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## IMPLEMENTATION OF ST AND OTHER FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT-2006

Journal of Scheduled Castes & Scheduled Tribes Research and  
Training Institute (SCSTRTI) Bhubaneswar, Orissa, India

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QUICK IMPACT ASSESSMENT  
ON IMPLEMENTATION OF  
ST AND OTHER FOREST DWELLERS  
(RECOGNITION OF FOREST RIGHTS) ACT - 2006

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Journal of Scheduled Castes & Scheduled Tribes Research and  
Training Institute (SCSTRTI) Bhubaneswar Orissa, India



## EDITORIAL

Orissa is one of the distinct Indian states where protection and conservation of forests for meeting the daily livelihood requirements is performed by the local communities particularly the tribals. Almost one-third of Orissa's population is mainly and critically dependent on forest resources. Conservation of forests and biodiversity has been an integral part of the socio-cultural life of the people. Even though conservation of forests and harmonious living with nature are ingrained in the life styles and livelihood system of these people, these groups have been toiling and struggling over centuries to assert their rights on forest resources which they have been customarily enjoying, protecting and conserving since ages. In Orissa, the state government permitted grazing of cattle in reserve forests on payment of prescribed fees in some forest areas and incidents of such grazing was being controlled through issue of permits. In the matter of collection of fuel wood the position varied from area to area. In some reserved forest areas cutting of unreserved species of firewood were allowed free. In some sub-divisions like Boudh (now a separate district) firewood could be collected on payment of royalty fixed for tenants but the villagers living around forests were permitted to collect firewood free. In the matter of collection of Minor Forest Produce (MFP) the position also varied from place to place. In the sub-division of Angul (now a district) collection of edible roots, fruits, leaves, creepers and thatched grass was allowed. In the ex-state of Khandapara there was no concession to the tenants. In general, the tribals were allowed to collect MFP and they were required to sell the same at a rate fixed by the Divisional Forest Officer to the lessees appointed by the forest department. As a result, the tribals were being invariably cheated by the lessees both in price and in weight. However, the Forest Rights Act 2006 is a historic one and promises a lot of relief to the S.T and Other Traditional Forest Dwellers provided it is implemented in letter and spirit.

The Forest Rights Act 2006 is under implementation in the state of Orissa. Orissa, as per statistical figures is one of the frontline performing states in the country in terms of implementation of this act. Since the process is ongoing and is at a crucial stage, as desired by Ministry of Tribal Affairs, Government of India, ST & SC Development Department, Government of Orissa entrusted the task of a Quick Impact Evaluation (6 weeks duration) to the SC & ST Research and Training Institute, Bhubaneswar, Orissa with the financial assistance of OTELP (Orissa Tribal Empowerment and Livelihood Project).

The Quick Impact Evaluation of 6 weeks duration has been done taking both secondary and primary sources information in to account. SCSTRTI has conducted empirical study in two sample districts (Dhenkanal – which is a non schedule district in one MADA Pocket and the other in Gajapati – a district which is a schedule district with large concentration of tribals including the PTGs). Thus taking in to consideration information from both Primary and Secondary sources, this report has been compiled. This report has tried to give the overall status of implementation of the Forest Rights Act (as on 9<sup>th</sup> December 2009) and has also tried to identify the major factors responsible for the slow progress of the implementation. Similarly, the study also has identified various critical areas of

concern and have come up with suggested issues which need to be addressed for more effective implementation of this epoch making act.

I would also like to state here that this report is on the basis of a very short term study and the findings are only indicative in nature and it can be used for taking overall corrective steps, but the findings cannot be treated as findings which can have implications for each and every district and area of the state. However in view of the importance and usefulness of this study it is felt necessary to publish this work in this special issue of *Adivasi*. I hope the information will be useful to academicians, researchers, planners, administrators as well as the learned readers and all those who are interested in the subject.

The institute is extremely thankful to Secretary, Ministry of Tribal Affairs, Government of India who wanted the Short Term Study to be done by Orissa. Our special thanks to OTELP and its PSU. Dr. Virender Sharma of DFID and Mrs. Supriya Pattnaik of DFID, Orissa also deserves special thanks for being responsible for assigning the task to SCSTRTI, Orissa. I on behalf of the institute would like to extend gratitude to Shri Ashok Kumar Tripathy, (former) Principal Secretary, ST & SC Development Department, Government of Orissa for reposing faith on SCSTRTI for this Quick Impact Assessment Study.

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QUICK IMPACT ASSESSMENT  
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ST AND OTHER FOREST DWELLERS  
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Scheduled Castes & Scheduled Tribes Research and Training  
Institute (SCSTRTI), Bhubaneswar,

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With the Financial support of  
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(15<sup>th</sup> December 2009)

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*People of Dongapal, Ballikuma and Koreapal Villages of Kankalahad block  
in Dhenkanal district and Bhubani , Angada and Tahajang of Gumma  
Block, Padampur, and Rajpur villages of Rayagada Block in Gajapati  
district, Orissa.*

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## EXECUTIVE SUMMARY

- The state government of Orissa has taken several pro-active steps for effective implementation of the FRA by coordinating the activities of line departments, like STSC Development Department, F&E Department, Revenue Department and Panchayatiraj Department and involving GO and NGO functionaries as well as peoples representatives.
- Different trainings, workshops and awareness programmes were conducted at various levels by using different IEC materials such as translation of Act and Rules in Oriya and FAQ (Frequently Asked Questions) with answers in local languages and sending messages of the FRA through advertisements and display of documentary films, arranging radio jingles and TV talks, etc. with the help of NGOs, Tribal Research Institutes and Social Activists.
- As an initiative of advance action the State Govt. had given directive to the district collectors and other line department officials to give urgent attention to the settlement of land rights and to oversee all the pending land related cases and take them to logical conclusion through a squad approach by moving from village to village to complete the settlement of all the claims of the people within six months and make arrangement for utilization of funds available under the National Rural Employment Guarantee Scheme (NREGS) for development of the land distributed under FRA.
- Monitoring of the implementation status of FRA is made by Principal Secretary, ST & SC Development Department through Video Conferencing on a fortnightly basis and also by making field visits to different low performing pockets to ensure speedy progress of the implementation. Besides, periodical reviews of the progress of FRA implementation are taken by the Honourable Chief Minister, Chief Secretary and Development Commissioner, Orissa.
- On the basis of information received from the Nodal Department, by first week of November, 2009 all 30 DLCs, and 52 SDLCs were duly constituted in the State of Orissa with the prescribed representation of ST and women members. The FRCs have been constituted in 47,266 (98.91 %) villages. The FRCs could not be formed in the remaining 522 (1.08 %) villages. According to the present study, FRCs could not be constituted in those villages, which were reported as uninhabited/non-tribal villages/villages lacking quorum in Gram Sabhas.
- By end of November, 2009, in Orissa 3, 22,590 individual claims were received and certificated of titles were distributed to 86,519 families covering 1, 37,975.13 Ac. of forest land under FRA. In the extremist-affected 15 districts, 77,652 families and in the Micro Project (PTG) areas 3472 families were distributed land titles covering 1, 25, 372.50 Ac. and 5,901.98 Ac. of forest lands respectively.
- So far 26.83 % of the total individual claims received have been provided with certificate of titles. The average forest land per family distributed with certificate of titles was 1.59 Ac. and in extremist affected areas, it was 1.61

Ac. and in PTG area, it was 1.70 Ac. and in extremist affected PTG area, it was 1.73 Ac. In terms of achievements of FRA, Malkangiri district was at the top and Nayagarah district was at the bottom.

- Out of 1847 community forest right claims received so far, only 42 cases covering 1491.04 Ac. of forest land were distributed in Orissa. The average land area per community right case was to 35.50 Ac. In the extremist affected 15 districts, out of 1,058 community rights claims received on forest land, only 41 cases covering 1489.40 Ac of forest lands were distributed. In PTG areas, due to want of mass awareness not a single claim under community rights has been filed.
- While rights were secured for people residing in recorded forests, it excludes a large majority of tribals staying in unrecorded forest villages. In matters of forest governance the position of the Gram Sabha has been substantially reduced as its consent has not been made mandatory in diversion of forest land for non-forest purposes and demarcation of a protected area or critical wildlife habitat. Its function is limited only to initiate the process of determining the rights. In the FRA the Gram Sabha in a scheduled area has no specific role and responsibilities in relation to activities causing irreversible damages to forests and decision on the possibility of co-existence and its relocation as the forest department continues to exercise its powers.
- The rule says the rights would be given over all MFP regardless of whether they are nationalized or previously restricted or prohibited and all items provided in state Acts and rules etc. This is also tacitly opposed by forest bureaucracy and in states like Orissa; the major forest produces like kendu leaves, bamboos and *sal* seeds continue to be nationalized. This Act (FRA) does not accept PESA as a basis for law making and regulating FRA. It is just a legislation at par with WLPA, FCA etc. It implies that restrictions provided in these legislations will continue and may perhaps override the FRA.
- Different laws, policies and orders have defined and classified forests differently. Frequent changes in the definition and classification of forests have caused hindrance in determining and settling forest rights. A large chunk of forest lands in many areas still remain un-surveyed for which detailed maps and records are not readily available with the local revenue offices and offices of forest department.
- Acting as the Secretary to all Gram Sabhas of the villages located within the Gram Panchayat by the Secretary of a Gram Panchayat is practically impossible so far as the services are required for effective implementation of FRA.
- Maximum claim verification appears to have been done mostly in revenue forest areas ignoring the claims over reserve forests. Some claims have been returned on grounds of non-compliance of departmental recommendations particularly of forest department. The main reasons for rejection of claims are due to confusion in the minds of implementing authorities in regard to *pahadi kissams* of lands, *dafayati patta* and want of Palli Sabha resolution. As an easier and relatively quicker process, forest lands under revenue department control claimed by tribals have been taken for verification first. During the



initial period, due to non-availability of claim forms and mis-interpretations with regard to validity of claims, the claim process got delayed.

- As per FRA the displaced families, if they have not received land compensation, will continue to have forest rights on the unused acquired land within five years of acquisition. This aspect has not gone very clearly to the minds of people engaged in recognition of rights settlement of forest lands. Sometimes land distribution to oustees in official records are found to be in occupation of other person/persons even when they were in operative much before the cutoff date i.e. 13<sup>th</sup> December, 2005.
- There appears to be very little clarity in the minds of the people engaged in recognition of rights work since the concept of CFR needed detailed elaboration. Similarly most of those members of GS, FRC, SDLC & DLC are not in know of things as how to demarcate/verify CFR. Even those who are concerned for claiming on different community forest resources have little or no priority on community claims. In fact some CFR claimants have been victims of these due to want of forest department recommendation as not belonging to the category of forestland. The technical committees constituted at SDLC level seem to be lacking proper orientation to verify community claims.
- Although the Act provides rights but does not provide any powers to communities to protect, regenerate, conserve or manage any community forest resource. It is difficult for the nomadic and pastoral communities (mostly non-tribals) living in forest areas to claim their rights on production of evidence of 75 years residence.
- The task of FRA implementation is titanic. Time is inadequate. In the mid way of implementation, the stay orders of High Court and general election to the Parliament as well as State Assembly elections interrupted the process of implementation of the Act.
- In the big villages which are constituted of multiple hamlets, the claims of the entire people of different ethnic groups were not processed. Only joint verification of forest lands under the control of Revenue Department was made. Most of the stakeholders have not properly understood the FRA in spirit and letter. The pace of progress of FRA implementation is abysmally low. The situation is very poor in rural interior and PTG pockets.
- Circular issued regarding constitution of FRC in forest villages has not yet been received by all concerned. The clarification made by the Ministry of Tribal Affairs that Scheduled Tribes and other traditional forest dwellers who are not necessarily residing inside the forest but are depending on the forest for their *bona fide* livelihood needs would be covered under the definition of "forest dwelling Scheduled Tribes" and "other traditional forest dwellers" has lost the sight of forest officials as such clarification has not given on this issue.
- Lack of proper scrutiny at FRC level and sometimes improper resolution of Gram Sabhas cause delay in finalization of majority of cases. Involvement of the NGOs in awareness building other than OTELP villages seems to be casual. The awareness campaigns could not communicate the message of

the provisions regarding the community rights and rights over the protection and conservation of forests and wildlife in the FRA.

- The RIs/Amins/Forest officers are the key functionaries and have to look after a lot of works such as maintenance of record and visit to the inaccessible sites and preparing maps and pattas, etc, by the end of December 2009. Shortage of RIs and Amins for preparation of maps and demarcation of land within the stipulated timeframe is another continuing factor for slow progress of implementation.
- Due to illiteracy and ignorance of the members, the FRCs are not functioning effectively to discharge their duties to fulfill the legitimate claims of the people. Some tribals could not apply as they were unaware of the benefits and procedures of the Act and they had no photo ID. Even they were unable to pay cost of Xerox copies of documents including statement of elderly persons.
- As per pre-1980 forest settlement, forestland has been changed to reserve land without change in record. Pahada, Parbat, Dangar kissams of lands have not been clarified as forest lands. Where the people had encroached upon such land, they were deprived of getting the titles even though the lands actually are forest type lands.
- No special drive was taken by the Micro Project offices as they had not been involved from the beginning of implementation of the Act. Micro Project Staff were also not trained. Many claimants failed to collect evidence and documents in support of claims. Some of them were both semi-nomadics and food gatherers. As such they hardly do any cultivation. Some of them worked on the forest land of other tribals and therefore, could not file title claims. The PTGs area hardly interested in community claims due to their individual desire to have land for their families in preference to community claims.
- Want of required number of staff both technical and non-technical and non-placement of funds with SDLC to meet the contingent expenditures in relation to use of vehicles with fuel for field visits, want of modern equipments (GPS machines) for field measurement, etc. are some other causes of delay in finalization of joint verifications.
- The claims of nomadic PTG people on the forest land and forest resources should be considered by the host Gram Sabhas/people of the villages, where they use to stay comparatively for a longer period of the year and depend on forest resource. While no tribal must be forced out of forest land, those tribals who would prefer to move out of forest areas need be rehabilitated on good and productive revenue lands preferably close to the forest.
- Keeping the contour of the Act, 2006 and the Rules, 2007 there under in view, the existing Forest and Wildlife Acts may suitably be amended and added with the provisions to the existing forest and wildlife laws that would provide forest dwelling tribals with security of residence and assure them to use traditional forest products.



- In villages including cluster villages where community based forest protection and management is already existing, recognition of rights over clearly demarcated CFRs must be given priority under section 3(1)(i). Gram Sabhas in respect of those villages may be encouraged to form "Forest Protection and Management Committees" (FPMC) under section 5 of FRA and section 4(1)(c) of the FR Rules 2007.
- In absence of specific institutional mechanism, the government may find-out and prescribe specific mechanism to channelize funds for the JFM and NREGA schemes to the Gram Sabhas to plan and workout their CFRs. The central and state funded forestry schemes and other externally aided projects like Orissa Forestry Sector Development Projects; Orissa Tribal Empowerment and Livelihood Project (IFAD Assisted), Western Orissa Rural Livelihood Project (DFID Assisted) need to be integrated in the recognition process of forest rights for effective implementation of FRA.
- To facilitate the collective claims of PTGs in respect of their large habitat in view of their diverse traditional, customary and cultural practices, special arrangement may be made. Similarly, special attention is needed for the Mankidia and Hill Khadias for recognition of their rights to seasonal use of landscape as per provision in section 2(a) of FRA. Micro project officers and staff should be assigned the responsibility of facilitating the claims of rights by PTGs and provided with adequate orientation and training for the purpose.
- Eviction or re-location of villagers from protected areas should be stopped till the process of FRC formation, receipt and verification of claims and recognition of rights inside the protected areas including Tiger Reserves is completed and the relocation plans are finalized.
- A comprehensive plan for skill capacity development of the Gram Sabhas and FRC members should be drawn up within a time frame. Skill development and capacity building of the implementing agencies especially the members of Gram Sabhas, FRCs, SDLCs & DLCs and others connected with implementation of the Act should be enhanced on repeated and continuous basis. A special drive may be undertaken to provide orientation training to the Micro Project officers and staff and FRC members and assigned them the responsibility of facilitating the claiming of rights by all PTGs within-in a stipulated time frame of six months. All the FRCs may extend the date of receipt of claims for 3 months, i.e., 31<sup>st</sup> March 2010.
- State government may consider reconstitution of the SLMC by nominating 3 members of the newly constituted TAC and to issue further clarifications to consider land such as *pahad, parbat, patharabani kisams* to be defined as forest land under FRA.
- Forcible occupation of cultivable lands of tribals for JFM for plantation purposes needs to be stopped till the right of recognition process is over.
- Considering the fact that the FR Act implementation in the state of Orissa in full swing got a delayed start (as late as August, 2009) after vacation of stay

by honourable High Court of Orissa, it is quite unlikely that the process in all respect can be completed by end December, 2009 as communicated by Government of Orissa to all district collectors. In this backdrop, it will be appropriate and fair to extend the time limit for filling of claims till March, 2010 and disposal of all cases including *patta* distribution till September, 2010.

- As indicated before, the study revealed that the 75 years/ 3 generations stipulation kept in the FR Act as the eligibility criteria for other traditional forest dwellers is becoming extremely difficult and almost impossible for individuals for citing documentary proof. As a result of this, one hardly finds claimants under other traditional forest dwellers category although there are innumerable fit cases. In view of this it is suggested to reduce the three generations stipulation to one generation (25 years) for other traditional forest dwellers category people to give natural justice to such category.
- It is revealed from the empirical study that a large number of tribals are in possession of such lands, which are under the *kissam*, like *parbata/pahada/dongar/patharbani*. There are lot of confusions as to whether the tribals in possession of such lands are eligible to get certificate of title under the FR Act which is silent about it. In view of this Ministry of Tribal Affairs, Govt. of India in consultation with Ministry of Environment and Forest, Govt. of India should give a quick clarification on this issue so that the confusion can be avoided and benefit of the FR Act can possibly be extended to the claimants.
- Funds under different schemes should be converged and pulled and utilized for development of land distributed to the STs and OTFDs beneficiaries under FRA and for undertaking of agro-forest based activities for income generation.
- A compendium of all circulars, letters and memos of instructions, guidelines of FRA issued by MOTA, MOEF, MOP, and other Central Govt. and State Govt. Departments should be prepared and communicated to all for their ready reference.
- The Government should develop a database to facilitate monitoring the activities being undertaken and prepare an Action Taken Report on the aftermath of ACT, 2006 and Rules, 2007.
- This study was based on first hand information obtained from the field through a quick study of two weeks. It is, therefore, suggested that a further long term study may be undertaken on the implementation of the Forest Right Act in the year 2010-11 to assess a complete/holistic picture of the effectiveness and usefulness of FRA.



## Abbreviations

ACF:	Assistant Conservator of Forests
ADWO:	Additional District Welfare Officer
BPL:	Below Poverty Line
CCD:	Center for Community Development
CBOs:	Civic Body Organization
CDC:	Centre for Development and Cooperation
CFR :	Community Forest Right
CWLH:	Critical Wild Life Habitant
CYSD:	An NGO
DFO:	Divisional Forest Officer
DFID:	Department of Fund for International Development
DLC:	Divisional Level Committee
EC:	Expert Committee
FCA:	Forest Conservation Act
FGD:	Focus Group Discussion
FRC:	Forest Rights Committee
FPMC:	Forest Protection and Management Committees
FRA:	Forest Rights Act
FAQ:	<i>Frequently Asked Questions</i>
GOI:	Government of India
GPS:	Geographical Programming Service
GP:	Gram Panchayats
GS:	Gram Sabha
HSC:	High School Certificate
IAY:	Indira Awas Yojana
IFAD:	International Funds for Agriculture Development
ITDA:	Integrated Tribal Development Agency
IPO:	Industrial Promotion Officer
JPC:	Joint Parliamentary Committee
JFM:	Joint Forest Management
LSDA:	Lanjia Saora Development Agency (A Micro Project for PTG)
MADA:	Modified Area Development Approach

<b>ME:</b>	Middle English Standard
<b>MFP:</b>	Minor Forest Produce
<b>MIPs:</b>	Minor Irrigation Projects
<b>MOEF:</b>	Ministry of Environment and Forest
<b>MOTA:</b>	Ministry of Tribal Affairs
<b>MP:</b>	Member of Parliament
<b>MPR:</b>	Monthly Progress Report
<b>MLA:</b>	Members of Legislative Assembly
<b>MSP:</b>	Minimum Support Price
<b>NGO:</b>	Non Government Organisation
<b>NREGP:</b>	National Rural Employment Guarantee Programme
<b>OAP:</b>	Old Age Pension
<b>OD:</b>	Other Department
<b>OC:</b>	Other Castes
<b>O.T.E.L.P:</b>	Orissa Tribal Empowerment Livelihood Programmes
<b>OTFDs:</b>	Other Traditional Forest Dwellers
<b>PA:</b>	Project Administrator
<b>PESA:</b>	Provisions of Panchayats (Extension to Scheduled Area) Act, 1996
<b>PREM:</b>	An NGO
<b>PTG:</b>	Particularly Vulnerable Tribal Group
<b>PS:</b>	Panchayat Samiti
<b>RF:</b>	Reserved Forest
<b>RIs:</b>	Revenue Inspectors
<b>SC:</b>	Scheduled Cates
<b>SDLC:</b>	Sub-Divisional Level Committee
<b>SHG:</b>	Self Help Group
<b>SO:</b>	Special Officer
<b>STSCDD:</b>	Scheduled Tribe and Scheduled Caste Development Department
<b>ST:</b>	Scheduled Tribes
<b>VSS:</b>	Vana Sarankhyan Samiti
<b>WEO:</b>	Welfare Extension Officer
<b>WP:</b>	Widow Pension
<b>WLPA:</b>	Wild Life Protection Act



## CHAPTER-I

### SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (Recognition of Forest Rights) Act, 2006: Key provisions and its importance for Orissa

#### 1.1 Historical Perspective:

The Tribals are basically forest dwellers. They have been depending upon forest for generations because it provides them security and shelter, as well as providing shelter to their pantheons and many benevolent and malevolent spirits and ghosts and even to their totems. The tribals collect food, house building materials, fuel for cooking, fodder for cattle, herbal medicine for health and many other forest items to meet their day-to-day necessities. The existence of a symbiotic relationship between the tribals and forests had been mutually beneficial. In course of time, due to influx of outsiders to forests and growth of tribal population, the symbiotic relationship got imbalanced. In the 19<sup>th</sup> century, the British rulers wanted unrestricted exploitation of timber. There was a growing need for government to assert its ownership over forests. In the name of conservation, the Indian Forest Acts of 1876 and 1927 were enacted with the primary intention to takeover the forest lands to preserve the eco-balance which ultimately ceased the rights of communities. These legislations empowered the government to notify any area as a reserved or protected forest there by imposing restrictions to its dependants.

Forestry in the colonial period was confined mostly to mean commercial exploitation and revenue earning for the administration. Therefore, no rights and concessions to the forest dwellers mostly the tribals were recognized. There was hardly any legislative framework exclusively for this. In the name of scientific forestry and forest management, greater public interest, national development, industrial growth and conservation, the forest governance system was introduced as an alien and induced effort thereby excluding and ignoring the interest of forest dependent communities. This system of forest governance imposed several restrictions on local forest dwelling communities. The primary focus of forest governance was commerce and national development even though at the cost of local forest based livelihoods. The regulatory mechanism was reflected in the classification of forests. Forests were classified as conservation forests, commercial forests, minor forests and pastoral lands. The first two categories i.e. conservation forests and commercial forests were beyond the reach of forest dependent communities. Only minor forests were managed by local institutions and the pasture lands mostly grasslands were meant for domestic animals.

