

Report
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PROMISE & PERFORMANCE

TEN YEARS OF
THE FOREST RIGHTS ACT IN INDIA

Citizens' Report as part of Community
Forest Rights-Learning and Advocacy
(CFR-LA) process

CREDITS

Contributions

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The Community Forest Rights-Learning and Advocacy (CFR-LA) process was initiated in 2011. It facilitates the exchange of information and experiences related to the Community Forest Rights provisions of the Forest Rights Act. It encourages people-to-people learning, awareness and training programmes, and provides need-based and site-specific help. As part of CFR-LA, evidence-based advocacy on CFR is done on state and national levels by holding dialogues, writing petitions, producing citizens' reports, newsletters, state reports, and by organizing consultations. Website <http://fra.org.in> and discussion group <https://groups.google.com/forum/#!forum/CFR-la> have been created, which include over 400 participants. Local community members, their sangathanas, civil society groups at local, state and national levels, researchers and academics are part of the CFR-LA process.

PROMISE & PERFORMANCE Report

CONTENT

| | |
|---|-----------|
| 1. Abbreviations | 04 |
| 2. Executive Summary: Key Findings and the Way Forward | 05 |
| 3. Background of Forest Rights Act | 06 |
| 4. Objectives and Structure of the Report | 07 |
| 5. Section I: | |
| Methodology | 08 |
| Estimating Potential of FRA | 08 |
| Limitations in Performance Data Collection | 10 |
| 6. Section II: | |
| Estimating Minimum Eligible CFR Area | 11 |
| Radical Potential of FRA | 13 |
| Performance of FRA—A National Overview | 17 |
| 7. Section III: | |
| Institutional and Structural Hurdles | 20 |
| Weak Nodal Agency | 20 |
| State-level Challenges | 20 |
| Procedural Problems | 21 |
| Conflicting and Divergent Policies | 25 |
| 8. Way Forward | 27 |
| 9. Conclusion | 31 |

ABBREVIATIONS

| | |
|----------|---|
| CAF Act: | Compensatory Afforestation Fund Act, 2016 |
| CAMPA: | Compensatory Afforestation Management and Planning Authority |
| CBD: | Convention on Biological Diversity |
| CR: | Community Right |
| CFR: | Community Forest Resource |
| CFR-LA: | Community Forest Rights-Learning and Advocacy Process |
| DLC: | District Level Committee |
| FRA: | Forest Rights Act [short for The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006] |
| FRC: | Forest Rights Committee |
| FPIC: | Free Prior Informed Consent |
| FSI: | Forest Survey of India |
| FD: | Forest Department |
| FCA: | Forest Conservation Act, 1980 |
| FDCM: | Forest Development Corporation of Maharashtra |
| IFR: | Individual Forest Right |
| IAY: | Indira AwasYojna (now changed to Pradhan MantriAwasYojna) |
| INDC: | Intended Nationally Determined Contribution |
| JFM: | Joint Forest Management |
| LWE: | Left-Wing Extremism |
| MGNREGA: | Mahatma Gandhi National Rural Employment Guarantee Act |
| MoTA: | Ministry of Tribal Affairs |
| MoEFCC: | Ministry of Environment Forest and Climate Change |
| NFP: | National Forest Policy |
| NTFP: | Non-Timber Forest Produce |
| OTFD: | Other Traditional Forest Dweller |
| PESA: | Panchayats Extension to Scheduled Areas Act |
| ST: | Scheduled Tribe |
| PA: | Protected Area |
| PVTG: | Particularly Vulnerable Tribal Group |
| SLMC: | State-Level Monitoring Committee |
| SDLC: | Sub-Divisional Level Committee |
| SDG: | Sustainable Development Goal |
| VFR: | Village Forest Rules |
| VSS: | Van Suraksha Samiti |

KEY FINDINGS AND THE WAY FORWARD

The Promise

- The bare minimum estimated potential forest area over which Community Forest Resource (CFR) rights can be recognized in India (excluding five north-eastern states and J&K) is approximately 85.6 million acres (34.6 million ha).
- Rights of more than 200 million Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) in over 170,000 villages are estimated to get recognized under FRA.

Beyond the numbers, this report highlights FRA's potential in transforming forest governance by empowering local communities and the gram sabha to protect and conserve forests; ensuring livelihood security and poverty alleviation; securing gender justice; meeting SDG, especially the goals of eliminating poverty and achieving ecological sustainability; and dealing with climate change. By securing land and resource rights, FRA provides an opportunity to address Left-wing extremism in 106 districts in India's 10 states.

The Performance

In 10 years, only 3 per cent of the minimum potential of CFR rights could be achieved.

Laggard states: Assam, Bihar, Goa, Himachal Pradesh, Tamil Nadu, Uttarakhand, Haryana, Punjab and Sikkim

Low performing states: Rajasthan, West Bengal, Karnataka and Jharkhand

IFR focused states: Tripura and Uttar Pradesh

CFR laggard states (those which have implemented Individual Forest Rights (IFRs) and Community Rights (CRs), but have ignored CFRs, the most important rights): Telangana, Andhra Pradesh, Madhya Pradesh and Chhattisgarh

Better performing states: Maharashtra, Odisha, Kerala and Gujarat (only in Scheduled V areas)

Reasons for Poor Implementation of FRA

- Absence of political will, both at the national and state levels;
- Lack of effort to build capacity in the Central nodal agency, the Ministry of Tribal Affairs
- Opposition by MoEFCC and forest bureaucracy, including by passing the CAFA, support to JFM and VFRs, constant opposition at the ground level;
- Poor investment in implementation and its monitoring by both Central and state governments.

Way Forward

- Marshal political support to implement FRA,
- Send a clear message to the forest bureaucracy and MoEFCC to respect Parliament's authority and stop obstructing FRA implementation;
- Undertake implementation in mission mode with clear budgeting support;
- Strengthen MoTA and state nodal agencies to implement FRA;
- Ensure effective monitoring systems at MoTA and state levels;
- Initiate awareness programmes on a large scale and build capacity of FRCs and the gram sabha;
- Develop an inter-ministerial process for MoEFCC and other relevant ministries to resolve laws, policies and programmes conflicting with FRA;
- Institute mechanisms to ensure unhindered exercise of CFR governance by the gram sabha after recognition and assertion of rights.

BACKGROUND OF FOREST RIGHTS ACT

In its preamble, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA for short), recognizes the historical injustice meted out to scheduled tribes and other traditional forest dwellers. It seeks to secure traditional rights over forest land and community forest resources, and establish democratic community-based forest governance.

FRA emerged as a legislative response to a national grassroots movement to record the rights of forest dwelling communities whose rights were not recorded during the consolidation of state forests in the colonial regime and in the post-Independence period, many of whom have been displaced for industrial and conservation projects without rehabilitation due to being labeled 'encroachers' on forest land. Section 4(5) of the Act requires that no member of the forest dwelling Scheduled Tribes (ST) or Other Traditional Forest Dwellers (OTFD) shall be evicted or removed from forest land under his occupation till the recognition and verification process is complete. The process of recognition and verification laid out in FRA is currently the only legal process for determining the genuine right holders and their rights on forest land.

FRA recognizes 14 pre-existing rights of forest dwellers on all categories of forest-land, including PAs. The major rights are:

- Individual Forest Rights (IFRs) and Community Rights (CRs) of use and access to forest land and resources;
- Community Forest Resource (CFR) Rights to use, manage and govern forests within the traditional boundaries of villages; and
- Empowerment of right-holders, and the gram sabha, for the conservation and protection of forests, wildlife and biodiversity, and their natural and cultural heritage (Section 5, FRA)

The law is significant in seeking to democratize the process of rights recognition by making gram sabha the key authority in the rights recognition process. FRA has also created space for Informed Consent¹ of the gram sabha for diversion of forest land.

These rights and the gram sabha's empowerment, taken together, can transform and radically democratize forest governance and conservation regimes in India. For the millions treated as 'encroachers' on their forested habitats and others who were deprived of any say in the matters related to the fate of forests on which their cultures and livelihood depend, FRA implies restitution of their citizenship rights and a right to live with dignity.

The CFR provision, taken together with Section 5, is the most significant and powerful right in FRA, as it recognizes the gram sabha's authority and responsibility to protect, manage and conserve its customary forests for sustainable use and against external threats. This report, therefore, has a special focus on CFR rights.

¹ See: http://envfor.nic.in/mef/Forest_Advisory.pdf

Objectives and Structure of the Report

This report seeks to highlight the potential of FRA, assess its achievements, identify the bottlenecks, and find the ways forward. Its objectives are to:

- Make a quantitative estimate of forest land that has the potential to be recognized as CFR area, and compare it to the actual forest area recognized as CFRs across the country;
- Assess the qualitative potential of FRA for gender equal development, poverty alleviation, climate change and biodiversity conservation;
- Compile the progress of recognition of other major rights under FRA, such as IFR, CR and habitat rights;
- Identify the major institutional and procedural bottlenecks in FRA implementation; and
- Identify the ways forward.

The report is structured in three sections. Section I discusses the methodologies used for the study. Section II provides a quantitative assessment of the potential CFR area and the qualitative potential of FRA for development, poverty alleviation, climate change, and biodiversity conservation. It discusses the performance of FRA and carries out a promise and performance analysis for CFR rights. Section III discusses the major bottlenecks in meeting the potential of FRA and provides the ways forward.

SECTION I

Methodology

This report uses a variety of sources and methods to analyze the promise and performance of FRA. It has developed a quantitative methodology to compute the potential area of the critical CFR rights. It has not been possible to develop a similar quantitative potential estimate for CRs and IFRs. It includes a map showing the locations of PVTGs and their potential habitat rights. An assessment of qualitative potential of FRA for gender equal development, poverty alleviation, livelihood, climate change, and so on, is based on secondary literature.

Methodology for the performance of CFRs, IFRs and CRs is provided in a separate section. The main sources of data are the state-level promise and performance reports, MoTA and the state tribal welfare departments. The secondary sources include published and unpublished literature, and local resource persons.

Estimating Quantitative Potential of CFR

To compute FRA's potential in terms of extent, this report focuses on CFRs. Under these rights, governance of the land recognized as community forest resource is under the jurisdiction of the gram sabha. It is difficult to estimate the total land area where other community rights (except CFRs) are applicable, as in many cases CRs overlap CFRs. In some cases, the extent of the land area over which rights need to be recognized such as ownership rights over NTFP, grazing rights, seasonal access rights of pastoralists, and habitat rights of PVTGs can be very large. Therefore, this report does not include estimates for CRs in the quantitative estimate of forest area under FRA. Habitat rights are very important for PVTGs, but little data is available to estimate their potential area.

Forest dwellers have IFRs over land which they occupy for habitation or cultivation, as on December 13, 2005. The report does not make potential estimate for IFRs, as there is no way to make this estimate without ground mapping.

Updating CFR Potential Estimate

Rights and Resources Initiative et al (2015)² estimated that approximately 100 million acres, or 40 million hectares, are eligible for CFR recognition. RRI used Census 2001 and Forest Survey of India (FSI) 1999 data for the purpose. This report has updated the RRI 2015 report by using 2011 Census data, but has excluded estimates for Jammu & Kashmir, Arunachal Pradesh, Manipur, Nagaland, Mizoram and Meghalaya. The five north-eastern states are excluded because of lack of reliable data while J&K was excluded as the Act is not applicable in the state yet.

Listed below are assumptions that this report has used to calculate CFR potential.

- **Forest land within revenue village boundary:** Such lands have been customarily used by inhabitants for livelihood purposes. Inclusion of forest land within the revenue village boundary legitimizes the use, interaction, and dependence of the village community on such forests. Therefore, all forest land within the revenue village boundary is eligible for recognition as CFR. The report uses Census 2011 on village land use to calculate the extent of forest land within the village boundaries.
- **Forest land outside revenue village boundaries:** A large part of legal forest area is located outside the village boundaries as reserve forest, or as other forest category. A major portion of such forests can be recognized un-

2. Rights and Resources Initiative, et al. 2015. Potential for Recognition of Community Forest Resource Rights Under India's Forest Rights Act: A Preliminary Assessment. Available at: http://www.rightsandresources.org/wp-content/uploads/CommunityForest_July-20.pdf

der FRA as it either falls within the traditional boundary of villages, or is a source of livelihood for villager residents. This is illustrated by the example of Mayurbhanj district in Odisha³. Estimation of potential outside the village boundaries is difficult. A robust estimation is possible only with actual mapping, though some states have estimated FRA potential in forest land outside village boundaries (see Table 1 in the Annexure and End Notes).

