

6.0. Annexure: Habitat Rights

1.0. Basis of determination of habitat Rights¹

1.1. Basis for determination of habitat rights

The following provides the key indicative categories of information to be. Details obtained along these suggestive categories are expected to form a definitive basis for to determining the nature, scope and extent of habitat rights of a particular PVTG.

i. Information related to clan:

Most PVTGs (and other tribal groups/ castes) are divided into clans which are exogamous i.e. no marriages can happen between persons from the same clan as they are considered to be brothers and sisters. These clans draw their identity from certain geographical locations which often house their deities or from certain natural entities which may include plants and wildlife. Their **religious rights over such geographical locations need recognition, their right to protect and conserve such natural entities (as enshrined in their clan beliefs and practicesbehaviour) needs recognition and such places of their religious and spiritual importance (irrespective of their geographical distance from their actual settlement) should be granted protectedion from any action that might lead to theirany modification or destruction of such place in part or full.** It is observed from the study that such clan related places often lie deep inside the jungle, on hill-tops or in deep valleys and often have a source of water nearby.

ii. Information about their social and cultural sites:

The PVTGs observe social and cultural rituals by organising faires (*melas*) at different intervals and at different places. The periodicity of such social and cultural rituals and their location of the place is often dynamic and changes at varied frequency. In many cases, some local *haat*(village markets) specific to a PVTG community also constitutes the place. Given their traditions, such places will get shifted over time with new places being added to the list. As a part of their habitat rights, it is imperative that while **rights over existing cultural sites and the right to organise them as per their beliefs and customs** need recognition, the **right to decide and identify newer sites within their habitat for holding their rituals/ cultural events in future** would also require recognition. **The PVTGs' traditional institutions need to be empowered to decide whether any major land use change in the area should be permitted or not. This would imply extending the requirement for gram sabha consent for forest diversion needed in other areas to the entire habitat.** It is important to mention here that all rituals, social and cultural activities and events of PVTGs are deeply connected with forests and other elements of nature.

⁶ Findings from the nation research study on "Mechanism for recognition of Habitat Rights of PVTGs under FRA" undertaken by Vasundhara under the aegis from MoTA with support from UNDP.

iii. Information about their livelihoods and sites of livelihood:

This may include sites of their agroforestry based ancestral farming practices (referred to as *podu*, *bewar*, *dongarchas* etc. in local parlance), areas from where items are gathered and extracted from forests, sites for gathering medicinal plants etc. There is need for recognition of their forms of livelihood practices based on forest and geographical sites which support such livelihoods. The practice of cultivation on hill slopes or hill tops in rotation is found in varying degrees amongst different PVTGs. While communities living in lower hills or plains were successfully forced by the government to abandon such practices due to these being considered ecologically destructive, in many locations where plain land is absolutely missing, this practice is still prevalent and provides a crucial source of their livelihood as also evident from the field studies. It becomes important that any such existing practices of traditional farming should be recognised and the existing nature of de facto rights currently enjoyed (individual or communal) over such the areas under such cultivation should be recognised in its present form.

iv. Information about other important landmarks:

These can include like hills, rivers, streams, vegetation, grasses, particular tree species etc. which provide other land marks for delineating the boundaries and extent of their territory, the sub-territories and their social, cultural, religious, economic and political linkages.

v. Information about their songs and narratives:

Places, objects, beliefs, rituals described in the songs and narratives of PVTG communities provide important information about the traits of their habitat.

vi. Traditional knowledge:

The PVTGs, especially their elderly population have a huge repository of knowledge about medicinal plants, sites where they are most available, wildlife, behaviour of wildlife, their corridors etc. While they are reluctant to divulge details of their medicinal knowledge, they are inclined to suggest different geographical sites or forests where there is rich concentration of medicinal plants or forest areas/zones having good wildlife population and types of wildlife. Their rights over indigenous knowledge about their ecology of their habitat need due recognition and should form the basis of its governance and management of such areas where they have a significant stake.

vii. Archival/Secondary Material:

This also provides historical information about the settlement of particular PVTG communities which can also be used sourced as evidence for filing their claim. In addition to this, Copies of any old records available with the villagers (e.g. *pattas* rights allowed by an ex-King) and traditional leaders should also be collected in support of claims. The concerned DLCs should source such material and make them available to all concerned Gramsabhas. Copies of all such materials should be made available to the concerned Gram Sabhas/FRCs prior to the initiation of the consultation and claim filing process.

2.0. Habitat Rights Recognition Process²² Findings from the nation research study on “

Mechanism for recogni

tion of Habitat Rights of PVTGs under FRA”

undertaken by Vasundhara under the aegis from MoTA with support from UNDP.

2.1. Preparatory Phase

Organizing training of all concerned government officials and staff on habitat rights provision under FRA and the centrally issued directions on the process of determination and recognition of habitat rights. NGOs having proven record of working on FRA would be included in capacity building programmes.

Step-1. Preparation of a State Action Plan

- a) The Tribal Department, the State Nodal Agency for the implementation of Forest Rights Act, along with the concerned Tribal Research Institute and other experts, is to prepare a draft State Action Plan for PVTG Habitat Rights recognition under FRA, based on the process guidelines including
 - i. Identification and listing out the districts, sub-divisions, Panchayats, revenue villages and habitations in the State where PVTGs are located; Prepare a final list of all settlements where PVTGs are present including those not covered by micro projects. This is irrespective of whether the concerned land is forest or revenue land. The floating nature of gram sabhas of nomadic/ semi-nomadic PVTGs should be taken into consideration while preparing such lists and a separate list of such gram sabhas should be prepared for special attention of the local administration.
 - ii. Collection, compilation and documentation of relevant information (all kinds of evidence as per Rule 13 of the 2012 FRA amendment rules) pertaining to each of the PVTGs and their habitat rights Financial and human resources that may be required for implementation of the State Action Plan for PVTG Habitat Rights.
 - iii. Mechanism for monitoring progress in implementation of the State Action Plan for PVTG Habitat Rights
- b) The draft State Action Plan for PVTG Habitat Rights shall be placed before the State Level Monitoring Committee for approval, finalization of a time schedule for the initiation of recognition of PVTG Habitat Rights, identifying the bottlenecks if any, issue of necessary

⁷ Findings from the nation research study on "Mechanism for recognition of Habitat Rights of PVTGs under FRA" undertaken by Vasundhara under the aegis from MoTA with support from UNDP.

directions to the concerned districts and any other institutions for implementation of the guideline, allocation of financial and human resources if any, and any other matter found necessary.

- c) The Tribal Department shall organize state level orientation programme of all the concerned district, sub-divisional officials and the designated officers from the micro-project agencies and others like CSO, NGOs assigned to facilitate the gramsabhas by the DLC (see below in Step 3) as are required to explain and carry out the State Action Plan for PVTG Habitat Rights recognition.

2.2. Process of determination and recognition of habitat rights

Step 2: Initiation of PVTG Habitat Rights recognition process

The DLC shall ensure the following in this regard:

- a) Publicise and communicate the initiation of PVTG Habitat Rights recognition in the district by providing information about the communities whose rights are thus to be determined through locally used traditional means of communication to inform people such as through the village messenger.
- b) Issue advertisements, especially in locally read newspapers in PVTG areas, and through other channels such as posters in public places, PVTG habitations, Panchayat offices etc., and inviting claims for PVTGs' habitat rights.
- c) In case a particular PVTG's habitat area is spread over more than one district, the concerned DLCs should coordinate with each other with support and advice of the Tribal Department and the Tribal Research Institute.

Step 3: Organise gram sabhas in all identified settlements of the PVTG

- a) The DLC shall ensure organizing gramsabha meetings focused on the following key areas:
 - i. Building awareness and knowledge on habitat rights provision under FRA.
 - ii. Identify traditional leaders from each gramsabha or respective unit/ structure of traditional institution. Pass a resolution to initiate the determination and claim filing process on habitat rights
- b) The concerned DLC/s will designate an officer from the PVTG micro-project agencies to facilitate the gramsabhas. In case the area is not covered under a micro-project or a micro-project agency is not there, the DLC/s will designate an appropriate officer for the aforesaid purpose. In cases where some PVTG villages have been left out of a micro project, it shall be ensured that all such villages are included in the process.
- c) The DLC/s will organise training for all traditional leaders on habitat rights provisions and the centrally issued directions for determination and recognition of habitat rights. DLC/s may invite resource persons from concerned TRI/ CSO/ other experts to facilitate the training program.