In the medieval India ownership of the forest rested with local chieftains with access rights to local communities. In the beginning of 19<sup>th</sup> century, the Britishers wanted to undertake unhindered exploitation of timber by establishing government ownership over forests and do away with the traditional system of community forest management which existed in most parts of the country. As Oak was gradually dwindling in England, Teak in India was identified as a better substitute of Oak. Therefore, the British started imposing control over felling of teak and its selling. This continued till 1860 by which time the East India Company extended sovereignty over the total forestland. Following the Sepoy Mutiny in 1857 during which forest and forest dwelling communities provided hiding place to the rebels, the company administration



prohibited and withdrew all public access rights and privileges to collect fuel, fodder and other local uses. With a view to legitimize authority with legal and administrative backing, the imperial forest authority consolidated control over forests and forestry was made a scientific operation making it inaccessible to the forest dwellers. For legitimization of these acts, a series of legal instruments were passed in the form of forest Acts from 1865 to 1878 and to 1927. These Acts empowered the government to declare its intention to notify any area as a reserved or protected forest following which a "Forest Settlement Officer" was appointed to enquire into various claims of rights over land, forest produce and pasture etc. Through classification of forest and prohibition of customary assertion of rights, the livelihood rights were curtailed. No settlement of rights to meet local rights did take place. In course of time, the Indian Forest Act of 1927 was enacted and continued to be the central forest legislation and with modification as and when necessary, continues to be operational even to-day.

### 1.2 National Perspective:

Keeping in view the problems of tribals the government contemplated to prepare a national forest policy containing broad guidelines for planners and administrators. The first forest policy was formulated in the year 1894. The main objective of this policy was to promote the well being of the country and its people by preserving the physical and climatic conditions of the country. The problems of tribals concerning forest lands aggravated after independence when forest lands were declared for transfer by Princely States and Zamindars in favour of forest department. It so happened that communities who resided in the forests for very long periods, were termed as encroachers. In the post independence period, the continuing colonial forest laws and policies had to be reviewed. The erstwhile forest policy was revised in 1952. It emphasized on coverage of forest in about 60% of the geographical areas in the hilly regions and 20% in the plain areas. This policy classified forests into protected, national and village forests and subordinated community interests to national interest. This policy emphasized on functional classification of forests such as protected forests, national forests, village forests and free lands. Keeping the broad outlines of the national forest policies in view, some state governments continued to devise their own forest policies in providing rights and privileges in respect of cultivation, grazing of cattle, collection of fuel woods and timber for house construction, collection of forest products for crafts, mining and quarrying, hunting, fishing, collection of minor forest produces (MFP), shifting cultivation etc. With the continuing plea of conservation, the forest conservation Act 1980 came as a deterrent to tribals in forests. After this Act was enacted, instead of conservation, large areas of forests have been deforested due to diversion of such lands for mining, industrial and project purposes. An approximate estimation indicated that about 40, 000 hectors of land had been diverted for non-forest purposes (Gupta-2006). To-day, this estimation would be much more in view of incessant increase of industrial and mining activities across various states of the country.

In the year 1988, the central government enunciated a new national policy mostly intended to regulate management of forests in the country. The basic objectives of this policy aimed at proper maintenance of environment, conservation of natural heritage, control of soil erosion and denudation in river catchment areas, massive afforestation, social forestry plan to meet requirement of fuel wood, fodder, minor forest produce and timber requirements, increase in forest productivity, efficient utilization of forest produce and minimize pressure on existing forests. The aforesaid policy, for the first time and to some degree of clarity made provision for rights and concessions for the communities living within or around forests especially the tribals. It also provided for associating the tribal people closely in the protection, generation and development of forests and to provide gainful employment to people living in and around forests. In matters relating to collection and marketing of forest produces, formation and establishment of tribal co-operatives and integrated area development programmes was suggested.



In 1990, the Ministry of Environment and Forests (MOEF) issued series of guidelines for resolving disputed lands between the tribal people and the state. These guidelines were somehow, not acted upon or ignored. In 2002, the said ministry instructed state governments to evict the in-eligible encroachers and all post 1980 encroachers from forest lands. This resulted in massive eviction of tribal people and other forest dependent communities all over the country. In two important legal cases namely the Godavarman case (writ petition 202 of 1995) and the Interlocutory Application (IA) 703 filed by the Amicus Curiae, enormous damage was caused to the tribal communities as these cases restrained the central government from regularizing the encroachments.

In the post independent India the forest dependents expected their traditional rights over forests back to their fold but nothing tangible happened. The colonial policies continued to remain more or less the same. Forest governance in post-colonial India is generally divided into three phases: the first phase could be counted from independence to early 70's in which large scale forest exploitation was done for commercial and industrial purposes besides creating farmland for the large peasantry. The second phase continued till the commencement of 1988 National Forest Policy. This policy was mostly for conservation purposes with increased state control. During this phase, forest conservation was made a directive to state as a fundamental duty under the constitution and incorporated in the concurrent list. During this period, powerful legal instruments like the Wild Life Protection Act and the Forest Conservation Act were enacted. During this phase of forest governance, no clear space was made for forest dwellers and tribals in the protection and management of local forests. It is only after the coming into force of the National Forest Policy in 1988, that the forest was made a local resource and required participation of local forest protecting communities became mandatory in regeneration of degraded forests. In fact, the legal documents during both the phases were extremely conservative in as much as that they stressed more on excessive state control in form of 'Eminent Domain' and restricted existing local use rights. This was apparently under the presumption that forests had been destroyed by the forest dwellers and tribals which needed protection and conservation although the position was otherwise the handiwork of some rich and influential people including some tainted and corrupt forest officials. The Forest Conservation Act restricted forest diversion for non-forest use but in practice, diversion of forest land could not be prevented. Ultimately the poor forest dwelling tribals were termed as encroachers and direction for their eviction was issued by the MOEF in 2002 circular (May, 2002). With coming up of the Protected Area Network more and more inviolable areas with no or negligible rights over forests and forest lands by the tribals enabled the state to evict local forest dwellers without settling their bonafide rights to residence. In the Wildlife Protection Act of 2002, no reference was made to Panchayats (Extension to Scheduled Areas) (PESA) Act of 1996, an amendment of the constitution, and surprisingly conservation legislations like WLPA and FCA continued to be more powerful than the PESA.

In 2004, the MOEF issued two circulars, one relating to 'Regularization of rights of tribals on the forest lands'. The date of regularization of the encroachment was extended to 31<sup>st</sup> December 1993. The other circular was titled "Stepping up of process for conversion of forest villagers into revenue villages". Both these circulars were stayed by the Apex court. While praying for vacation of the stay, the government admitted that during consolidation of forests, the rural people particularly the tribals who have been living in forests since time immemorial, were deprived of their traditional rights and livelihood and consequently have become encroachers in the eyes of law. In 2005, the ministry of tribal affairs mandated to formulate a comprehensive legislation to redress the historical injustice done to tribal community. Accordingly, the Forest Rights Bill 2005 was introduced in Parliament. Due to protests both from environmentalists and wildlife groups, the Bill was referred to the Joint Parliamentary Committee (JPC). As many tribal forest dwellers had been served with eviction notices in May 2002 for being encroachers for which they could not produce their proper residential evidence in



forests, the JPC recommended that the cut off date for the settlement of rights be extended to 13<sup>th</sup> December, 2005. It also recommended inclusion of non-scheduled tribe 'traditional' forest dwellers' living in the forest for three generations within its ambit. It also recommended multiple uses for shifting cultivators and removed the land ceiling of 2.5 hectares for land rights. The other recommendation of JPC included ensuring of Minimum Support Price (MSP) for Minor Forest Produces and the Gram Sabha as final authority for settlement of rights. The Gram Sabha was recommended to be the center stage with PESA as a reference point. But when the Bill was introduced in the Parliament, the pre-eminent position of PESA in relation to Gram Sabha was ignored.

### 1.3 Orissa Perspective:

Orissa is one of the distinct Indian states where protection and conservation of forests for meeting the daily livelihood requirements is performed by the local communities particularly the tribals. Almost one-third of Orissa's population is mainly and critically dependent on forest resources. Conservation of forests and biodiversity has been an integral part of the socio-cultural life of the people. Even though conservation of forests and harmonious living with nature are ingrained in the life styles and livelihood system of these people and communities have been toiling and struggling over centuries to assert their rights on forest resources which they have been customarily enjoying, protecting and conserving the natural environment since ages. In Orissa, the state government permitted grazing of cattle in reserve forests on payment of prescribed fees in some forest areas and incidents of such grazing was being controlled through issue of permits. In the matter of collection of fuel wood the position varied from area to area. In some reserved forest areas cutting of unreserved species of firewood were allowed free. In some sub-divisions like Boudh (now a district) firewood could be collected on payment of royalty fixed for tenants but the villagers living around forests were permitted to collect firewood free. In the matter of collection of Minor Forest Produces (MFP) the position also varied from place to place. In the sub-division of Angul (now a district) collection of edible roots, fruits, leaves, creepers and thatching grass were allowed. In the ex-state of Khandapara there was no concession to the tenants. In general, the tribals were allowed to collect MFP and to sell the same at a rate fixed by the Divisional Forest Officer to the lessees appointed by the forest department. As a result, the tribals were being invariably cheated by the lessees both in price and in weight.

In Orissa shifting cultivation was extensively practiced in the undivided districts of Koraput, Kalahandi, Phulbani, Ganjam and Keonjhar districts. In Kalahandi district land pattas were being given for cultivation of such lands in the past. In Keonjhar district, forest department was required to demarcate such areas where Juang tribes were allowed to carry on shifting cultivation. In practice, although no demarcation was made, the Juangs continued cultivation according to their convenience. It so happened that in some areas of Orissa, forest villages were setup in remote and inaccessible forest areas to meet the manpower needs of forestry development. In course of time, the forest dwellers settled there permanently. In some cases the so called forest villages were converted to revenue villages before 1980. Therefore, a number of villages have not been recognized either as revenue villages or forest villages. Keeping these developments in view, in several states the Ministry of Agriculture advised the state government to confer inheritable and inalienable rights on forest villagers if they were in occupation for more than 20 years. This issue of converting forest villages to revenue villages after de-notifying required lands as forests was under the consideration of central government which ultimately led to the enactment of "the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006". In this backdrop, the FRA 2006 is extremely relevant in Orissa's context and its implementation in right and spirit is likely to give a lot of relief to large number of tribal families residing in remote areas whose life and living centers round forest.



#### 1.4 FRA, 2006 – Objectives and Key Provisions:

The enactment of the “Scheduled Tribes and Other Traditional (Recognition of Forest Rights) Act, 2006, in short Forest Rights Act (FRA)” is a revolutionary step taken by the central government. Enactment of FRA 2006 is a watershed in the continuing hard-fought struggle of tribals and other forest dwellers of India. For the first time in the country the state formally recognizes the historical injustice done to forest-dwelling communities during the consolidation of state forests. In this new legislation (FRA), attempts were made to right the historic wrong and empowers the right holding communities and Gram Sabhas to “protect, conserve, generate and manage” the community forest resources for sustainable use. This legislation is meant to address both forest rights and occupancy rights of the people who had been using forest lands for generations without any formal recognition. The Act does not distribute lands to the people but merely recognizes the rights of forest dwellers over land that they have been residing in and cultivating. In this Act, the recognized rights of forest dwelling scheduled tribes and other traditional forest dwellers also include responsibilities for sustainable use, conservation of biodiversity and maintenance of ecological balance for strengthening the conservation regime of the forests while ensuring livelihood and security for the forest dwelling scheduled tribes and other traditional forest dwellers. The following rights are declared as forest rights of forest dwelling scheduled tribes and other traditional forest dwellers on all forest lands namely-

- (a) Rights to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;
- (b) Community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;
- (c) Right of ownership, access to collect, use, and dispose of minor forest produce which are traditionally collected within or outside village boundaries;
- (d) Other community rights or uses or entitlements such as fish and other products or water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;
- (e) Rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;
- (f) Rights in or over dispute lands under any nomenclature in any State where claims are disputed;
- (g) Rights for conversion of *pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;
- (h) Rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests, whether recorded, notified or not into revenue villages.
- (i) Right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;
- (j) Rights which are recognized under any State law (s) of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;
- (k) Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
- (l) Any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not

mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

- (m) Right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13<sup>th</sup> day of December, 2005.

The central government is mandated to provide for diversion of forest land for the following facilities managed by the government which involve felling of trees not exceeding seventy-five trees per hectare namely-

- (a) Schools;
- (b) Dispensary or Hospital;
- (c) *Anganwadis*;
- (d) Fair price shops;
- (e) Electric and Telecommunication lines;
- (f) Tanks and other minor water bodies;
- (g) Drinking water supply and water pipelines;
- (h) Water or rain water harvesting structures;
- (i) Minor irrigation canals;
- (j) Non-conventional source of energy
- (k) Skill up-gradation or vocational training centers;
- (l) Roads and;
- (m) Community Centers

Diversion of forest land shall be allowed and limited to one hectare in each case and such developmental projects shall be subject to the recommendation of Gram Sabha.

The salient features of the FRA 2006 could be summarized as follows-

- The cut off date of recognition of the rights and claims over forest lands is 13<sup>th</sup> December 2005.
- The Act recognizes the rights of both tribals and traditional forest dwellers. The traditional forest dwellers have to prove their residence on the claimed land for more than three generations (75 years).
- The Act recognizes the right of ownership, access to collect; use and dispose of minor forest produce which is traditionally collected within or outside the village boundaries.
- Minor Forest Produce (MFP) includes all non-timer forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like. The Act recognizes the right of ownership, access to collect; use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries.
- Eligibility to get rights under the Act is confined to those who primarily reside in forests and who depend on forests and forest land for a bonafide livelihood.
- No member of a forest dwelling schedule tribe or other traditional forest dwellers shall, be evicted or removed from forestland under his occupation till the recognition and verification procedure is complete.

The central government recognizes the following rights and vests the rights in the following manner.

- The forest dwelling scheduled tribes in states who are declared as scheduled tribes.



- The traditional forest dwellers.
- Forest rights recognized under the Act in critical wildlife habitats of National Park and Sanctuaries may be modified or resettled but no forest right holder shall be resettled or have his rights in any way affected for the purpose of creating inviolate areas for wildlife conservation. This can be done if the following conditions are satisfied-
  - a. The process of recognition and vesting of rights is complete in all areas.
  - b. It is established by state that impact of presence of holders of rights upon animals is sufficient to cause irreversible damage and threaten the existence of species and their habitat.
  - c. Other options of co-existence not available.
  - d. Resettlement or alternative package has been prepared and communicated providing for secured livelihood.
  - e. Free informed consent of the Gram Sabha to the project resettlement and the package is obtained in writing.
  - f. No resettlement until facilities and land allocation at the resettlement location is complete as per declared package. Once relocated from the critical wildlife habitats, no subsequent diversion from relocated areas shall take place.
- Rights conferred shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses. In case of unmarried persons, in the name of single head of household. In absence of both, the heritable right shall pass on to the next-of-kin.
- The Act makes provision for treating forestland as community forest resource and allows the community in conserving such forest resource.
- Gram Sabha is mandated as the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling scheduled tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner for exercise of such rights and the Gram Sabha shall, thereafter, pass a resolution to that effect and then forward the same to the sub-divisional level committee.
- The Acts prescribes certain duties to be performed by the holders of forest rights and to that extent empowers them to-
  - (i) Protect wildlife, forest and biodiversity
  - (ii) Ensure protection of adjoining catchment areas, water sources and other ecological sensitive areas.
  - (iii) Ensure preservation of their habitat
  - (iv) Ensure decision of Gram Sabha to regulate access to community forest resources and stop any activity affecting wild animals, forest and biodiversity.
- Under the Act, the Gram Sabha has been given a predominant role. The Gram Sabha is empowered to initiate the process of determining the nature and extent of individual and community forest rights or both. It is mandated to receive claims, consolidate and verify them and prepare a map delineating the area of each and recommend the claims to the SDLC through a resolution of the Gram Sabha.
- Any aggrieved person by the resolution of the Gram Sabha may prefer petition before the SDLC within sixty days of passing of the resolution.

- ❑ The SDLC shall dispose of such petitions after giving an opportunity to the aggrieved person.
- ❑ The SDLC shall prepare the record of rights and forward the same to the District Level Committee (DLC).

DLC-

- ❑ Similar procedure is followed as in SDLC. No direct petition to DLC shall lie unless preferred first in the SDLC.
- ❑ The DLC is the final authority to approve the record of forest rights. Its decision is final and binding.

SLMC-

- ❑ A similar committee also is constituted at state level to monitor the process of recognition and vesting of forest rights.
- ❑ Offences committed by members of aforesaid committees or offices of authorities in contravening provisions of the Act are liable to be proceeded against and punished with fine up to one thousand rupees.

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## QUICK IMPACT EVALUATION: ITS OBJECTIVES, METHODS AND SAMPLE

### 2.1 Rationale of the Study:

Majority of Scheduled Tribes all over the country reside and depend on forests for their survival. But they do not have formal record of rights over most of their lands under their possession that they use since ages. The non recognition of their customary rights (both individual and community rights) over land have been bothering the tribals throughout the country for a long time. The situation has become even worse in the wake of large scale land acquisition in recent times due to setting up of industries in thickly concentrated tribal pockets. Realizing this grave situation and to give the tribals a better deal, Government of India have come up with an epoch making tribal friendly Act titled "The Scheduled Tribes and other Forest Dwellers (Recognition of Forest Rights) Act, 2006" followed by the "Rules, 2007" which promises a lot to the tribals for settling land rights in their favour. In fact, this Act not only promises the tribal people but has given the tribals a sigh of relief by providing provisions of legal right of residence and freedom of traditional forest usages. Proper implementation of the Act and Rules would address the longstanding issues of the tribals and can ensure them a better living. As has been discussed above, it is, in fact, a historical Act enacted for the greater interest of tribals. It is also expected that the tribes once assured of a dignified and rightful living within forests would provide good security to forests and wildlife.

The Act stipulates various steps and procedures to be followed for smooth implementation of the Act and also has stipulated time frame for accomplishing the task in all respects. In all the states across the country, this Act is now under implementation. It had got a setback as Honorable High Court had given a conditional stay and now that the stay has been vacated; its implementation has picked momentum in Orissa State.

Orissa is a state which reportedly doing well in implementation of the Act. Now the implementation of the Act is at a very crucial stage. The implementation process needs to be examined and evaluated very closely so that implementation gaps, if any, can be identified and corrective steps can also be taken for smooth implementation of the provisions of the Act in letter and spirit. Realizing the aforementioned situation, Government of Orissa decided to undertake one short Term Study (Quick Impact Evaluation) on the implementation status of the Act in the State.

### 2.2 The Objectives:

The broad objectives of the study are as follows:

- To assess the implementation process of the Forest Rights Act and Rules,
- To assess the awareness level among people about the Act and information dissemination mechanism for ensuring filling of claim applications for settling lands possessed by the tribals,
- To find out the method of scrutiny at Gram Sabha Level, Sub Divisional Level Committees and District level Committees and various impediments in the implementation process of the Act, and
- To suggest various modifications to be brought about for effective implementation of the Act.

### 2.3 Sample and Geographical Coverage:

Since the Act is under implementation throughout the state of Orissa, it was proposed to conduct the present Quick Impact Study (Short Term) in some sample representative areas in the state which can give an overview of the effectiveness of the implementation of the Act on the basis of which a detailed in depth (Long Term Study) can be undertaken subsequently if necessary.

Considering the objectives, the study was conducted in both TSP and Non TSP sample Blocks covering the OTELP and Non OTELP areas. While conducting field works, care was taken to cover the tribal development project areas including the Micro Project Area covering the PTGs and the MADA area covering the Scheduled Tribe people apart from the TSP and Non TSP Areas. The geographical coverage of the study, determined on the basis of the above mentioned principle, is given below:

The field work for the study was accomplished in consonance with the Contract/Agreement (TOR). The field work was conducted by a 5-member Research Team in two phases (the first phase during 6-11 November, 2009 and the 2nd phase during 18-22 November, 2009) by the Research Team of SCSTRTI in two districts such as Dhenkanal (Non-TSP Area) and Gajapati (TSP Area). In Dhenkanal district two villages (Dongapal and Ballikuma of Karagola GP) under the MADA Pocket of Kankadahad block was covered. Likewise in Gajapati district four villages (Bhobani and Angda of Bhobani GP in Gumma Block under the LSDA Seranga Micro Project and Rajapur of Santundi GP and Padampur of Karadasingi GP under OTELP area of Rayagada Block under Paralakhemundi ITDA) were covered. Besides, data was collected from one more village from each of the study districts (Tahajanga of Gumma Block in Gajapati District and Koreipal of Kanakadahad Block of Dhenkanal District) for cross verification of information.

The selection of the study area, like Districts, Sub-Divisions, and Blocks was purposive and it was based on the criteria of numerical preponderance of the Scheduled Tribes. The villages were selected on the principle of maximum and minimum number of claims of forest land received by the FRCs so as to ascertain the factors responsible for slow and poor implementation of the Act. Altogether the sample study has covered two districts, two sub-divisions, two blocks, 8 villages and 95 households including families, who claimed and got certificates of rights on forest land and those eligible but did not file claims, and those claimed but rejected.

### 2.4 Methodology:

The research tools, like village Schedule, household Schedule, Focused Group Discussion (FGD), Key Informants Interview, Transect Walk, Social/Resource Mapping, Case Study and Participant Observation methods were used for collection of primary data. Besides, interviews were conducted with the Presidents/Secretaries and other members of FRCs, SDLCs, and DLCs with help of the questionnaires.

For collection of secondary data, all notifications, circulars and Letters and DO Letters and MPRs on FRA, proceedings of meetings of all these Committees and additional information on FRA were collected from the offices of Collector, PA, ITDA, Sub-Collectors and BDOs, Special Officers of the Micro Project. One of the Research Personnel was engaged to collect data from secondary sources such as ST & SC Development Department, Office of the Principal Chief Conservator of Forest, Revenue Department, Panchayati Raj Department and leading NGOs involved in FRA awareness building through personal contact. Case studies of 7 FRCs of 7 villages under the study have been obtained. Special interviews were also conducted with the Chairman of DLCs of both the Districts and SDLCs of both the Sub Divisions.



## 2.5 Tools employed for the study:

In fact, looking at the broad objectives of the study, 13 specific objectives for the study were formulated and various tools employed for collecting data for accomplishing/complying to the set specific objectives point wise has been given below in a tabular form is mentioned above.