- **Area under JFM as minimum estimate:** The area under JFM sets the lowest limit of forest land to be recognized as CFR, as this area is already being used and protected by forest dwelling communities. In Madhya Pradesh, Chhattisgarh, Jharkhand and Andhra Pradesh, substantial forest land is under JFM. So, the report has taken the figures for JFM as the lowest estimate for CFR potential. JFM areas include forests inside as well as outside village boundaries. The report uses JFM data only to estimate the bare minimum potential as the traditional boundary of the village may extend much beyond JFM boundaries. It is important to clarify here that JFM is the only administrative scheme controlled by the Forest Department vesting no rights. FRA supersedes JFM, or similar arrangements, by vesting management rights and empowering the gram sabha to govern all CFR areas.
- **IFR land deducted from potential CFR land:** IFRs are recognized on land which is de facto under non-forest use by right holders, but is de jure recorded as forest. Almost all IFR land is located close to habitation and would come within forest land eligible for CFR recognition. As these would be recognized as individual rights, this report has deducted these areas from the total area under CFR (see Table 1, Annexure).

Thus, the potential forest area eligible for CFRs has been estimated by taking the sum of the estimates of forests inside and outside village boundaries over which CFR claims might realistically be staked, and by deducting the already recognized IFR area from this total. Given the limitations of data availability, the figures for CFR potential area provided in Table 1, Annexure and Chart 1 must be taken as the bare minimum estimate and a low benchmark in indicating the magnitude of the potential of FRA.

Number of people whose FRA rights should be recognized

The approximate number of people whose rights should get recognized under FRA is based on Census 2011, which provides the population of villages that have forests inside the village boundaries.

Collecting data on performance on recognition of rights under FRA

Data to assess the performance of recognition of rights under FRA is accessed from the monthly reports of MoTA, which provides consolidated data as well as state-wise progress of FRA implementation. MoTA's data is compared with state-level data provided in the reports compiled by individuals and organizations in Odisha, Maharashtra, Chhattisgarh, Jharkhand, Madhya Pradesh, Gujarat⁴, Karnataka, Andhra Pradesh, Telangana, Rajasthan, Uttarakhand, Himachal Pradesh and Assam (detailed reports are available on www.cfrra.org.in). Some of these state reports noted discrepancies in MoTA's data. In such a situation, data provided by the state reports was used as it is directly verified from the ground and therefore, more accurate (see Table 2 for CFR, Table 3 for IFR in the Annexure, End Notes for explanations and references). MoTA's data has been used for states where reports could not be compiled.

3. Odisha State Promise and Performance Report, 2016, (www.cfrra.org.in)

4. Gujarat Promise and Performance Report (Focusing on scheduled V districts and Kutch only). www.cfrra.org.in

Limitations in performance data collection

Several bottlenecks came in the way of collecting data on performance.

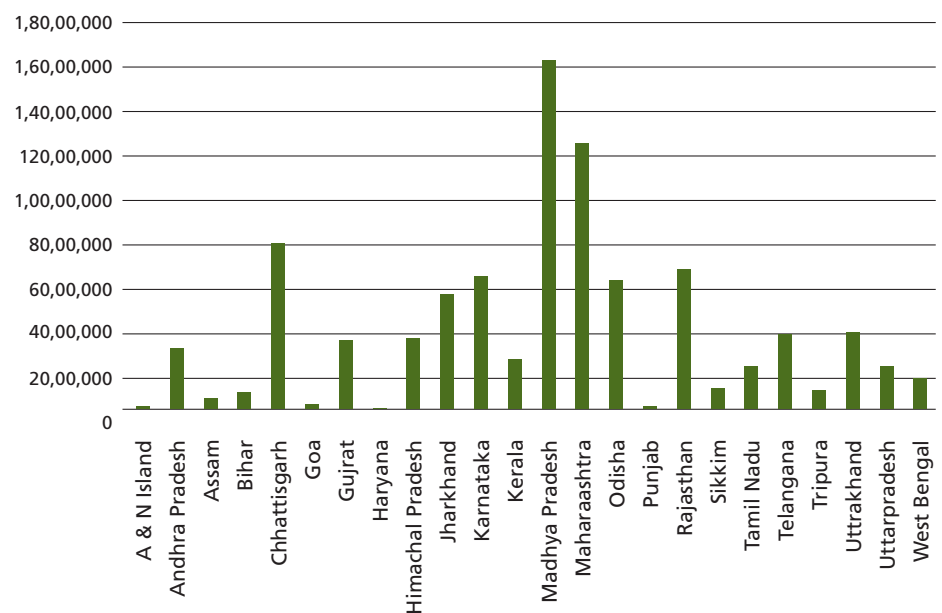
- MoTA's data on the implementation of FRA is confusing and inconsistent. In many cases, the ministry's data differs from that of the state nodal agencies', even though MoTA's data is provided by the state agencies.
- Accessing segregated data on IFRs, CRs and CFRs was difficult as MoTA does not segregate CRs and CFRs data.
- MoTA does not provide gender disaggregated data on FRA. Such data is also not available from other sources, including in the state reports. This has limited the possibility of making a realistic assessment about performance and achievement of FRA in terms of gender equality. There is confusion between CFRs recognized before the amended FRA Rules in 2012, using Claim Form B, and CFRs recognized after 2012, using Claim Form C. The new Claim Form C in the amended Rules is exclusively for claiming CFRs. Before 2012, CFRs were neither separately claimed nor mentioned in the titles, as Form B did not include CFR under Section 3(1)(i). To assess the performance, this report includes only those pre-2012 community rights titles, in which the right to manage and govern (CFRs) under Section 3 (1) (i) was clearly mentioned.
- CFR and CR titles issued in the name of JFM committees or Van Suraksha Samitis (VSSs) are in violation of FRA, which provides for these rights to be recognized in the name of the gram sabha. Therefore, these are not included in the substantive performance assessment, although they are mentioned in comments.

SECTION II

Quantitative estimation of minimum eligible CFR area

The bare minimum estimated potential forest area over which CFR rights can be recognized in India, excluding five north-eastern states and J&K, is approximately 85.6 million acres (34.6 million ha) as shown in Table 1, Annexure. Madhya Pradesh, Maharashtra, Chhattisgarh, Odisha, Andhra Pradesh, Telangana, Rajasthan, Karnataka, Himachal Pradesh and Uttarakhand have the largest potential for rights recognition under FRA.

GRAPH 1: Minimum Potential for CFR Recognition in India (excluding five NE States and J&K) in acres



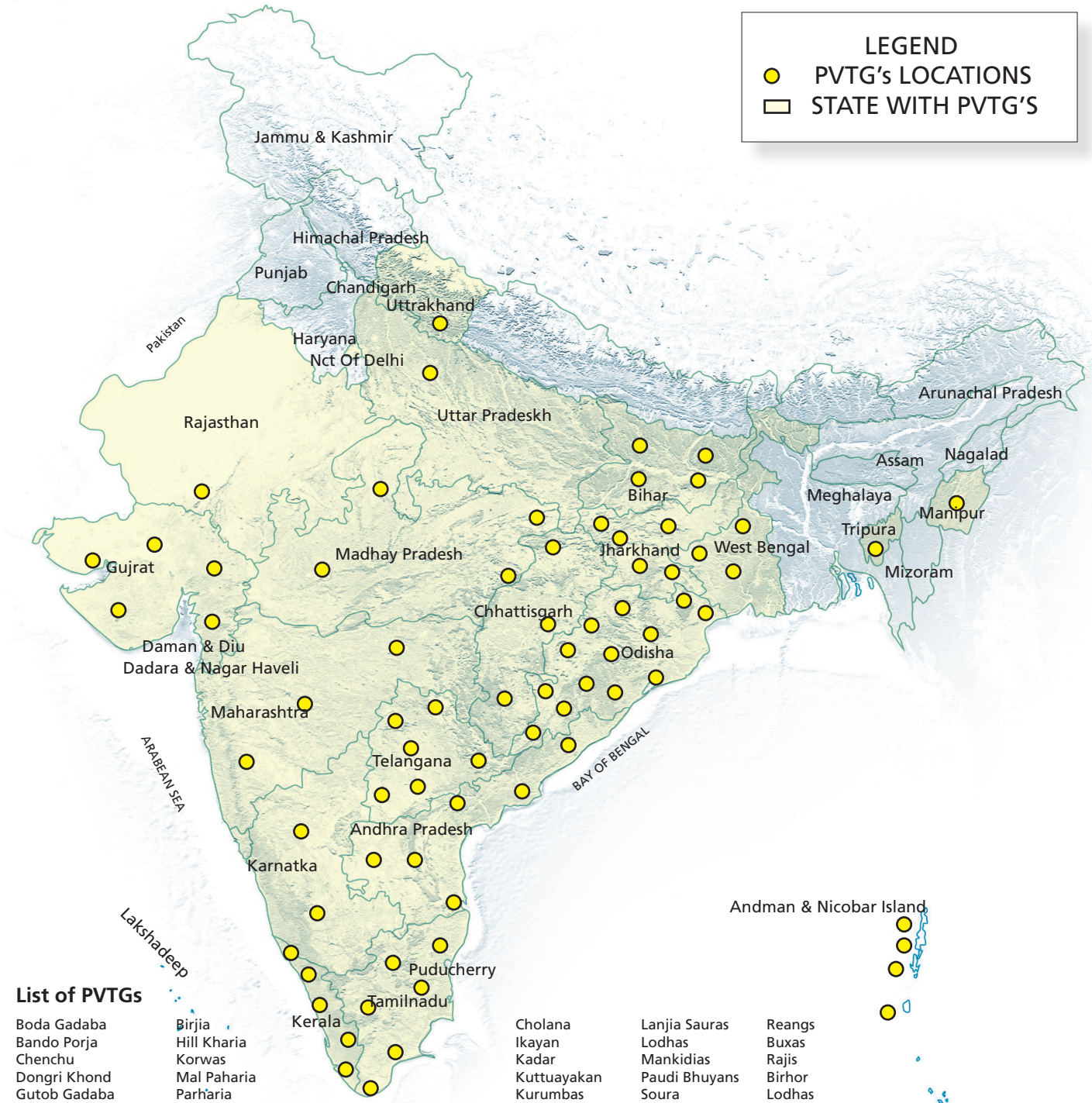
Number of people whose FRA rights should be recognized

It is estimated that rights of over 200 million STs and OTFDs in over 170,000 villages should be recognized under FRA, mostly through CR and CFR provisions.

Recognition of habitat rights of PVTGs under Section 3(1)e

There are 75 PVTGs in India, each with a distinct customary territory or habitat. Section 3(1) e of FRA recognizes rights, including community tenures of PVTGs, over their customary habitat and habitation. FRA requires DLCs to ensure claiming and recognition of habitat rights of PVTGs by facilitating consultations with traditional leaders and other PVTG members. The map shows the locations of PVTGs in India where their habitat rights need to be recognized.

POTENTIAL LOCATIONS FOR RECOGNITION OF PVTG'S HABITAT RIGHTS



LEGEND

- PVTG'S LOCATIONS
- STATE WITH PVTG'S

List of PVTGs

- Boda Gadaba
- Bando Porja
- Chenchu
- Dongri Khond
- Gutob Gadaba
- Khond Poroja
- Kolam
- Kondareddis
- Konda Savaras
- Kutla Khond
- Parengi Poroja
- Thoti
- Asura
- Birhor
- Birjia
- Hill Kharia
- Korwas
- Mal Paharia
- Parharia
- Sauria Paharia
- Savar
- Kathodi
- Kotwalia
- Padhar
- Siddi
- Kolgha
- Enu Kuruba
- Koraga

- Cholana
- Ikayan
- Kadar
- Kuttuayakan
- Kurumbas
- Koraga
- Abujh Marias
- Baigas
- Bando
- Didayi
- Dongri Khond
- Juangas
- Kharias
- Kutia Kondh
- Lanjia Sauras
- Lodhas
- Mankidias
- Paudi Bhuyans
- Soura
- Chuktia
- Bhunjia
- Seharias
- Kattu Naya-
- kans
- Kotas
- Kurumbas
- Irulas Paniyans
- Todas

- Reangs
- Buxas
- Rajis
- Birhor
- Lodhas
- Totos
- Great And-
- manes
- Jarawas
- Onges Sen-
- tinelese
- Shom Pens

Beyond numbers: The radical potential of FRA

BOX 1. Forest governance democratized through CFR

CFR rights of MendhaLekha village in Maharashtra's Gadchiroli district have been recognised over 1,800 hectares of forest. It has initiated forest governance and management processes that are financially viable, socially equitable and ecologically sustainable. Payvahir village of Maharashtra's Amravati district received its CFR title in 2012 and devised forest use and protection rules leading to forest conservation and increased production of grass, custard apple and tenduleaves. In BRT Tiger Reserve, Karnataka, 33 settlements received CFR titles. These came together to formulate a tiger conservation plan. In Gujarat's Narmada district, more than 60 villages initiated simple governance systems to protect, conserve and manage forests. In Simlipal Tiger Reserve of Odisha, villages with CFR titles have devised simple, rule-based adaptive governance systems for their CFRs, and are now protecting their forests.

