

## **A study on implementation status of Forest Right Act, 2006 at the national and state levels and its recommendations**

Abhijit Mohanty

Implementation of the Forest Rights Act, 2006 (FRA) in India provides an interesting insight to the people especially who are concerned about the Rights of Scheduled Tribe and Other Traditional Forest dwellers on land and forest resources. Peoples' rights over forest resources are being recognised under FRA in an inclusive manner for the first time in independent India which has been widely appreciated not only throughout the country but also across the world. Within 6 years of the enactment of FRA in the country, a number of impediments came at the implementation level. In this regard a series of research work has been done by various likeminded organisations and researchers which clearly states many reasons responsible for the slow progress of the act, but there is no doubt that it has already initiated a positive change in the forest landscape of the country. Hence, it is imperative to meticulously analyse the status of implementation of Forest Right Act at the national and state level with particular reference to Odisha. This paper reflects the issue that confronts smooth implementation of FRA at various levels including recommendations that will be helpful to materialise the fruitful implementation of FRA in its true spirit and letter.

**Keywords:** Forest Right Act, Land rights, Scheduled Tribe, Scheduled Areas, Other Traditional Forest Dwellers, Customary and Traditional Forest Rights

### **Introduction**

It was only in 2006 the Indian Government realised that Scheduled Tribe and Other Traditional Forest Dwellers (OTDF) have remained significantly deprived from legal rights over their land and resources. Paradoxically, it took more than six decades for the Government to recognise the rights of the indigenous communities. In this context, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a landmark social legislation in the history of independent India that has come out in response to democratic movement by forest dwelling communities and pro-long efforts of many civil society organisations and development activists. FRA enables the legal framework for major pro-poor institutional reform in the governance of the

---

Abhijit Mohanty is Programme Coordinator at State Resource Centre for Adult and Continuing Education, (Agragamee), Rayagada, Odisha, India.

country's forests. This act recognises a range of individual and communal rights on forest resources, including ownership of forest land, which have been neglected since independence.

### **Backdrop of the research**

According to the Ministry of Tribal Affairs (MoTA), Government of India website, significant achievements have been made through the efforts of various state governments for the smooth implementation of this Act. Since its operationalisation, in January 2008, more than twelve lakh and seventy nine thousand titles have already been distributed to eligible forest dwellers, following a due process, through a three level scrutiny process. The Andhra Pradesh Government has disposed the highest percentages of claims, at 95 percent, other states indicating high percentage of claims disposed include Chhattisgarh at 96 percent, Madhya Pradesh at 95 percent, and Rajasthan at 94 percent. Of claims disposed by Odisha, stands at 85.6 percent as of September 2013, and the percent of title deeds distributed is highest in Odisha at 59.82 percent, followed by Andhra Pradesh at 50.77 percent and Rajasthan at 48.28 percent. In absolute terms, 10951 Community Claims have been received of which titles deeds have been distributed for 2631 claims over 1.5 laks acres. 530849 individual claims have been received, of which 321499 titles deeds have been distributed over 5.1 lakh acres.

But, have we ever analysed what is the reality of the situation, have tribal communities been significantly involved and benefited, is there as much excitement amongst the tribal communities, and how have the Act and the various rules, instructions and guidelines translated on the ground? What is the status of implementation of FRA at the national, state and village levels? What are the various challenges and factors responsible for the hurdles during the implementation process at different institutional levels, i.e. Gram Sabha, Forest Right Committee (FRC), Sub-Divisional Level Committee (SDLC), District Level Committee, (DLC) and what should be the ideal road map for the solution of the same. In this background, the present study was carried out by the researcher.

### *Objective of the research*

The main objectives of the research are outlined below:

- To ascertain the status of implementation of Forest Right Act at the State (Odisha) and National level (India)
- To know the problems that confront the implementation of FRA at different institutional and ground levels
- To chalk out suggestive recommendations for the smooth implementation of FRA

### *Methodology*

The present study is an explorative assessment of the status of implementation of Forest Rights Act at the national and state level. The study was undertaken through desk research by collecting pertinent information and compiling the datas for further in-depth analysis. Both quantitative and qualitative approaches were adopted in the study for a specified time period. Quantitative data were represented through tables wherever felt

necessary and qualitative data were analysed through case study method.

### *Reference Period*

The reference period of the study was from 2010 to 2013.

### *Tools and data collection*

For secondary data collection, review of literature was extensively carried out and relevant websites were accessed to gather pertinent and required data for the study. An in-depth analysis was done by reviewing of Annual Reports (2010-2013) of Scheduled Tribe and Scheduled Caste Department of Odisha and Ministry of Tribal Affairs, Government of India. Relevant articles, journals and research studies on Forest Right Act at both the national and state levels were thoroughly reviewed through desk research. However, for the primary data collection, focus group discussion, personal interview and field visits were organised during the period of 2012-2013.

### **Major findings under FRA at National and State level**

The present research work has shown some of the most significant findings as per the stated objective of the entire study. These findings were briefly mentioned below which apparently depicts the overall status of implementations and various issues under Forest Rights Act at different levels.

#### *FRA status of implementation at the National level*

Twenty three percent of the country's geographical area has been designated as forest, upon which an estimated 200 million people depend for their livelihood to varying degrees (Forest Survey of India, 2009). As per the India State of Forest Report, 2011, the recorded forest area of the country is 769,538 km, accounting for 23.41 percentage of the country's geographical area. The FRA has particular significance for the forested, tribal inhabited and mineral rich but most impoverished belt of central and eastern India. Here ancestral tribal lands, despite being protected by the Constitution, have largely been declared state forests without following the due legal process of enquiring into the pre-existing rights of the customary tenure holders.