Sl. No	Set Objectives	Tools employed
1	To assess the awareness level among people about the Forest Rights Act and Rules and information dissemination mechanism about ensuring filling of claim application for settling land possessed	Household Schedule F G D
2	To find out the incidence of filling claims against the eligible cases in the sample area	FRC SDLC
3	To find out the method of scrutiny at Gram Sabha, Sub Divisional and District Level	GS SDLC/DLC
4	To find out the conflicts among individuals for claims over the same land for settlement and conflict resolution mechanism adopted at Gram Sabha Level for conflict resolution	FGD
5	Level of satisfaction and discontents of the ST forest dwellers about the implementation process of Forest Land Rights Act	FGD Household Schedule
6	Conflicts between the communities/villages and FRC and JFMC/VCC/GS to claim over the traditional forest rights,	JFMC/VCC/GS
7	To examine the roles discharged by the four departments and the existing interdepartmental coordination in implementing the Act	Forest & Environment, SSD, Revenue and PR Dept. (Collection of information through questionnaires and item lists of documents and papers).
8	To find out the factors responsible for non filing of claims by eligible individuals	Household Schedule FGD
9	To identify defects in scrutinizing cases of claims at various levels	FRC/SDLCDLC
10	To find out factors responsible for slow disposal of cases at various levels	
11	To find out factors responsible for filing of very less number of cases filed under Community Claims/Rights	
12	To find out various impediments in the implementation process of the Act	Household Schedule F G D
13	To suggest on the basis of the findings of the study, various modifications to be brought about in making effective implementation of the Act.	Interview with Collector, PA, ITDA/ SO,MP/ DWO/ADWO/WEO/GP Secretary/Forester/Range Officer

## 2.6 Limitations:

Although all care has been taken for making this study objective without any element of bias, considering the short term nature and quick impact assessment mode it has suffered from some limitations and some of them are as follows:

- The study was conducted in a very short span of six weeks' time as was decided by the Project Director, OTELP in accordance with the TOR provided by OTELP. Thus, the field work of the quick study was conducted with the help of four research personnel spanning over little more than 2 weeks.
- The area of study was limited to two districts, one TSP District and one Non-TSP District looking at the nature of Quick Impact Assessment and total allocation of 6 weeks time.
- Considering the small coverage of area in the sample for the study, the total representative picture of the state could not be reflected and captured in the report. Hence the findings of the study can only be treated as indicative in nature.
- Considering the short term aspect and low coverage of area in the study, the findings can be treated as a mid-term appraisal report to identify indicative shortcomings for corrective measures to sort out difficulties and deficiencies in implementation of the Act/Rules.
- Keeping the above mentioned limitations in view, the findings of the report including the suggestions made on the basis of the primary sources data coupled up with secondary level data available for the entire state, no definite conclusions can be arrived at. However, the finding of the report can be used as some guiding indicators on the basis of which a long term study can be commissioned by an independent agency to get an overall picture of the entire state in respect of implementation of the act on the basis of which some policy/strategy change can be contemplated.

## 2.7 Organization of Report:

The report has been organized in 8 chapters. The first chapter gives a historical sketch of the FRA in National and Orissa perspectives and delineates the key provisions of the Act. The second chapter deals with the rationale of the study, sample and geographical coverage, study tools used and methodology and limitation of the study. The third chapter discusses the profile of Orissa and study districts in respect to forest dwellers and forest coverage and empirical study and its key findings. The fourth chapter tries to reveal the stakeholders perception on implementation of the Act and citation of a historical timeline of FRA, awareness generation and facilitating efforts by GO and NGOs. The fifth chapter discusses the key findings of the study about FRA implementation by DLCs, SDLCs and FRCs in 7 selected villages of two districts (Dhenkanal and Gajapati) covering Tribal development projects such as ITDA/OTELP, Micro Project and MADA. The sixth chapter discusses the gap between the provisions in the act and rules and practice as revealed from the implementation level. The seventh chapter describes the factors responsible for poor implementation of the Act and the eighth chapter presents highlights on the critical areas of concern in implementation and suggested steps for effective implementation of the Act.

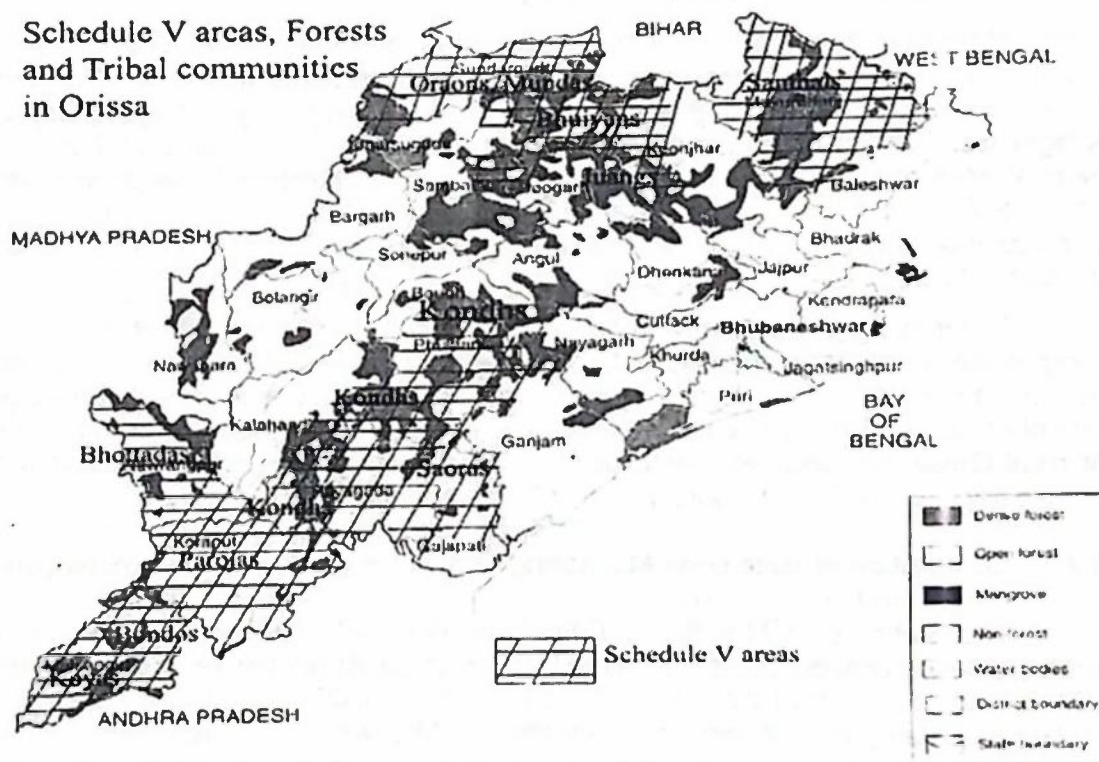


## AN OVERVIEW OF THE IMPLEMENTATION STATUS OF THE ACT IN ORISSA

### 3.1 Population Profile of Orissa with special reference to Tribal Orissa:

As per 2001 census the State of Orissa has 30 Districts, 58 Sub-Divisions, 171 Tahasils, 314 Community Development Blocks, 133 Urban Local Bodies, 6234 Gram Panchayats and 51,349 villages of which 47529 are inhabited and 3820 are uninhabited. The geographical area of Orissa covers 155707 sq km constituting 4.74% of the India's landmass. Out of the total geographical area, the share of scheduled area and TSP area is 69403.11 sq. km and 51920.25 sq. km respectively.

**Schedule V areas, Forests and Tribal communities in Orissa**



Courtesy: Vasundhara

The area covered under the TSP comes to 68896.35sq.kms which includes 21 I.T.D.As and 13 Micro Projects as administrative mechanisms in place for development of Primitive Tribal Groups (PTGs). The Scheduled Area is thickly inhabited by the Scheduled Tribe people in the state as shown in the map above, covering 118 blocks out of total number of 314 blocks in the State. The area under the TSP approach is 44.21 per cent of the total area of the State. The tribal population in the above area is 49, 78,171 which is estimated to be 56.42 per cent of the total tribal population of the state.

The coverage of forest area (in sq. km.) by legal status in Orissa is presented below.

Year/ District	Reserve Forest (in sq. km.)	Demarcated Protected Forest (in sq. km.)	Un-Demarcated Protected Forest (in sq. km.)	Un- Classified Forest (in sq. km.)	Other Forest under Control of Revenue Dept. (in sq. km.)	Total Govt. Forest (in sq. km.)
2003- 04	26329.12	11685.68	3838.78	20.55	16261.34	58135.47
2006- 07	26329.12	11687.11	3838.78	20.55	16261.34	58136.90
Gap	0.00	1.43	0.00	0.00	0.00	1.43

In Orissa there are 62 ST communities. Among them, the numerically major tribes are Kondh, Gond, Santal, Kolha, Saora, etc. and the numerically minor tribes are Chenchu, Birhor, Mankirdia, Baiga, etc. There are 13 Particularly Vulnerable Tribal Groups (PTGs) namely, Bonda, Birhor, Chuktia Bhunjia, Didayi, Dongria Kandha, Hill Kharia, Juang, Kutia Kandha, Lanjia Saora, Lodha, Mankirdia, Paudi Bhuiyan and Saora inhabiting different remote areas of the state.

The total number of households in Orissa as per 2001 Census figure is 77, 380, 65, (2001 Census) out of which 17, 95,075 belong to ST category and 59, 42,990 belong to others including the Scheduled Caste. The population of Orissa as per 2001 Census figure is 36.8 million out of which 60, 82,063 (16.5%) belong to Scheduled Caste and 81, 45,081 (21.1%) to Scheduled Tribe categories.

More than 70% of the total ST populations of Orissa are found to be distributed in twelve districts in two contiguous patches (5 in North and 7 in South). The north patch comprise of 5 districts, namely Sambalpur, Sundargarh, Keonjhar, Mayurbhanj and Nilagiri sub-divisions of Balasore district and the south patch comprise of 7 districts, namely Malkangiri, Koraput, Rayagada, Nabarangpur, Kalahandi, Kandhamal and Gajapati. Besides, in districts, like Bolangir, Bargarh, and Nuapada the concentration of ST population is significantly higher than the remaining 15 districts where about 15% of the state's ST people live.

So far as the administrative mechanism for administering the tribal development programmes in the state is concerned, there are 21 ITDAs, 46 MADA Pockets, 14 Cluster Approach Pockets and 17 Micro Projects functioning in the State of Orissa. The literacy rate of Orissa is 63.1%. While the urban Orissa recorded 80.8% literacy, the literacy rate of rural Orissa has been estimated at 59.8%. The literacy level of ST people and SC people as per 2001 Census figure stands at 37.4% and 55.5% respectively.

### 3.2 Constitution of State Level Monitoring Committee (SLMC) for Implementation of the Act and Its Provisions:

The State Level Monitoring Committee occupies the apex position in the implementation process of the FRA in the State of Orissa. As per the Resolution No. 4694 TD-II-3/2008-SSD, dated 1.2.2008 of ST&SC Development Department Govt. of Orissa, a 10-Member State Level Monitoring Committee (SLMC) was constituted with the Chief Secretary as the Chairperson, Director ST& SC as the Member Secretary, the Secretaries of 4 Departments, namely ST&SC Development Department, Revenue & Disaster Management Department, Environment and Forest Department and Panchayati Raj Department, the Principal Chief Conservator of Forests and 3 TAC members, namely Sri Bharat Paik, Sri Balabhadra Majhi and Smt. Tulasi Munda as Members. Consequent upon 2009 elections to Orissa Legislative Assembly, new MLAs have been elected. Thus there is a need of reconstitution of the SLMC taking members from among the new MLAs. The first meeting of SLMC was held on April 3rd, 2008 and 2<sup>nd</sup> meeting on 24<sup>th</sup> October, 2008. These meetings were held under the chairmanship of the Chief Secretary and important decisions were taken for effective implementation of FRA and for distribution of certificate of titles of forest land under FRA. The state government has taken several proactive steps for proper implementation of the FRA. Till date as many as 15 circulars as annexed in Annexure-I have been issued by the state government to streamline and



facilitate proper implementation of the Act. Monitoring of implementation status of FRA is made by Principal Secretary, ST & SC Development Department through Video Conferencing every fortnightly besides special reviews at regional levels. Besides periodical reviews of the progress of FRA implementation are taken by the Chief Minister, the Chief Secretary and the Development Commissioner, Government of Orissa at regular intervals.

### 3.3 FRA Implementation Status:

The review note of ST& SC Development Department, Govt. of Orissa reveals the following implementation status of FRA in respect of individual family claims at three levels (FRCs, SDLCs and DLCs) in the entire State of Orissa as well as in the Maoist/Naxal/extremist affected 15 districts and Gajapati and Dhenkanal districts covered under the study as on 9.12.2009 (Post Video Conference position).

#### 3.3.1 Status of Individual Claims:

The following statement indicates the status of implementation of Forest Right Act in the State in respect of individual claims as it stands on 30.11.2009.

FRA Implementation Status in Orissa State (Individual Family Claims)\*

Sl. No.	FRA Implementation Status		Orissa (30 Districts)	Extremist Affected (15) Districts #	Malkangiri (Highest Performance)	Nayagada (Lowest Performance)
1	No. of villages		47,788	26,512	993	1,516
2	No. of GS meetings held at villages	1 <sup>st</sup> phase	46,770	26,068	933	1,501
		2 <sup>nd</sup> phase	17,872	12,700	933	3
3	No of FRCs constituted		47,266	26,316	933	1504
4	No. of claims received by FRCs		3,22,590	2,64,180	17,682	1,219
5	No. of claims verified by FRCs and sent to Gram Sabhas		2,80,006	2,24,798	15,883	492
6	No. of claims approved by GS and sent to SDLCs	Cases	2,13,666	1,76,161	14,912	492
		Families	2,11,452	1,76,161	14,912	492
		Area (Ac)	3,04,395.50	2,61,498.10	36,534.40	831.00
7	No. of claims remanded by Gram Sabhas to FRC		25,688	20,224	0	0
8	No. of claims rejected by Gram Sabhas		19,362	16,031	971	0
9	No. of claims approved by SLDC and sent to DLC	Families	99,509	87,922	14,546	392
		Area in Ac.	1,64,477.10	1,47,936.92	34,474.25	831.00
10	No. of claims remanded to GS by SLDC		49,674	47,618	345	0
11	No. of claims rejected by SLDC		30,558	16,243	21	100
12	No. of claims approved by DLC for titles	Families	87,777	78,054	13321	345
		Area in Ac.	1,42,335.80	1,27,754.20	31,570.77	806.50
13	No. of claims remanded to SLDC by DLC		1,597	1,352	0	47
14	No. of claims rejected by DLC		385	0	0	0
15	No. of certificates of titles distributed	Families	86,519	77,652	13,321	345
		Area (Ac)	1,379,75.13	1,25,372.50	31,570.77	806.50
16	No. of certificates of titles distributed to PTGs	Families	3,472	3,192	76	-
		Area in Ac.	5901.98	5,530.17	170.32	-

\* (Figures compiled from the information sheets obtained from ST & SC Development Dept. Govt. of Orissa, Bhubaneswar.)

# The names of the extremists affected 15 districts are Dhenkanal, Deogarh, Gajapati, Ganjam, Jajapur, Kandhamal, Keonjhar, Koraput, Mayurbhanj, Malkangiri, Nawarangpur, Nayagarah, Rayagad, Sambalpur and Sundargarh.

1. The FRCs, the main pillar of the FRA Act, were not constituted in 522 villages of 11 districts, namely Cuttack (207), Jajpur (4), Nayagarh (12), Khurda (38), Dhenkanal (52), Jharsuguda (21), Boudh (60), Mayurbhanj (7), Gajapati (79), Sambalpur (38) and Keonjhar (4). Out of 11 districts, the last four districts are under TSP area, and in the rest 8 districts, the non-tribal people are numerically preponderant. The analysis further indicated that in 196 extremist affected villages of 7 districts, the FRCs has not been constituted. In these villages the FRA implementation process has not started. The reason of non-conformity to the FRA can be attributed to the presence of majority of non-tribal inhabitants who are not eligible for enjoying benefit of the FRA and therefore, the villagers might have been disinterested in constitution of the FRCs. However, this aspect can be further probe/investigate upon in the proposed long term study by the agency that will be entrusted with the task to solve the problem.
2. As many as 42,584 claims from all the districts of Orissa and 39,382 claims from the extremist affected 15 districts are pending with FRCs for examination. approval of the GSs and submission to SDLCs.
3. The study revealed that Dhenkanal (study district) has the distinction of verification of 9,985 claims by RFCs and all the cases were recommended to SDLCs. But Gajapati (another study district) has huge number of pending claims (18,502) which need to be examined at the level of FRCs.
4. All 58 SDLCs of the State have approved claims of 99,509 families covering total area of 1, 64,477.10 Ac. and in extremist affected districts, the corresponding area is 1, 47,936.92 Ac. covering 87,922 families.
5. All 30 DLCs of the State have approved claims of 87,777 families covering an area of 1, 42,335.80 Ac. and in the DLCs of extremist affected 15 districts, the corresponding figure is 1, 27,754.20 Ac. covering 78,050 families.
6. Altogether 86,519 families have been distributed certificates of titles covering 1, 37,975.13 Ac. of forest land in Orissa and in the extremist-affected 15 districts, 77,652 families have been distributed land titles covering 1, 25, 372.50 Ac. of forest land.
7. In the of Micro Project (PTG) areas as many as 3472 families have been distributed 5,901.98 Ac. lands and in extremist affected Micro Project areas, 3192 families have got the rights on 5,530.17 Ac. of forest land.
8. In the State of Orissa, average forest land per family distributed with certificates of titles under FRA is 1.59 Ac. and in extremist affect areas, it is 1.61 Ac. and in PTG area, it is 1.70 Ac. and in extremist affected PTG area, it stands at 1.73 Ac.
9. As regards distribution of certificates of titles of forest land in terms of area and number of families covered in Orissa, Malkangiri district as on now remains at the top and Nayagarah district is at the bottom, whereas Gajapati district and Dhenkanal districts (study districts) occupied the 4<sup>th</sup> and 12th position respectively. The statement presented below gives a detailed picture in this regard:

**Abstract of Individual claims received and settled**

Area	Claims received	No. of Certificates of titles distributed	Area in Ac.	Average area in Ac.	Remarks/ Position of Allotment
Orissa	213666	77,352	125372.50	1.61	State
Malkangori	14912	13321	31570.77	2.37	Highest
Nayagarh	492	345	806.50	2.34	Lowest
Gajapati	23921	6506	8366.58	1.28	4 <sup>th</sup>
Dhenkanal	9795	2177	3424.74	1.52	12th



### 3.3.2 Community claims:

The review note of ST& SC Development Department, Govt. of Orissa reveals the following implementation status of FRA in respect of community claims at three levels (FRCs, SDLCs and DLCs) in the entire State of Orissa as well as in the extremist affected 15 districts and two study districts as on 9.12.2009 (Post Video Conference position).

FRA Implementation Status in Orissa State (Community Claims)\*

Sl. No.	FRA Implementation Status		Orissa	Extremist Affected (15) Districts #	Malkangiri (Highest Performance)	Jharsuguda (Lowest Performance)
1	No. of villages		47,788	26,512	933	352
2	No. of GS meetings held at villages:	1 <sup>st</sup> phase	46,740	26,068	933	348
		2 <sup>nd</sup> phase	17,872	12,700	933	135
	No of FRCs constituted		47,266	26,316	933	331
4	No. of claims received by FRCs		1847	1063	18	8
5	No. of claims verified by FRCs and sent to Gram Sabhas		1467	768	18	8
6	No. of claims approved by GSs and sent to SDLCs:	Cases	465	322	18	8
		Families	10,175	9109	2467	8
		Area (Ac)	13,106.80	12683.26	181.15	9.35
7	No. of claims remanded by Gram Sabhas to FRC		-	0	-	0
8	No. of claims rejected by Gram Sabhas		16	12	-	0
9	No. of claims approved by SLDC and sent to DLC	Cases	132	103	18	1
		Families	7543	7220	2467	1
		Area (Ac)	2,299.23	2217.76	181.15	2.00
10	No. of claims remanded to GS by SLDC		171	68	-	0
11	No. of claims rejected by SLDC		7	-	-	0
12	No. of claims approved by DLC for titles	Cases	101	100	18	1
		Families	7,064	7063	2467	1
		Area (Ac)	2,090.60	2088.60	181.15	2.00
13	No. of claims remanded to SLDC by DLC		66	3	-	0
14	No. of claims rejected by DLC		-	0	-	0
15	No. of certificates of Titles distributed	cases	42	41	7	1
		Area (Ac)	1,491.04	1489.04	55.77	2.00
16	No. of certificates of Titles distributed to PTGs	Cases	-	-	-	-
		Area in Ac.	-	-	-	-

\* (Figures compiled from the information sheets obtained from ST & SC Development Dept Govt. of Orissa, Bhubaneswar.

# The names of the extremist affected 15 districts are Dhenkanal, Deogarh, Gajapati, Ganjam, Jajapur, Kandhamal, Keonjhar, Koraput, Mayurbhanj, Malkangiri, Nawarangpur, Nayagarah, Rayagad, Sambalpur and Sundargarh.

1. As many as 47,266 FRCs have received 1,847 community rights claims on forest land. The receipt of this less number of community right claims reveals a very poor picture of progress of implementation of FRA in the State of Orissa in respect of community claims.

- Surprisingly, receipt of community claims was reported to be zero from the FRCs of tribal dominated districts, like Sundargarh and Kalahandi districts and quite insignificant number in the districts of Rayagada, Gajapati, Mayurbhanj, Koraput and Malkangiri. Besides, other districts, namely Bhadrak, Jagatsingpur, Jajpur, Puri, Angul, and Bolangir recorded zero receipt of community claims. Out of 1,847 community rights claims on forest land received so far, only 42 cases covering 1491.04 Ac. of forest land have been distributed in Orissa. The average land area per community right case is 35.50 Ac. In the extremist affected 15 districts, only 41 cases covering 1489.40 Ac of forest land have been distributed out of 1,058 community rights claims received.

### 3.3.2.1 Factors for Low Filing of Community Claims:

The following factors may be responsible for non filing of community right claims:-

- Lack of awareness and understanding of the provisions of community rights including use of forest land for development purpose through proposal of de-reservation of forest land for non-forest use may be the prime reason of poor status of filing and disposal of community claims.
- Deprivation of other traditional forest dwellers, who are not eligible for the benefit under FRA has led to their non-cooperation in filing claim of community rights at village level.
- It also has been observed during the empirical study that the tribal people are more interested on individual claims at the first instance and although some of them are aware of the provisions of community rights and its provisions, they are contemplating that they will apply and take this issue only after the individual claims are disposed of. The study also revealed that the same mentality also persists among the officials and they are more keen on focusing attention on individual claims and not giving as much attention on community claims as they are attaching to individual claims.