Step 4: Consultation with Traditional Leaders and FRC members

The concerned Collector/s as Chairperson of DLC/s will call for a consultation with traditional leaders and FRC members. While most of the traditional leaders could be men (as per insights gained from the study), DLC/s should take special care in involving all women members of FRCs and other local women representatives from the concerned PVTG in the consultation process. The first round of consultation should happen after the gramsabha meeting that passed the resolution to initiate the determination and claim filing process on habitat rights.

Box No-8: Expected Outcome:

Draft habitat claim and tentative map prepared (there could possibly be several maps as habitat does not necessarily constitute a contiguous patch). This draft claim document should also clearly indicate overlapping, shared and other forest rights of non-PVTGs and other communities

Suggestive Process for the consultation

- **Place/s of consultation:** DLC/s should decide a suitable place which should preferably be the traditional common meeting place of concerned PVTG or a place easily accessible to the communities to enable greater participation of representatives of traditional institutions as well as other interested villagers.
- **Possible agendas for discussion:**
 - a. Provisions under FRA related to Habitat rights
 - b. Concept of habitat as understood by the community
 - c. Identification of their habitat as perceived by them supported by a suggestive guideline for discussion (attached as Annexure 1) and developing a draft of their possible habitat rights (this might include a tentative map of their geographical area showing important landmarks/ cultural markers)
 - d. Identifying the rights under FRA of non-PVTG communities residing in the habitat area identified by the PVTG.

Box No-8: Expected Outcome:

Draft habitat claim and tentative map prepared (there could possibly be several maps as habitat does not necessarily constitute a contiguous patch). This draft claim document should also clearly indicate overlapping, shared and other forest rights of non-PVTGs and other communities

If all the above-mentioned agendas cannot be completed in one consultation, then one or more additional rounds of consultations should be organised to complete the discussion. These consultations could also be organised at the level of clan-territories/ jatisamaj involving a cluster of villages/ settlements if the representatives of the traditional institutions so decide.

The DLC will invite resource persons from concerned TRI/ CSO/ other experts to facilitate the consultation process.

Remark/ Explanation

In the case of some PVTGs (like Baigas of Chhattisgarh and MP), their complete habitat may extend

over an expansive geography. In such cases, it is advisable that smaller units claim their habitat rights separately if the traditional institutions so decide and suggest the same during the consultations. In the Juang case of Odisha (attached as a case study in this report), sub-territory of their habitat (*sub-pidha*) was taken as a unit for filing claims which was decided by their traditional leaders considering practicability of the approach.

Step 5: Filing of Claims

The draft habitat claim prepared in the consultation shall be presented before each of the concerned FRCs/gramsabhas of villages³ by representatives of PVTGs having participated in the consultations. A second round of joint meetings of concerned FRCs should be organised for verification and approval of the habitat rights claim and to decide on conflicting, overlapping claims or rights of non-PVTG communities in the habitat area as per Rule 12 (3). Following this, the revised claims should be presented in the final round of gramsabha meetings. It must be ensured that the draft claim is presented and discussed in each of the concerned gramsabhas. While traditional institutions would have a significant role in anchoring the claim determination and filing process, the role of gramsabha shall be central as provided in Rule 12 of the FRA Rules. This will also ensure involvement of women who tend to be less or not represented in traditional institutions. Gramsabha resolutions of endorsement and approval should be attached to the finalised claim document/s.

Note: The officer designated by the DLC/s would facilitate the process of discussion of draft claims in gramsabha meetings.

Step 6: Submission of Claims

The concerned gramsabha/s should send their claims to all concerned SDLC/s, DLC/s and SLMC/s (in case the geographical area goes beyond a sub-division or district or state). These bodies might decide on convening special joint sessions of SDLCs and/or DLCs to consider the claim for habitat rights in such cases. Otherwise it would follow the normal procedure as outlined in FRA rules.

Step 7: Preparation of Habitat Maps

After habitat rights claims are recognised, the government shall get digitized maps geo-referenced with topo-sheets of the recognised habitat/territory showing the different rights areas. This shall be done with the involvement of traditional institution representatives using GPS instruments. The DLC/s should seek support from TRI and State Remote Sensing Agencies in the process.

1. The DLC/s should also seek the support of other government agencies specialized in use of GPS and GIS technologies and which have substantial experience in their use in community based mapping.
2. The DLC/s should organise training for PVTG youth and traditional leaders on GPS use.

⁸ 'village' for this purpose should be a hamlet or a group of hamlets as defined in PESA

3. Role and responsibilities of different authorities⁴⁴ Findings from the nation research study on “Mechanism for recognition of Habitat Rights of PVTGs under FRA” undertaken by Vasundhara under the aegis from MoTA with support from UNDP.

Role of Gram Sabha/ traditional Institution

- To ensure proper identification of traditional leaders
- To ensure maximum participation of their women and men members including traditional leaders and FRC members in different capacity building programs organised on habitat rights recognition under the Forest Rights Act.
- To ensure that the FRCs liasen with the FRCs of the adjoining Gram Sabhas as the case may be in instances where the habitat rights overlap with the adjoining districts and sub-divisions in order to reach a consensus among the concerned Gram Sabhas; where consensus is not reached, then to approach the concerned SDLCs/DLCs for adjudicating differences of opinion or conflicts including those with the non-PVTG Gram Sabhas whose rights overlap with the habitat of PVTGs.
- Role of FRC is to carry out the role and functions as outlined in the Rules and as instructed by the gramsabhas

Role of different Govt. Authority

Specific roles and responsibilities of different authorities under the Forest Rights Act in the habitat rights recognition process

In addition to what is laid down under the Act, the authorities under the Act would be required to perform certain specific roles and responsibilities. These are briefly mentioned below:

Ministry of Tribal Affairs

- To issue necessary directions to the State governments for determining and recognising PVTG Habitat Rights.
- To develop a separate reporting format to monitor the progress of recognition of PVTG habitat rights.
- To instruct the different research institutions and archives to provide full support and cooperation to concerned DLCs for providing all necessary information required by them.
- To provide necessary financial support to the States for providing required facilitative support as outlined in the process guideline.

State Level Monitoring Committees

- To consider and approve the draft State Action Plan for recognition of PVTG Habitat Rights with necessary modifications

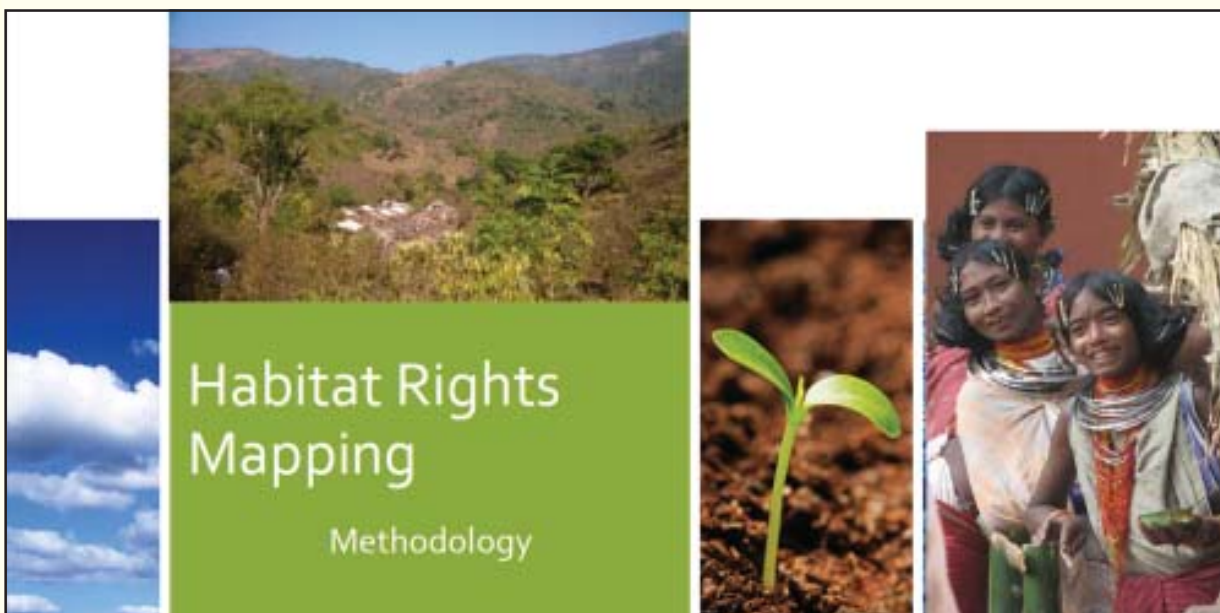
⁸ Findings from the nation research study on "Mechanism for recognition of Habitat Rights of PVTGs under FRA" undertaken by Vasundhara under the aegis from MoTA with support from UNDP.