#### **Status of FRA at National level according to MoTA Annual Report database**

- The National percent of title deeds distribution compared to the total claims received during 2009, October 2010, 2012, and upto November 2013 are (72.10 percent, 82.56 percent, 86.21 percent, 86.96 percent respectively)
- Tripura, Kerala and Odisha being the top three states have secured highest percent of title deeds distribution compared to claims received upto November 2013 (Tripura; 65.97 percent, Kerala; 61.72 percent and Odisha; 59.82 percent).
- Total individual claims received during 2012 and upto November 2013 are 32,37,656 and 34,68,639 respectively
- Total Individual title deeds distributed during 2012 and upto November 2013 are

12,79,076 (1261205 hectare) and (1406971 hectare) respectively

- Total Community claims received during 2012 and upto November 2013 are 71154 and 14539 respectively

- Total Community Forest Rights title deeds distributed during 2012 and upto November 2013 are 14539 and 20855 respectively

Total claims (Individual and Community) were rejected during 2012 and upto Nov. 2013 are 13,99,625 and 12,42,074.

**Table No.1**  
**Lowest percent of title deed distribution of three states during 2012 to 2013**

Year 2012				
Sl No.	State	Total number of claims received	Total number of titles deeds distributed	Percent of titles distributed over number of claims received
1	Bihar	2,930	28	0.95
2	Karnataka	1,68,718	6577	3.89
3	Himachal	5,692	346	6.07
Year 2013				
1	Gujarat	191592	42752	31.91
2	Himachal Pradesh	5692	2506	44.02
3	Assam	131911	73936	56.04

*Source: MoTA, 2012 to Nov. 2013*

From the above table it becomes clear that during 2012 the state of Bihar followed by Karnataka and Himachal Pradesh experienced less title deeds distribution as per the claims received. Bihar received a total of 2930 claims under FRA out of which only 28 claims were sanctioned constituting only 0.95 percent of the title deeds settled. Similarly, Karnataka and Himachal Pradesh received 168718 and 5692 claims respectively out of which only 6577 (3.89 percent) and 346 (6.07 percent) title deeds were distributed respectively. It was Gujarat which distributed 42752 numbers of title deeds out of 191592 claims constituting 31.91 percent of claims settled. However, Himachal Pradesh increased its percentage of title deeds distribution in comparison to the previous year. Here a total of 5692 claims were received out of which 2506 (44.02 percent) number of title deeds were distributed.

Table No. 2 clearly shows that Chhattisgarh has the highest percent of title deeds distribution during 2012. It received 49208 claims out of which 488107 claims were settled significantly constituting 99.19 percent of claims been settled. Thereafter, in Karnataka it was recorded that 99.01 percent claims were settled. Here out of 163320 claims, 161705 title deeds were sanctioned. Uttar Pradesh and Rajasthan were the other states which have issued title deeds for more than 97 percent. Surprisingly in 2013, the status report on implementation of FRA, MoTA represented the same number of claims received and title deeds distribution in the State of Uttar Pradesh. It has to be cross checked properly whether a state has received the same amount of claims and distributed

**Table No.2**  
**Highest percent of title deeds distribution of four states during 2012 to 2013:**

Year 2012				
Sl.No.	State	Total number of claims received	Total number of titles deeds distributed	Percent of titles distributed over number of claims received
1	Chhattisgarh	4,92,068	488107	99.19
2	Karnataka	1,63,320	161705	99.01
3	Uttar Pradesh	92,433	90733	98.16
4	Rajasthan	64,422	62994	97.78
Year 2013				
1	Uttar Pradesh	92433	90733	98.16
2	Maharashtra	345975	336914	97.38
3	Chattishgarh	756062	729333	96.46
4	Karnataka	168718	162638	96.39

*Source: MoTA, 2012, upto Nov. 2013*

the same number of title deeds as per the previous year. Meanwhile, Maharashtra became the second state which has allotted 97.38 percent of title deeds out of 345975 number of claims. Chhattisgarh was in the third position and sanctioned 96.46 percent of title deeds during 2013.

**Table No.3**  
**State wise percentages of claims disposed off in respect of claims received during 2009 to 2012: (Total 15 States selected)**

Sl. No.	State	Percent of title deeds over no.s of claims received				
		2009 (upto Dec.)	2010 (upto Nov.)	2011* (upto March)	2012 (upto Dec.)	2013 (Upto Nov.)
1	Andhra Pradesh	53.20	97.06	97.18	97.20	97.20
2	Assam	11.88	26.01	30.07	56.04	56.04
3	Bihar	0.00	5.59	8.30	57.06	57.06
4	Jharkhand	9.93	34.46	34.46	76.78	76.78
5	Madhya Pradesh	18.85	90.03	89.22	97.10	95.15
6	Maharashtra	0.80	96.13	96.13	96.88	97.38
7	Gujarat	4.07	18.10	40.52	31.92	31.91
8	Odisha	29.62	79.88	81.93	81.35	85.57
9	Uttar Pradesh	4.71	85.20	85.51	98.16	98.16
10	Chhattisgarh	42.07	98.98	99.19	99.19	96.46
11	Tripura	51.45	99.18	99.63	76.68	77.68
12	West Bengal	12.24	77.44	78.11	78.78	79.94
13	Rajasthan	23.48	100	100	97.78	94.16
14	Kerala	0.29	42.36	52.52	73.04	73.04
15	Karnataka	0.00	91.05	92.18	99.01	96.39

*Source: MoTA, 2009-2012,*

*\* As Status report for the year upto December 2011 is not available*

The above table vividly reflects that there are certain states like Andhra Pradesh, Uttar Pradesh, Maharashtra, Chhattisgarh, Madhya Pradesh, Rajasthan, and Karnataka have

distributed title deeds for more than 90 percent from 2010 to 2013. In the year 2009, the percent of title deeds distribution were not so high barring Andhra Pradesh which has allotted 53.20 percent of title deeds which was the highest in that year. Conversely, there are also other states like Gujarat, Bihar, Assam and others which have shown relatively poor result in terms of title deeds distributions unlike their counterpart states which were aforementioned. Bihar has a very poor beginning starting from 5.59 percent distribution of title deeds in the year 2010 and upto November 2013; it has been able to reached 57.06 percent. The case of Gujarat is even worse than Bihar where till date the highest percent of title deeds distribution was recorded at 31.91 percent only upto November 2013.