The details of the status of the community claims are given below:

Abstract of Community Claims Received and Settled

Area	Claims Approved by GS and sent to SDLC			Certificates of titles distributed		Average area in Ac.	Remarks/ Position of Allotment
	No	Families	Area in Ac.	No.	Area in Ac.		
Orissa	465	10175	13106.80	42	1491.04	35.50	State
Sambalpur	103	1751	552.85	15	83.50	5.57	Highest
Jharsuguda	8	8	9.35	1	2.00	2.00	Lowest
Gajapati	5	53	7.43	-	-	-	-
Dhenkanal	6	95	10.19	-	-	-	-

### 3.3.3 FRA implementation Status in Micro Project areas for PTGs

Information received from ST&SC Development Department as on 9.12.2009 (Post Video Conference position) indicates that a total of 3,472 PTG households have been benefitted with 5,901.98 Ac. of land under the individual claims. This indicates that on an average 1.70 Ac land per family has been given among the PTG category. The findings of the analysis further reveal that the Kutia Kandha of Kandhmal and Paudi Bhuyan of Deogarh districts who belong to PTG category have not received title certificate at all up till now under the FRA. In the study area of Gajapati district, not a single family of Lanjia Saora (PTG in LSDA, Seranga, Gajapati) has also found to be distributed with land right Patta under FRA so far. But as many as 530 families of Saora PTG in SDA, Chandragiri, Gajapati have been distributed with 728.00 Ac. of forest land. The later is comparatively a plain area and the former is an inaccessible hill area. Not a single habitat/settlement of the PTGs in the state was reported to be benefitted under



community rights. The detailed information in respect of the status of individual claims among the PTGs in the state as it stands on 09.12.2009 is given below:

Status of Implementation (Individual Claims) for PTGs					
District	PTGs	No of Title of Certificate distributed	Area in Ac	Average land per HH	Rank
Malkangiri	Bonda & Didayi	1303	3257.50	2.5	1
Keonjhar	Juang	772	825.49	1.06	2
Gajapati	Saora & Lanjia Saora	530	728.00	1.37	3
Rayagada	Dongaria Kandha	246	410.00	1.67	4
Mayurbhanj	Lodha, Hill-Kharia & Mankirdia/Birhor	183	92.19	0.50	5
Ganjam	Saora	156	179.40	1.15	6
Kalahandi	Kutia Kandha	130	152.62	1.17	7
Nuapada	Chuktia Bhunjia	76	170.32	2.24	8
Angul	Paudi Bhuyan	74	48.87	0.66	9
Sundargarh	Paudi Bhuyan	29	37.59	1.30	10
Deogarh	Paudi Bhuyan	-	-	-	-
Kandhamal	Kutia Kandh	-	-	-	-
Total	13 PTG/17 MPs	3472	5901.98	1.70	-
Status of Implementation (Community Claims) for PTGs					
13 PTGs in 17 Micro Projects		-	-	-	-

\* (Figures compiled from the information sheets obtained from ST & SC Development Dept. Govt. of Orissa, Bhubaneswar.)

As compliance to the provisions of FRA and rules made there under, the Orissa government has taken several measures for proper implementation of the Act. As per the latest figures, as many as 3, 22,590 claimants have filed cases for recognizing their rights over the land possessed by them and the state government is continuing the process of distribution of ROR to the eligible persons. Although processing work of applications which have not been finalized and *patta* not given are being scrutinized at a faster pace, for various reasons, the pace of progress has been slow and tardy in respect of Community Forest Rights (CFR) in particular as compared to the individual rights. Section 2(a) of FRA defines 'community forest rights' (CFR) as 'customary common forest land within the customary or traditional boundary of the village or seasonal use of landscape in case of pastoral communities, including reserve forests, protected forests and protected areas such as sanctuaries and national parks to which the community has traditional access'. Section 3 (1) - (i) gives the right to manage any community forest resource which they have been traditionally protecting and conserving for sustainable use. Similarly section 5 of the Act empowers right holders and Gram Sabhas to protect forests, wildlife and biodiversity and to 'ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and to stop any activity which adversely affects the wild animals, forest and biodiversity are complied with'. These provisions related to CFRs effectively redefine the paradigm for conservation by providing a legal framework for democratic governance of community forests by communities themselves. This is combined with provisions of recognition of a diversity of other community forest rights including rights over non-timber forest products and to community tenures of habitant and habitation for primitive tribal groups and pre-agricultural communities.

## STEPS FOR IMPLEMENTATION OF THE FR ACT IN ORISSA

### 4.1 Time Line of the FR Act and Its Implementation:

It is worthwhile to place a chronology of past happenings that necessitated the emergence, enactment and implementation of FRA that will help analyzing the stakeholders' perception on the functioning of the Act.

- ❖ 5<sup>th</sup> Feb. 2004: Gol formulated a policy and recognized the rights of tribal People on forestlands (continuous occupation since 31.12.1993) and requested the state governments to give legal recognition to the traditional rights of tribal population on forestlands.
- ❖ 13<sup>th</sup> Feb. 2005: Scheduled Tribe Recognition of Forest Rights Bill 2005 tabled in the Parliament and then the Bill was referred to JPC.
- ❖ 29<sup>th</sup> July, 2005: Orissa Tribes Advisory Council passed unanimous resolution recommending adoption of the Bill.
- ❖ 23<sup>rd</sup> May 2006: JPC presented the recommendations.
- ❖ 15<sup>th</sup> Dec. 2006: Bill passed in Lok Sabha
- ❖ 18<sup>th</sup> Dec. 2006: Bill passed in Rajya Sabha
- ❖ 2<sup>nd</sup> January 2007: FRA notified in the Gazette
- ❖ 19<sup>th</sup> June 2007: Draft Rules sent (45 days for comments)
- ❖ 1<sup>st</sup> January 2008: Rules issued
- ❖ Interim order of Orissa High Court in WP ( c ) 4933 of 2008

The following sequential events would establish the various steps taken for Implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the State of Orissa:

- ❖ Officially, special meeting was held on 28.2.2008 of GS/PS for constitution of FRC in the country.
  - ❖ In Orissa, Government immediately took follow up steps and issued circulars for Constitution of FRC and accordingly all the FRCs were to be constituted in all villages within 30<sup>th</sup> April, 2008. This was extended to 30<sup>th</sup> June, 2008 (47,266 Forest Rights Committees have been constituted).
  - ❖ Special PS/GS meetings decided to be held on 18.1.2009 with 2/3 members and ST and women members for considering the cases returned by the SDLC.
  - ❖ Date of Constitution of State Level Monitoring Committee (As per the Resolution vide No. 4694 / SSD, Dated, Bhubaneswar the 1<sup>st</sup> February 2008 TD-11-3/08)
  - ❖ Date of Constitution of Divisional Level Committee (As per the Resolution vide No. 4694 / SSD, Dated, Bhubaneswar the 1<sup>st</sup> February 2008 TD-11-3/08)
- (All Committees (SDLC, DLC, and SLMC) were to be formed by end of March, 2008)





#### 4.2 Awareness and Facilitating Efforts:

##### 4.2.1 Initiative of the State Level Monitoring Committee:

As stakeholders, both governments at state and district level have made efforts for building awareness and for facilitating implementation of FRA. The SLMC in its two meetings held on April 3rd, 2008 and 2<sup>nd</sup> meeting on 24<sup>th</sup> October, 2008 unanimously resolved the following important points to operationalise the Act.

- Forest roads and right of way for drawing of High and Low Tension Electricity lines would require approximately 10 km and would require more than 1 ha.
- Non availability of clear maps of forest blocks was a major constraint to verification of claims by the FRC. It was advised that immediate steps be taken to resolve this issue.
- Steps should be taken to declare forest villages and habitations as revenue villages before the next SLMC meeting.
- Forest Department has dropped 9,000 pending forest offence cases.
- The S.T & S.C Development Department in its Letter No.38848 Dt. 6.11.2008 addressed to all Collectors, has already given permission to the Sub-Collectors to engage the services of maximum 10 retired R.Is and Amins on contractual basis for a period of 3 months on consolidated remuneration of Rs.3500/- per month for each retired R.I and Amin who will help in preparation of maps for early finalization by the SDLC. Such expenditure will be met out of the funds under Article 275(1) of the Constitution of India and Hand held GPS provided to SDLCs.
- As decided in the meeting of State Level Monitoring Committee held on 24.10.2008, all the claims received by the Palli /Gram Sabha shall be disposed of finally by 30.11.08.

##### 4.2.2 Initiative of the State Government:

- Regular coordination among STSC Dev Department, F&E Department, Revenue Department and Panchayatiraj Department have been made.
- Translation of Act and Rules in Oriya and distributed to all Palli Sabhas and FAO (Frequently Asked Questions) with answers provided.
- Trainings & Awareness camps conducted at various levels and IEC materials distributed.
- Training of Trainers' Workshop held at the State Level on 3.2.08 and other training programmes organised subsequently for various stakeholders.
- Steps taken for printing the required number of copies of the Act and Rules for distribution among the various stake-holders i.e. Zilla Parishad members, Panchayat Samiti members, Gram Panchayat members, Gram Sabhas etc.
- Training programme in districts for Revenue, Forest, ST&SC and Panchayatiraj Dept. vide GE (GL) S-22/2007/9775/R & DM dt 25<sup>th</sup> Feb 2008 both at Dhenkanal and Gajapati are reported to have been done.
- Frequently Asked Questions on FRA clarifying the doubts about the Act and its provisions have been compiled and printed both in Odiya and English and circulated among the Official and others for facilitation of proper implementation of the Act.
- As desired vide no TD-II 32/2008/ 36639/SSD dt. 6.10.2009 though separate reporting on Micro Projects in MPR has been done, but special awareness campaign and training for Special Officers of Micro Projects is yet to be organised in LSDA, Seranga, Gajapati (micro Project) area.
- One Advertisement was published in Oriya daily newspapers on FRA in the month of November, 2009 and the progress of achievements made with an appeal to all those who have not applied so far for availing the benefit of the Act.



#### 4.2.3 Capacity Building Training of Key Officials:

During the year 2008-09, the SCSTRTI had organized one training programme (April 15-16, 2008) on FRA for 47 trainees (Addl. Tahasildars-27, Assistant Directors-2, Dy. Collectors-10, Land Acquisition Officers-1, Revenue Officer-1, Administrator-1, Sub-Collector-1 and BDO-4). Similarly, during 2009-10 two training courses (2-29 August, 2009 & 1-2 Sept. 2009) on FRA for 38 participants (DFO -5, ACF - 6, Sub Collector- 7, VLW-4, PA ITDA- 10, SO ITDA-1, and Social Activist - 1, DWO - 3 and DCF- + 1) were organized. The discussions on the topics included over view of the ST and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, historical profile of land related Act, role and responsibility of different government departments in implementation of FRA and unresolved issues and resolutions. However all the filed functionaries assigned with FRA implementation work have not been trained.

#### 4.2.4 Involvement of NGO for capacity building activities of the Key Stake Holders:

Vasundhara, a Bhubaneswar based research and policy advocacy group working on land and forest related issues has enhanced capacity of the key stakeholders by developing guidelines, process notes, posters, audio-visuals, film on FRA (Swikriti), in English, Oriya and local languages and circulated widely among the civil society groups, people's networks, community members, Forest Rights Committees, PRIs. Apart from this, it has also developed formats for each of the procedural steps involved in the process of determination of rights such as claim formats, format for recording of claims, verification report, etc. Besides, it has collected and compiled information and materials from different reports which can be used as evidence in support of the claims. A dedicated website on FRA, containing all the information, training materials, presentations, process notes on the Forest Rights Act has been created. The organization has helped many state level and grass root level organizations and government functionaries and constitutional/statutory bodies, such as District Level Committees and Sub-Divisional Level Committees of Nayagarh, Kalahandi, Sambalpur districts by imparting capacity building training and exposure programs on F. R. Act.

During the years 2008-09 and 2009-10, a total number of 23 training programmes for awareness building including the training for the trainers were organized both at state, district and block level by Vasundhara with the assistance of other local NGOs. Besides, 12 workshops were organized for the PTGs, ST people, NGO functionaries and government officials associated with the implementation of the FR Act who had shared their knowledge and views on identification of difficulties in the implementation of the Act and suggestive measures to be taken to solve it.

#### 4.2.4 Initiative for Prompt Action:

Most of the Scheduled Tribes and Other Traditional Forest Dwellers have depended upon common property resources such as forests, pastures and water sources for their basic survival needs. Keeping this in view, the Honourable Chief Minister of Orissa in a recently held collectors' conference has directed the district collectors to give urgent attention to the settlement of land rights through a squad approach and mission mode with involvement of officials from Revenue, Forest and Scheduled Tribe and Scheduled Caste Development Departments. All these officials are required to move from village to village to settle the claims of the people in a time bound manner so that the entire process of FRA will be completed within six months.

Similarly, claims for settlement of the Gramakantha, Paramboke and Nazul lands in different parts of the State need to be settled quickly. In addition to this the cases under Regulation II of 1956 and Orissa Land Reserve Act-section 22 and 23 need to be disposed of on priority basis and land restored to the rightful owners. Accordingly, all the collectors have been instructed to draw up a detailed plan to oversee all these land related cases and take them to logical conclusion. Besides, funds available under the National Rural Employment Guarantee Scheme (NREGS) need to be utilized meaningfully to develop the land distributed under FRA.



### KEY FINDINGS OF THE EMPIRICAL SAMPLE STUDY

The research team had conducted this empirical sample study in Dhenkanal district (Non-TSP area) and Gajapati district (TSP area). Data were collected from the District Level Committee, Sub-Divisional Level Committee and Forest Rights Committees of different sample villages by using research tools, such as interview, questionnaire, case studies, Focus Group Discussion etc. among the villagers about the constitution, functions, achievement, problems experiencing in implementation process of FRA and suggestions for effective implementation of the Act. Tabulation and analysis of the aforementioned data collected from primary and secondary sources reveal the following key findings in the seven sample villages of three blocks i.e. Kanakadahad in Dhenkanal district, Gumma and Rayagada in Gajapati district covering tribal development projects such as ITDA, OTELP, Micro Project and MADA.

#### 5.1 STATUS OF IMPLEMENTATION OF FRA IN DHENKANAL DISTRICT:

As per 2001 census, Dhenkanal District has 3 Sub-Divisions, 8 Community Development Blocks, 199 Gram Panchayats and 1215 villages of which 1076 were inhabited villages and 139 un-inhabited villages. The geographical area of the district covers 4452 sq km, out of which 1788.20 sq. km. (40.17 %) is covered with forest area. The total number of households of the district as per 2001 Census is 2, 22,023, out of which 2, 03,537 households are from rural area. The total population of the district is 10, 66,878 persons out of which 9, 73,964 (91.30%) persons lived in rural area. The population structure of the rural area of the district indicates that people of other communities (86.51%) outnumber their ST counterpart (13.49%).

##### 5.1.1 Constitution and Functions of District Level Committee (DLC):

As per the provision of FRA, the District Level Committee (DLC) in Dhenkanal District has been constituted with effect from 12.03.08 taking the District Collector as the Chairman, District Welfare Officer as the Member Secretary and District Forest Officer as member and 3 nominated members from the Zilla Parishad. In conformity to the government resolution, the DLC has been constituted and it has intimated to the nodal department (ST&SC Development Department, Government of Orissa for FRA). The DLC has hold 6 meetings and taken the following important decisions with a view to implement the FRA in the district effectively:

- RIs, Amins and Forest Staff would help guide the FRC and Palli Sabhas sincerely and scientifically for flawless settlement of claims on forest land and they should clear at least 200 cases per month.
- RIs and Amins of other areas should be diverted to work in the vast and inaccessible Kanakadahad area for smooth and timely implementation of the FRA.
- Pre-80 and post-80 cases of Dhenkanal District should be sent to Sub-Collectors for collection of claim applications from eligible persons in proper manner through FRCs and BDOs.
- Tahasildar should verify all the claims after field verifications by RIs, Amins and forest staff to ratify the minor errors, such as want of signatures of RIs/Amins/forest staff so that the same can be completed within a reasonable time frame.

For awareness building about FRA, 50 photo copies of the FR Act and Rules both in Oriya and English languages were distributed among the various stake-holders.

Besides, block level training programme was held but no district level training programme was conducted. Updated guidelines on FRA implementation were explained to all concerned through different meetings. Revenue maps, village forest maps and electoral rolls were supplied to all the Gram Sabhas/Forest Rights Committees through RIs, Amins and forest officials at the time of joint verification.

The DLC had received 1886 individual claims from the Sub Divisional Level Committee and approved equal number of claims and granted record of forest rights. No petition (cases) from persons aggrieved by the orders of the Sub Divisional Level Committee was received. Similarly there was no case of inter-district claim. Copy of titles issued were sent to DFO, Gram Sabhas and kept in district office for incorporation of the forest rights in the relevant government records. Arrangement was made for distribution of titles to the beneficiaries through peoples' representatives like MP, MLA, and Chairman of PS.

The Collector, Dhenkanal and Chairman, DLC had reviewed the implementation of the FRA and the review notes along with the MPRs were sent to the nodal department regularly. Quarterly report on proposals submitted by Divisional Forest Officer (DFO) for use of forest land for non forest purpose and approval made by DLC were ensured. No government authority or a committee was penalized as per section 7 of the Act for violating provisions of the Act.

As on 11<sup>th</sup> November, 2009 a total number of 9985 individual claims were received and approved by FRCs of the district and sent to Gram Sabhas under FRA. The Gram Sabhas approved as many as 9795 family claims covering 14,295.45 acres of forest land and sent them to SDLCs. The SDLCs had rejected 4,078 claims, remanded 2,839 claims to GS and approved 2177 claims for 3,424.74 Ac of forest land and sent them to DLC. The DLC had approved the claims covering 3,424.74 Ac. of forest land of 2177 families and remanded 2,839 claims to SDLCs.

Finally, as many as 1,886 families have been distributed certificate of titles covering 857.32 Ac. of forest land under the FRA. The achievement of receipt and approval of community claims in the district is abysmally low (6 cases covering 10.19 Ac. of forest land). The distribution of certificate of titles of 6 claims was not done.

#### 5.1.2 Constitution and Functions of Sub Divisional Level Committee (SDLC):

The Kankadahad SDLC has been constituted with effect from 17. 03.08 with the Sub-Collector as its Chairman, ADWO as the Member Secretary and ACF (from District Forest Officer) as member and 3 Nominated Members from the Panchayat Samities. The SDLC meetings were held 10 times to examine issues on receipt of different claims and problems in implementation of FRA. The SDLC had decided the following for effective implementation of FRA in the Sub Division.

- Block Development Officers should ensure constitution of FRCs in all the villages.
- Ten Retired RIs/Amins should be appointed, joint enquiry is held before submission of claims to Palli Sabhas, all pending cases including pre-80 and post-80 cases be finalised by preparing sketch maps and applications of OTFDs be returned to FRCs for submission of evidences and further enquiry reports.

Awareness were created among the Scheduled Tribes and other forest dwellers at village level in Palli-Sabhas, by organising training programmes in different Panchayat Samiti meetings for the non-official and official members and NGOs. Adivasi Kranti Sangathan (NGO) was associated with awareness building for proper implementation of Forest Right Act. Members of the Sangatghan were frequently getting in touch with the SDLC, FRC, revenue and forest personnel for smooth settlement of claims. Claim Block. Ten retired RIs and Amins were engaged for settlement of claims. Forest and



revenue maps and electoral rolls and other requisite documents were provided to some of the FRCs through the RIs/Amins, but it was not executed in all cases.

The SDLC had received 1700 individual claims and 6 community claims but no claims for use of development work. No case of dispute between Gram Sabhas in any of the GPs on the nature and extent of any forest rights was brought to the notice of SDLC. Similarly, cases of petitions from persons including state agencies aggrieved by the resolutions of the Gram Sabhas and inter sub divisional claims were conspicuously absent. Steps were taken to settle the claims of 290 post -80 ST forest land encroachers by collecting claim applications through the FRCs. The SDLC had sent Individual Claims of 1506 ST families and 6 community claims to DLC for final approval and to issue certificate of titles.

## 5.2 STATUS OF IMPLEMENTATION OF FRA IN GAJAPATI DISTRICT:

As per 2001 census, Gajapati District has 1 Sub-Division, 7 Community Development Blocks, 129 Gram Panchayats and 1619 villages out of which 1512 are inhabited and 107 un-inhabited. The geographical area of this District covers 4325 sq km, out of which, the forest area is 2468.98 sq. km. (57.09. %). The total number of households of the district was 111405, out of which 100306 households were reported from rural area (as per 2001 Census Figures). The total population of the district was 5, 18,837 out of which 4, 65,949 (89.81 %) persons lived in rural area. The population structure of rural area of the district indicates that the STs (56.21%) outnumber other communities (43.79%).

### 5.2.1 Constitution and Functions of District Level Committee (DLC):

As per the provision of FRA, Gajapati District Level Committee (DLC) has been constituted with effect from 27.2.08 taking three official members, like the District Collector as the Chairman, Project Administrator, ITDA as the Member Secretary and District Forest Officer as member and 4 nominated members from the Zilla Parishad. Among the nominated members, three members including one woman belong to ST community.

The DLC, since its constitution, held its sessions six times and decided the following important issues for quick and effective implementation of FRA in the district:

- Provisions of FRA after vacation of stay explained to all concerned and approval of claims on forest rights was decided to be given after thorough verification of claim cases subject to the final outcome of the case pending in the Orissa High Court.
- Huge gap between receipt of application forms by FRCs (42,423) and distribution of certificate of titles (2107) was identified and thus special drive was decided to be made to clear all pending claims by October, 2009.
- PA, ITDA was instructed to engage more number of retired RIs/Amins to settle claims with help of forest staff.

For awareness building about FRA, copies of the FR Act and Rules both in Oriya and English languages were distributed among the various stake-holders. During the months of February and March 2008 training programmes about FRA implementation were organised for Govt officials, PRI representatives and Secretaries of FRCs. Revenue maps were supplied to all the Gram Sabhas and the Forest Rights Committees through RIs and Amins and electoral rolls by GPs. Some claims of Saoras tribe were examined and settled. Claims of Lanjia Saora PTG were under process and waiting for joint verification.

The DLC had received 7240 individual claims from the Sub Divisional Level Committee and approved 5625 claims and granted record of forest rights. As many as 503 claimants were issued certificate of titles for 728 Ac. of forest land through peoples' representative like MP, MLA, and Chairman P.S.



No petition (case) from persons aggrieved by the orders of the Sub Divisional Level Committee was received. Similarly, there were no cases of inter-district claims. Govt. had not given clearance for change in the ROR. The copy of title documents were issued to DFO and copies kept in district office for incorporation of the forest rights in the relevant government records.

Collector and Chairman had reviewed about the progress and problems of implementation of the Act in each Revenue Officers meeting (monthly) in the district. The office of PA ITDA and Member Secretary, DLC had furnished review note and MPR to the nodal department, i.e., ST & SC Development Department regularly every month.

DFO had provided the approved village maps (forest maps) indicating the forest demarcation line. Quarterly report on proposals for use of forest land for non forest purpose was not submitted by the DFO for approval of DLC. No government authority or committee was penalized for violating provisions under section 7 of the Act.

By end of 22<sup>nd</sup> November, 2009, a total number of 42,423 individual claims were received out of which 23,921 claims have been verified by FRCs and sent to Gram Sabhas. The Gram Sabhas had approved as many as 23,921 family claims for 14,295.45 acres of forest land and submitted them to SDLCs. The SDLCs had not rejected any case and remanded 15,934 claims to GS and approved 7,987 claims covering 12,492.42 Ac. of forest land and submitted them to DLC. The DLC had approved claims of 6,506 families covering 8,366.58 Ac. of forest land. It rejected no claim and remanded 15,934 claims to SDLCs. As many as 6,293 families were given certificate of titles covering 9817.08 Ac. of forest land under the FRA.

The achievement of receipt and approval of community claims in the district is abysmally poor. The FRC had received 75 community claims and verified. It had got approval of 5 such claims measuring an area of 7.43 Ac by GS and sent the same to SDLC. The SDLC has remanded all the 5 cases to GS for want of supporting documents. Thus, not a single community right case has been recommended so far to DLC for approval and the achievement on community claim was reported as nil.

#### 5.2.2 Constitution and Functions of Sub Divisional Level Committee (SDLC):

The SDLC has been constituted with effect from 27<sup>th</sup> February, 2008 taking the Sub-Collector as the Chairman, DWO as the Member Secretary and ACF (from District Forest Office) as member and 3 Nominated Members from the Panchayat Samities. The SDLC members sat 10 times and examined different claims received and problems experienced in implementation of FRA. The DLC had taken the following strategies for effective implementation of FRA in the Sub Division.