- To issue necessary directions/instructions to the concerned DLCs, SDLCs and any other institutions as required to initiate the implementation of the State Action Plan for recognition of PVTG Habitat Rights
- To issue necessary instructions to all DLCs and SDLCs to undertake extensive awareness campaigns and training of different stakeholders on the concept of Habitat Rights and the process of their determination and recognition as suggested in the guideline.
- To ensure proper and adequate representation of PVTG communities in concerned SDLCs and DLCs as provided under Rule 5 (c) and 7 (c) and to ensure and monitor their complete and regular participation in SDLC and DLC affairs.
- To liaise with SLMCs of the adjoining States in cases where the habitat of PVTGs extends into the adjoining State/s
- To ensure regular reporting on progress of Habitat Rights recognition process in the state from the concerned DLCs.
- To provide separate reports on the progress of habitat rights recognition in the concerned State to the FRA division of Ministry of Tribal Affairs, Government of India.

District Level Committees and Sub-divisional Level Committees

- To prepare and consolidate the list of PVTG settlements based on the advice of the concerned Tribal Research Institute.
- To issue necessary instructions to their officers for following up on the centrally issued directions for recognition of PVTG habitat rights and the instructions from the SLMC and the Tribal Department, the nodal agency for implementation.
- To organise local level awareness campaign, training and capacity building program as outlined above and in accordance with the Central directions.
- To organise the first round of consultation after the gramsabha meeting that passed the resolution to initiate the determination and claim process on habitat rights and organise additional rounds of consultations.
- To ensure that discussions on draft Habitat rights claim in the consultation are presented properly in all the concerned gramsabhas and adequate attention is given to ensure that PVTG opinions and voices are expressed freely. It should be ensured that government officials are present in gramsabha meetings and provide necessary assistance as mentioned under Rule 4 (3) of Forest Rights Rules.
- To liaise with adjoining DLCs and SDLCs as the case may be in instances where the habitat rights extend over the adjoining districts and sub-divisions.

4.0. Habitat mapping methodology

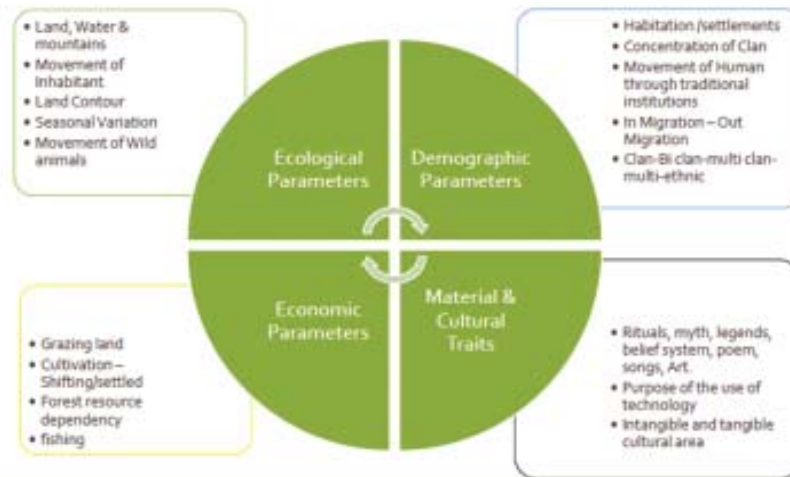


Habitat Definition

"The right to community tenures of habitat and habitation may be recognized over customary territories used by the PTG for habitation, livelihoods, social, economic, spiritual, cultural and other purposes. In some cases the habitats of PTGs may overlap with forest and other rights of other people / communities".

Source: FAQ released by MoTA, December 2012

What constitute a Habitat?

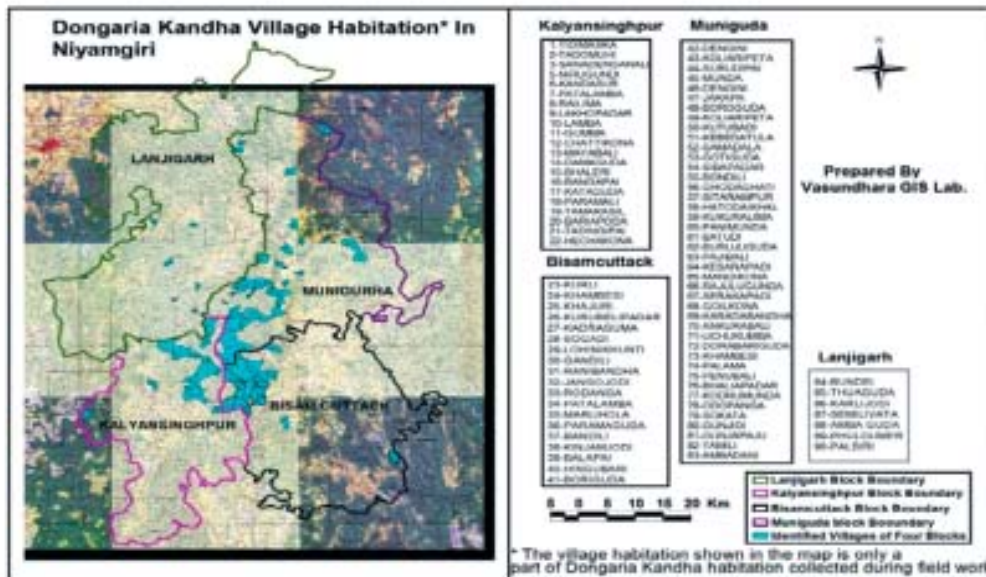


Source: Findings from the nation research study on "Mechanism for recognition of Habitat Rights of PVTGs under FRA" undertaken by Vasundhara under the aegis from MoTA with support from UNDP.

Layer-1- Demographic Parameters

- Habitation /settlements
- Concentration of Clan
- Movement of Human through traditional institutions
- In Migration – Out Migration
- Clan-Bi clan-multi clan-multi-ethnic

Demographic Parameters: Identification of Settlements

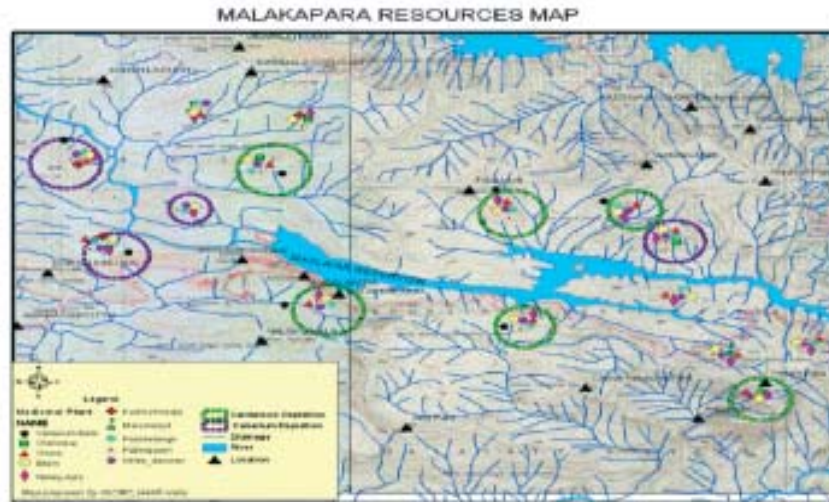


Source: Findings from the nation research study on "Mechanisms for recognition of Habitat Rights of PVTGs under FRA" undertaken by Vasundhara under the aegis from MoTA with support from UNDP

Layer-2- Cultural Parameters

- Intangible and tangible cultural area
- Place of worship
- Rituals, myth, legends, belief system, poem, songs, Art.
- Purpose of the use of technology