Many communities across the country have successfully stopped commercial forestry operations in their CFRs. This has increased biodiversity leading to greater food security. These communities include the dense forests of Chilapatain the northern Bengal Dooars—the foothills of eastern Himalayas. Baiga community of Dindori district in Madhya Pradesh has similarly banned coupe cutting by the Forest Department. This has increased the availability of diverse forest foods.

BOX 2. Convergence of development programmes with FRA

Odisha has supported about 200,000 individual households holding forest land titles through convergence programmes related to housing (IAY), land development (MGNREGA), irrigation and horticulture. In over 200 villages in Gadchiroli, Amravati, Gondia, Yavatmal, Nandurbar and Jalgaon districts of Maharashtra, convergence programmes for individual title holders, as well as for forest conservation and management plans for CFRs, have led to remarkable change in livelihood and employment security.

Numbers tell a significant story about the far-reaching impact FRA can have on the lives of millions of forest dwellers. FRA also opens up avenues to re-imagine forest governance, and heal and strengthen the relationship between forest and people. It has the potential to harness local creativity and ingenuity for forest conservation.

The Act can help combat climate change and meet India's international commitments for climate change and bio-diversity conservation. Let's outline this potential.

Transforming forest governance—healing forest-people relations

Forest dwelling communities across the globe have had long-standing socio-cultural relations with the forest. This holds true for India as well. But colonial forest governance framework often disrupted this relationship by restricting local access and forest use. This resulted in loss of access to forests as a material resource, besides loss of cultural identity and connection. Studies show that people develop a connection with forests because of everyday proximity. They procure special ecological knowledge⁵ and, often, use it to devise low-cost, efficient and powerful forest management interventions. Innumerable community conservation efforts across the country show that communities are quite skilled at devising governance institutions for effective conservation and management of natural resources.

Creating space for a democratic, community-based forest governance

Changing the top-down state governance of forests, FRA supports local adaptive forest governance. The Act recognizes rights over community forest resources and empowers the gram sabha to prepare conservation and management plans. Transfer of jurisdiction of CFRs to the gram sabha will boost creativity and leverage disperse local knowledge of forest dwellers to effectively manage, govern and restore forests at a low cost. Barely three per cent of the potential CFR area has been recognized till now, but effective forest governance and restoration by the gram sabha is already being practiced in hundreds of villages (see Box II).

Potential for livelihood security, poverty alleviation and development

This report estimates that about 200 million forest dwellers directly depend on forest resources for a livelihood in India. FRA has extraordinary potential for ensuring livelihood security and poverty alleviation through sustainable and community-based management of forests for these people. The Act offers opportunities for poverty alleviation through forest product harvesting, processing and forest enterprises, and transfer payments to the gram sabha for reforestation, carbon sequestration and provision of ecological services. A significant opportunity lies in the convergence of FRA with development programmes such as MGNREGA and IAY (see Box I).

Till now, FRA's implementation has been limited. But even that much has made startling and powerful changes, show field reports. Cases have been reported where tribal and OTFD gram sabhas have earned tens of lakhs of rupees each from the sale of bamboo and tendu leaves (Narmada district in Gujarat, Gadchiroli and Chandrapur in Maharashtra⁶), and through large scale convergence of FRA with programmes such as IAY and MGNREGA (Kandhamal and Mayurbhanj districts in Odisha).

In 2013, with support from CSOs, 18 gram sabhas in Gadchiroli, Gondia and Amravati districts collected and sold tendu leaves worth crores of rupees from their CFR⁷ areas. In

5. Vast literature available on local ecological knowledge and practices from across India and abroad.

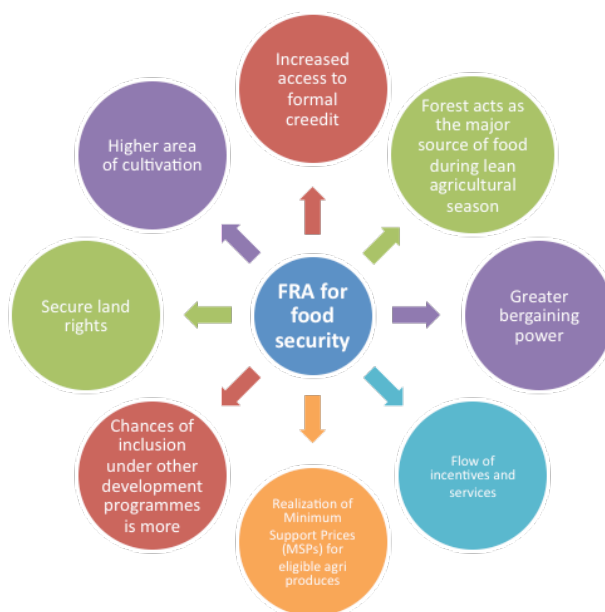
6. See: <http://blogs.timesofindia.indiatimes.com/Swaminomics/tribals-finally-get-land-rights-using-gps-technology/>

BiligiriRangaswamy Temple (BRT) Tiger Reserve in Karnataka, five gram sabhas, which have received CFR titles, have established a honey value-addition center⁸. In Shoolpaneshwar wildlife sanctuary in Gujarat, sustainable bamboo harvest by communities from their CFR areas have yielded large incomes and wage employment. Rights recognition could potentially wipe out persistent poverty from forested heartlands of India.

FRA and food security

The role of forests in food security and nutrition is being recognized globally. Food from forests and tree-based systems is likely to continue to form an essential part of household strategies to eliminate hunger and achieve nutritionally balanced diets⁹. Food from forests provides micronutrients and contributes to dietary diversity¹⁰. It also provides nutritional sufficiency and a “safety net” during periods of other food shortages caused by crop failure and during seasonal crop production gaps.

FRA has the potential to improve the status of food security of millions of forest-dwelling poor and tribal communities by recognizing their age-old tenure and occupational rights of land and forest products. IFRs, through recognizing occupancy rights and allowing investments on the recognized land, can contribute to the food security of marginalized forest dwellers (ibid). Similarly, recognition of traditional and sustainable shifting cultivation



practices support food security. The transfer of forest governance responsibility from forest department to the communities also creates potential for sustainably managing forest landscapes for food, nutritional production and livelihoods¹¹.

Gender justice

FRA gives significant emphasis to gender equity. It requires that land titles for individual forest rights be issued in the joint names of both spouses, or in the name of a single household head, irrespective of gender. The Act, thereby, equally entitles women-headed households. In case of community rights, including the critical CFR right, all adult women implicitly gain equal right to access and participate in gram sabha decisions related to CFR management. FRA also mandates the representation of women in the Act's implementation in institutional structures of the gram sabha, FRC, SDLC, DLC and SLMC. At least one-third of the minimum quorum for gram sabha meetings must consist of women and at least one-third of FRC members must be women. In SDLCs, DLCs and SLMCs, at least

7. See: <http://www.thehindu.com/news/national/other-states/a-new-turn-for-tendu/article4739840.ece>

8. See: <http://www.downtoearth.org.in/news/court-upholds-soliga-tribes-community-forest-rights--41256>

9. Bhaskar,V,Wildburger,C., & Mansourian, SS. Forests and Food: Addressing Hunger and Nutrition Across Sustainable Landscapes. Cambridge, UK: Open Book Publishers, 2015. <http://dx.doi.org/10.11647/OBP.0085>

10. Food and Agriculture Organisation. 2013. The State of Food and Agriculture. Better food systems for better nutrition. Rome: FAO. Available at: <http://www.fao.org/docrep/018/i3300e/i3300e00.htm> [Accessed on 15 February 2015].

11. Blackie, R., Baldauf, C., Gautier, D., Gumbo, D., Kassa, H., Parthasarathy, N., Paumgarten, F., Sola, P., Pulla, S., Waeber, P. and Sunderland, T., 2014. Tropical dry forests: the state of global knowledge and recommendations for future research. Discussion Paper 2. Bogor: CIFOR.

Keller, G.B., Mindiga, H. and Maass, B., 2006. Diversity and genetic erosion of traditional vegetables in Tanzania from the farmer's point of view. *Plant Genetic Resources* 3: 400–413.

Shackleton, C. and Shackleton, S., 2004. The importance of non-timber forest products in rural livelihood security and as safety nets: A review of evidence from South-Africa. *Southern Africa Journal of Science* 100: 658-664. http://pdf.wri.org/ref/shackleton_04_the_importance.pdf

one of the elected members must be a woman.

Thus, FRA creates space for inclusion of women in forest governance and decision making through secure forest rights and representation in the institutional structure. However, there is a need for more work to challenge deeply entrenched processes of patriarchal dominance including state institutional structures, and socio-cultural practices and taboos.

Meeting Sustainable Development Goals

FRA's potential to enhance local livelihood and ensure conservation makes it a good legal instrument to address SDGs¹², especially the goals of eliminating poverty and achieving ecological sustainability (which recognize ownership and control over land). SDGs envisage "a world of universal respect for human rights and human dignity, the rule of law, justice, equity and non-discrimination".

It is globally argued and now well accepted that poverty needs to be seen as deprivation from life-sustaining resources and not in terms of financial or monetary assets alone. Secure access to life-sustaining systems and the ability to influence decision-making processes, internal or external, that may have an impact on those systems are crucial components of appropriate, locally determined development and of eliminating the root causes of poverty and preventing future poverty. By recognizing individual and collective rights of the forest dwellers, FRA supports access to critical life-sustaining resources that support subsistence, livelihood, food and water security, and their sustainability. Thus, FRA presents one of the most important legal instruments available to the government of India to secure the rights and livelihood of STs and OTFDs living in the forested landscapes of India having one of the largest concentration of poor and marginalized in the world, and thereby achieve its commitments under the SDGs.

Potential for meeting national and international conservation goals

The Convention on Biological Diversity (CBD) is amongst the most important international treaties on biodiversity conservation. Being a signatory, India is legally bound by the treaty and all its subsequent decisions adopted at the Conferences of the Parties (COP). Element 2 of CBD strongly emphasizes:

- Recognition and respect for indigenous peoples' and local communities' knowledge and practices in general and those relating to biodiversity conservation and the sustainable use of natural resources in particular;
- Recognition and respect of the rights of indigenous people and local communities in protected area establishment and management; and
- Promotion of effective and equitable governance of protected areas (including indigenous peoples' and local communities' full and effective participation with respect for their rights).

Recognition of individual and collective rights and gram sabha empowerment, both inside and outside protected areas under FRA, are all in the direction of meeting CBD goals and targets of conservation with full and effective recognition and respect of rights, protection of traditional knowledge and knowledge systems and participation in conservation governance.

Climate change mitigation

Following the 2015 COP Paris Agreement on Climate Change, India has made ambitious plans as part of its Intended Nationally Determined Contributions (INDC) to sequester an additional 2.5 billion tonnes of carbon¹³. Effective implementation of FRA should be a critical part of the strategy of carbon sequestration through checking forest degradation and enhancement of forest stocks. FRA can potentially channelize the creative energies of over 170,000 villages in the country for this task.