Steps have been taken to ensure free, open and fair meetings by intimating the chairpersons of the block, samiti members, sarapanch's, ward members and Gram Panchayat secretaries for generating awareness about the Forest Right Act. As many as 9 Trainings were organised at Sub-Divisional level for creating awareness about the provisions of the Forest Right Act. C.C.D, I.W.D, OTELP, Lanjia Saora Development Agency, Seranga and Saora Development of Agency, Chandragiri were associated with awareness building activities on implementation of Forest Right Act. Sub-Divisional Level Committee had organised meetings at village, G.P., block and district levels. Besides, publicity on FRA was done through use of leaflets and loud speakers with the support from the NGOs. Parlakhemindi ITDA and OTELP had provided the application forms to the beneficiaries free of cost.

Forest and revenue maps and electoral rolls have been provided to the president and members of the FRC as well as the Gram Sabha through the Joint verification team of Revenue, Forest and ST&SC Development Officials. Consolidated maps and details were provided by the Gram Sabhas and resolutions of the concerned Gram Sabhas were collated. The SDLC had received resolutions of the Gram Sabhas and their maps for



7240 individual claims and 5 community cases and examined all the individual claims but no community claims has been recommended while only individual claims have been forwarded to DLC. Similarly, no diversion proposal of forest land for development programmes has been initiated so far and neither any instance of dispute between Gram Sabhas on the nature and extent of any forest rights nor any petition from persons including State agencies aggrieved by the resolutions of the Gram Sabhas has been received so far. No inter Sub-Divisional claims had also been received.

At the field level RI, Forester and WEO had visited and conducted the joint enquiry for the applications received from 431 villages. The SDLC members such as the Sub-Collector, ACF and WEO had visited once to examine the correctness of the Forest Right enquiry process. The SDLC had not prepared any Block or Tahasil wise draft records of proposed forest rights with reconciliation of Government records

### 5.3 CONSTITUTION AND FUNCTIONS OF FRCs IN STUDY VILLAGES (DHENKANAL AND GAJAPATI DISTRICTS):

In Dhenkanal district, till November 2009 out of 1030 villages FRCs have been constituted in 978 villages. The FRCs in respect of 52 villages have not been constituted for want of quorum in Pallisabha meetings (in 24 villages) and for non-availability of ST people (in 28 villages).

In Gajapati district out of 1528 villages, the FRCs has been constituted in 1449 villages. As many as 77 villages are reported to be uninhabited and in 2 more villages the FRC could not be constituted for want of quorum in Palli Sabhas. It is reported by the district administration and District Forest Officer that there are no forest habitations/villages or settlements in both the districts.

The study of sample villages in both the districts of Dhenkanal and Gajapati gives a gloomy picture about constitution of the FRCs. In all 7 study villages, the FRCs have been constituted by the their respective Palli Sabhas held during March, 2008 in the presence of officials, like IPO/Forest Guard/GP, Secretary/WEO/OTELP staff/Forest Ranger etc. Only 707 (22.44 %) villagers out of 3150 of the total voters of the villages were present in the Palli Sabhas for selection of FRCs. The table given below shows a detailed picture:

Constitution of FRCs in Study Areas (I)

Sl. No.	Name of the GPs	Name of the villages	Date of formation of FRCs.	Officials present while constitution of FRCs	Members present in Pallisabha meeting	Total voters of the village	Total population of village
I	II	III	IV	V	VI	VII	VIII
<b>A Dhenkanal Dist./Kamakhyanagar Sub Division/Kankadahad Block</b>							
1	Karagola	Dangapal	23.3.08	WEO/RI	120	830	1255
2	Ballikuma	Ballikuma	16.3.08	IPO/F.G/GP, Secretary	106	296	596
<b>B Gajapati Dist./Parlakhemundi Sub Division/Gumma &amp; Rayagada Blocks</b>							
3	Tarangada	Tahajang	13.3.08	WEO/DTELP/Forest Ranger	103	220	346
4	Bhobani	Bhobani	16.3.08	GRC/RI/Ranger	124	430	755
5	Bhobani	Angda	16.3.08	GRC/Forester/RI	128	585	920
6	Sanatundi	Rajpur	09.3.08	WEO/GRC/Forest Ranger	28	54	123
7	Karadsing	Padmapur	16.3.08	GRC/F.G/RI	98	735	1275
<b>Total</b>					<b>707</b>	<b>3150</b>	<b>5170</b>

On an average one FRC has been constituted with 14.57 members out of which, four are women. In almost all the villages all FRC members are ST except in village Dongapla of Dhenkanal district in which out of 15 members, one belongs to SC and 3 belong OC communities. On the whole the ethnic composition of all the 7 FRCs reveal representation of 96.07% ST, 0.99% SC and 2.94% OC members. The following Table shows gender and ethnic composition of FRC members.

Constitution of FRCs in Study Areas (II)

No.	Name of the G.P.	Name of the village	Members of FRCs			Ethnic Status of FRC Members			
			Male	Female	Total	ST	SC	OC	Total
I	II	III	IX	X	XI	XII	XIII	XIV	XV
<b>A Dhenkanal Dist./Kamakhyanagar Sub Division/Kankadahad Block</b>									
1	Karagola	Dangapal	13	02	15	11	1	3	15
2	Ballikuma	Ballikuma	08	04	12	12	-	-	12
<b>B Gajapati Dist./Parlakhemundi Sub Division/Gumma &amp; Rayagada Blocks</b>									
3	Tarangada	Tahajang	11	04	15	15	-	-	15
4	Bhobani	Bhobani	11	04	15	15	-	-	15
5	Bhobani	Angda	10	05	15	15	-	-	15
6	Sanatundi	Rajpur	10	05	15	15	-	-	15
7	Karadsing	Padmapur	11	04	15	15	-	-	15
Total			74	28	102	98	1	3	102

As reported only 2.5 meetings per FRC has been held to discuss the matter relating to collection, examination and forwarding of claims at village level. In the study villages out of 820 households, 563 (68.66%) have applied for individual claims for rights on forest land before the FRC. Out of 7 villages, only villagers of 3 villages have made 12 community claims and the rest villagers of 4 villages such as Dongapal of Dhenkanal and Bhobani, Angda and Rajpur of Gajapati have not filed any claim for community rights so far. All 563 individual claims and 2 out of 12 community claims received by 7 FRCs have been approved by GS and sent to SDLC. The SDLC has approved 301 individual claims out of 563 claims and 2 community cases and send them to DLC. The DLC has approved 115 (38.20%) individual claims and distributed pattas covering 135.35 Ac. of forest land. The average forest land for which certificate of titles of individual claims have been given to the villagers comes to 1.18 Ac. The villagers of Ballikuma village in Dhenkanal district and Bhobani, Angda and Padmapur villages of Gajapati district have not been distributed any certificate of titles on forest land under FRA. The following table explains in details the status:

Status of claims under FRA in study sample villages

Sl. No.	Name of Villages	No of claims received by FRCs		No of claims Approved by GS and sent to SDLC		No of claims Approved by SDLC and sent to DLC		No of claims approved by DLC and patta distributed	
		I.C.	C.C.	I.C.	C.C.	I.C.	C.C.	I.C.	C.C.
1	Dongapal	126	00	126	00	56	00	41/39.02 Ac	00
2	Ballikuma	68	3	68	3	00	00	00	00
3	Bhobani	115	00	115	00	115	00	00	00
4	Angda	56	00	56	00	56	00	00	00
5	Rajpur	18	00	18	00	9	00	00	00
6	Padmapur	115	7	115	7	00	00	9/ 13.92 Ac	00
7	Tahajang	65	2	65	2	65	2	00	00
Total		563	12	563	12	301	2	115/135.35 AC.	00

I.C.: Individual Claims C.C.: Community Claims.



According to the above table the FRC of Dongapla village in Dhenkanal district has received highest number of individual claims, i.e. 126, but it has not received a single community claim in spite of land available for VSS, village shrines, etc. Rajpur village of Gajapati district has received the lowest number of individual claims, i.e. 18 and it has received no community claim. The village has 18 families and all are tribals. In two villages of the LSDA Micro Project, namely Bhubani and Angda, 171 PTG families have claimed land individually but no community land including the use of forest land for development purpose under FRA.

### 5.3.1 Response of Individuals on awareness generation and suggestions:

It is revealed from 95 (91 ST and 4 SC) respondents that regarding individual claims, 17 (17.90 %) of them have claimed and got *patta*, 46 (48.42%) applied but have not got *patta*, and 32 (33.68%) have not applied. The sample respondents comprised of 26 FRC members, 54 BPL families, 19 Antodaya, 1 Arnnapurna Yojana beneficiary and 22 NREGP beneficiaries. As regards their livelihood pattern, 83 respondents are cultivators, 6 wage earners, 4 forest gatherers and 2 service holders. Educationally, 32 respondents are illiterate, 20 are just literate, 20 studied up to primary standard, 5 passed ME and 15 passed HSC and 3 studied +2 level and above. Economically, 11 are landless, 51 marginal farmers, 22 small farmers and 11 big farmers. Out of 95 respondents, 7 families have inherited 1.5 Ac of forest land, 17 families have been allotted 23.18 Ac of govt. land and 23 families cultivated 17.50 Ac shifting cultivation land. The following tables indicate the village wise detail of their socio-economic position.

*Socio-economic profile of Respondents in 7 Sample Study Villages:*

Sl. No.	Name of village	No of HHs	Community			Claim Status			Socio-economic Status				
			ST	SC	OC	C&G	ANG	DNA	FRC Mem-bers	BPL	Ant.	Arna Purna	NREGP
1	Dongapal	15	14	1	-	5	5	5	3	13	1	-	1
2	Ballikuma	15	12	3	-	-	7	8	4	13	2	-	2
<b>Total Dhenkanal</b>		<b>30</b>	<b>26</b>	<b>4</b>	<b>-</b>	<b>5</b>	<b>12</b>	<b>13</b>	<b>7</b>	<b>26</b>	<b>3</b>	<b>-</b>	<b>3</b>
3	Bhubani	15	15	-	-	-	8	7	1	5	8	-	2
4	Angda	15	15	-	-	-	10	5	3	6	8	-	1
<b>LSDA Total</b>		<b>30</b>	<b>30</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>18</b>	<b>12</b>	<b>4</b>	<b>11</b>	<b>16</b>	<b>-</b>	<b>3</b>
5	Rajpur	15	15	-	-	7	8	-	8	2	-	-	9
6	Padmapur	15	15	-	-	-	8	7	6	10	-	1	7
<b>ITDA Total</b>		<b>30</b>	<b>30</b>	<b>-</b>	<b>-</b>	<b>7</b>	<b>16</b>	<b>7</b>	<b>14</b>	<b>12</b>	<b>-</b>	<b>1</b>	<b>16</b>
7	Tahajanga (OTELP)	5	5	-	-	5	-	5	1	5	-	-	-
<b>Total Gajapati</b>		<b>65</b>	<b>65</b>	<b>-</b>	<b>-</b>	<b>12</b>	<b>34</b>	<b>19</b>	<b>19</b>	<b>28</b>	<b>16</b>	<b>1</b>	<b>19</b>
<b>TOTAL (A+B)</b>		<b>95</b>	<b>91</b>	<b>4</b>	<b>-</b>	<b>17</b>	<b>46</b>	<b>32</b>	<b>26</b>	<b>54</b>	<b>19</b>	<b>1</b>	<b>22</b>

C&G: Claimed and Got ANG: Applied and not got DNA: Did not applied

*Socio-economic profile of Respondents in 7 Sample Study Villages (Cont.):*

Sl. No	Name of village	Occupation				Education					
		Culti- vation	Wage	MFP Collection	Service	Illiterate	literate	Primary	ME	HSC	+2 & Above
1	Dongapal	12	3	-	-	3	3	8	1	-	-
2	Ballikuma	12	1	-	2	6	1	1	-	4	3
<b>Dhenkanal Total</b>		<b>24</b>	<b>4</b>	<b>-</b>	<b>2</b>	<b>9</b>	<b>4</b>	<b>9</b>	<b>1</b>	<b>4</b>	<b>3</b>
3	Bhubani	13	-	2	-	8	1	-	3	3	-
4	Angda	14	-	1	-	7	5	1	1	1	-
<b>LSDA Total</b>		<b>27</b>	<b>-</b>	<b>3</b>	<b>-</b>	<b>15</b>	<b>6</b>	<b>1</b>	<b>4</b>	<b>4</b>	<b>-</b>
5	Rajpur	13	2	-	-	5	5	3	-	2	-
6	Padmapur	14	-	1	-	2	5	3	-	5	-
<b>ITDA Total</b>		<b>27</b>	<b>2</b>	<b>1</b>	<b>-</b>	<b>7</b>	<b>10</b>	<b>3</b>	<b>-</b>	<b>7</b>	<b>-</b>
7	Tahajanga (OTELP)	5	-	-	-	1	-	4	-	-	-
<b>Gajapati Total</b>		<b>59</b>	<b>2</b>	<b>4</b>	<b>-</b>	<b>23</b>	<b>16</b>	<b>11</b>	<b>4</b>	<b>11</b>	<b>-</b>
<b>TOTAL (A+B)</b>		<b>83</b>	<b>6</b>	<b>4</b>	<b>2</b>	<b>32</b>	<b>20</b>	<b>20</b>	<b>5</b>	<b>15</b>	<b>3</b>

*Socio-economic profile of Respondents in 7 Sample Study villages: Land Owning (Cont.):*

Sl. No.	Name of village	Land own				Forest Land (in ac)				Shifting land (in ac)	
		Landless	Marginal	Small	Big	Inherited		Govt. Allotment		Inherited	
						No.	Ac	No.	Ac	No.	Ac
1	Dongapal	2	12	1	-	-	-	5	6.22	-	-
2	Ballikuma	-	6	7	2	7	1.52	-	-	-	-
<b>Dhenkanal Total</b>		<b>2</b>	<b>18</b>	<b>8</b>	<b>2</b>	<b>7</b>	<b>1.52</b>	<b>5</b>	<b>6.22</b>	<b>-</b>	<b>-</b>
3	Bhobani	2	8	2	3	-	-	-	-	8	6.00
4	Angda	4	6	3	2	-	-	-	-	10	7.00
<b>Gajapati Total</b>		<b>6</b>	<b>14</b>	<b>5</b>	<b>5</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>18</b>	<b>13.00</b>
5	Rajpur	1	8	4	2	-	-	7	11.42	-	-
6	Padmapur	2	8	4	1	-	-	-	-	8	4.50
<b>ITDA Total</b>		<b>3</b>	<b>16</b>	<b>8</b>	<b>3</b>	<b>-</b>	<b>-</b>	<b>7</b>	<b>11.42</b>	<b>26</b>	<b>17.50</b>
7	Tahajanga (OTELP)	-	3	1	1	-	-	5	6.17	-	-
<b>Gajapati Total</b>		<b>9</b>	<b>33</b>	<b>14</b>	<b>9</b>	<b>-</b>	<b>-</b>	<b>12</b>	<b>17.59</b>	<b>26</b>	<b>17.50</b>
<b>TOTAL (A+B)</b>		<b>11</b>	<b>51</b>	<b>22</b>	<b>11</b>	<b>7</b>	<b>1.52</b>	<b>17</b>	<b>23.81</b>	<b>26</b>	<b>17.50</b>

Interviews with as many as 95 individuals from the study villages reveal that 25 (26.32%) respondents are not fully aware about the FRA, and those who are said to be aware, have not fully understood different provisions of the Act. However, when asked, 46 respondents are of the opinion that they came to know about RFA through NGO, 14 through Govt. Officers, 6 through PRIs, 2 by the Social Activists and 1 each by VSS member and villager. The awareness level of the villagers of the sample study villages is furnished in the following table.

*Socio-economic profile of Respondents in 7 Sample Study villages: Awareness Level (Cont.):*

Sl. No.	Name of village	Agency facilitated Awareness						Aware	Not Aware	Total Respodents
		NGO	Govt. Officers	Activists	VSS Members	PRI	Villagers			
1	Dongapal	5	2	1	1	1	-	10	5	15
2	Ballikuma	5	2	-	-	3	-	10	5	15
<b>Dhenkanal Total</b>		<b>10</b>	<b>4</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>-</b>	<b>20</b>	<b>10</b>	<b>30</b>
3	Bhobani	9	-	1	-	1	1	12	3	15
4	Angda	4	5	-	-	1	-	10	5	15
<b>LSDA Total</b>		<b>13</b>	<b>5</b>	<b>1</b>	<b>-</b>	<b>2</b>	<b>1</b>	<b>22</b>	<b>8</b>	<b>30</b>
5	Rajpur	13	1	-	-	-	-	14	1	15
6	Padmapur	5	4	-	-	-	-	9	6	15
<b>ITDA Total</b>		<b>18</b>	<b>5</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>23</b>	<b>7</b>	<b>30</b>
7	Tahajanga (OTELP)	5	-	-	-	-	-	5	-	5
<b>Gajapati Total</b>		<b>36</b>	<b>10</b>	<b>1</b>	<b>-</b>	<b>2</b>	<b>1</b>	<b>50</b>	<b>15</b>	<b>65</b>
<b>TOTAL (A+B)</b>		<b>46</b>	<b>14</b>	<b>2</b>	<b>1</b>	<b>6</b>	<b>1</b>	<b>70</b>	<b>25</b>	<b>95</b>

*Suggestions from all the Respondents from 7 villages of Dhenkanal and Gajapati districts: N=95*

As regards suggestions for improvement of the Act, out of 95 respondents, 43 (45.26%) sought information about status of their claims, 45 (47.37%) favoured reconstitution of FRCs, 43 (45.26%) asked for supply of forms through Pallisabha/GS, 13 (13.68%) wanted commission of joint inquiry immediately, 56 (58.95%) viewed change of mindset of Govt. Officials and 16 (16.84%) opined early settlement of claims of ST & Others over the same land.



#### 5.4 PROBLEMS EXPERIENCED BY FRA COMMITTEES OF DHENKANAL AND GAJAPATI DISTRICTS:

The Research Team had interviewed members of the DLCs/SDLC/FRCs such as Collectors, PA ITDA DFO, Sub-Collector, and DWO, villagers of Gajapati/Dhenkanal districts about the problems they experienced in functioning and implementation of FRA. Some of the key Problems revealed from the study experienced at all the three levels like DLC, SDLC and FRC and also some suggestions for overcoming the felt problems have been indicated in brief which are as follows:

##### 5.4.1 Problems experienced by the Dhenkanal DLC & Gajapati DLC:

1. Circular regarding constitution of FRC in forest villages (clarification communicated vide letter No. 17014/02/2007-PC&V (Vol. VII) Government of India, Ministry of Tribal Affairs Dated June 9, 2008) has not yet been received in Gajapati District which has kept the key stakeholders unaware of the detailed provisions envisaged in it.
2. The task of FRA implementation is Herculean. Time is inadequate. In the mid way of implementation, the High Court stay orders and general parliament as well as state elections to LLA interrupted the process of implementation of the Act which has delayed the entire process.
3. The stakeholders have not properly understood the FRA in letter and spirit. The villagers are ignorant about the differences between lands under Forest and Revenue Departments. Thus most of the claims submitted to FRC stand unsettled.
4. The community at large has failed to understand the importance of the FRA. There is want of evidences for 75-year encroachment in case of non-ST People claiming for title. The villages where the ST population is insignificant in number, the constitution of FRCs have not been completed as people of other ethnics are not interested to hold Gram Sabhas. Therefore, discontentment in the minds of the non-ST people in the villages is noticed.
5. There is shortage of RIs and Amins for preparation of map and demarcation of land within stipulated time. Besides, health conditions of the retired RIs who are engaged for the work become bad due to hard work in inaccessible area. And majority of them are reluctant to go to the field and do hard work.
6. Forest land under Forest Department has not been able to be verified. Only forest land under the control of revenue department is being verified in different villages during the implementation process as a result of which distribution of titles is limited to forest land under revenue department control. As a consequence of this, the number of eligible persons has been reduced considerably. This is an urgent issue which needs to be addressed on a conscientious basis.
7. The boundaries of the distributed forest land plots are not mentioned in majority of the title certificates because settlements in all cases have not yet been completed. This would create problems in future for proper demarcation of the land where certificate of titles are given.
8. As per pre 1980 forest settlement the forestland has been changed as revenue land for the purpose of use without change in record. *Pahada, Parbat, Dangar*, etc. lands have not been clarified as forest lands. Where the people encroached such land they are getting deprived of getting the titles for lands not actually recorded as forest type.

#### 5.4.2 Problems experienced by the Kamakshyanagar SDLC & Parlakhemundi SDLC:

1. The ADWO-cum-Member Secretary, Kamakshyanagar SDLC experienced difficulties in smooth implementation of FRA due to shortage of staff, both technical and non-technical. He was over burdened with the additional charge of SDPO and he had no supporting staff, like sr. clerk and class IV employee in welfare section. He hardly got time for FRA implementation work as he is discharging this work apart from his several other works.
2. Retired RIs and Amins who have been engaged for early settlement of claims by preparing maps and other fieldwork have not been able to finalize the target of 100 cases per month in remotes areas. Four of the retired RIs and Amins engaged for the 2<sup>nd</sup> terms have not joined. The Hand Held GPS instrument which has been given for use to measure the land for mapping purpose was reported to be showing more than 15 percent error. In view of this, the RI, Amins and also the Range Officers during the course of the study have asked for a more improved type of GPS to be provided to them for more effective use in the field.
3. Non-placement of funds with the Parlakhemundi SDLC to meet the contingent expenditures, like use of vehicles with fuel for field visits, poses difficulties in the implementation process.
4. It becomes difficult to consider the claims of the non-ST forest dwellers in absence of proof regarding their settlement for 3 generations (75 years) in the village. A large number of applications are pending due to lack of proper evidence. It would not be possible to complete issue of pattas to all applicants within the target time of December, 2009 as the process time consuming and as the activities got accelerated only after vacation of the High Court stay after July 2009.

#### 5.4.3 Problems experienced by the FRCs Members and Villagers:

1. The FRC members are not fully explained and aware of the objectives of formation of FRC and provisions of the Act. Most of the FRC members are illiterate, untrained and thus incapable of doing their duties as FRC members.
2. Due to ignorance, the FRCs have not requested the SDLCs to supply village maps, forest maps, etc. before the verification of claims. Due to non-availability of maps, FRCs has to wait to know about their land status till verification of the claims.
3. Proceedings of the SDLCs on the recommendations of the Gram Sabhas have not been supplied to the FRCs. This has generated doubt among the claimants to know the exact position or status of their applications.
4. The villagers are not aware about the provisions of the FRA, its benefit and their duties and responsibilities towards wild life, forest and bio diversity, etc.
5. No training has been given to most of the FRC members or villagers neither by the govt. offices nor by any NGO in the villages of Kankadaha block. But in the villages of Paralakhemundi ITDA and LSDA, Seranga Micro project, the NGOs were involved but the trainings given are inadequate to empower the FRC members and villagers.
6. No leaflet/booklet containing the provisions of the Act was distributed/circulated among the villagers/FRC members in Dhenkanal District. In the study villages of Kankadahada block no meeting of FRCs was held. But in the villages in Gajapati District FRCs met more than once after their constitution.