Economic parameters: Identification of resource dependency area



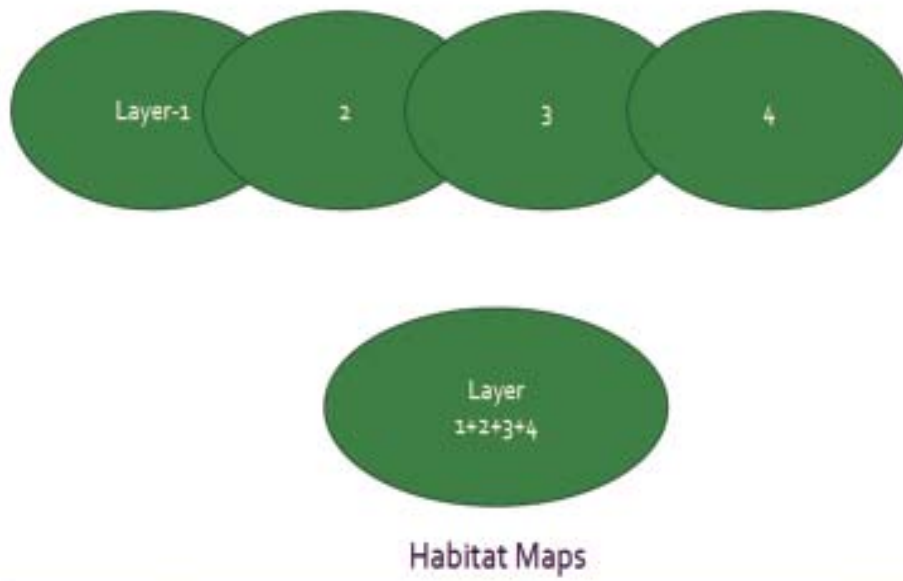
Kadar & Malyar in Vazhachal

Source: Presentation made by WWF

Layer – 4 - Ecological Parameters

Land, Water & mountains
 Movement of Inhabitant
 Land Contour
 Seasonal Variation
 Movement of Wild animals

Super imposition of Layers



7.0. Case studies: Juang PVTg process of claiming habitat rights

The Juang PVTG of Odisha happens to be the first community in the whole to country to have filed habitat rights claim under the Forest Rights Act. A total of three habitat rights (Three Pidha¹) claim have been filed with the SDLC of which the first one was filed in the year 2010 and the remaining were filed in 2011. The claims were never processed by the SDLC due to prevailing confusion regarding meaning and scope of habitat rights at the level of government. The Government of Odisha subsequently wrote to the Ministry of Tribal Affairs seeking clarification on the issue. The process of claim making was facilitated by Vasundhara (an NGO based at Bhubaneswar, Odisha) and BanabasiChetna Mandal (a local NGO based at Gonasika, Keonjhar district), Odisha based NGOs. Similar processes were adopted for determination and filing of claims. Example of one such claim making process has been described in the following section:

Process through which the Juang community have claimed Habitat rights

Series of awareness camp and meetings on FRA provisions and habitat rights in the region organised by facilitating local NGO then a Pidha level Mahasabha meeting was organized under the leadership of MukhyaSardar participated by all Sub-PidhaSardar with Pradhans, Dehuris and also dakua of all the villages coming under JuangPidha based on which an action plan developed to initiate the habitat rights determination process. While following up with the agenda Gram sabha of each village under the leadership of *Pradhan* (whether revenue, hamlets, un-surveyed, forest villages) under all Sub-Pidha organised to discuss the action plan then dates for subsequent meetings was fixed.

Then a subsequent round of gramsabha meetings organised as per previously fixed plan. In these meetings they demarcated their customary boundaries and intimated to SDLC about this development. In next round of meetings, details related to places of NTFP collection, places of worship, Rivers, *nalas* or any water bodies, grazing places and roads used by them etc were marked and recognizable landmarks (Streams, hillocks, trees etc.) were identified and shown across the previously delineated customary boundary. Prepared maps presented in each of the concerned GS under all Sub-pidha area. Subsequently joint gramsabhas (covering all gram sabha coming under one sub-pidha area) was organised to look after any issue related to overlapping area or any conflict between two of the gram sabha and then the claim was finalised.

Pidha level meeting was then organised under the leadership of Sardar and included the Pradhans, Dehuris, Dakua, elders persons, women representatives, Panchayat Secretary, Forest Rights Committee Secretary and President of all the villages falling within that particular sub-pidha for final verification before making recommendation to SDLC. A final Sub-Pidha map was then consolidated and prepared.

The Sub-Pidha map was then finalized by the Sardar (traditional Sub-Pidha leader) with the consent of the Pradhans, Dehuris and all elders/important members of the villages of the Pidha where Panchayat Secretary and FRC Secretary and President were also a part. The Pidha wise Habitat Rights claim was filled before the SDLC. This same process was adopted by all three Sub-pidha for claiming habitat rights.

¹⁰ Claim territory

8.0. KutiaKondha PVTG process of claiming habitat rights.

The Kondha were the principal inhabitants in the region now called Boudh and Kandhamal. Being Dravidian, they were in this tract of the country before the advent of the Aryans. They have been classified under the ancient Gondid race of the Proto-Australoid group, which according to scholars like Risley, preceded the Aryans by many thousand years¹.

The Kandhas are divided into three classes, viz., the Kutia, Dongaria, and Desia. The KutiaKondhas are found mainly in Kotagarh, Tumudibandh and Belghar area of the Baliguda subdivision. The Dongaria or the MaluaKandhas lives in high lands in hilly areas of the district. The Desia or Oriya Kandhas lives in plain areas with the non-tribal.

The process of recognition of habitat rights has been initiated in collaboration with Kandhamal DLC, local CSO/NGO and the KutiaKondha traditional leaders, the proposed guideline mentioned in annexure 2 was piloted in the process of recognition.

7.0. Frequently Asked questions

1. Can the habitat rights of the PTGs under FRA also include revenue lands?

Ordinarily No, unless there are recorded forests or there are forests that come within the definition of forest land under the Act on such revenue lands (land under the administrative control of the revenue department) and they overlap with the habitat of the PTGs (Particularly Vulnerable Tribal Groups). Further, if the habitat area (or its part) of a PTG does not come within the definition of forest land then such habitat rights cannot be recognized under FRA. However, it may be recognized under the respective revenue laws of the concerned State, if the State so desires in order to protect the habitat rights of the PTGs.

2. How will the claims on rights of PTG groups and habitat rights be facilitated particularly in view of the habitat involving more than one Gram Sabha?

The definition of habitat under Section 2(h) and the right to such habitat has been clearly laid down in the law under section 3(1)(e) of the Act. Rule 12(1)(d) further directs Forest rights Committee to ensure that the claims from PTGs are verified when such communities or their representatives are present. Further, the right to community tenures of habitat and habitation may be recognized over customary territories used by the PTG for habitation, livelihoods, social, economic, spiritual, cultural and other purposes. In some cases the habitats of PTGs may overlap with forest and other rights of other people / communities.

- Rule 8 also envisages the role of the District Level Committee (DLC) to ensure that such rights of the PTGs and other vulnerable communities are addressed keeping in mind the objectives of the Act.
- Further, it has now been provided in the Amendment Rules, 2012 notified by the Ministry on 6.9.2012 that, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups

¹¹ 1 Gazetteer of India, Odisha, Boudh-Khondmals, page no. 32

(PTGs), the DLC shall ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and that their claims for habitat rights are filed before the concerned Gram Sabhas wherever necessary by recognizing floating nature of their Gram Sabhas.

- In view of the above provisions in the Act and the Forest Rights Rules, the DLCs should play a proactive role by initiating the process of recognition of rights of the PTGs in consultation with their traditional institutions and ensure that their claims for habitat rights are filed before the concerned Gram Sabhas.
- Where the claims of PTGs have already been filed, the DLCs should take steps to ensure recognition of their rights along with mapping of the area of each claim over which their rights have been recognized.



9.0. Annexure - CFR governance and management

1.0. Case studies

CFR governance and management process in Kandhmal

The process for recognition and vesting of community rights under FRA-06, in Kandhamal, started in 2008, which till date is completed in 2221 villages. The district administration with support from Vasundhara initiated the process of delineation and mapping of community forest resources using GPS in 23 villages of Jamjhari gram panchayat of Phulbani block.