Global evidence indicates that communities manage and protect forests more sustainably as compared to private entities or governments. A recent RRI-WRI report found that:

12. The United Nations Rio+20 Summit in Brazil in 2012 had committed national governments to create a set of Sustainable Development Goals (SDGs) as a follow up to the Millennium Development Goals (MDGs) which had a 2015 deadline. Available at: <https://sustainabledevelopment.un.org/?menu=1300>

13. See: <http://pib.nic.in/newsite/PrintRelease.aspx?relid=128403>

“when Indigenous Peoples and local communities have no or weak legal rights their forests tend to be vulnerable to deforestation and thus become the source of carbon dioxide emissions.” When indigenous people and local communities have legally recognized and enforceable rights to their forests, both deforestation and carbon emissions can be significantly lower compared with areas outside of community forests. In light of this, FRA represents a tangible tool to support communities in mitigating the effects of climate change.

Addressing resource conflicts in tribal areas

To address the ongoing conflicts in extremist affected areas, the Planning Commission¹⁴ advocated the implementation of protective legislation of tribal land and forest rights, such as FRA and PESA. The Government of India has adopted this as one of its policy interventions¹⁵. Conflicts driven by insecure land tenure and continued alienation of forest dwellers from their land and forests is cited as the key factor for disaffection towards the functioning of the state. A recent study¹⁶ found that a significant number of land-related conflicts in India involve forest land, which are largely concentrated in regions where customary rights of tribal communities are not recognized. The study also found that districts affected by Left-wing extremism have 1.5 times the number of land conflicts than the national average of conflicts. Effective implementation of FRA can restore customary rights of forest communities over vast forest areas in districts affected by Left-wing extremism. This will contain alienation by improving incomes and livelihood and by effectively removing the root causes of Left-wing extremism. Unfortunately, implementation of FRA has not been satisfactory in areas worst affected by Left-wing extremism—Chhattisgarh, Jharkhand, Telangana, Andhra Pradesh and Odisha. This is mainly because of opposition from the bureaucracy and corporate interests in forest and mineral resources. The Government of India and the states dealing with Left-wing extremism need to make FRA the most important and prioritized strategy.

Democratization of forest diversion

Earlier, decisions on forest diversions were taken without the involvement of the affected local communities. FRA adds a new dimension to this decision-making process. The Act empowers STs and OTFDs to refuse consent for any project or process that threatens the forest, wildlife or biodiversity, and adversely affects their cultural and natural heritage. Section 4(5) of FRA provides that no ST or OTFD can be evicted from forest land unless the process of recognition and vesting of rights is complete. A circular by MoEFCC dated August 3, 2009 insists on “informed consent of the gram sabha affected by diversion of forest land”. This is a dramatic gain for a country where over 55 million people are estimated to have been displaced by development projects since Independence, often forcibly¹⁷.

Protection of cultural and natural heritage

By democratizing forestland diversion, and by giving gram sabha the decision-making authority, FRA has provided legal space to local communities for the conservation and protection of areas important for their livelihood and sustenance of their socio-cultures practices and biodiversity. Communities in different parts of the country have successfully used FRA provisions to protect forests and their bio-cultural habitats.

- Dongria Kondhs, a PVTG of Odisha, in a case against bauxite-mining proposal in the forests of its sacred Niyamgiri Hills¹⁸ ;
- Communities of the Kashang valley in Himachal Pradesh¹⁹ ;
- Mahan forests of Madhya Pradesh²⁰ ;
- Communities in Murbad taluka of Maharashtra protesting against Kalu Dam;
- Gram sabhas in Hasdeo Arand forests of Chhattisgarh against coal mining²¹.

14. See: http://planningcommission.nic.in/reports/publications/rep_dce.pdf

15. See: http://mha.nic.in/naxal_new

16. See: http://rightsandresources.org/wp-content/uploads/2016/11/Land-Conflicts-in-India-An-Interim-Analysis_November-2016.pdf Also see: <http://www.landconflictwatch.org/>

17. GoI (2002). Tenth Five Year Plan (2002-2007). Government of India.

18. See: <http://www.downtoearth.org.in/news/battle-for-niyamgiri-41744>

19. See: <http://www.hindustantimes.com/india-news/himachal-govt-withdraws-sc-petition-against-ngt-order-on-kashang-hydro-project/story-xtYOYGILmcTbs1SkLlvfJ.html>

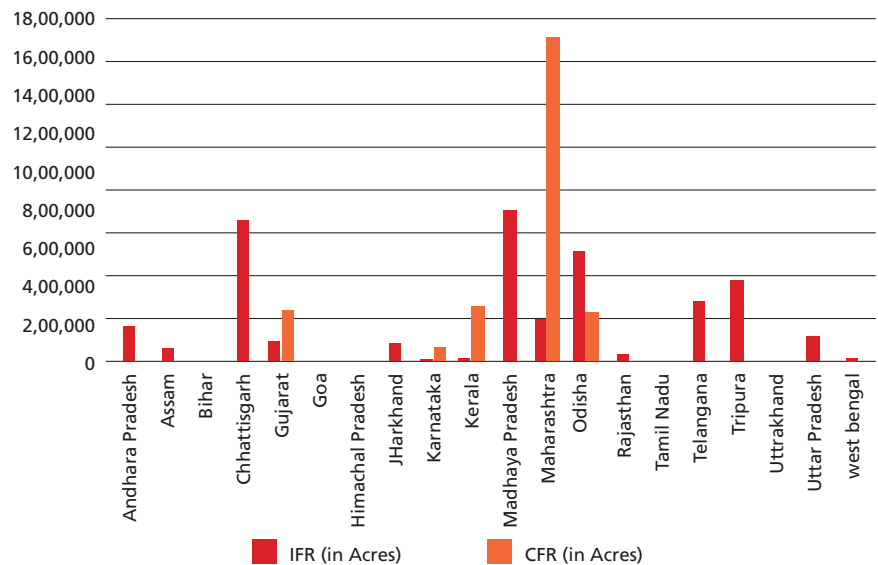
20. See: <http://www.daily Pioneer.com/state-editions/bhopal/mahan-villagers-file-claim-for-rights-over-forests.html>

21. See: <https://ruralindiaonline.org/articles/not-just-a-coal-block-hasdeo-arand/>

Performance Of FRA: A National Overview

The performance of FRA has been diverse across, and even within, the states. Research for this report revealed the poor data collection and reporting system of FRA implementation in most states. Graph 2 and tables 2 and 3 in Annexure show the state-wise performance of CFRs and IFRs. In most states, only IFRs have been recognized and only a few states have implemented the CFR provision.

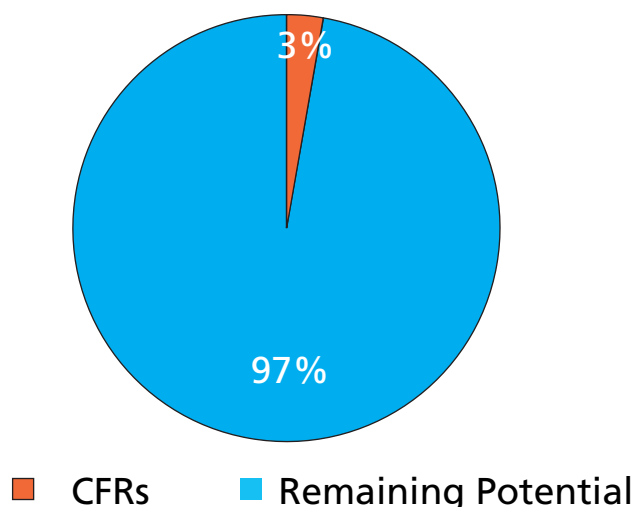
GRAPH 2: Recognition of FRA Right (Area Under IFRs and CFRs)



Promise and Performance of FRA: Quantitative comparison of CFRs

Given that we can make a quantitative estimate for the potential area only for CFRs, we have done a quantitative comparison between the potential and the performance of CFRs in Table 1 and Graph 3. This quantitative comparison does not reflect the actual quality of CFR rights recognition which is discussed in Section III. For the whole country (excluding the five north-eastern states and J&K), **only 3 per cent of the minimum potential of CFR rights has been achieved in the last 10 years.**

Percentage of Potential of CFRs Achieved: India



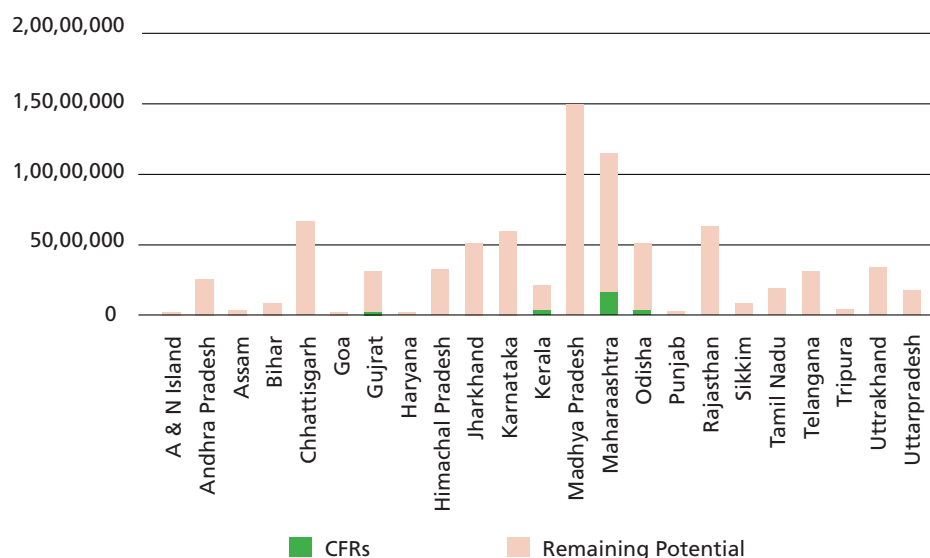
The state-wise promise and performance of CFRs (in terms of area) is provided in Graph 4 and Table 4 (Annexure). It is clear that none of the states, even the ones that are deemed to have done better, have come close to meeting the potential for recognition of CFRs.

A clearer picture emerges in the per cent-wise performance vis-à-vis the potential.

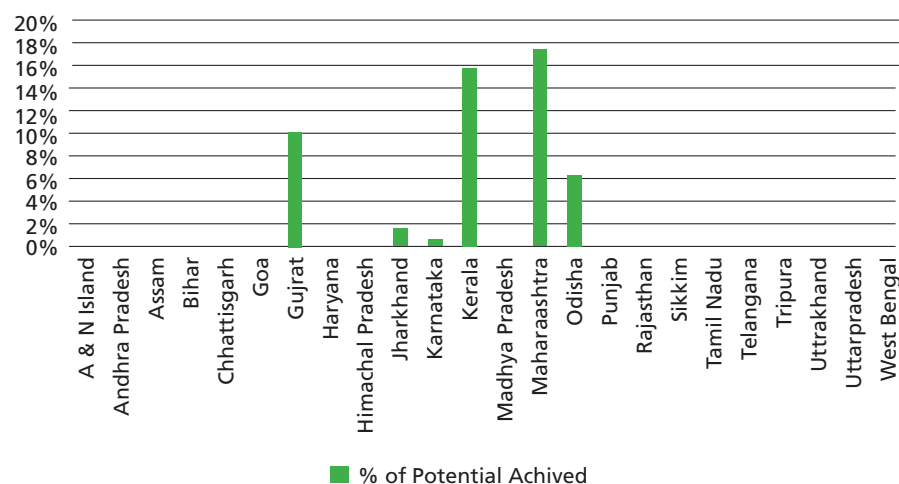
TABLE 1: Quantitative Comparison Of CFRs

| | Area (in acres) | Percentage of minimum total Potential for CFR Recognition |
|---|-----------------|---|
| Community Forest Resource Rights Recognized | 2,782,078 | 3% |
| Remaining potential for FRA implementation | 78,978,123 | 97% |

GRAPH3: Statewise minimum Potential and Performance of CFR (in Acres)



GRAPH 4: Percentage of Portential of CFRs acheived Statewise



Promise and performance: How states have performed

Analysis of the overall performance of FRA above shows a certain pattern (see Table 2). Laggard states have either not started implementing FRA, or have performed extremely poorly. The low performing states have a very low level of implementation compared to their potential (less than 2 per cent). IFR focused states have only implemented IFR (individual occupancy) and ignored CFR and CR implementation. CFR laggard states have implemented both IFRs and CRs, but have ignored implementation of the most important CFR rights. Finally, the better performing states show substantial efforts in implementing both CFRs and IFRs. Maharashtra stands out in the area of CFRs recognized in the state, while also recognizing IFRs. However, it needs to be emphasized that even Maharashtra's CFR recognition drive has only achieved 18 per cent of the total potential for CFRs in the state. Similarly, Odisha, another well-feted state, has recognized barely 6 per cent of its CFR potential. Thus, the revolutionary potential of FRA remains untapped.