7. Palli Sabhas or FRCs has not supplied the application forms to the villagers. The villagers obtained application forms from the NGOs operating in their villages on personal effort. In the villages of Kankahada block of Dhenkanal District, the claimants applied for their claims by purchasing the application forms from the nearby market at the cost of Rs 2/- per a Xerox copy of the application form. In most of the cases, the applications for claims were submitted directly either to WEO or RIs without resolution of Gram Sabhas/FRCs.
8. Most of the villagers do not know the status of the land they possess (revenue land or forest land, *kissam* of land etc.) Some claims have been rejected after joint verification on the ground that the land applied for belongs to revenue land category.
9. The villagers have not also applied for the community claims because of ignorance.
10. Most of the applicants have been waiting for identification and finalization of land through Joint enquiry for a long time
11. Since there is a stipulation in the provision of the act to furnish prove/evidence that the person is in occupation of the land for 3 generations in case of Other Traditional Forest Dweller, it is becoming extremely difficult and almost impossible to show prove. This is debarring eligible occupants from staking their claims.
12. Further, there is a misconception in the minds of many stakeholders that although the Act stipulates for both ST and Other Traditional Forest Dwellers, it is meant for only ST and in some other cases stakeholders are of the opinion that only after the cases of ST people are disposed of, the cases of Other Traditional Forest Dwellers will be taken up. Under such a situation, the entire spirit of the Act gets delayed.
13. The members of the FRCs have failed to give required assistance to the villagers for filing applications for claims on forest land and information about the status of the land, village map, forest map and programme for joint enquiry, etc.
14. Due to lack of coordination between the revenue and forest officials joint verifications have been delayed in most of the villages.
15. No register/record on receipt of applications has been maintained by the FRCs, nor joint verification made and forwarded to the Gram Sabhas for consideration. So it becomes difficult to trace the status of claims.
16. It is found that in the title certificates issued to the claimants, the boundaries of the plot and mouza of land given under FRA have not been mentioned. The unit of area mentioned in the title certificates in some cases while has been recorded in Acre, in some other cases in Hectares. Use of different units is creating difficulty.

#### 5.4.4 Suggestions of the FRA Committees Members and Villagers:

Interviews conducted among different members of DLCs, SDLCs, FRCs as well as villagers in Dhenkanal and Gajapati districts have come up with the following suggestions for effective implementation of FRA.

1. Sufficient application forms both for individual and community claims should be supplied to the FRCs for distribution among the villagers. SDLC should supply the revenue maps, forest maps and other records and assistance to the FRCs before commission of the joint verification.
2. Adequate training should be imparted to the FRC members in Gram Panchayat level, and publicity need be made to sensitize the villagers to come forward for submission of individual claims as well as community claims.

3. State Government should arrange training programmes for the Govt. and non government organization representatives who will act as master trainers in the GP/Block/Sub Division/District levels. A detail training programme and road map for successful implementation of FRA should be chalked out by the nodal department. An officer of the nodal department should exclusively be kept in charge for this purpose. Officers of line departments should be proactive in giving training and creating awareness through distribution of leaflets, wall writings/posters, by propagating through audio visual sets, cultural shows etc. This should be done at regular interval till completion of the process or till the desired target is achieved.
4. Required number of RIs/Amins/forest officers should be deployed to conduct joint verification and finalization of claims immediately. RIs/Amins and forest officials should be adequately equipped with modern equipments for field measurement and preparation of accurate maps. They should be made aware of provisions of the FRA so that they could solve the problems during joint verifications.
5. An officer at each level i.e. Block /Sub Division level/District level should be kept exclusively in charge of supervising implementation of the Act till the end of the process.
6. Settlements with large population should be declared as separate revenue village and FRC should be constituted in these villages for implementation of the FRA.
7. The cases settled should be recorded in the revenue settlement. Modalities to synchronize the records of FRA and that of revenue department should be decided immediately so that the rights of the land vested to the forest dwellers under FRA could be entered in the revenue record.
8. As per pre-1980 forest settlement the forestland had been changed as revenue land without change in record. Pahada, Parbat, Dangar etc. lands had not been clarified as forest lands. Where, such lands were being encroached by the people, they are being deprived of getting the titles even though the lands actually were forest type. *Kissam* of land as *Pahada, Parbat, Patharbani, Dangar*, etc. should be given equal status of forest land.
9. Assistance should be provided to the title holders under this Act to develop the forest land given to them through different land development schemes such as NREGS, National Horticulture Mission, etc. apart from providing irrigation facilities.
10. Community right is a subject matter of forest plan. In case of conflict for diverting forest land for vesting of forest right, decision of FRC should be given importance. This should be discussed in Zilla Parishad in the presence of DFO concerned.
11. In the title certificates boundaries and Mauza should be clearly mentioned which will help later in entering these cases in revenue records and demarcation of plots.

The case studies collected in respect of details of the constitution and functions of DLC, SDLC, and FRCs and implementation status under FRA in the sample study areas (Dhenkanal and Gajapati districts) are furnished in the *Annexure - II*.



## GAP BETWEEN THE PROVISIONS AND PRACTICE

## 6.1 Background:

The FRA was hailed by one and all except for the forest bureaucracy and conservationists who even regarded this law as the 'death-knell' on forests. Although the Gram Sabha was given a pre-eminent position in the Act initially, subsequently its position was completely obliterated. The PESA which formed the basis of the JPC recommendations was ignored and quietly forgotten. Consequently the unhindered power and strength of forest bureaucracy, conservationists, mining and industrial lobby were, to a large extent, reinstated and reinforced. A plain reading of the Act particularly the definition of 'forest dwellers' which reads 'people who reside in the forest and excluded all such who live in close proximity to forests' brings in an apprehension to the point that while rights were secured for people residing in recorded forests, it excludes a large majority of tribals staying in unrecorded forest villages'. The ideal example could be Orissa which has the largest number of forest fringe villages i.e. about 29302. This constitutes about 60% of total number of villages in the state. The total forest area of these fringe villages is about 8mha which is less than 33% of the total forest area of the state i.e. about 5.8 mha. Since the condition 'in close proximity to the forest' was withdrawn in the final Act, the number of tribals or other forest dwellers who would have been eligible for claiming land rights within a forest is bound to be small now.

Although the JPC had given pre eminence to the Gram Sabha in matters of forest governance, its position seems to have been substantially reduced. It is now neither the final authority in the settlement of rights nor its consent has been made mandatory in diversion of forest land for non-forest purposes. The authority now rests with the SDLC. Representation of forest dwelling tribes in the SDLC has been overlooked. The Gram Sabha has no role in matters of demarcation of a protected area or critical wildlife habitat. The Gram Sabha is to give only informed consent on the resettlement package. It has no right to disagree. Its role has been limited only to initiate the process of determining the rights. The new law mentions of "Critical Wildlife Habitats" in place of the "core areas" within the protected areas. In the new Act (FRA) forest department continues to exercise power in relation to activities causing irreversible damages to forests and decision on the possibility of co-existence and its relocation. As in the 2002 Wildlife Protection Act, the above process makes no mention of the specific role and responsibilities of Gram Sabhas in a scheduled area.

Another grey area of the FRA is fixation of support price of MFP. Since the provisions of the Act will not prevail over other Acts, the limitations imposed by the Wildlife Act in terms of collection of NTFP from protected areas would continue and prevail. Since this Act (FRA) will be in addition and not in the derogation of other laws made from time to time, there is hardly any possibility in improvement of existing tribal rights. The Act defines Minor Forest Produces (MFP) as all NTFP of plant origin including bamboo, *Kendu* leaves etc. The rule says the rights would be given over all MFP regardless of whether they are nationalized or previously restricted or prohibited and all items provided in state Acts and rules etc. This is also tacitly opposed by forest bureaucracy and in states like Orissa; the major forest produces like kendu leaves, bamboos and sal seeds continue to be nationalized.

Considering the above points in brief, it may not be inappropriate to say that this Act is another such Act with all the previous restrictions on tribal rights remaining intact. In that way it may not be called as revolutionary or a panacea for all forest rights related issues. This Act (FRA) does not accept PESA as a basis for law making and regulating FRA. It is just legislation at par with WLPA, FCA etc. It implies that restrictions provided in these legislations will continue and override the FRA.

This Act has focused on two important areas i.e. definition and classification of forests and nature and extent of departmental control over different types of forests. Although a large track of land was recorded as 'unclassified' forests in government records both during and after colonial and post-independence periods, the ownership was unclear. Most of these forests were home to a large number of tribals but these were usurped by state without settling their rights over them and the tribals have been treated as encroachers in their own land. In a number of cases where pattas/leases/grants were issued by proper authorities, these have become contentious issues between departments particularly the Forest and Revenue Department. The problem is more compounded because there is no clear demarcation of forest lands. In most of the cases, majority of the disputes and claims relating to use of and access to forest have not been addressed because of forest department's inability to clearly identify a government forest. Frequent changes in the definition and classification of forests have caused hindrance in determining and settling forest rights. Different laws, policies and orders have defined and classified forests differently. For example, under the Indian Forest Act 1865, forest was defined as land covered with trees, bushy wood and jungle since the intention was timber extraction only. In 1996 the Hon'ble Supreme Court in Godavarman case defined forest as an extensive area covered by trees and bushes with no agriculture. In 2007, the MOEF defined forest as "an area under government control notified or recorded as forest under any Act for conservation and management of ecological and biological resources". However, from the history of events it transpires that although colonial legislations intended to protect and promote local access rights to forests, in the post independence era these were almost obstructed in relation to transferring rights to local forest dependent communities. Even when there were no legal and judicial hurdles, bureaucratic apathy inactivity and reluctance were combined to obstruct their implementation. Consequently it is only the forest dwellers and mostly the tribals who suffered. Besides, in the name of conservation, plantation projects to create carbon sinks in the protected forests local access to rights was limited. Similarly induction of private and corporate houses in the plantation programmes further restricted scope for forest dwellers the chance of getting revenue lands settled in their favour. Even areas covered under shifting cultivation in districts like Keonjhar in Orissa were given for compensatory aforestation. While implementing the provisions of the Act, the following gaps are noticed.

#### 6.2 Important Gaps Between the Provisions and the Practice:

- I. The Secretary of the Gram Panchayat is to act as the Secretary to the Gram Sabha. In most of the Gram Panchayats in Orissa there is only one Secretary who is already saddled with various works connected to development and NREGA works in particular. Therefore, attending to a large number of Gram Sabha meetings is a Herculean task, practically impossible.
- II. A large chunk of forest lands in many areas particularly in the southern districts of the state still remain un-surveyed for which detailed maps and records are not readily available with the local revenue offices and offices of forest department.
- III. Lack of trained manpower and survey equipments is reported to be one of the main sources of hampering works relating to vetting of claims. In Orissa, due to a



case filed in the High Court, the process got delayed for considerable period till August 2009. In many inaccessible areas verification of land becomes difficult. Therefore, the pace of verification is slow in some areas. Maximum claim verification appears to have been done mostly in revenue forest areas ignoring the claims over reserve forests.

- IV. It was noticed during field visit that many claims have been ignored or returned without mentioning any specific reason for that. In fact, many claims have been returned on grounds of non-compliance of departmental recommendations particularly of forest department. Since reason for non-acceptance and rejection is not known, such claimants are unable to appeal within the prescribed period of 30 days. On a test sample check it was noticed that the main reasons for rejection of claims are due to confusion in the minds of implementing authorities in regard to pahadi *kissams* of lands, *dafayati patta*, multiple or dual claims and wanting of Palli Sabha resolution. As an easier and relatively quicker process, forest lands claimed by tribals have been taken for verification first. During the initial period, due to non-availability of claim forms and misinterpretations with regard to validity of claims, the claim process got delayed. However, in subsequent period, adequate forms were made available.
- V. As per provisions in the Act, STs and OTFDs who have been displaced due to acquisition of land for development activities, will continue to have forest rights if they have not received land compensation and the acquired land has not been used for the purpose within five years of acquisition. This aspect has not gone very clearly to the minds of people engaged in recognition of rights settlement of forest lands. Sometimes land distribution to oustees in official records are found to be in possessions of other person/persons even when they were in operative much before the cut off date i.e. 13<sup>th</sup> December, 2005.
- VI. There appears to very little clarity in the minds of the people engaged in recognition of rights work since the concept of CFR and the CFR needed detailed elaboration. Similarly most of those members of GS, FRC, SDLC & DLC are not in know of things as how to demarcate/verify CFR. This has created possibilities for inter village disputes in regard to deciding boundaries of CFR. Even those who are concerned for claiming on different community forest resources have little or no priority on community claims. In fact some CFR claims have been victims of these due to want of forest department recommendation as not belonging to the category of forestland. The technical committees constituted at SDLC level seem to be lacking proper orientation to verify community claims.
- VII. In most of the protected areas people are unaware of the provisions of Forest Rights Act. Therefore, they do not know if they have a role in the entire process of recognition and verification of rights in the project areas (PA) or in the critical wild life habitant (CWLH). There is little evidence of Expert Committee (EC) consulting the concerned Gram Sabha in the above matter. Hardly the expert committee seems to be verifying if complete and correct information is provided to the Gram Sabha in regard to CWLH. People are unaware of the appeal process. When information is submitted in CWH proposal, all the affected families are not properly shared. There is no scope for affected families ultimately to submit appeal to the State Level Expert Committee.
- VIII. There is little evidence for the empowered committee taking up public hearings in the affected villages. Some meetings at some places are construed as public hearings.

- IX. In India several tribal communities have not been given status of ST despite their similar history and livelihood practices. In Orissa, the pahadia tribals residing in Sunabeda forest areas of Nuapada district have been clamouring for tribal status although their counterparts in the neighboring Chhatisgarh state are given the tribal status. This is likely to create dissatisfaction.
- X. Although the Act provides rights to the communities to protect, regenerate, conserve or manage any community forest resource, it does not provide them any powers to do so. It appears that it may be difficult to monitor four hectare claim limitation of the communities practicing shifting cultivation. Similarly it is, in many cases, difficult for the pastoral communities (mostly non-tribals) living in forest areas to claim their rights on production of evidence of 75 years residence.
- XI. The Act is not very clear regarding the eligibility for claiming rights. It only says that "those residing in and who depend on forest and forest lands for bonafide livelihood needs" but there are forest dwellers who don't strictly reside inside the forest. In such cases the definition becomes ambiguous. If misinterpreted, a large number of beneficiaries are likely to be excluded as a result of this restrictive definition. Besides, the rights of the nomadic and pastoral tribes who depend upon forest resources but not necessarily residing in them are likely to be curtailed.

### 6.3 Key Suggestions for Minimizing the Gap:

- I. There still exists sufficient justification for creating massive awareness among all particularly in Micro Project areas where the performance is alarmingly low.
  - II. Capacity building of officials and institutions involved in the process needs acceleration and strengthening on continued basis.
  - III. More involvement of NGOs and CBOs in the awareness and process facilitation needs prioritization besides periodic monitoring and tracking of progress implementation at each level. The official stake should be strong and clear enough to restrict individual interpretation of various provisions of law which sometimes lead to avoidable confusions.
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## FACTORS RESPONSIBLE FOR POOR IMPLEMENTATION OF THE ACT

The empirical study findings as detailed in the previous chapters reveal the following factors responsible for poor implementation of the Act:

1. The task of implementation of FRA as per the instructions issued has been time bound, but in case of the State of Orissa, the stay orders of High Court and general election to the Parliament as well as State Assembly elections mid-way of implementation, interrupted the process of implementation of the Act. More over,, as the entire activity was to be done within the stipulated time notwithstanding the delay caused due to the aforesaid reasons, some lapses in respect of verification and cross checks are found in the process.
2. More over, large number of stakeholders has not properly understood the FRA in letter and spirit and more awareness training programmes and campaigns need to be done for sensitizing different kinds of stakeholders. In fact, the study revealed that the pace of progress of FRA implementation in respect of community claims and amount of forest land under the control of forest department is abysmally low. The situation is very poor in rural interior and PTG pockets where the inhabitants are illiterate and are extremely ignorant about the existence of such act and provisions.
3. In comparatively larger villages which are constituted of multiple hamlets, the claims of all the people belonging to different ethnic groups were not processed at a time (Example: Dongapal GP in Kanakadahad block of Dhenkanal district). Besides, only joint verification of forest lands under the control of Revenue Department has been made (Example: Bhubani GP of Gumma Block in Gajapati district) and the other categories of forest land even under the possession of the ST and Other Traditional Forest Dwellers have not been done. This has prevented many eligible persons from getting the benefit under the provisions of the Act.
4. A circular has been issued regarding constitution of the FRCs in forest villages. The clarification communicated vide letter No. 17014/02/2007-PC&V (Vol. VII) of Government of India, in the Ministry of Tribal Affairs Dated June 9, 2008 that Scheduled Tribes and other traditional forest dwellers who are not necessarily residing inside the forest but are depending on the forest for their *bona fide* livelihood needs would be covered under the definition of "forest dwelling Scheduled Tribes" and "other traditional forest dwellers" as provided in sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was communicated to be noted by all concerned particularly the forest department officials for implementation of the Act. But the study revealed that the letter and spirit of this circular has not been properly understood by the officials responsible for the implementation which has resulted in improper implementation/non implementation of this directive/provision.
5. Lack of proper scrutiny at FRC level and sometimes improper resolution of Gram Sabha due to ignorance and illiteracy have caused inordinate delay in finalization of most of the cases. Therefore, it is badly necessary to create awareness among the people on a mission mode about the provisions of the Act, especially where the performance of the FRCs are quite unimpressive.

6. Further it has been noticed that at many places adequate number of R.Is and Amins are not in place despite instructions to hire the services of retired Amins and R.Is and despite permission to incur expenditure for this. This has hindered the smooth progress of the implementation and there has been inordinate delay.
7. The awareness campaigns as revealed from the study indicated that it laid thrust on Individual claims and has laid less thrust on community rights/claims as a result of which the message of community rights and protection and conservation of forests and wildlife has failed to reach the people. This has resulted in very poor claims filed under community rights and this is a grey area of the implementation.
8. Although the Act provides provision for both the Scheduled Tribe and Other Traditional Forest Dwellers, it has discriminated the Traditional Forest Dwellers and as per provision while a ST in possession of land on or before 13.12 2005 will be eligible to get the certificate of title, in case of Traditional Forest Dweller, will be eligible provided if he/she in possession of land for three generations (75 years). The study has revealed that it is extremely difficult and almost impossible to prove occupation of land by the later for three generations as a result of which although such persons are eligible, due to lack of supporting documents such category of people are getting debarred from getting certificate and even are not able to stake their claims. This also clearly shows that the Act is not getting implemented in letter and spirit on this score for which the number of claims filed and disposed of looks very less compared to the number of eligible persons.
9. Shortage of hand, especially key functionaries like Amins, RIs and Forest Officers has delayed the process. Further a number of tribal areas are located in remote areas which are to be accessed by foot and large numbers of stretches are undulated and it is becoming difficult and time consuming for the officials to do measurement and finalize the maps. Further, Government is paying a small amount as remuneration to the Amins and R.Is whose services are hired, but the newly coming up Industrial houses mostly in tribal pockets are paying such retired officers and engaging them with fat amount. What is more worrying and causing delay is that no transport facilities are provided for the quick movement of these key functionaries resulting more delay in discharging their duties and in the implementation. As a result of this, such positions are falling vacant and the work is getting affected.
10. The study further revealed that due to illiteracy and ignorance of many eligible persons, are not able to fill up the forms and since a number of applicants do not have Photo Identity Card with them and some of them do not have money to Xerox the supporting documents to be attached with the application form, for which they failed to apply. In view of this, Government may think of providing support (handholding) to such eligible persons either through engagement of NGOs or through government functionaries to overcome this problem for smooth and speedy implementation of the FR Act.
11. Forest land under forest department has not been verified. To achieve the target only revenue forest land has been verified rapidly in different villages. So distribution of titles is limited to revenue land sidelining the prospects of claimants in forest lands under forest department belonging to category other than revenue forest.
12. The boundaries are not mentioned in the title certificates because settlements in all cases are not yet completed. This may create problems in future for proper demarcation of the land for which certificate of titles are given.
13. As per pre-1980 forest settlement, forestland has been changed to reserve land without change in record. *Pahada, Parbat, Dangar kissams* of land etc. lands has not been clarified as forest lands. Where, people have encroached upon and in



possession of such land for generations have been deprived of getting the titles even though the lands actually are classified as forest type lands. This has slowed down the process of implementation and is also a grey area and needs to be addressed.

14. Most of the Executive Officers/Secretaries of GPs are found incapable and ineffective to undertake this work because of their low level of education and they are not trained to deal with the records at GP level as well. This leads to improper maintenance of records. WEOs are inadequate in number and they are hard pressed to attend to this work. Building case-records of more than 10,000 cases is not an easy task on the part of limited number of the Secretaries, GS/WEOs of Block.
15. One of the sad part of the implementation is poor response from the Particularly Vulnerable Groups (PTGs) who are about 16,000 (families) spread over 17 Micro Projects. In fact, the Special Officers of these Micro Projects have not been associated in the process of implementation from the beginning. Of late, they have been associated in the process. As the PTGs are mostly illiterate and majority of them are migrants and wanderers it has become extremely difficult to identify them and to collect filled in application forms from them. This had delayed the process resulting in very low coverage of such category. However, steps have been taken now and the Special Officers have been associated in the entire implementation process.
16. It was also observed that there has been very less response from the inhabitants of wildlife sanctuary, dense reserve forest and wild life habitat project precisely because there were large instances of injunctions/restrictions of forest department/project authorities into these areas and with the fear, both the tribal people and also officials are not giving much focus on these areas and majority of such inhabitants have remain uncovered under the implementation.
17. One of the reason as to why the receipt of applications have been rather less in number is that the people in occupation are unaware of the category of land they are in possession. The RIs, Amins nor the Forest Officials are giving any information in this regard. Therefore, there is a need to provide information to all the villagers regarding the land wise category in a conspicuous area so that they can be informed about it and can suitably apply.
18. It was also observed during the empirical study that although applications have been filed in large number in some villages, the beneficiaries of limited GPs are provided certificate of titles as the land is extremely undulated and the showing 15% error. More advanced type of GPs where land is available should be provided for minimizing the error and for quick disposal of cases.
19. No register/record on receipt of applications, joint verification made and the claims forwarded to the Village Committee for consideration have been maintained at FRC level. As stated above, in most of the cases, the applicants deposited their applications directly or through the NGO to concerned WEO or RI. At times, the where about of the claims are not traced at any level.

There are many more factors responsible for the slow pace of implementation of the FR Act. However, the above are some of the key factors which if addressed the implementation of the FR Act can be even better than what has been at the present.

## CRITICAL AREAS OF CONCERN IN THE IMPLEMENTATION AND SUGGESTED STEPS FOR EFFECTIVE IMPLEMENTATION OF THE ACT

Majority of Scheduled Tribes residing for generations and are dependent on forests for their survival, never had individual or communal recorded land rights on the forest lands they occupied prior to the Act, 2006 and Rules, 2007. Proper implementation of the Act and rules would account for the needs of the forest dwelling tribals and recognize the traditional laws and belief system (taboos and totems) that respect their nature's norms and ways, including the forest, trees and wild life. FRA is a historical piece of law enacted in the greater interest of tribal and others with a forest based economy. The tribes once assured of a dignified and rightful living within forests would provide good security to forests and wildlife.

It would help widen the use of tribal indigenous knowledge in collection of NTFPs collection and the vast potential for processing of forest products and the benefits of value addition at the household level. It is, therefore, important that the indigenous skills, knowledge and experience of the forest dwellers gained over the years are fully utilized for maximizing benefits. An interface between traditional knowledge and modern concepts needs to be forged for NTFP production, marketing and processing with some amount of value addition. Such a policy strategy could enhance the socio-economic capabilities of the forest-dependent tribal communities in a big way to secure food security on sustainable basis.