Madikhole is a village of Odisha, some 25 kilometers from Phulbani. Madikhole Gram sabha constituted a community forest resource conservation and management committee (CFR CMC) under section 4(1)(e). The Gram sabha elected 20 members of committee including 10 female member. The CFR CMMC which is formed for the first time under the provision of FRA meets several times and framed some customary rule and regulation and the same has discussed in Gram sabha and passed a resolution of the same. Thereafter it has been implemented and the community initiative on fire management awareness started. For the first time this year they are able to protect forest fire completely and enjoyed the benefits as well given the justice to wild lives. They assessed that number of jungle fowl increases as well as other birds population who all are nesting on ground. The community generated a good income form sal leave plates sale. Women member feel comfortable while visiting the forest for different purpose because of cooling services of the forest. They are expecting some improvement in sapling number in this year and quality mushroom in rainy season.

Bilapagha CFR governance and management

Bilapagha is another Village about 30 km from Jashaipur inside Similipal Biosphere Reserve. The Bilapagha governing on about 1200 hector CFR area and constituted a CFR CMC including more than 50% women member from bother Kolha and Bathudi community. Bilapagha Gram sabha framed some basic customary rule and regulation in order to initiate the forest protection, regeneration, conservation and management process after right has been recognized and title given to them under forest right act. CFR CMC also controlling other committee existing in the village such as EDC, SHG after passing a resolution in Gram sabha.

10.0. Frequently asked questions:

Who will prepare conservation and management plan for community forest resources?

As per the FR Amendment Rules, 2012 notified on 6.9.2012, the committee constituted by the Gram Sabha under Rule 4 (1)(e) for carrying out the provisions of Section 5 of the Act is required to prepare the 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 STs and OTFDs.

Should JFM Areas be directly converted to Community Forest Resource Titles ?

As per the provisions of Act and Rules, automatic conversion for JFM areas into CFR areas is neither mandated nor desirable as the objectives, structure and mandate of JFM is different from that of rights under community forest resource. However, wherever JFM areas are co-terminus with CFR boundaries, Gram Sabha may apply and get the title to such community forest resource, subject to the final approval by DLC.

Can the Gram Sabhas issue MFP transit permits and what will happen to the existing transit rules?

Ans: YES, the Gram Sabha has the authority to regulate transit permit for MFPs where rights have been recognized under FRA. The Forest Rights Amendment Rules, 2012, notified on 6.9.2012 provide that the transit permit for transportation of minor forest produce shall be issued by the Committee constituted by the Gram Sabha under Rule 4(1)(e) or the person authorized by the Gram Sabha. These Rules further provide that the Gram Sabha shall approve all decisions of this Committee pertaining to issue of transit permit.

According to PESA, ownership of Minor Forest produce has already been vested with the Gram Sabha, then what is the need and legality of the various provisions of FRA that give SDLC/ DLC the power to regulate and recognize the ownership of MFPs?

Ans: • The application of PESA is limited to Scheduled Areas only, therefore it gives the ownership of the MFPs to Gram Sabhas only in the Scheduled Areas. Large tribal populations also live outside the Scheduled Areas which are covered only under FRA. • SDLC/DLC are only part of the process of recognition of rights. The regulation of MFP vests with the Gram Sabha.

Can JFMCs be converted into committees under 4(1) (e)?

Ans: It is the prerogative of the Gram Sabha to decide whether to nominate the members of the JFMCs in the new Committee under Rule 4(1)(e) or constitute it with new members. It is further clarified that only the members of the Gram Sabha are eligible to become a member of the Committee under Rule 4(1)(e). Automatic conversion of JFMCs into Committee under Rule 4(1)(e) is neither mandated nor desirable under the FRA .

Section 3(1)(c) of FRA confers ownership rights over MFP)to forest dwelling STs and OTFD. Can ownership rights over Tendu/Kendu, Bamboo which are nationalised forest produce under the State forest laws be conferred under FRA?

Ans: YES Section 2(i) of FRA clearly defines the term “minor forest produce” which include bamboo and tendu/kendu

11.0. The approach

The CFR conservation and management approach need to be two part

- Governance process (For legal requirement whomever it may concern)
 - * Resolution of Gram Sabha
 - * Maps(CFR, and dependency)
 - * CFR conservation and management committee
 - * Basic rules and regulation (traditional system)
- Management process (for community)
 - * Resource assessment
 - * Resource management

Basics of management process

- Forest working plan, management plan or any microplan can be modified by Gram sabha/ CFR CMC under rule 4(1) (e)d on the CFR area(as protection of rights)
- Authority of Gram sabha on governance and management as they are the custodian of the area.(empowering Gram sabha) (Sec. 5)
- Elected CFR conservation and management committee will execute the decision of Gram sabha (committee should have 75% of forest dependent group)
- Minimum legal requirement should be done by Gram sabha for the integration with FD working plan(Rule. 4 (1)(f)
- Gram sabha will decide the conservation and management process based on their knowledge with some basic principles
- Gram sabha will decide any kind of major intervention in their CFR area

Phase I: This is the part of CFR governance for legal requirement whomever it may concern. Phase I process will be completed in two parts

- * Preliminary and preparatory part
 - Consent and awareness of Gram sabha
 - Formation of CFR CMC by Gram sabha by election
 - Preparation of CFR dependency map
- * Gram Sabha approval part
 - Approval of operational rules and regulation by Gram Sabha
 - Gram sabha level resolution

Phase II: Integration of legal documents Through ITDA/DLC with Forest department

Phase III: management process

- Resource assessment (culture and dependent basis)
- Resource management (Community control mechanism, community based system)

The proposed process (Draft)

The process guidelines are for reference and use of facilitators to assist Gram sabha in facilitating the CFR conservation and management process with overall objective to ensure autonomy of Gram sabha under FRA, improve forest based livelihoods and food security through a sustainable forest management. The guideline is indicative and evolving and is meant to be flexible and adaptive in order to develop an experimental approach rather a rigid approach.

Objective of the CFR governance and management process

- Establish the legal mechanism at the Gram Sabha level to exercise management rights and authorities as suggested in FRA and Rules.
- Build people capacity to more actively participate in the CFR CMP process that are relevance to the CFR governance and management process Under FRA ensuring Gram sabha autonomy
- Identify community priority ideas that are relevance for livelihood security, poverty reduction and benefitting to entire village particularly entire poorest group.
- Ecosystem based adaptive management (EbAM) provide flexible, cost effective and broadly applicable alternative for building food from forest system, medicine from forest system, MFP from forest on less effort and labour.

Output of the participatory CFR CMP process

- Adaptive CFR CMP based on TEK and PEK (flexible) in target clusters of Odisha.
- Representative members of Gram sabha to execute decision taken (CFRCMC)

Key Participants of CFRCMP process

- It is essential that the people participating in each village CFR CM planning processes represent the forest rights holders, forest dependent and user groups particular women and marginalized the most food insecure and the poorest village members.
- A good mix of different age groups ranging from the youth to the elderly and participation of women, and of female headed households must be encouraged.
- District administration in order to take responsibilities to accelerate the management process and take necessary action to integrate the CFR management plan with the FD management plan.
- CSOs involved in FRA process will take training to facilitate the CFR management process.

Key principles

Governance and institutional

- Autonomy of Gram sabha

- Participation and representation of user groups, marginalized/vulnerable communities and women who are going to affect or benefit irrespective of caste, gender, age, origin, class.
- Higher level democratic institutional arrangement to support Gram sabha

Ecological

- Adaptive, precautionary and co-existence approach
- Human being need nature and biodiversity for well beings

Management and Planning

- Based on community conservation initiatives and practices, local practical ecological knowledge (PEK) and customary community based system (CCbS)
- The management planning processes should be continuous learning process for all

Livelihood

- Livelihood augmentation

Key Steps

Process steps for intervention villages

Step I: Consent of Gram sabha

- Visit the village with prior information to FRC and discuss the status of CFR process and FRA
- Discuss about the CFR mapping process as the final map of CFR areas is an important prerequisite for the CFR management and planning process.
- Discuss with the FRC on CFR CMP process steps with its logical significance
- Fix date to arrange Gram sabha through FRC to inform the Gram sabha members about the management rights and authorities, key provisions for carrying out the CFR management and take consent for facilitation of CFR CMP process

Step II: Gram Sabha for initiating the CFR CMP process

- The Gram Sabha should have the required quorum and participation of members including the forest rights holders, village level institutions, women and vulnerable groups.
- In this meeting members of the Gram sabha should be informed by the FRCs about the management rights and authorities vested in the Gram sabha for management of CFR and about the specific provisions in the rules for carrying out the CFR management. Gram sabha select an adhoc committee which should primarily include representatives of forest right holders and user groups and knowledgeable elders. Where ever, STs are present, they should comprise at least 2/3 of the committee. Women, especially forest dependent women, should constitute at least half of the committee.