TABLE 2: The state-wise promise and performance of CFRs

| | Categories | States |
|---|---|---|
| 1 | Laggard states No or extremely poor performance | Assam, Bihar, Goa, Himachal Pradesh, Tamil Nadu, Uttarakhand, Haryana, Punjab, Sikkim |
| 2 | Low performing states Achieved less than 2% of minimum potential | Rajasthan, West Bengal, Karnataka, Jharkhand |
| 3 | States with only IFR Implementation | Tripura, Uttar Pradesh |
| 4 | States which have ignored CFRs but implemented CRs and IFRs | Telangana, Andhra Pradesh, Madhya Pradesh, Chhattisgarh |
| 5 | States with both IFR and CFR implementation | Maharashtra, Odisha, Kerala, Gujarat |

SECTION III KEY BOTTLENECKS IN MEETING THE POTENTIAL OF FRA

INSTITUTIONAL AND STRUCTURAL CHALLENGES

The performance of FRA has been very poor, reflecting deep structural and institutional issues. Absence of political will is the key obstacle in achieving the potential of FRA at the national and state levels. At the national level, this is reflected in the lack of capacity-building effort in the nodal MoTA and in not providing dedicated budgetary support to MoTA for FRA implementation. There is no mission mode to ground this largest land and forest reform in India's history. Lack of political will has also allowed MoEFCC to function as if FRA doesn't exist, as evidenced by its passage of Compensatory Afforestation Funds (CAF) Act, 2016 and its continued support to JFM and VFRs, all conflicting with provisions of FRA. Similar hurdles are being experienced at the state level.

Weak nodal agency

MoTA is the central nodal agency for the implementation of FRA, but is understaffed and under-resourced to supervise this massive task. One Secretary, assisted by two Joint Secretaries, one Deputy Director General and an Economic Advisor, handle not only FRA-related work, but a plethora of other responsibilities. Against the sanctioned strength of 137 employees, only 101 are in place. No separate budget provision has been made to implement FRA.

Despite its constraints, MoTA has often been proactive and responsive to the concerns raised by forest dwellers. It has attempted to overcome financial constraints by using funds under Article 275(1)²² to provide support for FRA implementation. It has strongly resisted efforts to dilute FRA provisions. MoTA has organized training programmes and consultations for state officials, brought to the notice of states violations or poor or non-implementation of FRA, and issued guidelines and directives for effective implementation from time to time.

MoTA has however, fallen woefully short of addressing the implementation challenge faced by FRA because of the above-mentioned constraints, and lack of support from the Government of India. Many states have ignored the clarifications, guidelines and directions issued by MoTA, but mechanisms for holding such states accountable within India's federal structure remain weak.

Challenges related to State-level nodal agencies

Lack of political will at the state level to implement FRA is clearly indicated by both physical performance and institutional shortcomings. The statutory SLMCs for FRA are non-functional in most states. In no state do SLMCs meet quarterly as required by the law. For example, the Odisha SLMC has met only eight times since its constitution in February 2008. Jharkhand's SLMC has not met even once. FRA requires SLMCs to address petitions and complaints filed by gram sabhas and forest rights holders. However, most of the petitions filed to SLMCs remain unaddressed. SLMC decisions sometimes violate the law itself. For instance, the Odisha SLMC had decided to grant CFR rights to JFM committees and to co-opt police officials in the DLCs, a decision it later had to revoke.

Lack of staff and capacity of state nodal agencies: The state tribal welfare departments (nodal agencies at the state level) have not been provided the human and financial resources to implement FRA. In many states, forest officials have been deputed to the tribal departments, who often hinder implementation of FRA.

22. Grants under Article 275(1) of the Constitution of India provides financial support to the States for promoting the welfare of Scheduled Tribes in that State

BOX 3, How Maharashtra Governor has facilitated effective implementation of FRA

The Governor of Maharashtra has used his powers under the Fifth Schedule to proactively engage with FRA implementation with some of the following specific interventions:

- Freeing bamboo from state monopoly while ensuring complete gram sabha ownership of it as a MFP by amending state laws as well as cancelling the definition of bamboo as a tree in the Indian Forest Act (Section 2-vii).
- In 2014, Rules under PESA were issued which included directives for hamlet-level village formation and provision of a working capital to each village.
- The Governor's office ensured that VFRs notified by the Forest Department under IFA are not applicable in Scheduled Areas.
- Promoted capacity-building of the gram sabha on provisions of FRA and PESA through PESA coordinators at district and taluka levels, FRA managers at taluka level and also by appointing women's SHGs as PESA mobilizers.
- Directing that 5 percent of Tribal Sub Plan funds (Under Article 275 of the constitution), amounting to Rs 250 crores annually, are transferred directly to the Gram Panchayats in Fifth Schedule areas.
- Ensuring gram sabha control over institutions and budgeting, and clarity on income distribution.

Lack of cooperation by MoEFCC and opposition by forest bureaucracy:

Due to the long-standing territorial jurisdiction of forest departments on forest land and a much-empowered forest bureaucracy, forest departments of many states have been obstructing the recognition of rights. Practically all the states' promise and performance reports document several cases of the forest department obstructing the claim and recognition process by not cooperating in the verification proceedings, raising illegal objections to the claims, imposing JFM on areas claimed as CFRs, refusing to sign titles approved by DLCs and carrying out evictions where claims have been filed but not yet processed. Across the country, forest departments have largely been hostile, at best apathetic, to FRA with forest bureaucracies effectively dictating the agenda of FRA implementation (see section on conflicting and divergent policies below).

Poor functioning of DLCs and SDLCs: Formation of DLCs and SDLCs has been delayed in several states. In many cases, the composition of DLCs/SDLCs violates the statutory requirement with over-representation of forest officials. Meetings of DLCs/SDLCs are not regular. The DLCs/SDLCs often send claims and titles to the forest department for approval in violation of rules and procedures.

Undermining legal authority of gram sabhas: The legal authority of the gram sabha for determining the nature and extent of rights, and governance of forests is often seriously undermined by the bureaucracy. In many states, gram sabhas are being organized at the panchayat level (Chhattisgarh, Andhra Pradesh, Telangana, West Bengal), although FRA mandates village/hamlet level gram sabhas. After amendment in the FRA Rules in 2012, reconstitution of FRCs with two-third ST members has not taken place in many states. There is lack of support from the state agencies for awareness and capacity building of the gram sabha and FRCs on FRA.

PROCEDURAL HURDLES

CFR rights under Section 3(1) i: CFR rights have been claimed and recognized in noticeable number only in Maharashtra, Odisha and Gujarat, that too because of the initiatives taken by people's sangathanas or civil society groups. Listed below are the common hurdles related to CFRs.

- CRs, and development rights under Section 3(2), have been reported as CFR rights due to lack of clarity at all levels of implementation agencies;
- Even where gram sabhas have filed large numbers of CFR claims, these are not mentioned in the official reports or are pending at SDLCs and DLCs without any response;
- Customary boundaries delineated by the gram sabha are not accepted or are arbitrarily changed by revenue and forest department functionaries during field verification;
- CFR claims are pending due to objections raised by forest department at SDLC or DLC;
- In states like Andhra Pradesh, Madhya Pradesh, Telangana and Chhattisgarh, CFR titles are being issued to JFM committees in violation of FRA. This is despite clear instructions from MoTA against this;
- Titles have been issued with illegal conditions, such as the gram sabha having to follow forest department's working plans while exercising CFR rights.
- Where recognized (in Odisha, Maharashtra), the CFR rights are yet to be incorporated in the Record of Rights as required by law;
- No guidance and support systems exist for CFR management and governance by the gram sabha, except in areas where civil society organizations are working.

BOX 4, BanniMaldharis file CFR claim over 2500 sq km

Traditionally, pastoral Maldhari communities have raised indigenous breeds of buffaloes and other livestock for hundreds of years. In 2009, a forest department working plan proposed fencing off open grazing areas of Banni, significantly curtailing local communities' ability to access their traditional grazing lands. Locals claim they were never consulted in the development of these plans. In response, in 2013, as many as 47 Maldhari gram sabhas filed claims for a common community title over the entire 2,500 sq km of the Banni grassland. While these pastoral communities await formal recognition of their rights, they have already begun preparing management plans as a form of self-assertion. These community management plans include methods of regenerating the grasslands, removing the invasive species *Prosopis juliflora*, and protecting biodiversity and wildlife.

Habitat rights of PVTGs under Section 3(1)e:

A few initiatives of claim facilitation for habitat rights have been reported. These include Khadia, Mankidias, Lodhas in Mayurbhanj district, KutiaKondhs of Kandhmal district, Bondas of Malkangiri district in Odisha, and Baigas in Dindori district of Madhya Pradesh. Juangs in Keonjhar district and PaudiBhuyans of Sundergarh in Odisha, and MadiaGonds in Gadchiroli district have also filed claims. Of all these, the claim of only Mankidias has been provisionally recognized, but remains stalled as the major part of the claimed habitat falls within the core area of Simlipal Tiger Reserve which wildlife officials are objecting to in violation of the law. PVTG habitat rights and consequently their socio-cultural practices and livelihoods continue to be seriously threatened by:

- Forest diversion for extractive industry like mining (habitats of Juangs, Paudi Bhuyans, Dongria Kondhs in Odisha and Madia Gonds in south Gadchiroli, Maharashtra);
- Evictions from protected areas (Baigas in Madhya Pradesh and Chhattisgarh, Chenchus in Telangana, Mankidias in Odisha);
- Forcible plantations on their traditional cultivation lands under CAMPA, MGNREGA and other programmes (KutiaKondhs in Kandhmal).
- MoTA has attempted to address some of these issues, although without much impact.

Rights of pastoral communities under Section 3(1) d:

India has around 200 pastoral communities. Securing rights to access traditional seasonal grazing areas is of paramount importance in protecting their lives and livelihood. FRA specifically provides for rights of pastoral communities, including community user rights to water bodies, grazing (settled or transhumant) and traditional seasonal resource access over landscapes. There has been little progress towards recognition of rights of the pastoral communities. The only cases reported are the CFR claim filed by Maldharis in the Banni grasslands in the Kutch region of Gujarat, and claims filed by pastoral groups in Himachal Pradesh, both of which are pending.

Exercising rights related to NTFP under Section 3(1) c:

States continue to retain monopoly control over critical NTFPs in contravention of FRA. State laws and policies in most states have not been changed to align with the provisions of FRA, especially for high value NTFPs such as bamboo and tendu leaves. Transport of NTFP remains a major challenge as state forest departments have been denying transit permits to gram sabhas. This is despite the amended FRA rules giving the gram sabha the authority to issue transit permits.

Conversion of forest villages and other settlements to revenue villages under Section 3(1) h:

The identification and conversion of forest villages and unsurveyed settlements on forest land remains largely ignored and unimplemented across states. Conversion processes initiated in Chhattisgarh, Odisha, Gujarat and West Bengal are procedurally faulty and violate MoTA's guidelines. In Chhattisgarh, 400 forest villages were notified as revenue villages on the basis of forest department's records without any consultation with the gram sabhas²³. Similarly, in West Bengal the revenue department initiated the ground level process of identifying unsurveyed settlements without consulting the FRCs or the gram sabhas²⁴.

Recognition of IFRs under Sections 3(1) a, g and l:

Among the most serious issues faced by those claiming IFRs is the high rate of rejection. Due process required to be followed while rejecting claims—such as record-

23. Chhattisgarh state P & P report (www.cfri.org.in)

24. West Bengal state P & P report (www.cfri.org.in)

ing reasons for rejections, communicating them to the claimants, and hearing their appeals—has not been followed in majority of states. In some states, where reasons have been given, the most common cause for rejection is the lack of documentary evidence (though the FRA rules makes it clear that documentary evidence should not be insisted upon). Claims have also been rejected only on the basis of satellite imagery (Gujarat rejected 80 percent of the claims based on satellite imagery which was subsequently struck down by the High Court). In Andhra Pradesh and Telangana, individual claims are being rejected because they are within JFM areas. Although MoTA has directed the states to review the rejected claims, barring a few examples, such as in Nandurbar and Jalgaon in Maharashtra, review of rejected claims is pending across states.