Needless to say that the Act, 2006 disregards the Indian Forest Act of 1927, Wildlife Protection Act of 1972 and Forest Conservation Act of 1980 and Guidelines 1990 and refuses the application of these Acts. We appreciate the better methods to fulfill tribal needs through the Orissa Forest Policy –January, 2008 (Draft). Care may be taken so that the benefits extended to the STs through the provisions of "The STs and other Forest Dwellers (Recognition of Forest Rights) Act, 2006" and its Rules may not clash with the proposed policy.

Orissa is one of the few states which have done considerably good progress in implementation of Forest Rights Act. What is more outstanding and noteworthy is the commendable progress made in the Left Wing Extremist Districts of the state. However, despite good progress, best intentions and efforts made by Government of Orissa for effective implementation of the Forest Rights Act 2006 for the Scheduled Tribes and Other Traditional Forest Dwellers, the empirical study conducted by the study team coupled up with the secondary sources data collected from various sources have identified some areas of concern which are hindering faster and smoother implementation of the provisions of the Act in letter and spirit. The study team has tried to indicate the major areas of concern and also have put forth few suggested steps for effective implementation of this epoch making Act which are indicated below:

1. Study of various provisions of FRA and implementation of the provisions gives an impression that this legislation apparently is more individual centric than community. Under the recognition process, the focus is more on individual rights. Community rights like rights over MFP, water bodies, grazing areas, *nistari* areas, and habitat rights particularly of the vulnerable tribal groups (PTGs) and the right to protect, regenerate, conserve or manage any community forest resources could



deserve better and elaborate attention. The study has amply demonstrated that the government and elected functionaries involved in the process of implementation need consistent and continuous empowerment in terms of interpretation of various provisions of the Act and rules made there under relating to community rights. In Orissa, even though the Chief Secretary has issued a circular bearing No. 6061/SSD dated 04.02.2009; there exists a lot of void in understanding the detailed process at the implementation level in the field.

2. The spirit and essence of the law under section 3(2) of the Act needs better understanding in relation to diversion of forestland for development purposes/facilities. It was noticed that very often diversion of lands for development purposes is confused or equated with community rights. Although the Ministry of Tribal Affairs, government of India have issued detailed guidelines vide No 23011/15/2008-Sgii, dtd 18.05.2009 for dealing with forest land diversion under section 3(2) of the Act and community claims under section 3(1) (b), (c), (d), (e) and (k) and record them separately, the procedural difference between these two claims may be made known to all those concerned in the implementation of the Act. The state government may perhaps issue further guidelines for better understanding of the implementation among the agencies/authorities.
3. The fact that in Orissa several multiple self-initiated institutions are traditionally protected and conservation initiatives are already in place and section 3(1)(i) and section 15 of the Act recognizes and empowers such community based initiatives and requires them to be protected, conserved, regenerated and managed for sustainable use, existence of parallel structures seems to have created confusion in the mind of various implementing Acts. The ongoing Joint Forest Management (JFM) programme; based on state forest department's circular bearing No.- IF. Attn. 17/2006-17454/F&E dated 22.10.2008, is one such example which is reportedly hindering the progress of filing community forest rights claims. To achieve progress with more clarity and precision, the following suggestions could be acted upon:
  - (a) Since CFR rights are statutorily backed under section 3(1)(i) and the Gram Sabha is empowered under section 5 of the FRA, the Joint Forest Management structure created by executive order as against the statutory provision needs re-look and reconsideration. Even though this issue has been alluded in the ST & SC Department's letter dated 21.11.2008, it needs further clarification and elaboration for the implementing agencies and functionaries.
  - (b) In villages including cluster villages where community based forest protection and management is already existing, recognition of their rights over clearly demarcated CFRs must be given priority under section 3(1)(i). Gram Sabhas in respect of those villages may be encouraged to form "Forest Protection and Management Committees" (FPMC) under section 5 of FRA and section 4(1)(c) of the FR Rules 2007.
  - (c) In absence of specific institutional mechanism, the government may find-out and prescribe specific mechanism to channelise funds for the JFM and NREGA schemes to the Gram Sabhas to plan and workout their CFRs.
  - (d) The central and state funded forestry schemes and other externally aided projects like Orissa Forestry Sector Development Projects; Orissa Tribal Empowerment and Livelihood Project (IFAD), Western Orissa Rural Livelihood Project (DFID) need to be re-examined and re-assessed in so far as their participation and involvement in the participatory forest management components to make them compatible with FRA. These schemes should be integrated in the recognition process of forest rights for better effective implementation of FRA.



- (e) It has been observed on reports received from various quarters that officials of forest department either do not encourage communities to file claims for community rights or shy away from this issue on the ground of insufficient funds as funds are only available for non-statutory JFM. This issues needs to be addressed at the state level and instructions issued to the field functionaries.
4. Rights of ownership, access to collect, use and dispose of MFP (which includes bamboo, *kendu* leaf, *sal* seeds) of the forest dwellers is traditionally recognized. This right is now legally recognized under section 3(1) of FRA. Since many of the items of MFP are still controlled by the state government and the forest dwellers are deprived of collection of nationalized (state controlled) items of MFP like bamboo, *kendu* leaf and *sal* seeds, all existing state laws, guidelines, executive instructions may be reviewed to ensure their compatibility with the FRA 2006. The government may promote and encourage primary collectors mostly tribal and other forest dwellers to develop marketing network starting from collection, processing and marketing of MFP and *kendu* leaf and bamboo. Since such committees have acquired ownership rights over MFP and the forest dwellers are mostly poor tribals and other communities, the existing practice of imposing royalty may be waived. The existing system of issue of transit permit by forest department officials needs revision by which such powers can be given to Gram Sabha.
  5. Section 3(1) (e) of the FRA secures the rights of Primitive Tribal Groups (PTGs) including community tenures of habitant and habitation. Due to lack of clarity, recognition of PTG rights under the Act is lagging far behind due to lack of clarity among implementing agencies and civil society actors regarding the concepts of habitat and community tenure. Therefore, several interventions may be necessary at various levels which may be summarized as follows-
    - o The Scheduled Tribe and Scheduled Caste Development Department (STSCDD) should take a proactive role to facilitate recognition of PTG rights by implementing agencies. To facilitate the collective claims of PTGs in respect of their large habitat in view of their diverse traditional, customary and cultural, practices, special arrangement is made. Similarly, special attention is needed for the Mankidia and Hill Khadias for recognition of their rights to seasonal use of landscape as per provision in section 2(a) of FRA. Micro project officers and staff should be assigned the responsibility of facilitating the claims of rights by PTGs and provided with adequate orientation and training for the purpose. The STSCDD may consider utilizing the services of knowledgeable people who have substantial working experience with the PTGs.
  6. Conservation of forests and conversion of un-surveyed villages into revenue village is another area where a lot of work is required to be done yet. In spite of the statutory provision under section 3(1) (h) of FRA and circular No. 40373/SSD dated 21.11.2008 of STSCDD; this is another area which needs immediate attention. In many such villages, FRCs are yet to be legally constituted for which clear and unambiguous guidelines/circulars need to be issued even though some of the villages/habitations may fall outside the Panchayat boundaries.
  7. Despite the FRA being applicable to all categories of forestland as described under Section 3(2)(d) of the Act, the rights recognition process in the protected areas is being severely hampered by misinterpretation regarding the applicability of the Act to protected areas by the concerned implementation agencies. The situation in Tiger Reserve and Critical Tiger Habitats is reportedly bad. In Chandaka Wildlife Sanctuary and Similipal Tiger Reserve relocation plans are reportedly finalized without completion of the rights recognition process under the Act. Therefore, process of FRC formation, receipt and verification of claims and recognition of



rights inside the protected areas including Tiger Reserves should be completed at the earliest before relocation plans are finalized. Eviction or re-location of villagers from protected areas should stop as this is illegal both under sections 4(2) and 4(5) of the FRA and section 38(v) and 4 & 5 of wildlife (protection) amendment Act 2006. Those officers/authorities of Forest and Wildlife department are asked to cooperate with the implementing agencies so that penal action contemplated under section 7 of FRA is avoided. The process of recognition of CFR is given equal priority as in case of individual rights. Line departments of government have to formulate and implement developmental programmes and activities duly approved by Gram Sabha/Palli Sabha in the villages/habitations located inside sanctuaries and national parks including those notified as critical tiger habitats.

8. The FRA may be suitably amended to conform to the provisions of PESA which should be the basis of tribal law making with over-riding powers.
9. Gram Sabha being the authority to initiate the process of determining rights of forest communities for receiving applications, consolidating and verifying the claims, its authority has to be respected by the implementing agencies. Due to haste in which Gram Sabhas were convened and FRCs formed, in many parts of the state the FRCs are reportedly non-functional and are not able to function and perform properly. Therefore, a comprehensive plan for capacity development of the Gram Sabhas and FRC members should have been drawn up within a time frame. The circulars bearing No 6061/SSD of 4<sup>th</sup> February 2009 of the Chief Secretary, Orissa government should be brought to the notice of all concerned repeatedly so that individual decisions/interpretations in contravention of the provisions of law under section 7 of the Act do not hamper implementation of the Act.
10. During the field visit, it was reported to the research team that in many cases, lands categorized as forest land such as '*patra jungle*', '*chota jungle*', '*bada jungle*', '*pahad*', '*parbat*' *kisam* etc. in the past (SABIK) settlements were changed into other revenue *kisams* of land in subsequent (HAL) settlements with clear noting on the previous status of such lands. It was reported that during the ongoing verification process FRA claims on such lands were not being entertained citing the present non-forest status of such lands ignoring settlement history. This is likely to deprive a large number of people their genuine rights. It would be appropriate by the government to issue further clarifications on this issue to avoid confusion.
11. In many hilly tribal areas of Orissa survey and settlement operations were not undertaken due to such areas having more than 10 degree slopes. But the tribals inhabited these areas as a matter of right to be their ancestral lands but the forest department continues to claim these as forest areas. This controversial issue needs settlement immediately by way of clarification to the implementing authorities keeping in view that such disputed lands come under section 3(1)(f) for which the restriction of maximum 4 hectares claims as admissible under section 3(1)(a) may not hold good.
12. There may be cases in which forest communities have been illegally evicted or displaced from their land for developmental and conservation programmes (compensatory or afforestation and protected area purposes). Interaction with government officers suggested that probably these cases are not being considered since the claimants are not currently in possession of such lands. Such cases should be addressed under section 3(1) (m) and section 4(8) of FRA. While the former section provides the right to in-situ rehabilitation including alternative land for illegally evicted or displaced people, the later section permits restoration of land acquired but not used within five years of acquisition. In fact, this position has been stressed in the circular containing clarification on Frequently Asked Questions (FAQ) issued by ST&SC Department on 21.11.2008. This is also further supplemented and clarified by the circular No. F. No-11 4/1998-FC (pt) dated



30.07.2009 issued by Ministry of Environment and Forest (MOEF) that no diversion of forest land shall be permitted till the process of recognition of rights has been completed and local Gram Sabha gives written consent to such diversion. This clarified position needs to be brought repeatedly to the field functionaries of forest department and those officers/agencies engaged in the process.

13. Another problem which came to the notice of the research team was the forcible occupation of even cultivable lands for JFM for plantation purposes by the concerned department for which the dwellers/cultivators were thrown out of occupation. These needs to be stopped till the right recognition process is over as such denial of rights are illegal under such 4(5) of FRA.
14. The research team, while going through the data in various offices and after conducting interactive discussions with key functionaries and the villagers in meetings came to know the following common deficiencies in the process of claim settlements. Some of the common deficiencies could be summarized as follows:-
  - (i) Even though the state government through various concerned departments has issued circulars and guidelines on the subject, most of these have not reached the Gram Sabhas/Palli Sabhas and the FRCs. Wherever these guidelines have reached, they being written in English had not been understood by the functionaries/institutions at village level. These could be translated in Oriya/local scripts wherever possible. Some attempts have been at the state level and in the district level at Gajapati to distribute Oriya copies of guide lines.
  - (ii) To exercise their right to appeal against the orders of SDLC and DLC as the case may be, the claimants are unaware of information relating to rejection of their claims and reasons for rejection even though detailed instructions have been issued in the circular No 6061/SSD dated 04.02.2009.
  - (iii) Lack of co-ordination between various line department officials was found to be one of the major hurdles particularly in the field verification work. It must be made very clear to the verification teams that they are not competent to modify or reject claims approved by FRCs/Gram Sabhas. Their function should be primarily related to map preparation and assisting the FRCs/Gram Sabhas in the verification work.
  - (iv) During field visit the research team noted that majority of Gram Sabha and FRC members, field personnel and officials engaged for implementing the provisions of FRA are very poorly informed about the various provisions of the Act and rules there under. As a result, forest dependent people are not being able to claim diversity of rights for recognition under the Act. Therefore, it is recommended that skill development and capacity building of the implementing agencies especially the members of Gram Sabhas, FRCs, SDLCs & DLCs and others connected with implementation of the Act should be done on continuous basis.
  - (v) The district authorities may take steps to utilize the services of civil society organizations, people's networks, academics and researchers and utilize the materials prepared by some NGOs on this subject. Adequate funds may be placed at SDLC and DLC levels for timely implementation. Funds available under Article 275 of the constitution and under NREGA may perhaps be dovetailed for better convergence.
15. It keeps large section of forest dwellers out of its purview. Only those residing in forest areas for 75 years will be qualified as 'other traditional forest-dwellers' (other than scheduled tribes), and only those 'primarily residing in' forest areas can claim rights under the Act.
16. The nomadic PTGs like 'Birhor', 'Mankirdia', and 'Mankidi' are not bonafide members of any village. They use to exploit forest resource at different places in different times/seasons to eke out a living. Their claims of rights over the forest



land and resources, where they use to stay comparatively for a longer period of the year may be considered by the host Gram Sabhas/population in favour of these communities.

17. It is proposed that the Addl. District Magistrate (OLR) of the district dealing with the land laws and cases within the jurisdiction of the district, is to be taken as member of the District Level Committee and the Tehsildars/Additional Tehsildars of the Subdivision be taken as member in the Sub-Divisional Committee as they play a pivot role in implementation of land related acts and rules.
18. The Forester, RI, Amin and Chainman posted in each forest range areas and Revenue Inspector Circle should be directed to help co-operate the Gram Sabhas and to work for the Forest Right Committees by extending their technical service support.
19. The Government should develop a database to facilitate monitoring the activities being taken and prepare Action Taken Report on the aftermath of ACT, 2006 and Rules, 2007. Besides, another data base may be created by conducting special survey of all the forest settlements and their dwellers before and during the implementation of the forest Acts and rules to take stock of the socio-economic and extent of forest dependency of these people.
20. According to the provision of Forest Rights Act, 2006 and Rules, 2007, the SLMC would be constituted by state government by nominating 3 members from the Tribal Advisory Council (TAC). In the mean time GOO has reconstituted the Tribes Advisory Council after the elections 2009 to the State Legislative Assembly. Till date of reporting, no new TAC members have been nominated for the Committee. State government may consider reconstitution of the SLMC at the earliest by nominating 3 members of the newly constituted TAC.
21. Important decisions were taken in two meetings of SLMC held during last two years which provided guidance and facilitated the FRA implementation mechanism in the state of Orissa.
22. The Nodal Department i.e. Scheduled Tribe and Scheduled Caste Development Department in co-ordination with other line departments, had taken all out efforts for vigorous implementation of the Act through issue of different circulars and guidelines to all concerned relating to constitution of FRCs, SDLCs and DLCs, for imparting trainings to stakeholders for their effective functioning and gearing up of the district and sub-division administration. It provided required funds to the tune of 10% of the total funds available under Article 275 (1).
23. The Chief Minister and the Chief Secretary of Orissa had monitored the progress of FRA and achievements from time to time and issued instructions for effective implementation of the Act so that benefits reach all eligible claimants within the stipulated time. Besides, regular monthly/fortnightly monitoring of the status of FRA in respect of 30 districts by the Principal Secretary, ST & SC Development Department, Orissa through video conferencing has helped the assessment of the progressive achievements as well as has clarified doubts of the key functionaries and shorted out their difficulties.
24. The FRCs has been constituted in 98.91 % villages except uninhabited villages or villages where non-tribals are a majority or even villages, where no eligible claimants were found. Other Committees such as DLCs and SDLC were duly constituted and made functional.
25. Training imparted in the sample study areas seems to be inadequate to empower the FRC members and PRI representatives and GP officials in order to discharge their duties effectively for extending help to the Forest right claimants. Progress of implementation of FRA appears to be impressive in respect of settlement of claims



on forest land under revenue department but seems unimpressive in achievement under community claims (CFR) and more so in case of PTGs.

26. Not a single 'Forest Protection & Management Committee' as required under Sec 5, FRA and Section 4(1)(e) of the Forest Rights Rules, 2007, seems to have been formed. People urgently need orientation training for understanding the claim process and making claims under community rights for rights to protect and conserve forest and wildlife.
27. Area under VSS in one of the study village namely Dongapal of Dhenkanal district was excluded from the purview of community claim but in the village Bhubani under LSDA Micro Project area in Gajapati district, such claim was made by the people for which, joint verification was needed.
28. Considering the unimpressive performance in implementation of FRA in Micro Project areas, it is better late than never, that a special drive may be undertaken to provide orientation training to the Micro Project officers and staff and FRC members and assigned them the responsibility of facilitating the claiming of rights by all PTGs within in a stipulated time frame of six months. All the FRCs may extend the date of receipt of receiving of claims for 3 months, i.e., 31<sup>st</sup> March 2009.
29. Arrangement for such special trainings in the 17 Micro Projects (13 PTGs) areas should be made in the month of January in collaboration with SCSTRTI, Micro Projects and NGO associated who have reported to be experienced in FRA implementation in conducting seminars and trainings both at state and ground levels. The required funds under Article 275 (1) should be made available to Special officers of Micro Projects to go ahead with the trainings in joint collaboration of SCSTRT and NGOs.
30. One educated unemployed boy from every PTG village should be engaged and trained to facilitate the claim process by extending support to FRC/GS. He should be paid an honorarium @ Rs. 95/- daily for 3 months so that all the eligible PTG family of the village would be able to make their claims. Their individual rights on forest land as well as of other villagers should exercise their CFR within the schedule time frame (March, 2009).
31. In Sunabeda Wildlife Sanctuary, Simlipal Biosphere and National Park and Mines area the displacement of PTGs like Chuktia Bhunjia, Hill-Kharia, Makirdia, and Kutia Kandha the relocation programmes are reported to be finalized without respecting the provisions of FRA and its rules which deprived the poor forest people their rights conferred under the FRA. Further, rights on land and livelihood of the PTGs, such as Kutia Kandhas of KKDA, Lanjigarh, Kalahandi district and Dongaria Kandha of DKDA, Kurli and Di:DA, Parsali of Rayagada district are going to be affected by the proposed mining operations in Niyamgiri hill ranges, the great and sacred habitat of the said PTGs. This sensitive issue needs to be addressed on priority basis.
32. Receipt of claims for diversion of forest land for development facilities under Sec 3(2) of the Act and for Community Forest Resource Rights under section 3(1) (b),(c), (d),(e), (i) and (k) is quite insignificant in both the study districts. The guidelines issued vide No. 23011/15/2008-SG.II, dated 18.5.2009 by the Ministry of Tribal Affairs, Government of India, relating forest land diversion under section 3(2) must be dealt with and recorded separately.
33. Funds under different schemes should be converged and need be utilized for development of land distributed to the STs and OTFDs beneficiaries under FRA and for undertaking of agro-forest based activities for income generation.
34. The world community would suffer for want of adequate forest coverage resulting in climate change and soil erosion. Therefore, there is a need of scientific management of forest and wild life conservation which require a total of at least



30% of forest cover by preserving core and reserve forests/wildlife sanctuaries along with suitable relocation of forest people at the fringe of their habitats. Of course, relocation of the forest dwelling people at core areas should be done after winning their confidence and consent this should be done in accordance with the provisions of Orissa R&R policy and further policies declarations by State Govt. of Orissa from time to time.

35. As reported, some important circulars and instructions relating to FRA are not available with DLC/SDLC and other concerned key functionaries. Thus it is highly necessary to prepare a compendium of all circulars, letters and memos of instructions, guidelines of FRA issued by MOTA, MOEF, MOP, and other Central Govt. and State Govt. Departments and it should be communicated to all for their ready reference.
36. Considering the fact that the FR Act implementation in the state of Orissa in full swing got a delayed start (as late as August, 2009) after vacation of stay by honourable High Court of Orissa, it is quite unlikely that the process in all respect can be completed by end December, 2009 as communicated by Government of Orissa to all district collectors. In this backdrop, it will be appropriate and fair to extend the time limit for filling of claims till March, 2010 and disposal of all cases including *patta* distribution till September, 2010.
37. As indicated in the previous chapters, the study revealed that the 75 years/ 3 generations stipulation kept in the FR Act as the eligibility criteria for other traditional forest dwellers is becoming extremely difficult and almost impossible for individuals for citing documentary proof. As a result of this, one hardly finds claimants under other traditional forest dwellers category although there are innumerable fit cases. In view of this it is suggested to reduce the three generations stipulation to one generation (25 years) for other traditional forest dwellers category people to give natural justice to such category.
38. It is revealed from the empirical study that a large number of tribals are in possession of such lands, which are under the *kissam*, like *parbata/pahada/dongar/patharbani*. There is lot of confusions as to whether the tribals in possession of such lands are eligible to get certificate of title under the FR Act which is silent about it. In view of this Ministry of Tribal Affairs, Govt. of India in consultation with Ministry of Environment and Forest, Govt. of India should give a quick clarification on this issue so that the confusion can be avoided and benefit of the FR Act can possibly be extended to the claimants.

The aforementioned areas of concern and suggested steps which have emerged on the basis of the findings of the empirical study coupled up with secondary sources information may be looked in to by both Central Government and State Government and necessary modifications may be brought about both in the strategy and in the provisions for more effective implementation of the Act so that the Scheduled Tribes and Other Traditional Forest Dwellers occupying Forest Land can get benefit of the provisions of the Act. However, this study was based on first hand information obtained from the field through a quick study of six weeks. It is suggested that an independent organization may undertake further long term study on the implementation of the Forest Right Act with a larger sample size and wider coverage to assess the effectiveness of the FRA and grey areas in implementation so that corrective steps can be taken midway which will have implications for the entire state.