#### *Uneven geographies*

It has been evident that FRA has been implemented unevenly across the length and breadth of the country. While it is progressing well numerically in states like Odisha, Chhattisgarh, Madhya Pradesh, Tripura, and others, it has not even initiated in ten states and Union Territories like Arunachal Pradesh, Goa, Tamil Nadu, and Uttarakhand (MoEF, 2011 and MoTA, 2011). In some states like Bihar, Karnataka, and Himachal Pradesh, progress is sluggish. There are different reasons for the slow progress in various states. In most of the north-eastern states, state governments are not clear about the relevance of the Act for their tribal areas, which already have autonomous administration under sixth schedule of the constitution.

#### *Low rates of acceptance*

**Table No.4**  
**Percentages of claims rejected out of claims received at the National level during 2010 to 2013:**

Year	Claims Received	No. of Claims Rejected	Percent of Claims Rejection
2010 (upto Dec.)	3014831	1403732	82.74
2011(upto March)	3097939	1454435	84.37
2012 (upto Dec. )	3237656	1512254	86.21
2013 (upto Nov.)	3539793	1671512	47.22

*Source: MoTA, Status report 2010 to 2013*

There has generally been a low rate of acceptance by the government of IFR and CFR claims across the country. Ironically, country wide combined rate of acceptance is only 39.74 percent (MoTA FRA status report upto Nov. 2013). However, in some states like Karnataka and Bihar, acceptance rates are abysmally low at below 3 percent (ibid). A report by the joint committee of MoEF and MoTA suggest that there is severe shortage of trained manpower at the ground level. Implementation of FRA is an additional responsibility of the concerned departments, which has led to slow progress with high rejections of claims. It is seen that the rejection rate of the claims submitted by OTDFs is higher as they have to prove continuity of their rights over the last 75 years, which is extremely difficult (Jena, 2012).

*Rights of Particularly Vulnerable Tribal Group (PVTG)*

It is ironic that under FRA there is lack of information and confusion over the rights of PVTGs like nomads, pastoralists, and shifting cultivators (MoEF and MoTA, 2010). It involves complicated issues like tenure arrangements across different seasons and states. People living in forest villages also face alike challenging conditions because of the lack of infrastructure and other facilities.

*Wildlife conservation and forest rights*

State forest departments are taking unjustified advantage of Critical Wildlife Habitat provisions in the FRA and are trying to relocate people from protected areas (PA). Though FRA applies to wildlife PAs like national parks and sanctuaries, there is reluctance at the state level to recognise the rights in these areas (ibid). Civil society groups have reported instances from various states like Madhya Pradesh, Rajasthan, and Odisha where the rights of people are not being recognised under the FRA and instead efforts are expedited to relocate them (Sathpathy and Jain, 2010).

*Civil uprising*

Around 19 percent of the forest cover is affected by the civil insurgency, especially left wing extremism known as Naxalism in the country (De, 2006). It affects governance in 17 national parks, 35 wildlife sanctuaries, 18 reserve forests, mostly tiger reserves, and many other forest areas (ibid). Half a million crimes are reported from India's forest areas every year and about 30 percent of it is related to the civil insurgency in these areas (ibid). It has adversely affected the implementation of developmental schemes in these districts.

*Land snatching and politics*

FRA has led to fresh encroachments over forest land across various states in the country, expecting that these will be regularised (Ghate and Chauhan, PTI 2007, 2011). Chauhan, 2011 argues that various instances of land grabbing were found in a study of 10 states across the country. He reports that 11,000 hectare of forest land has been encroached upon in Andhra Pradesh since the implementation of the Act. Instances of land mafia paying tribals to encroach land have been reported from the states of Maharashtra and Uttar Pradesh (ibid). Similar stories of fresh encroachments have been reported from states like West Bengal and Maharashtra (Ghate, 2009). Even the joint committee of MoEF and MoTA has reported that state governments in Andhra Pradesh and Madhya Pradesh are using FRA as a political tool to distribute lands and gain from it in the upcoming elections (Ibid).

*Unbridled Diversion of Forest Land*

Mining is a big culprit in promoting unbridled diversion of Forest Land. Infact one out of every four hectares of the diversion was for mining projects. This is alarming especially considering it has happened in the period when the FRA has been in force. This is the legislation that is supposed to safeguard the rights of forest dwellers, and ensure those rights are formally recognised. A study by Center for Science and Environment on

diversion of forest land informs us that forest clearances have been granted at an unprecedented rate in the 11th Five Year Plan period from 2007-2011. It reports that during this period, 8284 projects were granted forest clearance, and 2.04 lakh hectares of forest lands were diverted. This is about 25 percent of all forest land diverted for development projects since 1981. In one single year 2009 alone as much as 87,883 hectares of forest lands were cleared for non forest uses.