Among the most impacted are the rights of OTFDs. The claims of OTFDs are either not entertained or are rejected, mainly for not being able to produce documentary evidence of residing in the area for 75 years. Confusion persists regarding proof of residence in an area for 75 years for OTFDs despite MoTA's clarifications²⁵. This has also resulted in efforts to evict such communities from lands where they have been living for generations, for example the Van Gujjars in Nainital district of Uttarakhand.

Where IFRs have been recognized, two major challenges faced by the title holders are—no physical demarcation of land, creating conflicts and insecurity; and no revision of Record of Rights, leading to rights holders not being able to access various government schemes.

Gender concerns within recognition and exercise of rights under FRA:

Neither MoTA nor the states maintain any gender disaggregated data on FRA implementation. Other than information from activists, movements and civil society organizations, it is not known whether all IFR titles are being issued in the joint names of both spouses. It is also not known if single women have had their rights recognized. There is no reporting on whether one-third FRC members are women, or how they were selected and whether the gram sabha's quorum has indeed had at least one-third presence of women. Barring some movements and CSOs committed to promoting gender equality and empowering women, most movements and CSOs have also given little attention to ensure implementation of FRA's provisions for gender equality. Yet, where women have been empowered, the positive impacts on both the CFRs under their management and the women's status within their communities is strikingly evident. Thus, through the efforts of BhakarBitrot Adivasi VikasSangh, 22 villages in Sirohi district of Rajasthan have filed their IFR claims with women's names as first claimants. Separate claims have also been filed by 60 single women.

Continued evictions of right holders in violation of FRA:

Despite the FRA, widespread evictions of forest dwellers, severe damage to their legally mandated livelihood practices, and willful non-recognition of rights before forest diversion, have continued through the decade. These evictions have been both from Protected Areas and areas outside them. Large-scale illegal evictions of right holders in violation of FRA have been reported from Himachal Pradesh, Telangana, Andhra Pradesh, Karnataka and Assam.

Violation of rights by afforestation programmes:

Numerous conflicts have emerged due to forced plantations, particularly on shifting

25. See: <http://www.tribal.nic.in/WriteReadData/userfiles/file/FRA/Literature/3FA2.pdf>

26. See: http://fra.org.in/document/CFR-LA-Newsletter_June-July-2015%20FINAL.pdf; Page 14

cultivation lands of PVTGs in Odisha and Telangana²⁶. These include areas where forest rights under FRA have been recognized and those where such recognition is still pending. MoEFCC, through the state Forest Departments, continues to promote afforestation on lands used traditionally for shifting cultivation through Central policies like the National Mission for Green India, MGNREGA and CAMPA²⁷. Such plantations are carried out without the consent of the local communities and lead to food insecurity, distress migration, physical displacement, loss of agricultural biodiversity and traditional knowledge of the local communities²⁸.

Violation of FRA during forest diversion for development projects:

- Circulars and orders diluting 2009 circular of MoEFCC: Both the Central and state governments have made repeated attempts to dilute the requirement of informed gram sabha consent for forest diversion in MoEFCC's August 3, 2009 circular. These include exempting linear projects and prospecting minerals from FRA compliance; and several circulars awarding "general approval" under Forest Conservation Act (FCA) for roads in border areas and "critical infrastructure" projects in Left-wing extremism affected areas²⁹. FCA Amended Rules 2014, empower the collector to seek gram sabha consent "wherever required" when neither the FRA or its Rules vest such powers in the collector. MoTA has repeatedly made it clear that such circulars and orders exempting compliance with FRA are illegal, but without much effect.
- Illegal and faulty procedures for seeking gram sabhas' consent: District administrations and project proponents are forging gram sabha resolutions, holding fraudulent and illegal gram sabhas for showing compliance with the 2009 circular without completing the process of recognition and vesting of rights under FRA. One among many examples is that of Gandhamardhan Iron Ore Block B in Keonjhar district of Odisha where forged gram sabha resolutions were discovered and contested by the concerned gram sabhas³⁰.
- Non-recognition of rights in forest areas meant for diversion: In many states, claims of villagers over forest land earmarked for diversion, or leased to mining companies or industries are not being recognized or are being left out of the verification process. Jala village in Chandwa block of Jharkhand's Latehar district had filed a CFR claim over 456 ha of forest land, which also covers part of the forest land of Ganeshpur Coal Block leased out to a mining company. The SDL rejected the CFR claim on frivolous grounds³¹.
- Illegal cancellation of rights already recognized: DLC of Surguja district in Chhattisgarh has cancelled the Community Forest Rights title of Ghatbarra village in the Hasdeo Arand forests to facilitate coal mining in the area despite the NGT having suspended the forest clearance to the mining company given in violation of FRA in the Parsa East and Kante Basan coal blocks.

Non-implementation and blatant violation of FRA in Protected Areas:

Forest dwellers continue to be forcibly relocated from tiger reserves, in complete violation of FRA and provisions of the Wildlife Protection (Amendment) Act, 2006. This is

27. See: http://zeenews.india.com/news/sci-tech/green-india-mission-converged-with-mgnrega-to-reclaim-forest_1561829.html

28. See: <http://www.forestrightsact.com/statements-and-news/90-dangers-of-the-green-india-mission>

29. See: [http://fra.org.in/document/CFR-LA-Newsletter_April-May-15-Final%20\(1\).pdf](http://fra.org.in/document/CFR-LA-Newsletter_April-May-15-Final%20(1).pdf); Page 18

30. See: <http://www.outlookindia.com/article/thekeonjhartakeover/296512>

31. See: Roy, R. (2015). Jharkhand. (pp. 56-66) In Tatpati, M. (Ed). (2015). *Citizens' Report 2015: Community Forest Rights under the Forest Rights Act*. Pune, Bhubaneswar and New Delhi: Kalpaariksh and Vasundhara in collaboration with Oxfam India on behalf of Community Forest Rights Learning and Advocacy Process.

32. N. J. S., Siddhartha, A., Rai, N., & Menon, A. (2016). *An analysis of the violations of the Forest Rights Act in Protected Areas*. Ashoka Trust for Research in Ecology and the Environment. Bengaluru.

33. See: <http://www.thehansindia.com/posts/index/2015-12-05/Move-to-remove-tribals-from-natural-habitats-190997>

being done by offering a standard Rs 10 lakh package (notified by MoEF in 2008) to every household, irrespective of the assets owned by them and disregarding their access, use, and CFR rights in the forests. A study on violations of FRA in protected areas³² revealed a large number and kinds of violations since 2007, including, curtailment of NTFP access, grazing bans, prohibition of fuel wood collection, harassment of villagers by the forest department, and evictions. Of the 50 Protected Areas studied, 25 reported evictions and plans for relocation in violation of FRA. In most of these cases, procedures prescribed for relocation under FRA and WLPA are not followed. Examples include Nagarhole in Karnataka (multiple evictions), Panna in Madhya Pradesh, Achanakmar in Chhattisgarh, Melghat and Tadoba-Andhari in Maharashtra, and Kawal and Amradad in Telangana³³.

CONFLICTING AND DIVERGENT POLICIES

One of the important reasons for the huge gap in promise and performance of FRA can be attributed to conflicting and divergent laws, policies and programmes being implemented by the Centre and states (mainly MoEFCC and the state Forest Departments)³⁴. These laws, policies and programmes directly conflict with or seriously undermine the provisions of FRA. Some of these are mentioned below.

Compensatory Afforestation Fund Act 2016: The recently enacted CAF Act, 2016, has paved the way for releasing around Rs 42,000 crore to the states for carrying out compensatory afforestation, primarily in lieu of diversion of customary forests of STs and OTFDs. The state institutions set up under the CAF Act are dominated by forest bureaucracy with no representation of forest dwellers. CAF Act also provides incentives to displace forest dwellers from protected areas by making a specific provision for funding relocation. Forest dwellers and STs have widely opposed the CAF Act for not requiring consent of the gram sabhas to use their traditional lands and forests for compensatory afforestation.

Notification of Village Forest Rules: VFRs, under the Indian Forest Act, 1927 were notified in Maharashtra³⁵. Powerful vested interests within bureaucracy and political class have pushed VFRs as a core strategy to maintain their control over forests, and to forestall transfer of jurisdiction of these forests to gram sabhas. VFRs place the control over management and governance of forests in the hands of committees constituted and controlled by the forest department including in areas where CFRs are to be claimed, have been claimed and titles have been received. Despite strong opposition by gram sabhas, CSOs and MoTA, the VFRs have been notified but are not applicable in Fifth Schedule areas.

Conflicts with Joint Forest Management: JFM is another major instrument forest bureaucracy uses to retain its control over forests and forestall forest jurisdiction transfer to gram sabhas under FRA. In undivided Andhra Pradesh CFR titles illegally issued to VSSs over 3.82 lakh ha of forest lands are yet to be revoked despite MoTA's directions. In Odisha, SLMC had proposed recognition of CFR rights in the name of VSSs (subsequently withdrawn after MoTA objected). Similar examples exist in other states, including Chhattisgarh and Gujarat. Odisha has launched the Ama Jungle Yojana (community forest protection and management project) with CAMPA funds to promote and strengthen Joint Forest Management in about 7,000 villages despite widespread opposition by gram sabhas and tribal organizations as it negates CFR rights.

Guidelines for Privatization of Forests: MoEFCC issued guidelines in August 2015 to lease 40 percent of degraded forests in the country to private companies for afforestation. These guidelines are in complete violation of FRA and completely

34. See: <http://www.livemint.com/Opinion/iOLX7f8@PczHwvuuPAZiAP/How-the-state-is-reclaiming-power-over-tribal-communities.html>

35. See; Notification no. ABB. 2010/CR-189/F-9, dated May 13, 2014.

disregard the fact that most of these forests are either already recognized CFRs, are in the process of being claimed as CFRs, or are potential CFRs to be claimed in future. Maharashtra, Madhya Pradesh and Chhattisgarh have reportedly already initiated reaching arrangements based on guidelines with the industry³⁶.

Leasing of forests to forest development corporations: Forest development corporations (FDCs), set up since the 1970s, hold about 1.28 million ha of forest land leased to them by the Forest Department. Operation of these leases and granting of new leases to FDCs is causing conflict with CFR rights³⁷.

36. See: <http://www.hindustantimes.com/india/government-to-allow-pvt-sector-to-manage-40-of-forests/story-yOiG4TO4kA2kvykcxXNTEBK.html>, <http://scroll.in/article/756055/plan-to-privatise-40-of-forests-will-undermine-law-giving-adivasis-control-of-their-habitats>, <http://www.frontierweekly.com/reports/sep-15/23-9-15-Stop%20Privatizing%20Indias%20Forests.html>

37. See: <http://www.downtoearth.org.in/news/planting-problems-56169>

WAY FORWARD

Enactment of FRA in 2006 stands out as a milestone political intervention of the Centre to correct injustice done to millions of forest dwelling communities, creating hope among them for the establishment of a democratic order in the forests. The full potential of FRA can be achieved only by its implementation in a mission or campaign mode matched with actual support and guidance to gram sabhas and implementing agencies at all levels; and holding such agencies accountable for implementation. Some steps towards the way forward are suggested below:

INSTITUTIONAL SUPPORT

Strengthening MoTA, State nodal agencies, SLMCs, DLCs and SDLCs

- Mainstream FRA as a core programme and strategy for tribal welfare in the country supported by adequate human and financial resources for implementation.
- Adequate staff and separate funds for implementation of FRA for MoTA.
- Appointment of officials, dedicated full-time to FRA implementation at sub-divisional and district levels.
- Strengthening and guiding state nodal agencies, including by instituting FRA cells and dedicated staff for FRA implementation and monitoring.
- Appointment of women staff within the nodal agencies at all levels to facilitate recognition of women's rights and their participation in gram sabha decision making and CFR governance.
- Continuous training and capacity-building programmes for implementation agencies at all levels, in collaboration with TRIs, CSOs and peoples' organisations.
- Strengthening Integrated Tribal Development Agencies and utilization of Tribal Sub Plan funds for FRA implementation.
- Streamlining the functioning, accountability and transparency of SLMCs, DLCs and SDLCs by ensuring regular meetings, time bound decisions and uploading their meeting minutes and action taken reports on websites for making them accessible to the public.