The Gram sabha should clearly indicate the tenure of such committee, the right to recall, and the powers of the committee members. Where Gram sabha aware about FRA should constitutes committees for CFR management committee under sec 4(1) e of rule.

- Priority is to be given to the groups who are depending on food, fodder, medicine and minor forest produce for their survival.
- Particular concern to be given to the groups' whose livelihood may be affected by strict management activities under take by Gram sabha.

Step III: Resource assessment and Dependency

- Committee to undertake resource inventory, resource mapping and resource dependency to identify critically resource dependent group, substantial resource dependent group and least dependent group if Gram sabha.
- Document forest and people interaction and traditional knowledge related to biodiversity conservation practices adopted by the forest dependent communities for protection and management of forests.

Step IV: Presentation of findings by ad hoc committee/ CFR management committee under section 4(1) e to prepare a management plan on Gram sabha directions.

Step V: Preparation of management plan and selection of components

Part I: Legal requirement to limit the exercise to a simple process of forming a committee and framing rules and regulations which can be passed by the Gram sabha as CFR management plan for sharing with the authorities. Here resolutions of Gram sabha on important decisions under FRA, simple rule and regulations for protection, management, and benefits sharing and conflict resolution mechanism will be mentioned.

Part II: CFR owner's requirements to document forest and people interaction and traditional knowledge related to biodiversity conservation practices adopted by the forest dependent communities for protection and management of forests for human wellbeing.

Procedure of write up of management plan

- Discussion with all user groups
- FGD with different user groups
- Considering any existing Formal and Informal practices
- KI interview
- Citing forest story and forest culture
- Elders suggestion

Step VI: Approval of CFR management plan in Gram sabha and integration of management plan with the forest department management plan through DLC and ITDA.

12.0. Annexure: Women and Forest Rights Act

(Suggested are the points where Women should take active participation in the Process of Determination of Forest Rights including Claim Making and Verification (IFR/CR/CFR), Habitat Rights, Governance, Management and Convergence)¹²

1.1. Women in Determination and Recognition of Individual Forest Right

Role of different Govt. Authorities:

- It needs to be ensured that the women PRI representatives are intimated about SDLC/DLC meetings in advance as in many cases they neither know that they are members nor are aware of their role and do not seem to be attending the committee meetings.
- SDLC should also do awareness building to the FRC members on the importance of the rights of women and their participation in the FRA process relating to Individual rights
- SLMC should monitor the claims of women (single, widow, destitute, separated, divorcee etc) and ensure the compliances of the provisions under the Act

Role of FRC/Gram Sabha :

- To identify the persons who are eligible claimants (especially widow, single, separated women) left out are to be included in the FRA process
- Ensure and motivate women to take active participation in the Intimation to FRC Members for Preparatory Meeting for Claim Verification.
- Ensure that the women should take part in the process of the Preparation of Record of Claims and preparation of the final maps.
- Ensure that the women knowledgeable about the forest are amply represented in the Forest Rights Committee Meeting for Fixing of Date and Time for Claim Verification and should also take part in decision making
- Ensure that women take active part in the Site Visit, Physical Verification of Claims and Preparation of Maps
- Ensure that women take part in the conflict resolution process both inter-village and intra-village level.
- Ensure that single women (unmarried, separated, widowed, abandoned) are able to file their claims

Women in Determination and Recognition of Community Rights and Community Forest Resource Rights:

Role of different Govt. Authorities:

- As mentioned above as per the Amended Rules Sub-section (k) of Section 6, SDLC /DLC members to aware forest dwellers on the importance of the right for the women and their participation in the

¹² Rao, Y. G., Dash, T., Mishra, S., 2011, Forest Rights Act - a field guide ; WWF- India, Vasundhara, Print Works, New Delhi and also Vasundhara's learning from the field intervention.

FRA Process relating to community rights and community forest resource rights.

- SLMC should monitor that women take active participation in the determination of CR & CFR

Role of FRC/Gram Sabha

- Ensuring that women, particularly the ones most dependent on the forest, take an active part in the decision making process relating to the claim making i.e, preparatory village meeting for determination of community forest resources.
- Ensuring women to take active participation in determination/Delineation of customary common forest land within traditional or customary boundaries of the village or seasonal use of landscape in case of pastoralist communities in the village meeting.
- Ensuring that, women to take active participation in the preparation of rough sketch map of the forest under their protection.
- FRC/Gram Sabha has to collect information and evidence to establish their traditional access to forest land. For this the Gram sabha should involve women along with the men to prepare a detailed record of the resources available within their traditional boundary and the woman be entrusted to maintain the record and update it from time to time
- FRC should also seek women's opinion while resolving disputes related to overlapping issues, benefit sharing and conflict resolving in the Gram sabha
- Ensuring women participate actively in the decision making in the preparatory meeting relating to verification process
- Ensuring women to take active participation in the decision making in the Preliminary Assessment of Community Rights/ CFR Areas in the Gram Sabha/Palli Sabha
- In the process of Field Verification and Demarcation of Community Forest Rights/CFR Area, the gram sabha/FRC should ensure that women take participation in while passing the resolution. The same is expected while sharing of the first draft of verification report and their opinion is taken into account and also be a part of the verification meeting
- Ensuring that women take free and active participation in *Final Gram/Palli Sabha for Adoption and Submission of Report*

“*Case Study:

In the process of delineation of resource boundary of their CFR, the women in Madikhole (A village of Kandhamal, Orissa) actively participated in their Gram sabha meetings. The women got to learn about the CFR/CR under FRA following which they gathered to prepare a sketch map of the CFR area. Having internalized the importance of the right, they inquisitively learnt about the GPS mapping technique and also participated actively with the village men in the mapping.

Women of the village moved in two groups for two days, marking all the traditional resource access areas and other landmarks that they know about while collecting forest produce. They also participated in the verification process. Presently, the village has its CFR title and is managing the area on their own.

*(*2014, Vasundhara's Learning and Findings during the field intervention in Madikhole village, Jamujhari G.P., Phulbani Block of Kandhamal District. Odisha)*

Women in Determination and Recognition of Habitat Rights¹³

Role of different Govt. Authorities:

- While organizing of Gram sabha in identified settlements, DLC/SDLC should ensure that, women of the community take free and active participation.
- While imparting training to the traditional leaders (in case of PVTGS and other communities most of the traditional leaders are men folks), the DLC/SDLC to ensure that, other elder women members of the community should also be invited to the meeting and participate in the Habitat Rights recognition and determination process.
- DLC/SDLC should also focus that, in the traditional leader consultation, women's participation in Habitat Rights process is also kept in the agenda for discussion.
- DLC/SDLC should ensure involvement and participation of women in Gram sabha who tend to be less or not represented in traditional institutions.
- In the preparation of Habitat Maps, interested young women of the community may also be imparted with the training on use of GPS for delineating their Habitat boundary and identifying important cultural landmarks.

Role of Gram Sabha

- Ensure participation of their women of community and representing traditional leaders and FRC members in different capacity building programs organized on habitat rights recognition under the Forest Rights Act.
- Gram sabha should ensure women to take active participation in the decision making process relating to the claim making and passing of resolution
- Gram sabha should prepare a detail document or record of the resources available within their traditional boundary along with the women of the community and they be entrusted to maintain the record and update it from time to time

*Case Study :

BasantiMajhi – a KutiaKondh women (Particularly Vulnerable Tribal Group) of Desugahti village in Kandhamal District of Odisha), says, “For us, the land and forest where we live, where we cultivate our grains belong to Dharani Penu (Earth Goddess) , we just get our food by cultivating the land and getting forest produce.