### **FRA status of implementation at the State level (Odisha)**

The tribal population in Odisha constitutes 22.13 percent as per the 2001 census report. There are 62 different tribal communities including 13 PVTGs in the State. Odisha has the third largest concentration of tribal population in the country. About 44.70 percent of the State's geographical area which is known as Scheduled Area, extends over 118 out of 314 Blocks in 12 districts and a portion of Soroda Tahsil of Ganjam District and covers STs population of 55,46,081 (Census report, 2001).

As per the State Forest Report, 1999, out of 46,989 villages in the State, there are 29,302 villages located in close vicinity of forest which are to be covered under FRA. The Govt. of Odisha also has estimated that out of 6420514 rural households, there are 1762342 ST households constituting 27.44 percent in the State (ibid). Besides, there is large number of OTDFs in the State depending on the forest for their subsistence needs to be benefited under FRA.

**Table No.4**  
**Status of individual and community rights in Odisha during 2012 to 2013**

Status of FRA	Upto Dec. 2012		Upto Sept. 2013	
	Individual	Community	Individual	Community
No. of claims filed at Gram Sabha level	532464	3304	541800	10951
No. of claims recommended by Gram Sabha to SDLC	412458	1450	448026	5321
No. of claims recommended by SDLC to DLC	317995	1001	353079	5113
No. of claims approved by DLC for title	325245	2906	344560	4916
Number of titles distributed	311686	972	324130	2631
Extent of forest land for which title deeds issued (in acres)	498307.66	57794.47	662089.11	151164.11
No. of claims rejected	1,31970	609	139519	614

*Source: MoTA, STSC dept. Odisha, 2012-2013*

The total numbers of claims filed at Gram Sabha during 2012 was 532464 under IFR and 3304 under CFR, out of which 131970 under the former and 609 claims under later were finally rejected at different level which constitutes a total of 22.89 percent of claims directly rejected. Similarly, upto Sept. 2013, total 541800 IFR claims and 10951 CFR claims were filed at the Gram Sabha out of which 139519 IFR and 614 CFR claims were rejected which constitutes 25.75 percent of rejections of former and 5.60 percent rejec-



tions of the later. Strangely, there is no detail information about the various reasons responsible for such rejections of claims at different levels. In many cases, SDLCs/DLCs have rejected claims without assigning sufficient reasons.

**Table No.5**  
**Convergence under FRA**

Year	IAY	Mo Kudiya	Mo Pokhari	Land devt. Under MGNEGA	NHM	National Bamboo Mission	Other devt. activities	Total HH livelihood strengthened
2011	17263	2270	4275	33120	4490	28	12078	73524
2012	99312	3426	4802	39610	5707	143	22516	175516

*Source: STSC Department, Odisha, Annual Report, 2011 and 2012*  
*The data for 2010 and 2013 are not available*

When it comes about convergence activities carried out under FRA, it is seen that during 2012, total 175516 households were benefited from various convergences activities as mentioned in the above table. However when a comparison was made between the total title deeds distribution with total households included by convergences programmes in 2012, it was found that only 40.51 percent of beneficiaries got benefit from it. This evidently proves that the rate of convergence under FRA is not more than at least 50 percent of the beneficiaries and needs to be taken up by the State Government on apriority basis. Further, a major convergence under other development activities was shown in the Annual Report of STSC Department, Odisha during the year 2011 and 2012. But, practically there is hardly any detail information of convergence activities under such heads.

**Table No.6**  
**Status of PVTGs Right under FRA from 2010-2012:**

Year	No. of individual title deeds distributed	Total acre settled (acre)
2010	16564	25548.52
2011	17145	26396
2012	17290	26900.48

*Source: STSC Department Annual Report, Odisha, 2010-2012*

The PVTGs in Odisha include Birhor, Bondo, Didayi, Dongoria Khond, Kutia Kond, Juang, Kharia, Lanjia Saura, Lodha, Mankidia, Paudi Bhuyan, Saura and Chuktia Bhunjia. Paradoxically, there is no systematic and segregated data available which will clearly reflect the status of the inclusion of PVTGs in the Forest Right Act. Neither by the MoTA nor by the STSC department of Odisha which is the Nodal Agency of FRA at the state level has properly maintained the concerned database. It was only after review of the Annual Reports of the STSC department for the period of 2010 to 2013, some facts came to know that in 2010, 2011 and 2012, 16564 ha, 17145 ha and 17290 ha title deeds were distributed to the PVTGs claimants respectively. However, what is the total num-

ber of claim under IFR and CFR rights filed by PVTGs is still not clear. Furthermore, there is no fact and figure available on especially the convergence programme taken up for the FRA beneficiaries belonging to the PVTGs.

### **Major issues in Odisha**

*FRCs are neither functional at the community level nor formed newly as per the FRA 2012, Amendment*

As per the FRA status report upto April 2013, in total 47389 FRCs have been constituted by 48061 Gram Sabhas in the State. One of the most crucial issues in FRCs is that it have been formed in revenue villages only leaving other un-surveyed/forest villages, bigger revenue Hamlets surpassing the true spirit of the PESA, 1996 and FRA, 2006. Moreover, FRCs are not active in all the villages. Surprisingly, in many FRCs members are not well aware that they are in the FRC. Moreover, majority of the FRCs does not have their own registers to maintain their records, to file the claims that have received. In most of the cases, FRC members have not been provided training on their role and responsibility.

*Claims approved by Gram Sabha/FRC are rejected at SDLC level*

During 2012 to 2013, total 2,71,489 IFR claims were directly rejected by the SDLC. Claims which are rejected are mostly of OTFDs which were duly approved and recommended by many Gram Sabhas but rejected by the SDLC demanding unnecessary documentary evidences of three generations (MoTA FRA status report, 2012). While the requirement of proving three generations is not required for the land occupied and claimed by the OTFDs. Rather as per the Act, the OTFD claimant family would be residing in that area for three generations and would have depended over forest or forest land prior to 13th Dec. 2005 (FRA, 2006 Guideline). The Section 13 of the Act was by passed by the SDLC during rejecting the claims.