Creating awareness

Ten years after FRA's enactment, the biggest hindrance in its implementation remains the lack of awareness about it at all levels, most of all the gram sabhas. This could be addressed by:

- MoTA, in association with state tribal/social welfare departments, Panchayats and civil society networks, launching a fresh CFR campaign in mission mode.
- Fresh mass awareness programmes using mass media, training sessions for FRC/SDLC/DLC members, production and distribution of simple, accurate material in multiple languages, and distribution of translated claim forms;
- Facilitating people-to-people learning (exchange visits to and from areas where rights have been recognised and are being exercised), which has proved to be among the most effective ways of creating awareness;
- All training programmes, including for SIRDs, SDLCs, DLCs, FRCs, must include emphasis on FRA's provisions for gender equal rights, women participation in gram sabha's decision-making and CFR governance, ideally including women trainers.

Ground-level implementation of FRA and CFR provisions would require a massive effort to mobilize government resources and non-government actors such as grass-

BOX 5

Lessons could be learnt from states where positive steps have been taken to ensure effective implementation of FRA, for instance, by the Governor of Maharashtra and the government of Odisha. In Odisha, special FRA cells have started, while in Maharashtra (in PESA areas), special appointments have been made to help gram sabhas file claims. The district coordination committee constituted for implementation of PESA (but also monitoring implementation of FRA) in Gadchiroli district in Maharashtra could be a model to emulate. This committee includes district administration, village representatives and civil society groups working on FRA and meets regularly to review implementation of PESA and FRA.

roots organizations and panchayati raj institutions.

Ensuring Effective Monitoring And Accountability

- MoTA and state tribal departments should develop district-wise potential and performance data and maps for effective monitoring of implementation.
- MoTA has instructed states to prepare baseline information on potential FRA villages as a tool for planning and implementation of FRA which only Odisha has done till now. Other states need to be incentivised to do the same.
- Social audit of FRA, similar to that of MGNREGA, should be introduced for FRA.
- Regular progress reports by districts and states should also be made public with punctuality.
- MoTA must revise its format for monitoring FRA implementation to include disaggregated information on CFRs, CRs, IFRs, habitat rights, pastoralist communities' rights, and rights of women (as joint or single holders of IFRs).
- Separate monitoring of the claim filing and approval processes for women and women's representation and participation in institutional structures needs to be introduced.

ADDRESSING CONFLICTING PROCESSES AND POLICIES

Need for an inter-ministerial process

An inter-ministerial process to review and harmonize laws, policies and institutional structures conflicting with FRA to create an enabling environment for its implementation needs to be set up urgently.

Need to harmonize all laws and policies governing forests with FRA

- The Prime Minister's Office should send clear directions to MoEFCC and Forest Departments to cooperate and support FRA and stop obstructing its implementation;
- MoEFCC and MoTA need to coordinate to ensure that all forest-related laws and policies are harmonized with FRA by undertaking a systematic review;
- MoEFCC needs to recognize the gram sabhas the statutory institutions for CFR governance and management in all its policies and programmes instead of JFMCs.
- With over half the country's forest area potentially to be recognized as CFRs, both MoTA and MoEFCC need to ensure that all forest related interventions and projects, including those related to plantations and climate change mitigation, necessarily require gram sabha consent for use/diversion of forest land, irrespective of whether the forests have already been claimed as CFRs or not.

ADDRESSING ISSUES POST-RECOGNITION OF RIGHTS

While recognition of rights will help achieve the quantitative potential of FRA, realization of its qualitative potential would depend on unhindered exercising and enjoyment of those rights. This requires a smooth transition of jurisdiction and responsibility for CFR governance to gram sabhas and creation of a facilitative and supportive environment for them. Revision of Record of Rights to avoid conflicts, addressing grievances, financial and livelihoods support for developing both individual and community forest lands together with guidance and support structures are necessary for the post rights recognition situations. Given below are a few suggestions:

Correction of faulty titles

CFR titles with various incongruities need to be immediately rectified. These include titles being in the name of FRCs, VSSs, panchayat, Eco-development Committees, JFMCs or any other committee instead of the gram sabha; titles with conditions; and incorrect boundaries.

Updating Record of Rights

The legal requirement of final mapping of forest land and incorporation of the rights in records has not been initiated in most states, creating confusion about the areas and jurisdiction of the gram sabhas. The process of modification of land and forest records to incorporate rights granted under FRA, particularly CFRs, should be immediately initiated.

Facilitating community forest governance as provided under FRA

Management of CFRs is a major emerging issue as more and more CFRs are being recognized. On the one hand, MoTA has issued directions under Section 12 of FRA clarifying that the gram sabha is the authority for CFR management competent to develop its own plan and formulate its own rules, and on the other hand MoTA has now asked MoEFCC to formulate rules for CFR management, giving away gram sabha's most crucial power provided under FRA. It is essential that a bottoms-up process of envisioning the future of CFRs with the gram sabha at the helm of decision-making is started. Towards this, MoTA must organize a series of site-based consultations with those who have received CFR titles and are governing and managing their forests across different states. Through this process and learning from their successes and constraints, a set of broad guidelines can be collectively drafted for all CFRs.

Strengthening gram sabha as the basic unit of forest governance

FRA empowers the gram sabha to be the primary institution to make decisions about forest rights, forest governance and decisions related to forest diversion. Considering the number of violation of gram sabhas' legal authority in such decisions, there is a need to reinforce this authority. For engendering gram sabha decisions, separate women's gram sabhas must also be organised and their decisions taken on board by the full gram sabha. It must also be ensured that for all the above roles, the gram sabhas (and women's gram sabhas) must be organised at the hamlet or village level and not at the level of panchayat.

Supporting mechanisms for management and transport of NTFP

In 2012, MoTA had sent a letter to all Chief Secretaries to modify their states' transit permit rules with gram sabhas empowered to issue transit permits. Procedural obstacles in the collection, sale and transportation of NTFPs by right holders and gram sabhas need to be effectively removed; all states should immediately implement the Minimum Support Price Scheme for NTFP; and necessary institutional mechanisms for its smooth functioning need to be worked out. Some efforts towards this have been made in Amaravati, Gadchiroli and Gondia districts of Maharashtra. Immediate steps need to be taken to ensure that ALL states implement the 2012 directive of MoTA on NTFPs

ADDRESSING THE UNADDRESSED

Forest rights in municipal areas

Implementation of FRA in municipal areas has not yet begun despite issuance of a circular by MoTA clarifying applicability of FRA in municipal areas. No state government has taken any steps in this direction. MoTA needs to direct the states to clarify mechanism for implementation of FRA in municipal areas in consultation with the concerned claimants.

FRA implementation in Protected Areas

MoTA and MoEFCC need to ensure that the blatant violation of the spirit and letter of FRA in protected areas must stop and that right recognition under FRA in PAs must be initiated on an urgent basis. Relocations carried out in violation of FRA must be stopped with proactive intervention from MoTA. Governance of protected areas must be based on FRA as recognition of rights and the gram sabha-based plans for management of CFRs provides the best opportunity to devise co-existence plans for all PAs. MoTA needs to insist on such governance mechanism and formulation of gram sabha-based plans for all PAs.

Nomadic communities, PVTGs, shifting cultivators and women

Recognition of rights and monitoring FRA processes related to unprivileged groups like PVTGs, nomadic communities, pastoralists, shifting cultivators, and women has received the least attention so far.

- Guidelines need to be issued for facilitating claims of these sections, including through relevant action by SDLCs.
- Special processes will be needed in the case of nomadic groups including pastoralists, as claims for their rights have to be filed over large areas and hence have their own attendant difficulties. Addressing their issues may include a need to accommodate flexibility of routes in the CFR maps for nomadic pastoralists.
- Recommendations of a national workshop, organised by the MoEF/MoTA Joint Committee in 2010 on PVTGs, should be urgently considered by MoTA, especially in order to issue clarifications to states on the concept of habitat.
- Rights of PVTGs need to be pro-actively recognized and declared suomotuby DLCs, using criteria which have been applied in order to declare them as PVTGs, in the first place, as evidence of their forest rights.
- Special attention needs to be paid by SDLCs and DLCs to ensure that women representatives are able to participate in all their meetings and are informed about the processes.
- SDLCs and DLCs must ensure that IFR titles are issued in the names of both spouses, and that special attention is paid to the claims of single women.

Particular attention to forest villages

MoTA must ensure compliance with its guidelines for the conversion of forest and unsurveyed villages into revenue by all state governments to stop their blatant violation in some states.

ADDRESSING COMPLIANCE OF FRA IN FOREST LAND DIVERSION

- MoTA is empowered under the Act to uphold the law and needs to insist that violation of the gram sabha's consent requirement for forest diversion on the basis of executive orders are immediately withdrawn.
- MoEFCC's Forest Advisory Committee must ensure that all relevant documents related to FRA implementation have been completed as per the provisions of FRA, before recommending forest diversion.
- A representative of MoTA must be included in FAC to ensure that the above is accomplished.

CONCLUSION

This report indicates that the minimum forest area in India (excluding Jammu & Kashmir and five north-eastern states) over which CFR rights should be recognized is 85.6 million acres (34.6 million ha). This represents almost 50 per cent of the country's total forest land. Yet, a decade after FRA's enactment, only three per cent of this minimum potential has been achieved. To prevent the promise of remedying historical injustice to the most marginalized forest dwelling communities from turning into yet another historical betrayal, both the Central and state governments need to urgently address the hurdles in the way of recognizing pre-existing rights.

The transformative potential of FRA, representing the largest land and forest tenure reform in the country, to not only restore to forest dwelling communities their historical rights but also to democratize forest governance through empowered gram sabhas, conforms with the country's Constitutional obligations, international commitments as well as development goals. FRA's potential to enhance local livelihood and ensure conservation makes it an effective vehicle to address the Sustainable Development Goals especially the goals of eliminating poverty and achieving ecological sustainability. By recognizing individual and collective rights of forest dwellers, FRA supports access to critical life-sustaining resources that support subsistence, livelihood, food and water security together with socio-cultural integrity for over 200 million people. In doing so, it also conforms with India's commitments under the Convention on Biological Diversity and those related to climate change.

Positive examples of assertion of CFR rights, poverty alleviation, sustainable and equitable forest use and management based on democratic decision-making cited in the report, are unfortunately being met with greater hostility than support from the establishment. Wherever forest dwelling communities have successfully challenged non-consultative diversion of their customary forests for non-forest use, efforts have been made to dilute FRA provisions and the requirement of gram sabha consent for forest diversion. While being perceived by the advocates of top-down "development" interventions for increasing GDP growth as a hurdle, several studies indicate that conflicts generated by insecure rights and tenure are often a bigger obstacle to such growth. Efforts to bypass recognition of rights and gram sabha consent for faster forest clearances for extractive industries and infrastructure projects often prove counter-productive, especially when awareness about FRA among forest-dwelling communities is increasing and many are beginning to assert their rights guaranteed by law and Constitution. The very enactment of FRA has become a weapon in their hands to challenge illegalities in its implementation in many ways. The assertion of rights by organized communities, even where these are yet to be recognized formally, is changing the balance of power between communities, the forest bureaucracy and other state authorities. The fundamental questions of who owns the country's forests, and by whom and for what objectives they should be governed and managed within the country's democratic and constitutional framework can no longer be left ignored.