After coming to know about the habitat rights recognition, she took initiative herself to bring the young women together to be a part of the determination process of Habitat Rights. Along with some other young women of the community, she actively, participated in the gram sabha held in the village. Further, these Kutia Women also actively participated in mapping using GPS technology. For days they walked through the hills, slopes and forests covering more than a thousand hectares of land marking the landmarks which are culturally important to the tribe and the forest area from where they get food. Presently, they are about to file their claim for the Rights over their Habitat.

¹³ Findings from the nation research study on "Mechanism for recognition of Habitat Rights of PVTGs under FRA" undertaken by Vasundhara under the aegis from MoTA with support from UNDP.

(*2014, Vasundhara's Learning and Findings during the field intervention in Desughati village, Jhiripani G.P., Tumudibandh Block of Kandhamal District)"

Women in Conservation and Management of CFR Processes¹⁴

Role of different Govt. Authorities:

- SDLC/DLC to mobilize the FRC/Gram sabha to ensure that women, particularly those most knowledgeable about the forest, participate in the management process
- SDLC/DLC should facilitate development and implementation of need based schemes through participatory processes in the gram sabha in which women are actively involved in articulating priorities.

Role of FRC/Gram Sabha

- Gram sabha should be convened to initiate the process relating to the management of their CFR, in which the Gram sabha should recognise women as the primary stakeholders. For this purpose knowledgeable forest dependent women should ideally have at least 50% representation in the Rule 4(1) (e) committee responsible for preparing a conservation and management plan for their CFR on behalf of the gram sabha.
- Gram sabha may prepare a detail document or record of the resources available within their traditional boundary and may entrust women to maintain the record basing upon the format provided in MoTA guideline.
- The Gram sabha should also look into taking women's opinion into account on the benefit sharing and conflict resolving.
- While presenting the findings to the Gram sabha by the 4 (1) (e) committee the Gram sabha/ FRC should ensure active participation of women.
- Gram sabha/FRC has to ensure the full participation from the women during the preparation of the management plan.
- The management plan needs to incorporate the needs and priorities of women forest user groups while benefitting from their traditional knowledge about local biodiversity.
- The Gram sabha/FRC should ensure that women take active participation in approval of CFR management plan in Gram sabha.

***Case Study:**

District Administration of Kandhamal along with a Non Govt. Organization has developed a flagship programme named "SAMBHAVANA" that is aimed at developing awareness ensuring the women's action and participation in the FRA process. Mostly, they got to learn about their role in effective forest management as they have a day-to-day interaction with the forest.

In Jamujhari G.P. of Kandhamal district, women title holders, women FRC & PRI members and other women have participated in workshops. Later on, due to the concerted efforts from the women they have prevented forest fires in entire gram panchayat and are currently engaged in formulation of

¹⁴ Community forest management plan Madikhole, Kandhamal, Odisha (Draft report), Vasundhara and Approach of facilitation based on learning from participatory initiative with selected gramsabhas in Mayurbhanj and Kandhamal,(draft report), Vasundhara 2015

management plans for their CFR areas. In one of the villages under the Jamujhari G.P, a management committee was formed, where a women title holder was elected to function as secretary and play an active role in the decision making pertaining to the management and governance of their forest.

(*2014, Vasundhara's Learning and Findings during the field intervention in Phulbani Block and Khajuripada Bloack of Kandhamal District of Odisha)

Women in Convergence of various programs and schemes for livelihood security

Role of different Govt. Authorities:

- SDLC/DLC should build the capacity of the concerned persons of the line departments particularly the Govt Officials related to the process by organizing consultations and meetings and putting women's issues relating to the schemes as a part of the agenda in the meeting considering women's livelihood at large.

Role of FRC/Gram Sabha

- Gram Sabha/FRC should ensure that women along with the men should also take active role in the decision making relating to the implementation of the convergence programs for community and households.
- While discussing on the perspective planning and detail budget, in Gram sabha, the Gram sabha/ FRC to ensure free and active participation of women in decision making
- Gram sabha should see that none of the programmes to be converged are imposed and is availed with unwanted interference from the line departments

Facilitate consultation and meetings for strengthening federations and building capacity of the title holders, institution members (FRC & PRI)

13.0. Section 5 FAQs on Women & FRA

- **What rights does FRA provide for women?**

FRA requires that titles for individual land rights be issued in the joint names of both the spouses and in the case of households headed by a single person, in the name of the head of that household. As members of the Gram Sabha, they are equal claimants for CFR rights with the right to participate in the management of the CFR

- **What is the role of women in Gram sabha and FRC?**

The Forest Rights Rule 3(1) requires that the Gram Sabha elect from among its members a Forest Rights Committee, consisting of not less than 10, but not exceeding 15 persons, of which at least 2/3rd members shall be Scheduled Tribes and at least 1/3rd of such members shall be women, . The quorum required for any Gram Sabha meeting is at least 50% of total members of Gram sabha of whom at least 1/3rd must be women under Amended Rule 4(2)

- **Why should women participate in boundary delineation?**

In forested areas, women tend to be the single largest group of forest users because of which they have intimate knowledge about the village's customary forest; hence their involvement in the delineation of the customary boundary is essential.

- **Who will inherit the land over which a right has been conferred under FRA?**

There could be title holders without children – a heritable right means that those entitled to inherit will get the title. The Act is silent on whether the title holders can will their land to anyone but it does say 'in the absence of a direct heir, it shall pass on to the next of kin.

Annexures: Forest Rights Act and Convergence

1.1. Role of government authorities and Line departments:

The line department officials (Panchayati raj departments, department of agriculture, directorate of horticulture, sericulture, fishery and others) must be thoroughly conversed with the different developmental programs and its procedures, the concerned officers must involve themselves with the community members. First of all the concerned officers must identify the right holders name, women members of the community, FRC members and community resource persons from every village and G.P wise.

After the identification of the members from community, the officials should engage the PRI members to carry forward the PRA exercises to identify the possible livelihood opportunities in the village. To understand the need and priority of the community a list of activities need to be chalk out with consultation with Gramsabha. the line departments officers should execute the planning with due consent of the 4(1)(e) committee and Gramsabha. while implementing the programs and schemes it is important to keep in mind that the impact of any kind of intervention must give a ecological, cultural, economical and social help to the community/right holders/forest dwellers to have secured and sustainable livelihood and which can also help them to secure their food.

The National committee on FRA (Reported on Dec 2010) has specifically outlined the need, approach and Objective for convergence with FRA titles. The land of the right holders should be developed so that it becomes more productive, through organic and biologically diverse means. Some of the works that could be suggested for land development are leveling, consolidation, fencing to protection from damage by wild life or, bunding, digging of well for irrigation, providing proper equipments, integrated agriculture-fisheries-animal husbandry, etc.,. The right holder should be paid for carrying out these works under existing Govt. schemes or under MGNREGS.

Every Department or agency of the Govt. operating in the district, under the chairpersonship of the Collector of the district should converge all activities and budgetary provisions to undertake every possible infrastructural and family based development works where the right holder/s is/are residing. If need be, the Ministry of Tribal Affairs, Govt. of India should provide an untied fund to the concerned State Govt. for such purpose so that the works can be planned and executed speedily. (Excerpts from National Committee on FRA, Dec. 2010)

Suggestive Steps/Process for effective convergence program for a sustainable livelihood



General framework for convergence: The National Rural Employment Guarantee Act (NREGA) is the first ever law internationally, that guarantees wage employment at an unprecedented scale. The works which have been taken up under this act rejuvenate the natural resource base and address the causes of chronic poverty, such as drought, deforestation, soil erosion, floods, poor rural connectivity. However these works can lead to sustainable development only if their planning and execution is sensitive to local needs, conditions and priorities.

Guidelines and Circulars(Issued by Odisha government for the Right holders):

Below mentions are few Circular issued by the Odisha government to support the Right holders for the enhancement of their Livelihood, attached in this manual as an example for other states, as Odisha government have taken a great initiative and more than 2 lakhs right holders are benefited from different programs and schemes.