*Area of land entitlement given is less than actual claim*

Indeed, this is one of the most demotivating factor under FRA where despite of the provision and entitlement of upto 10 acres (4 hectars) an individual can get, but after the implementation of the act in Odisha since 2008, it has been noticed that the average forest land distributed in the state under IFR has been 1.59 acres within 1 to 2 acres (MoTA FRA status report upto March and April, 2013). According to the Critical Observation on the implementation status report of FRA by SLMC, Nuapada district is in the top on the highest average forest land distribution that is 2.57 acres, followed by Ganjam in the second position while Bolangir is in third position. Below is the table showing district wise average forest land distributed. The figure in the brackets against the districts shows the percent of forest area available in the districts out of their total geographical area.

**Table No.7**  
**Percent of Forest area available in the districts against their total geographical area**

Amount of land	2 and above acres	1.5 to 2 acres	1 to 1.5 acres	Below 1 acres
Districts	Nuapada (49.52)	Bargarh (20.83)	Kendrapada (10.3)	Keunjhar (40.54)
	Ganjam (39.28)	Submapur (18.0)	Khurda (24.33)	Jharsuguda (24.59)
	Bolangir (24.47)	Kalahandi (32.88)	Nayagarh (56.74)	Deogarh (53.07)
	Gajapati (57.43)	Sundargarh (57.16)	Dhenkanal (40.17)	Angul (43.21)
	Malkangiri (58.09)	Kandhamal (71.21)	Smabalpur (56.08)	Mayurbhanj (43.09)
	Nabarangpur (47.61)	Koraput (22.26)	Boudh (41.63)	Balaspre (11.7)
	Rayagada (45.20)		Cuttack (21.40)	
			Jagatsinghpur (9.31)	
			Puri (6.44)	
			Jajpur (26.21)	

*Source: Critical Observations on the Implementation Status Report of Forest Right Act, 2006, produced by SLMC, Govt. of Odisha*

#### **4.5. Huge pending claims at the Gram Sabha/SDLC/DLC level**

At present, thousands of individual forest rights claims are pending at different levels i.e Gram Sabha, SDLC and DLC, and even thousands of individual claims said to have been remanded back to Gram Sabha. There are also several complaints by the community and civil societies facilitating FRA in their respective operational areas, that many claim files under FA were missed at the SDLC level.

#### *Lack of proper verification and mapping of forest land*

There is lack of proper verification and mapping of forest land during the Joint Verification process. In many cases, it was reported that, the verification was done capriciously by the RIs, they hardly visited to every field and undertake proper verification and mapping of the claimed land. As a result, in many places where the FRC members are a bit aware about the act asked to the RI to do the verification process properly, but of no result. Regrettably, these line department officials even threaten the villagers by saying that they should cooperate with them, otherwise their claims will not be settled.

#### *There are many un-surveyed villages which do not have their respective maps*

As per the MoTA FRA status report, there are 48061 villages in the 30 district of Odisha. However, as per the Census 2001, there are 50949 villages in the 30 districts Odisha. Out of these, 50949 villages, 3827 villages are uninhabited villages. Accordingly, there are 47132 inhabited villages in 30 districts of Odisha including the revenue villages and 587 un-surveyed villages mostly located in the forest areas. Implementation of FRA in those areas become a daunting task. Many such villages have been duly identified during the facilitation of the forest rights act by the community people and local NGOs like Agragamee, Vasundhara, RCDC and many other likeminded organisations.

#### **Case Studies from the field**

In order to examine the status of FRA implementation at the ground level, the researcher has collected case studies from districts like, Koraput, Kalahandi, and Nabarangpur of

Odisha. Various methods include field visits, focus group discussion, and personal interviews were used in order to collect case studies on FRA. These case studies evidently reveals the struggle, and challenges faced by the claimants to get their entitlement under FRA.

### **Case I**

“Jholaguda villagers struggle to get their entitlement under Forest Right Act”

**Village:** Jholaguda, **Grampanchayat:** Dasmantpur, **Block:** Dasmantpur  
**District:** Koraput, **Odisha**

Jholaguda is a tribal village located in the Dasmantpur Gram Panchayat of the Dasmantapur Block in Koraput District. Presently, the village is inhabited by total 33 Adivasi households belonging to the Koi community. The village is situated in 8 km from the GP, 7 km from the block and 62 km from the district headquarter. According to the villagers, the village was completely established before 200 years back. Kamlu Saunta, Bala Manding, Mugri Saunta, and Udula Saunta were the first settler of the village.

As the village is situated in the lap of several hills, so shifting cultivation is the major source of livelihood of the villagers. Land within the 30 degree slope is usually considered for ideal cultivation by the farmers. Traditional minor millets for instance, ragi, fox millet, suan, and pulses like arhar are extensively cultivated by the villagers. But, all this require intensive labour to develop the rocky land through labelling, earth and stone bunding. Though the villagers have traditional right over these agricultural land, but lacks legal ownership

Aragamee, a local NGO formed a Mahila Mandal (Women Committee) of the village constituting 33 women members of the village has protected common land amounting 42 acres. The villagers have been also collecting various type of Non Timber Forest Produce (NTFPs) like, mahua, kendu leaf, sal leaf, lakh, herbs and various kind of edible tuber and fruits from the protected common land. It significantly substantiates their earnings and thereby reinforce the economic pillar of the family. They have also traditionally demarcated the boundry of the protected land. When, the villagers came to know about the historic FRA, 2006 by Agramee, they showed keen interest to obtain legal right over their land, both individual and common. In 2011, they finally claimed 33 individual claims and 1 community claims amounting 42 acres respectively. Regrettably till date the claimants are deprived from their entitlement. But, they have never give up by the apathetic attitude of the line departments, rather a series of complaints and petitions were lodged by the enlightened villagers to the concerned officials.