Annexures

Tables for Annexure

TABLE 1 Statewide Minimum Potential for CFRs excluding five NE States (In Acres)

| State Name | Recorded Forest Area (acres) | Estimation of forest land within customary boundaries | Of which land recognized under IFRs (In acres) | Minimum potential for CFR Recognition in India (excluding five NE States and J&K) (In acres) | Comments |
|------------------|------------------------------|---|--|--|---|
| A&N Islands | 1,771,237 | 90,651 | 0 | 90,651 | Forest Area Inside Village Boundaries (Census 2011) |
| Andhra Pradesh | 9,202,726 | 2,964,000 | 198,633 | 2,765,367 | Area under JFM ¹ |
| Assam | 6,627,504 | 578,605 | 77,609 | 500,996 | Forest Area Inside Village Boundaries (Census 2011) |
| Bihar | 1,603,771 | 824,940 | 0 | 824,940 | Forest Area Inside Village Boundaries |
| Chhattisgarh | 14,763,684 | 8,197,930 | 745,930 | 7,452,000 | Data from Chhattisgarh Promise and Performance Report (JFM data ²). |
| Goa | 302,575 | 207,342 | 0 | 207,342 | Forest Area Inside Village Boundaries (Census 2011) |
| Gujarat | 5,346,809 | 3,248,050 | 116,117 | 3,131,933 | Data from Gujarat Promise and Performance Reports ³ |
| Haryana | 385,073 | 60,300 | 0 | 60,300 | Forest Area Inside Village Boundaries (Census 2011) |
| Himachal Pradesh | 9,147,151 | 3,211,000 | 0.35 | 3,211,000 | Data from HP Promise and Performance Report ⁴ |
| Jharkhand | 5,830,435 | 5,236,400 | 78,010.92 | 5,158,389 | Area under JFM ⁵ |
| Karnataka | 9,456,148 | 5,986,203 | 12,385 | 5,973,818 | Forest Area Inside Village Boundaries (Census 2011) |
| Kerala | 2,793,323 | 2,231,712 | 33,073 | 2,198,639 | Forest Area Inside Village Boundaries (Census 2011) |
| Madhya Pradesh | 23,388,183 | 16,517,853 | 796,938 | 15,720,915 | Area under JFM ⁶ |
| Maharashtra | 15,210,013 | 12,282,159 | 232,088 | 12,050,071 | Maharashtra State Potential and Performance Report ⁷ |
| Odisha | 14,359,592 | 6,372,600 | 583,886 | 5,788,714 | Data from Odisha Promise and Performance Report ⁸ |
| Punjab | 761,748 | 158,917 | 0 | 158,917 | Forest Area Inside Village Boundaries (Census 2011) |
| Rajasthan | 8,086,039 | 6,355,811 | 45,854 | 6,309,957 | Forest Area Inside Village Boundaries (Census 2011) |
| Sikkim | 1,442,727 | 951,449 | 0 | 951,449 | Forest Area Inside Village Boundaries (Census 2011) |
| Tamil Nadu | 5,650,619 | 1,921,537 | 0 | 1,921,537 | Forest Area Inside Village Boundaries (Census 2011) |
| Telangana | 6,645,288 | 3,704,597 | 331,070 | 3,373,527 | Forest Area Inside Village Boundaries (Census 2011) |
| Tripura | 1,554,618 | 1,319,622 | 434,119 | 885,503 | Forest Area Inside Village Boundaries (Census 2011) |
| Uttarakhand | 9,386,000 | 3,512,678 | 0 | 3,512,678 | Forest Area Inside Village Boundaries (Census 2011) |
| Uttar Pradesh | 4,095,754 | 2,053,202 | 139,625 | 1,913,577 | Forest Area Inside Village Boundaries (Census 2011) |
| West Bengal | 2,934,113 | 1,464,127 | 20,405 | 1,443,722 | West Bengal Promise and Potential Report ⁹ |
| Total | 160,834,544 | 89,451,687 | 3,845,743 | 85,605,944 | |

TABLE 2, Statewise CFR Performance (in acres)

| States | MOTA Status Report till 31.07.16 | | As per State Potential and Performance Report/Other Sources | | | | Comments |
|----------------|----------------------------------|------------------------|---|-------------------------------|---------------------------|---------------------------------|--|
| | CR/CFR Titles Distributed | CR/CFR Area (in Acres) | No. of CR Titles Approved | CR Area recognized (in Acres) | No of CFR Titles approved | CFR Areas recognized (in Acres) | |
| Andhra Pradesh | 1,319 | 434,355 | 1,319 | 434,355 | NA | NA | Almost all CR rights are illegal as they have been recognized in name of VSS committees rather than gram sabha |
| Assam | 860 | NA | NA | NA | NA | NA | No Report of Rights Recognition |
| Bihar | NA | NA | NA | NA | NA | NA | No Report of Rights Recognition |
| Chhattisgarh | NA | NA | 11,891 | NA | NA | NA | No recording of data under MoTA |
| Gujarat | 3,875 | 1,081,583 | 4,599 | 1,081,583 | 696 | 281,970 | CFR rights recorded are confined to Scheduled V areas in East Gujarat |
| Goa | NA | NA | NA | NA | NA | NA | No report on CFR rights recognition |
| HP | 108 | NA | NA | NA | NA | NA | No report on CFR rights recognition |
| Jharkhand | 1,546 | NA | NA | NA | 1850 | 85578 | CFR Rights data from Tribal Department, GOJ, used for analysis |
| Karnataka | 144 | 26,275 | 193 | 38,676 | 25 | 82,745 | Karnataka P&P Report data on CFRs used for analysis |
| Kerala | NA | NA | 327 | NA | | 298,340 | Kerala P&P Report data on CFRs used in analysis |
| MP | 24,694 | NA | 27,113 | 1,299,714 | NA | NA | The Community Rights recognised as provided by Tribal Department, MP. Not used for analysis |
| Maharashtra | 4,187 | 1,392,645 | 5,507 | 1,766,310 | 4,645 | 1,709,592 | Data from Maharashtra P&P report used for analysis |
| Odisha | 5,205 | 335,354 | 4,201 | 310,824 | 3,271 | 264,619 | Data from Odisha P&P Report used for analysis |
| Rajasthan | 69 | 483 | 72 | 113 | 3 | 381 | Data from Rajasthan P&P used for analysis |
| Tamil Nadu | NA | NA | NA | NA | NA | NA | No data on CFRs |
| Telangana | 761 | 1,274,328 | 761 | 515,703 | NA | NA | Data shows serious discrepancies with regards to the CR Area recognized in MoTA report as opposed to area recognised as per P&P report |
| Tripura | 55 | 91 | NA | NA | NA | NA | No data on CFRs |
| Uttrakhand | 0 | 0 | 1 | NA | NA | NA | MoTA Status Reports until July 2016, does not record data for this State |
| Uttar Pradesh | 843 | NA | NA | NA | NA | NA | |
| West Bengal | 558 | NA | NA | NA | 58 | NA | CFR data reported until October 2015, shows that 58 CFRs rights have been recognized |

TABLE 3, Recognition of rights under IFR Provision of FRA

| States | MoTA Status Report until July 2016 | | As collected under State P&P Reports Process until July 2016 | | Comments |
|------------------|------------------------------------|-------------------|--|-------------------|---|
| | IFR Titles | IFR Area in acres | IFR Titles | IFR Area in acres | |
| Andhra Pradesh | 83,874 | 198,633 | 83,874 | 198,633 | MoTA data used in analysis |
| Assam | 35,407 | 77,609 | NA | NA | MoTA data used in analysis |
| Bihar | 222 | NA | NA | NA | No data |
| Chhattisgarh | 347,789 | 741,318 | 363,386 | 745,930 | MoTA data used in analysis |
| Gujarat | 73,163 | 116,119 | 80,540 | 116,117 | MoTA data used in analysis |
| Goa | NA | NA | NA | NA | No data |
| Himachal Pradesh | 238 | 0.35 | NA | NA | Data from independent sources NA |
| Jharkhand | 46,772 | 97,830 | 52,573 | 78,011 | Non-MoTA data collected from GOJ and used in analysis |
| Karnataka | 8,159 | 11,166 | 8,922 | 12,385 | Updated data available from Non-MoTA source |
| Kerala | 24,599 | 33,018 | 25,883 | 33,073 | MoTA data used in analysis |
| Madhya Pradesh | 205,843 | 2,110,991 | 210,217 | 796,938 | Data from GoMP, Tribal Department used in analysis |
| Maharashtra | 106,063 | 231,421 | 106,337 | 232,088 | Updated data based on Maharashtra P&P Report used for analysis |
| Odisha | 383,366 | 583,886 | 378,675 | 580,834 | MoTA data used in analysis |
| Rajasthan | 35,759 | 54,356 | 35,965 | 54,854 | MoTA data used in analysis |
| Tamil Nadu | 3723 | NA | NA | NA | No data available |
| Telangana | 99,486 | 818,090 | 99,486 | 331,070 | Telangana P&P data sourced from State Tribal Department used for analysis |
| Tripura | 124,541 | 434,119 | NA | NA | MoTA data used in analysis |
| Uttarakhand | NA | NA | 45 | NA | No data available |
| Uttar Pradesh | 17,712 | 139,625 | NA | NA | MoTA data used for analysis |
| West Bengal | 43,333 | 20,404 | 31,349 | 17,200 | MoTA data used for analysis |

TABLE 4, Potential and Performance of CFR recognition

| State | Potential for CFR Recognition (acres) | CFRs Recognised (in acres) | Remaining Potential for CFRs (in acres) | % of potential achieved |
|------------------|---------------------------------------|----------------------------|---|-------------------------|
| A&N Islands | 90,651 | 0 | 90,651 | 0% |
| Andhra Pradesh | 2,765,367 | 0 | 2,566,734 | 0% |
| Assam | 500,996 | 0 | 500,996 | 0% |
| Bihar | 824,940 | 0 | 824,940 | 0% |
| Chhattisgarh | 7,452,000 | 0 | 7,452,000 | 0% |
| Goa | 207,342 | 0 | 207,342 | 0% |
| Gujarat | 3,131,933 | 281,970 | 2849963 | 10% |
| Haryana | 60,300 | 0 | 60,300 | 0% |
| Himachal Pradesh | 3,211,000 | 0 | 3,211,000 | 0% |
| Jharkhand | 5,158,389 | 85,578 | 5,072,811 | 2% |
| Karnataka | 5,973,818 | 38,676 | 5,935,142 | 1% |
| Kerala | 2,198,639 | 298,340 | 1,900,299 | 16% |
| Madhya Pradesh | 15,720,915 | 0 | 15,720,915 | 0% |
| Maharashtra | 12,050,071 | 1,766,310 | 10,283,761 | 18% |
| Odisha | 5,788,714 | 310,824 | 5,477,890 | 6% |
| Punjab | 158,917 | 0 | 158,917 | 0% |
| Rajasthan | 6,309,957 | 380 | 6,309,577 | 0% |
| Sikkim | 951,449 | 0 | 951,449 | 0% |
| Tamil Nadu | 1,921,537 | 0 | 1,921,537 | 0% |
| Telangana | 3,373,527 | 0 | 3,373,527 | 0% |
| Tripura | 885,503 | 0 | 885,503 | 0% |
| Uttarakhand | 3,512,678 | 0 | 3,512,678 | 0% |
| Utttar Pradesh | 1,913,577 | 0 | 1,913,577 | 0% |
| West Bengal | 1,443,722 | 0 | 1,443,722 | 0% |
| | 85,605,944 | 278,2078 | 82823866 | |

- http://frienviis.nic.in/Database/3FM-Committees-and-Forest-Area-Under-3FM_1994.aspx
- http://frienviis.nic.in/Database/3FM-Committees-and-Forest-Area-Under-3FM_1994.aspx
- *The Gujarat P&P report covers 5th Schedule Areas of Eastern Gujarat and estimates the FRA Rights Recognition Potential figure for the 5th Schedule areas as 2.63 million acres (10.65 ha.). In addition, the Maldhari Communities in Banni Region have claimed 0.62 million acres (0.25 million ha) as CFRs, which is in the last stages of approval. These two figures were added to provide a minimum forest rights recognition potential for Gujarat as 3.25 million acres (1.32 million ha)*
- *HP has approximately 13000 sq. km. of rights bearing forests both inside village boundaries and outside village boundaries. These provide the minimum estimate of forests that should come under Gram Sabha jurisdiction under CFRs.*
- http://frienviis.nic.in/Database/3FM-Committees-and-Forest-Area-Under-3FM_1994.aspx
- http://frienviis.nic.in/Database/3FM-Committees-and-Forest-Area-Under-3FM_1994.aspx
- *Maharashtra CFR Potential estimate included the forests inside village boundaries as well as parts of forests outside village boundaries. A rigorous exercise was carried out to geo-spatially map out the potential of CFRs outside village boundaries. Please see Maharashtra P&P report for methodology.*
- *In Odisha, apart from the forest area inside village boundaries, the Odisha State Promise and Performance Report has made an assumption that at least 30% of the forest areas outside village boundaries will also be recognized under CFRs. This is based on actual mapping and recognition of CFR in Mayurbhanj and Kandhamal.*
- *The West Bengal P&P Report has assumed that at least 20% of the forests outside village boundaries would be recognized as CFRs.*