Title holders	344541
IAY	143724
Mo Kudia	3737
Mo Pukhari	3944
MGNREGA(Land development)	53969
NHM	8383
NBM	286
Other	12261
Total	226304

(As on May 2015)

Annexture 3:

MGNREGA Circular from Panchayati Raj Department:

MGNREGS (Mahatma Gandhi National Rural Employment Guarantee Scheme) projects are not only being executed by the Panchayati Raj Institutions but are also taken by the field agencies of your Department. Special emphasis has been given by the Government to take up large number of farm ponds, check-dams, multipurpose farm ponds, land development of FRA beneficiaries and a host of other labour intensive works permissible under the scheme. While the agencies implementing the scheme are expected to follow the guidelines of MGNREGA for all such works, the projects taken up should also be subject to social audit by the respective Panchayati Raj Institutions. The details of works, case records, quality checks conducted and the action taken on all such issues may also be shared with the DRDAs / Collectors concerned by the field officials of your Department. All assistance and co-operation should be provided during the process of Social Audit and the required documents are to be produced during the process as mandated in the law. (Panchayati Raj department letter issued by Mr. Pradeep Jena IAS,D.O number 22839)

Circular for cent percent coverage of Forest Rights Act beneficiaries under different Government Schemes: (P. R. Department letter No. 38708 dt. 05.12.09)

Inviting a reference to the subject cited above, I am directed to say that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is being implemented

since 01.01.2008. Till date, 279901 nos. of Individual beneficiaries have been distributed with individual titles in recognition of their rights under the Act. Out of the same only 58724 nos. of Right Holders have been covered under different Government Schemes. Except few districts like Kandhamal and Gajapati where pro-active initiatives have been taken, the performance of other districts is not encouraging. In the last review meeting held on 22.07.2011 the Hon'ble Chief Minister has desired that expeditious steps may be taken for covering FRA beneficiaries under a large number of Government Schemes. In view of the above, you are requested to take up the following on priority:

Draw up an action plan through the WEO, other Extension Officers and Executive Officers of Gram Panchayats to plan and cover all the individual title holders under different kinds of developmental schemes. The action plan should aim at covering the beneficiaries in a time bound manner.

Constitute District Level Committees consisting of senior officers to inspect and verify the development works being planned and executed.

Maintain a proper database of the beneficiaries covered and the programme under which they have been covered.

Specific plans should be drawn up to cover cent percent beneficiaries in convergence with different Govt. Schemes like IAY, Land Development under MGNREGS, National Horticulture Mission, National Bamboo Mission, etc.

Circular for excavation of 'Multi purpose pond' under NREGA for FRA beneficiaries (Letter no 384 dated 04.01.10 Panchayati raj department):

Inviting a reference to the subject cited, I am directed to say that para-1(iv) of amended schedule-1 of NREGS, does not provide for irrigation facility horticulture plantation and land development facilities including farm pond to land owned by households belonging to SC and ST or BPL families or beneficiaries of land reforms or beneficiaries under IAY or small and marginal farmers. Accordingly modified guidelines for excavation of farm pond under NREGS was issued vide this department letter No31537 dt.30.09.2009, but to provide 100 days of employment to more number of families and to utilize the farmpond for multi purpose use like water conservation protective irrigation, horticulture Pisciculture etc. it has been decided to take up "Multi purpose farm pond" in the land of small and marginal farmers under NREGS to improve their livelihood status.

Land development: Land development activities may be taken up under NREGA to rehabilitate degraded forest and wasteland. The entire activity of land development should be conceived of as a project, with a clearly laid out plan for land use after land development.

Case Studies;

Case Study-1: (Vidarbha region, Maharashtra)

The Vidarbha Livelihoods Forum (VLF) has been formed by KHOJ, Dilasa, GraminSamasyaMukti Trust (GSMT), Shristhi, VNCS, and Yuva Rural Association covering villages in Gadchiroli, Gondia, Amravati, Nagpur and Yavatmal. The network has facilitated the filing of 155 CFR claims out of which 100 CFRs have been recognized while several more are in the process of submission and recognition. The group has been able to bring about convergence of various schemes offered by nine government departments like Forest, Agriculture, Irrigation, Rural Development, Tribal Development,

Animal Husbandry, MNREGS, Social Forestry etc., to ensure accessibility of the schemes to the villages. The group has been able to mobilize funds under various government programmes, especially the MNREGS, in the villages, for forestry and soil and water conservation works in the CFR and to facilitate the process of direct tendupatta trade by the GSs from their CFR by making funds available from the Tribal Development Department for tendu collection and disposal from 18 GSs. (Source: Citizen's Report 2015)

Case Study 2 (Mendha-Lekha, Maharashtra):

Amongst the first communities to receive community forest rights under the FRA were villages in the Gadchiroli district of Maharashtra, with Mendha-Lekha and Mardaas the first ones. Subsequently, about 2700 community forest rights claims have been accepted, mostly in the districts of Gadchiroli and Gondia, on over 700,000 acres (the largest forest area of any state so far in India).

The village of Mendha-Lekha has subsequently moved to establish not only full community control over its titled forest, but also gain the right to issue transit permits for forest produce to be taken out of the village for sale. Before then, such permits were the prerogative only of the Forest Department. Since 2010, the village has been harvesting and selling the bamboo in its forest (which was previously leased to a paper mill) and has earned about 10 million Indian Rupees (approximately 200,000 US Dollars). It is planning to use this money to ensure water, energy, and livelihood security for all families and other village amenities such as training of youth for jobs. It is also working with villages in other parts of the region to establish similar processes. (Source: Report Forest Rights and Conservation in India

Tushar Dash and Ashish Kothari.

Case Study 3 (Kalahandi, Odisha):

After getting the rights in Damkara village of Kalahandi community members and women have taken initiative for the enhancement of their economy and livelihood security,

The AmaSangathan (AMS) – a federation of tribal women, constituting 1200 members and the tribal people of Dasmantpur. With the aid and guidance of AMS, many communities in this region have pushed the limits of human endeavour and overcome the crippling poverty of their lives.

In Dakamara village for an example, AMS held a meeting to explain the benefits of earth and stone bunding. “They told us that bunding would check rapid soil erosion and recharge rain water as well as increase the productivity of the land. . The villagers followed the advice and with technical support from the organisation, took to land development through levelling, earth and stone bunding. Neighbouring villages also followed the example.

Orchards in the upland

The villagers also enquired about the best farming model to follow, which would not only provide them food security round the year but also equip them with the resilience to combat the harsh environmental circumstances. After deliberation and discussion with AMS, the Dakamara villagers decided to cultivate orchard plants along with intercropping of traditional millets on the common land which is a very good initiative

Where trees had been cut and rains had washed the top soil away, cashew and mango saplings were planted. and the important thing that this was was intercropped with varieties of minor millets like ragi, foxtail, proso and finger millet. The produce from these is generally used for household consumption, as these are some of the staple foods for Adivasi, one of the women from this village”shared that that if we don’t plant trees on the higher slopes, our lands will have no yield. So, we raised orchards on the common land of Government and fenced each sapling with stones.”

The women work collectively on these orchards on behalf of the Mahila Mandal (MM) of the villa”The trees have started yielding fruit and in the last year alone, they earned Rs. 48000 by selling cashew nuts and Rs. 31400 from selling mango. Out of these earnings, they distributed Rs.51400 among 32 members of the Mahila Mandal and deposited Rs 10000 in our MM bank account as savings. Thus the earnings per head from the common land was Rs.2168.75.”

The women are also growing garlic and tuber together. The garlic has been harvested and the tuber will soon be ready. Thereafter, they plan to sow maize, intercropped with beans and okra. In this way, they can harvest three to four crops at a time.

(Source: this briefing is a part of the article written by Abhijeet Mohanty in India Together article; Reversing the land through love for land, forest and water,)

FAQs (Frequently Asked Questions):

After recognition of rights under FRA can the forest rights holders get any support for development of the forest land and community forest resources?

The amendment rules now provide for post claim support to the forest rights holders and require the State government departments especially tribal and social welfare, environment and forest, revenue rural development, Panchayat raj and other departments to provide support for land improvement, land productivity, basic amenities and other livelihood measures. The DLC should ensure a process of planning by Gramsabhas to develop appropriate plans for development of the forest lands and on that basis prepare plan for convergence of government schemes. (SC&ST research and training institute, ST&SC Development Department, Govt. of Odisha)

Why the role of Gramsabha and consent of Gramsabha is important?

Under the Forest Rights Act the Gramsabha is the authority for preparing a conservation and management plan for its CFR and under PESA and other Panchayat Acts, it is also responsible for approving its general development plans.

14.0. Reference

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