One of the village youth, Shri Ghasiram Saunta along with 5 other residents of the village have regularly visited the Tahsildar office and enquired about the status of the claims. But, these requests were paid no heed by the concerned officials. Even after a year of the applications being appealed, the Revenue Inspector was yet to do land verification. As a result, Ghasiram Saunta, a dynamic youth leader of the village decided to take it up to the District Collector of Koraput and visited the Collector's office on 26th August 2012 with other villagers to register their complaints. It had been many months since the date and no action had been taken in this regard.



*Jholaguda villagers struggling for their entitlement under FRA  
Credits Abhijit Mohanty*

Finally on 29th April 2013 when the Collector visited Dasmantapur block, the villagers again registered their complaint to him. On the said date both the Welfare Extension Officer (WEO) and Revenue Inspector (RI) were asked by Collector to conduct a Palli Sabha before 5th May 2013 and distribute the title deeds and do the land identification. But, neither WEO nor RI have attended Palli Sabha on the stipulated date organised by the villagers. According to the villagers, after persistence follow up, now the WEO and RI have at least forwarded the applications to the SDLC at Koraput. However the matter is still pending and even the process of verification has not taken place.

### Case II

“Hatipokhna villagers got individual title deeds, but remained deprived from Community rights under FRA, 2006”

**Village:** Hatipokhna, **Gram Panchayat:** Tentulikhunti, **Block:** Tentulikhunti  
**District:** Nabarnapur, **Odisha**

Hatipokhna is a tribal inhabited village consisting of 41 ST households. All the households belong to the Kondha Community of Adivasi. The village was settled before 100 years according to the villagers. The average land holding in the village is within 0.50 to 3.50 acres. Most of these lands were settled under Forest Right Act in 2010. Community used to depend on their land for agriculture developed since generations, but when they got title deeds under IFR for the same, they were overwhelmed. Because, for an Adivasi family, a piece of land is more valuable and legal ownership on it reinforce their social and economic position. But, regrettably, CFR title deed is yet to be settled in the village.

Aragamee has been proactive in addressing Right Based Advocacy in the village since 2002. In this backdrop, a series of awareness campaign and training on FRA were organised in the village which resulted in increasing the information and knowledge base of the people in the said act. Subsequently, the people met with the line department for their entitlement under FRA.

### **FRA Individual Title deeds application detail**

<b>Total No. of Claim</b>	<b>Total Acre Claimed</b>	<b>Average acre claimed</b>	<b>Year of Claim</b>	<b>Claim Settled</b>	<b>Year of Claim Settled</b>	<b>Total acres settled</b>	<b>Average acre settled</b>	<b>Total claim not settled</b>
41	289.38	5-8	2009	33	2010	37.28	1	8

*Source: Focus Group Discussion and Personal Interview*

For claims which were not settled till date, there is hardly any information given to the claimants by SDLC. However, in 2010, total 33 claims were settled out of 41 claims which significantly differ in compared to the average acres claimed ranges from 5-8 acres, but the average acres settled is within 1 acre only. According to the villagers, the claimed land has been used for agriculture purpose since their fore fathers period and they have been paying *Malgujari* (land taxes) to the RI for the same land in every year. But, despite of the provision of FRA, the villagers could not get the amount of land as per their claim, mournfully said by Samu Saunta, a community leader of Hatipokhna village who took key role in filling FRA application with the constant support of Aragamee. Also, after distribution of title deeds to the beneficiaries, no action has been taken up for the proper land identification of the settled land, said by the Basna Saunta, President of FRC. RI had only visited once to the village and showed the land to the FRA beneficiaries without any mapping of the land, irritably said by the villagers. Therefore, proper land identification is the immediate necessity which needs urgent action from the concerned authority. In this regard, several complaints has been also given to the Tahesildar and RI, but no action has been taken up which apparently reflects the inertia of the concerned line department radically depriving the people from their rights.



*Hatipokhna villagers with FRA Title deeds  
Credits Abhijit Mohanty*



**FRA Community Title deeds applications detail**

<b>Name of the Dangar</b>	<b>Total Acre claimed</b>	<b>Year of Claim</b>	<b>Claim Status</b>
Bhalukupli Dangar	20 acres	2010	Title deed not settled

*Source: Focus Group Discussion and Personal Interview*

Hatipokhna Mahila Mandal claimed Bhalukupli Dangar under CFR claim. Total 20 acres were claimed where the Mahila Mandal members has planted cashew, karanja, and simarua for fire wood and oil. But, their appealed is not heeded properly till date. Therefore Mahila Mandal members, President of FRC and others villagers met with the Sub-Collector and Collector of Nabarangpur on dated 12.3.2012 and gave a written complaint for CFR title deeds and requested to expedite the pace of patta distribution of the same. But alike specious promise, no action has been taken up by the concerned authority in these regard.

Therefore again on 18.2.2013, the villagers met with the Collector and raised the issue of title deeds for community claim. The written complaint was received by the Collector. She said, claimants should give a detail list of IFR and CFR claims of their village to the Tahesildar of Tentulikhunti block. Following the instruction of the Collector, the villagers gave a detail list of the FRA claimants of Hatipokhna village to the Tahesildar of Tentulikhunti block on dated 20.2.2013. After 5 days, they met with the Tahesildar, and submitted the detail list, but till date no action has been taken up in this regard. Despite of several complaints given to the concerned authorities, the villagers were denied from their entitlement.

**Case III**

“Villagers of Dudunchuan, a displaced village of Indiravati Hydro Power Project of Kalahandi district got only 20 decimal of land each under Forest Right Act”

**Village:** Dudunchuan, **Gram Panchayat:** Padepadar, **Block:** Thuamulrampur  
**District:** Kalahandi, **Odisha**

The displaced communities of the Indravati hydro power project have been pushed up by the rising waters of the dam, onto rocky hills, and uninhabitable terrain, 22 years ago in Thuamulrampur block of Kalahandi. The meagre compensations received by them, did little to help them re-build their lives and livelihoods. On the other hand, they have had to suffer untold hardships, being cut off from most government facilities by the reservoir, including the electricity for which they sacrificed home and hearth, and eventually even their peace of mind, having to live with extremely hostile responses from local communities as ‘budi anchaliya’, (submerged area people).

Dudunchuan, a village of Padepadar Gram Panchayat of Thuamulrampur is a displaced settlement from the Indiravati Reservoir project. The total households in the village are 35 out of which 31 belong to “*Penga Paraja*” and 3 belong to “*Jhodia*” adivasi community. According to the villagers, the village is 22 years old. Prior to that, the villagers resided in a village called Benakhamar. With the advent of Indiravati Reservoir

project, the villagers were forced to evacuate from their village with a meagre compensation amount of Rs. 29575/- per household and many did not even get their full share of compensation. In 1975-79, this compensation was provided to the households and after 4-5 years the Government declared resettlement of households that would be affected by the reservoir. The Government announcement on rehabilitation and resettlement triggered panic amongst the villagers, who hurriedly abandoned their village and settled on Laxmikhal Hill that was at a distance of 4 km from their earlier village.

There life after resettlement become more vulnerable. As agriculture is their mainstay of livelihood, so it took several years to developed land through stone and earth bunding, fencing and labelling for agriculture in the newly settled village. Further, in every year, they used to pay Malgujari (land tax) for the same land as they don't have legal ownership over it. In this backdrop, Forest Right Act paved a new ray of hope for the villagers. But, due to the lack of knowledge on do how on FRA, they could not proceed in the right path to get entitlement under the said act.

It was only after a series of sensitization campaigns on FRA organised by Agragamee, a local NGO, in the Padepadar panchayat, the level of awareness of villagers on the FRA has been augmented to a significant extent which resulted in filing 28 individual claims to SDLC, Kalahandi in 2008. In 2008, a total of 92.4 acres were claimed by the 28 claimants, but only 12 individual claims were settled out of 28 claims. However, the most demotivating factor is that each beneficiary of FRA got a meagre 20 decimal of patta which amounts 2.40 acres of 12 beneficiaries. According to the villagers, they had claimed for agricultural land under FRA which they have developed for cultivation since more than two decades, but ironically they got homestead land of 20 decimal only.

Similar to the IFR, Mahila Mandal of Dudunchuan village has also filed CFR claim on the Laxmikhal dangar (hill). A total of 15 acres was applied under CFR which is yet to be settled. Members of the Mahila Mandal have planted mango, cashew and other miscellaneous trees that will provide fire wood, oil seed in the claimed land. Stone fencing has also done for the protection of plants from the cattle.



***Dudunchuan Villagers showing their FRA Patta (Credits Abhijit Mohanty)***



### **Steps taken up by the villagers to get patta under FRA**

The abovementioned problems under FRA were sufficient to rise tension amongst the villagers. Therefore, on 15 October 2012, they met with the District Collector (Kalahandi) and gave a written complain for the immediate patta distribution to the 19 deprived applicants of their village. Apart from this, the villagers also requested for the land identification of the FRA Patta and appealed to distribute land as per the claim. In response, the Collector assured the villagers, that immediate action will be taken up in this regard as soon as possible, but after a year has gone by and there has been no further action on the complaints. Therefore again in the Month of December 2013, the villagers met with the collector and asked for patta distribution and land identification. Disappointingly, till date no action has been taken by the concerned authority.

### **Recommendations**

Based on the major findings at different levels, some of major recommendations considered as the need of the hour for the smooth implementation of FRA were briefly mentioned below;

- According to the Forest Right Act, 2012 Amendment, new FRCs should be form. Training to FRC members should be given by SDLC to actively involve members of the committee in the villages where the Act is being implemented, in filing Claims for community rights, protection of the forest resources; assisting claimants in filing appeals, and maintaining records and copies of titles.
- Joint verification should be done with prior information of the members of FRCs and claimants of the respective villages. RI/Amins and Forest department representatives should cooperate and ensure proper verification process and land identification.
- Land as per cultivation/claim by the claimants and approved at the Gram Sabha should be settled.
- For the claims which were rejected or remanded by the SDLC, the claimants should be made aware of the appeal provisions and should be assisted in filing appeals. Also, SDLC should provide reasons for which one's claim was rejected/remanded. The Joint Committee Report of 2010 clearly says that instructions should be issued clarifying that rejections cannot happen at the SDLC level, its role is only to examine the claims and make necessary recommendation on the draft record of forest rights to the DLC.
- Revenue land are also been settled under FRA whereas the claimants has claimed for Forest land. This should not be further entertained.
- The unrestrained Diversion of forest land should be checked is imperative. MoEF should play a pro-active role in this regard.
- Recognition should be given to the Other Traditional Forest Dwellers under FRA. Despite of the provision under the Act, till date they have remained deprived from their entitlement. Moreover, if the Gram Sabha approved that the claimant has posses the claimed land since 75 years, then SDLC cannot reject the claim.
- SDLC and DLC should ensure to settle the pending claims and remanded claims back to the Gram Sabhas as a top priority and action plan should be made for it.
- CFR should be taken up in a mission mode as the status of CFR is extremely poor both at the national and state level. MoTA should launch campaign on CFR by orienting and

providing training to the members of FRCs, SDLCs DLCs and also to the community.

- Forest villages and un-surveyed villages should be identified and listed out on a priority basis for recognition of forest rights.

- Circulars should be issued by the State Govt. and MoTA for maintaining cooperation and coordination among Forest and Revenue Department. Apart from it, amongst Gram Sabha, FRC, SDLC, and DLC there should be smooth coordination to facilitate the act in its true spirit and objective.

- There should be proper monitoring on the status of implementation of FRA by MoTA followed by SDLC, DLC and SLMC. SDLC and DLC should have regular coordination meeting where proper follow up will be done.

- As the status of PVTGs in enjoying the rights under FRA is not satisfactory, special focus should be given to the extremely disprivileged groups such as PVTGs, nomads, shifting cultivators, and women. Guidelines need to be issued for facilitating claims of these sections, including through relevant action by SDLCs.

- Translating rights into livelihood gains and conservation would require convergence of FRA with laws and programs like MGNREGA, Watershed and livelihood development programs.

- District specific data should be made easily available in the web portal along with segregated data of STs, PVTGs and Other Traditional Forest Dwellers.

- District wise Status on Appeals being filed against the rejected claims (individual, Community, CFR, Habitat) etc.

## **Conclusion**

The present research study on FRA has revealed certain key findings on issues pertaining to the implementation of the said act at both the State and National level. It also has provided in depth insight into the ground reality and diverse situation of FRA across the country. It is hoped that that the implementation of the FRA particularly recognition of CFR and rights of PVTGs will gain momentum in all the States. Certainly, the MoTA, State Governments as well as the civil societies will need to take forward it in a mission mode to realise the purpose of this historic Act in letter and spirit at the ground level.

## **References**

MoTA FRA status report 2008 to 2013. Available on <http://www.tribal.nic.in>.

Forest Survey of India, (2009): Detail available on [http://www.fsi.nic.in/india\\_sfr\\_2009.pdf](http://www.fsi.nic.in/india_sfr_2009.pdf) accessed on 12 Feb. 2014.

MoEF and MoTA, (2010): *Report National Committee on Forest Rights Act*, A joint committee of Ministry of Environment and Forests and Ministry of Tribal Affairs, Government of India.

Jena, M. (2012): 'Law on Forest Rights Fails to Deliver', Details available on <http://www.ipsnews.net/news.asp?idnews=50652> accessed 13 May 2014

CSD (Undated); 'The Current Situation: The state of the forest rights struggle, based on reports from our member organisations and friendly groups', Details available on <http://forestrightsact.com/current-situation?format=pdf> accessed 7 May 2011

Satpathy and Jain (2010): 'Tiger Protection, Maoism and the Forest Rights Act: the

- story of Jenabil', <http://www.fra.org.in/Jenabil%20displacement.pdf> accessed on 14 June 2011
- CSD (2010): 'Summary Report on Implementation of the Forest Rights Act', Delhi: Centre for Sustainable Development. Details available on <http://www.forestrightsact.com/component/k2/item/15> accessed on 25 April 2011
- De, Debasish (2006): 'Violent Forests: Indian woodland under Naxal threat', Details available on [http://www.sspconline.org/opinion/Violent%20Forests-IndianWoodlandunderNaxalThreat\\_DebasishDe\\_280306](http://www.sspconline.org/opinion/Violent%20Forests-IndianWoodlandunderNaxalThreat_DebasishDe_280306) accessed on 10 June 2012
- Ghate (2009): 'Decentralizing Forest Management: Pretense or Reality? In the context of Forest Rights Act in India', Details available on [http://www.indiana.edu/~wow4/papers/ghate\\_wow4.pdf](http://www.indiana.edu/~wow4/papers/ghate_wow4.pdf) accessed on 10 Jan 2014
- PTI (2007): 'Forest encroachment worries Gujarat', Detail available on [http://articles.timesofindia.india.indiatimes.com/2007-11-14/ahmedabad/27980571\\_1\\_forestrights-act-encroachment-senior-forest-official](http://articles.timesofindia.india.indiatimes.com/2007-11-14/ahmedabad/27980571_1_forestrights-act-encroachment-senior-forest-official) accessed on 15 June 2012
- Chauhan, C, (2011): 'Land mafia paying tribals for forest encroachment', *Hindustan Times*. Details available on <http://www.hindustantimes.com/Story Page/Print/679860.aspx> accessed on 2 June 2012
- Ghate, R, (2009): 'Decentralizing Forest Management: Pretense or Reality? In the context of Forest Rights Act in India', Details available on [http://www.indiana.edu/~wow4/papers/ghate\\_wow4.pdf](http://www.indiana.edu/~wow4/papers/ghate_wow4.pdf) accessed on 15 June 2012
- Census Report, (2001): Detail available on <http://www.censusindia.gov.in/2011-common/CensusDataSummary.html> accessed on 12 Jan.2013
- Forest Right Act Guide, 2006. Detail available on <http://www.fra.org.in/document/FRA%202006%20Amendment%20Rule%202012%20Guideline.pdf>, accessed on 7 Dec.2013.
- 'Critical observation report on implementation of FRA in Odisha, SLMC, CSD': Detail available on [http://www.critical-observations-on-the-implementation-status-report-of-forest-rights-act-2006-produced-by-the-slmc-govt-of-odisha\\_4](http://www.critical-observations-on-the-implementation-status-report-of-forest-rights-act-2006-produced-by-the-slmc-govt-of-odisha_4) accessed on 25.7.2013.