# ***ANNEXURES***



# CASE STUDIES

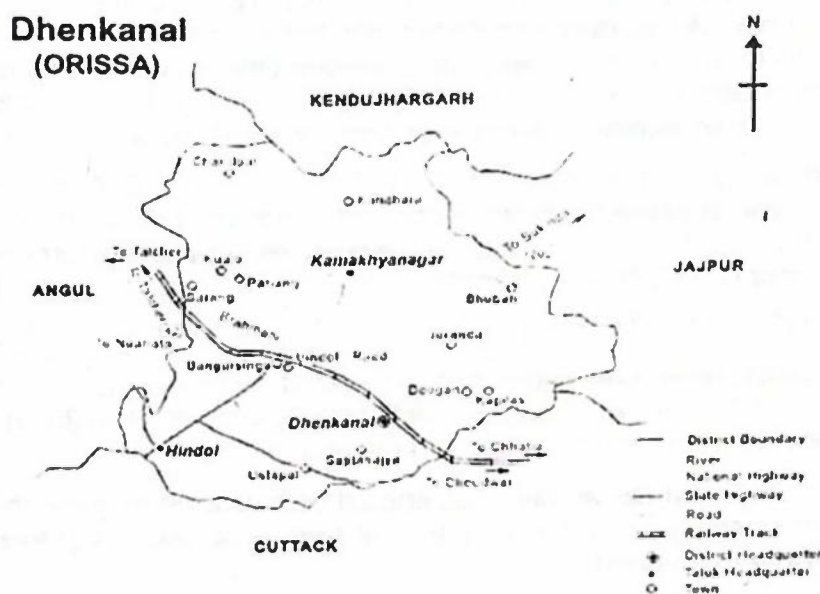
**Case Studies**

**Case Study- I: Implementation of FRA in Dhenkanal District**

***Dhenkanal District Profile:-***

As per 2001 census Dhenkanal District has 3 Sub-Divisions, 6 Tahasils, 8 Community Development Blocks, 3 Urban Local Bodies, 199 Gram Panchayats and 1215 villages of which 1076 are inhabited and 139 un-inhabited.

**Map of Dhenkanal District**



The geographical area of the district covers 4452 sq km, out of which, the share of the total recorded forest area is 1788.20 sq. km. (40.17 %). The breakup of the category of forest area of the district is as follows.

The coverage of forest area (in sq. km.) by legal status in Dhenkanal District is presented below.

Year/ District	Reserve Forest	Demarcated Protected Forest	Un- Demarcated Protected Forest	Un- Classified Forest	Other Forest under Control of Revenue Dept.	Total Govt. Forest
2006- 07	1141.02	13.78	0.00	0.04	582.78	1737.62

The Scheduled Tribe inhabitants of the district are Bhumija, Gond, Gandia, Juang, Kandha, Kolha, Kharia, Kisan, Kawar, Lodha, Munda, Matya, Saora, Santal, etc. No ST community of the district has been identified and recognized as PTG so far.

The total number of households of the district is 2, 22,023, out of which 2, 03,537 households are reported from rural area and the rest 18,486 households from urban area. The total population of the district is 10, 66,878 persons. Among them 9, 73,964 (91.30%) persons live in rural area and 92,914 (8.70%) in urban area (2001 census).



The population structure of different ethnic groups in the rural area of the district is as follows.

#### Structure of Rural Population in Dhenkanal District

Magnitude	ST	SC	OC	Total
Numbers	131413	182800	659751	973964
%	13.49	18.77	67.74	100.00

The above statement shows that the prospective other traditional forest dwellers (86.51%) outnumber their counterpart STs (13.49%).

#### Constitution of District Level Committee (DLC):-

In pursuance of the Resolution No. 4694/SSD, Dated, Bhubaneswar, the 1st February 2008 TD-11-3/08, a 6-Member District Level Committee (DLC) for implementation of FRA in Dhenkanal District has been constituted on 12.03.08 with the District Collector as the Chairman, District Welfare Officer as the Member Secretary and District Forest Officer as member and 3 nominated members from the Zilla Parishad. Among the nominated members, one namely Smt. JamunaTudu is a ST woman.

In conformity to the aforesaid Govt. Resolution, the DLC has been duly constituted and copies of the notifications containing names of members of the District Level Committee and Sub-Divisional Level Committees have been furnished to the Nodal Department (ST&SC Development Department, Government of Orissa).

#### Functioning of District Level Committee:-

The District Level Committee had conducted six meetings (on dt.19.11.07, dt.14.5.2008, dt.7.1.2009, dt.19.6.2009, dt.8.9.2009 and dt.13.10.2009) since its constitution and decided the following issues relating to FRA.

- RIs, Amins and Forest Department staff should be instructed to guide the FRC and Palli Sabhas sincerely and technically so that specific occupation of forest land of the claimants is established.
- Services of Tahasildars, Amins and RIs should be utilised fully soon after submission of claims to the SDLCs.
- Tahasildar should verify all the claims after field verifications by RIs, Amins and Forest Department staff to ratify the minor errors such as want of signatures of filed functionaries, applicants and witness.
- RIs and Amins of other areas should be diverted to work in the vast and inaccessible Kanakadahad area.
- To establish the claims, declaration should be obtained from claimants through the FRCs.
- Zilla Parishad members volunteered to help Officials in collection of applications relating to their claims.
- Updated guidelines on FRA implementation are being explained to all concerned through different meetings.
- Pre-80 and post -80 cases of Dhenkanal District were sent to Sub-Collectors to arrange collection of applications from those persons in proper manner through the FRCs and BDOs.
- To achieve the huge number of target claims each Amin/RI should clear at least 200 cases per month.

For spreading the message of the FRA, 50 photo copies of the FR Act, 2006 and Rules, 2007 both in Oriya and English were distributed among various stake-holders, like Zilla Parishad members, Panchayat Samiti members, Gram Panchayat members, Gram Sabha members, etc. Block level training Programme was held. However, no district level training programme has been conducted.

DFO/Range Officer has approved village maps (forest maps) indicating the forest demarcation line. Revenue maps and electoral rolls have been supplied to all the Gram Sabhas or the Forest Rights Committees through RIs and Amins.

The DLC received 1886 individual claims from the Sub Divisional Level Committee, consider and finally approved equal number of claims and recognised forest rights. No petitions (cases) from persons aggrieved by the orders of the Sub Divisional Level Committee have been filed in the DLC. Similarly, there is no filing of cases of inter-district claims.

Copy of titles issued have been submitted to DFO and kept in district office for incorporation of the forest rights in the relevant government records. Arrangement has been made for distribution of titles to the beneficiaries through peoples' representatives like MP, MLA and Chairman of PS. As per provision in the Act, title copies have already been distributed to the claimants and Gram Sabhas.

The Collector cum Chairman has been doing in-depth review of implementation of the Act in the district. The office of DWO has been furnishing review notes along with the MPR to the nodal department, i.e., ST & SC Development Department regularly every month. Quarterly report on proposals submitted by Divisional Forest Officer (DFO) for use of forest land for non forest purpose and approval made by DLC has been ensured. No government authorities or committees have been penalized as per section 7 of the Act for violating provisions of the Act.

On the basis of the review taken by the DLC and the latest MPR (October, 2009), on FRA submitted by DLC, the implementation status of FRA in Dhenkanal District is indicated in the statement below.

Sl. No.	FRA Implementation Status		Magnitude of Claims	
			Individual	Community
1	No. of villages		1030	
2	No of FRCs constituted		978	
3	No. of claims received by FRCs		9,985	6
4	No. of claims verified by FRCs and sent to Gram Sabhas		9,985	6
5	No. of claims approved by GS and sent to SDLCs	Families	9,795	6
		Area (Ac)	14,295.45	10.19
7	No. of claims remanded/rejected by Gram Sabhas to FRC		0	0
8	No. of claims approved by SLDC and sent to DLC	Families	2,177	6
		Area (Ac)	3,424.74	10.19
	No. of claims remanded to GS by SLDC		2,839	0
9	No. of claims rejected by SLDC		4,078	0
10	No. of claims approved by DLC for titles	Families	2,177	6
		Area (Ac)	3,424.74	10.19
11	No. of claims remanded to SLDCs by DLC		2,839	0
12	No. of claims rejected by DLC		0	0
13	No. of Certificates of Titles distributed	Families	1,886	0
		Area (Ac)	857.32	0

Source: Office of Sub-Collector & Chairman, SDLC Dhenkanal (Data compiled)



The statement presented above details the implementation status of the individual as well as community claims. Data received from the DLC, Dhenkanal reveals that as on 11<sup>th</sup> November, 2009 a total of 9985 individual claims have been received and approved by the FRCs and sent to Gram Sabhas. The Gram Sabhas have approved as many as 9795 family claims covering 14,295.45 acres of forest land and sent them to the SDLCs. The SDLCs have rejected 4,078 claims, remanded 2,839 claims to Gram Sabhas and approved 2177 claims covering 3,424.74 Ac of forest land and sent them to the DLC. The DLC has approved the claims of 3,424.74 Ac. of forest land of 2177 families and rejected no claim and remanded 2,839 claims to the SDLCs. A total of 1,886 families have got certificate of titles covering 857.32 Ac. of forest land under the FRA. The achievement of receipt and approval of community claims in the district is abysmally poor in number (6 cases covering an area of 10.19 Ac.) and the distribution of certificates of titles is yet to be made.



*Interview with Dhenkanal DLC Members (Collector, DWO & DFO)*

The Research Team had interviewed the Dhenkanal Collector and Chairman, DLC and DWO and Member Secretary of the DLC, and also the DFO another member of the DLC on the functioning of FRA, problems experienced in implementation of the Act and invited their suggestions separately for overcoming the various problems for effective implementation of the FRA.

Their views and suggestions of DLC members obtained through interviews on the FRA implementation are reproduced below:

*Functioning of FRC:-*

- Forest Right Committees have been constituted in all the villages and applications through Grama Sabhas have been received.
- To create awareness, Grama Sampark Sibirs are being organized and periodical meetings with the NGOs are being taken up in some villages.
- Record to file and file to record process is being followed. Record to file: In case of pre and post-80 encroachers, record is being prepared after verification of ROR and encroachment is being settled after verification of litigated cases. File to record: The final decisions taken in the FRC/SDLC/DLC have been filed and taken for record in ROR.
- Steps have been taken in identifying the claimants of pre-80 and post-80 cases, encroachment cases under Orissa Prevention of Land Encroachment Act (IV register) and DFO's offence register in the joint enquiry report of Collector and DFO.
- Reserved forest lands in the district are less than revenue lands. Revenue as well as forest maps have been supplied to the revenue and forest officials and joint verifications are being made basing on the records.
- In case of a non tribal forest dweller, where the tribals do not agree that the non-tribals are settlers for 75 years, the DLC has not rejected these cases out right but returned them to Sub Collector/FRC for reconsideration. Litigations, if any, are being solved in the FRC level through discussion.

- There is no problem of funds as funds are being provided out of fund received under Article 275 (1) to meet the requirement of the FRA implementation.
- The DLC meets once in a month, the SDLC meets once in a fortnight and the ST&SC Development Department organizing videoconference regularly to monitor the process of recognition and vesting forest rights.
- It is expected that in the process of implementation of the FRA, 65,000 households of the district will get title certificates.
- This Act will certainly be useful for availing the forest area, where the PMGSY road is being constructed.

#### *Problems:-*

- The villages where the ST population is insignificant in number, constitution of the FRCs can not be completed due to want of quorum as other people are not interested to hold Gram Sabhas for the purpose.
- Due to lack of evidence of non ST peoples' claims, it seems too difficult to establish that the non-ST people are traditional settlers of the village for 3 generations (75 years). Therefore, mild discontentment in the mind of the non-ST people is noticed in the villages.
- Lack of proper scrutiny at the FRC level and sometimes improper resolution of Gram Sabhas cause delay in finalisation of most of the cases.
- It is a challenge to create awareness about the FRA among the poor and illiterate ST people and implement of the FRA for shortage of RIs/Amins and Foresters in the revenue and forest offices.
- The RIs /Amins and Forest officers are the key functionaries who are assigned difficult duties such as maintenance of record, visit to the site and preparing maps and *pattas*, etc, within the end of December 2009. Shortage of RIs and Amins for preparation of map and demarcation of land within stipulated time are the main difficulties. Retired RIs are not available as they are being given/paid higher/better amount of remuneration by the industries and corporate houses. Besides, health conditions of the retired RIs, who are engaged for the work, become bad due to hard work in inaccessible areas.
- Boundaries are not mentioned in the title certificates because settlement operations in all these cases are not yet completed. This may create problems in future for proper demarcation of the land for which the certificate of title is given.
- As per pre-1980 forest settlements, the forest land has been changed to revenue land without necessary changes in the records. *Pahada, Parbat, Dangar*, etc. lands have not been clarified as forest lands. The place where the people encroached such lands, they are deprived of getting the titles even though the lands actually are located in the forests.
- According to the provision of the Act, the title is not alienable or transferable as the titleholders may demand for the same later on.

#### *Suggestions:-*

- Different *Kissams*, such as *Pahada, Parbat, Dangar* etc. should be considered as forest land.
- Modalities to synchronise the records created through the FRA process and Revenue Department are not yet decided. This should be finalized at the earliest.



To empower the FRC members, training camps have been organized at Panchayat level. But more training to the members of FRC is required along with the assistance of technical persons, such as RI/Amin/Forester, etc. An ex-officio RI should be appointed at each Grama Panchayat level to chalk out plan for identification of land and settlement. More training programmes should be organised at Gram Panchayat level, particularly for the PRI members and Gram Panchayat secretaries and FRC members for ensuring more response and accuracy.

- Some habitats with larger population are claiming the status of separate revenue villages. It may be taken into consideration at high level revenue meetings and the decision be communicated to the effect that these disputed villages are declared as revenue villages.
- The communication from Ministry of Tribal Affairs, GOI, on the matter of constitution of the FRC in forest villages has not yet been received.
- Government should assist these titleholders to develop the forest land under the FRA through the land development schemes of NREGS, National Horticulture Mission and Soil-conservation programmes, apart from providing irrigation facilities.
- Community right is a subject matter of forest plan. Any conflict for diverting forest land by depriving of forest rights of the villagers, decision of the FRC should be followed. This should be discussed at Zilla Parishad in the presence of the District Forest Officer.
- It may not be possible to finalize all the cases within 9.12.2009. This may be extended, to 31.3.2009. The cases settled through FRA, should be recorded in the revenue settlement records.
- The consolidated pay of RIs and Amins should be enhanced to promote more RIs and Amins to join in the FRA work as they are not interested to work in difficult inaccessible forest areas with less remuneration.

***Formation of Sub-Divisional Level Committee (SDLC):-***

In pursuance of the Resolution No. 4694/SSD, Dated, Bhubaneswar, the 1st February 2008 TD-11-3/08 of the ST&SC Development Department, Govt. of Orissa, a 6-member Sub-Divisional Level Committee (SDLC) for implementation of the FRA in Kamakshyanagar Sub-Division has been constituted with effect from 17. 03.08 with the Sub-Collector as Chairman, ADWO as the Member Secretary and ACF (from District Forest Officer) as member and 3 nominated members from the Panchayat Samities. Among the nominated members, two belong to ST and one woman belongs to OC communities. The SDLC has been duly constituted in conformity with the aforesaid Government Resolution.

***Functions of the Sub-Divisional Level Committee:-***

Instructions have been communicated to all Block Development Officers to ensure conduct of the Gram Sabha meetings in free, open and fair manner. Accordingly, it has been complied and block level extension officers, revenue personal and forest personals have attended the Gram Sabhas. There is no evidence for fixation of responsibility for non-constitution of FRC.

Since the formation of the SDLC, as many as 10 Sub-Divisional Level Committee meetings have been held under the Chairmanship of Sub-Collector, Kamakshyanagar. Till 22<sup>nd</sup> November, 2009 the SDLC sat 4 times (i. dt. 29.03,2008, ii. dt. 30.10.2008, iii. dt.15.12.2008 and iv. dt. 17.12.2008) in 2008 and 6 times (v. dt. 6.1.2009, vi. dt. 25.2.2009, vii dt. 26.6.2009, viii. dt. 21.07.2009, ix. dt. 6.8.2009 and x. dt. 09.09.2009) for examination of the different claims received and to solve problems experienced in implementation of FRA. The following important decisions were taken in the last 3 meetings of the DLCs held in 2009.

- Block development Officers should supply information for holding the FRCs where they have not been constituted so far.
- Preparing sketch maps of the pending claims should be completed and finalised without delay by way of engaging 10 retired RIs/Amins.
- All pre-1980 cases should be finalised by the end of December, 2009.
- Immediate steps should be taken for return of applications of OTFDs for want of evidences and further enquiry, completion of joint enquiry before submission of claims to the SDLC and filling of vacancy of 5 RIs/Amins.
- Field verification has confirmed that the claimants are not in possession of land 48/180 at Parajanga Tahasil.
- Details of signatures, address, age, father's/husband's name of senior citizens should be mentioned and checked before submission of claims to the SDLC.

Steps have been taken to create awareness among the Scheduled Tribes and other forest dwellers by conducting Palli-Sabhas in each village especially organised for the purpose by the Block Development Officers through the concern Gram Panchayats. Training programmes have been organised in the Panchayat Samiti meeting of each block to create awareness among the non-official and official members of the Panchayat Samiti to make them know the procedures and functions of authorities under the Act. NGO members have also attended these training programmes. Adivasi Kranti Sangathan (NGO) has been associated with awareness building for implementation of Forest Right Act in right direction. Members of the Sangathan are frequently getting in touch with the SDLC, the FRC, Revenue and Forest personnel for smooth settlement of claims.

Claim application forms (Form 'A' & 'B') are being supplied to the claimants by the concerned blocks through WEOs and FRCs, after being received from the District Welfare Officer. Ten retired RIs and Amins have been engaged for settlement of claims in all respects under the guidance of regular RIs and Forest Range Officers for finalization of the claims in the SDLC. Only 5 of 10 RIs actually have joined on duty. Tahasildars have been instructed to provide forest and revenue maps and electoral rolls and other requisite documents to the FRCs through the RIs/Amins, but the maps have not been supplied.

Consolidated maps and details provided by the Gram Sabhas and resolutions of the concerned Gram Sabhas relating to settlement of claims have been collated. Number of resolutions of the Gram Sabhas and maps for individual and community cases received and examined to ascertain the veracity of the claims is as follows. However, no community claim with regard to creation of assets by development works was filed.

SI no.	Types of Claim	No. of claims Received	No. of claims Examined
1	Individual Claim	1700	1510
2	Community Claim	6	6
3.	Use for Development Works	Nil	Nil
	Total	1706	1516

No case of dispute among Gram Sabhas in any of the GPs on the nature and extent of any forest rights have been brought to the notice of the SDLC. In all cases, revenue and forest personnel are making joint visits. Both of them are signing in the land records of each claimant at the time of enquiry. Cases of petitions from persons including State agencies aggrieved by the resolutions of the Gram Sabhas and inter sub-divisional claims are conspicuously absent.



As a measure of preparing block or Tehsil wise draft records of proposed forest rights after reconciliation of Government records, the Office of Sub Collector has obtained the list of 290 post-1980 Scheduled Tribe encroachers from the Divisional Forest Office and the same have been forwarded to all BDOs for collecting claim applications through the F.R.Cs. The number of claims (Individual and community) forwarded with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision are as follows:

- No. of Individual Claims-ST-1506
- No. of Community Claims-06
- No of diversion proposal for development programmes-Nil

**Problems Experienced:-**

The Research team had interviewed Sub-Collector-cum-Chairman, Kamakshyanagar SDLC of Dhenkanal District in presence of ADWO and Member Secretary, SDLC.



*Interview with Kamakshyanagar SDLC Members and Kankadahad BDO & WEO*

As reported by them, the SDLC faced the following problems in implementation of the FRA.

- Shortage of staff is one of the main problems of the ADWO, who is dealing with Forest Right Act. Though there is sanction posts of one senior clerk and one class-iv employee in Welfare Section, both the posts are lying vacant since long. ADWO is also in charge of SDPO. As he is overburdened with office work, he is not getting time for frequent field visit.
- Retired RIs and Amins engaged for early settlement of claims by preparing maps and other fieldwork are not able to finalise at least 100 cases per month in remotes areas. Four of the retired RIs and Amins engaged for the 2<sup>nd</sup> terms are not actually joined in the work.
- In case of other forest dwellers, large numbers of applications are pending due to non-production of proper evidence.
- Want of modern equipments for field measurement and preparation of accurate maps is creating hindrance in implementation of Act.

**Suggestions for effective implementation of the FRA:-**

The Chairperson and member secretary of Kamakshyanagar SDLC suggested the following for overcoming the hindrances and for effective implementation of the FRA.

- At least the post of Sr. Clerk should be filled up immediately in the Welfare Section to assist the ADWO in office work so that he will be relatively free and will able to co-ordinate the work of field staff frequently.

- Instead of engaging retired RIs and Amins, better performing regular RIs and Amins could be asserted through payment of incentives.
- Awareness campaign should continue continuously at regular intervals till completion of the ongoing process.
- It is not possible to complete the issue of *pattas* to all applicants within December 2009. It should be extended for indefinite period. At least, there is a need of one more year to issue *pattas* to all the applicants for their full coverage.
- The provision of three generations (75 years) in case of non-tribals for getting of Forest Right should be reduced to 25/30 years since in majority of cases such evidences are not coming up to establish their rights.

#### *Structure and functions of FRCs:-*

In Dhenkanal district, there are 1030 villages. In conformity to the FRA Act, 2006, by end of November 2009, as many as 978 Gram Sabhas and equal number of FRCs have been constituted in two phases. The FRCs in respect of 52 villages have not been constituted for want of quorum in Pallisabha meetings (in 24 villages) and for non-availability of ST people (in 28 villages). The villages, where the non tribal people are reported to be numerically preponderant and have shown no/little interests in implementation of FRA, the FRCs need to be constituted there. It is reported by the District Administration and District Forest Officer that there are no forest habitations/villages or settlements, which are technically not a part of any Gram Panchayat in the district. Formation and functioning of FRCs in these villages is not of any concern as per Section 2 (p) of the Act.

For assessing the structure and functions of the FRCs of the districts the research team had made case studies of two villages, namely Dongapal and Ballikuma of Kanakadahad block of Kamakhsyanagar Sub-Division in Dhenkanal District. Besides conducting transact walk and preparing resource and social map of the village, the team had collected data by administering one questionnaire among the FRC members, FGD among the villagers, FRC members and key functionaries of the village and among 15 heads of the households of the village. The research findings as emerged out of the analysis of the data are as follows.

#### Case Study 1 (i): FRC of Dangapal Village

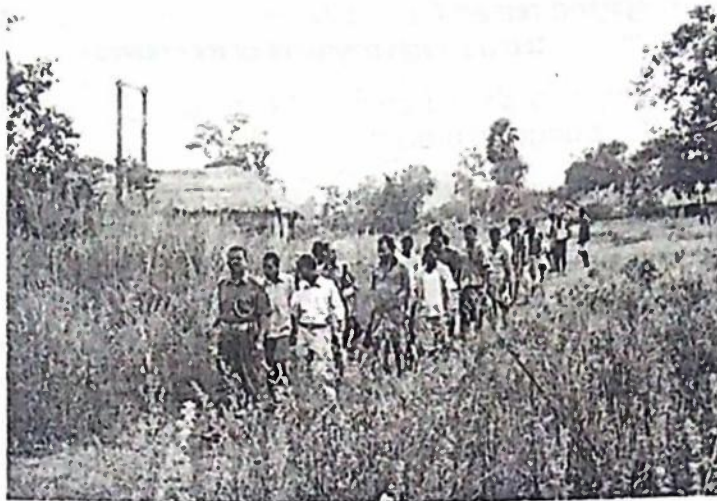
##### *Village Profile:*

The village Dangapal comes under Karabala Grama Panchayat in Kankadahada Block under MADA Pocket in Dhenkanal district. It is bounded by Sashapashi village in north, Urbengi Jungle in south, Kakudia village forest and cashew plantation in the east and Ramial river in the West. The village is located at 7 km. away from the GP headquarters and 2 km from the block headquarters. It is located at a distance of about 78 km from the district headquarters.

The village is located on the bank of Ramial river. Its settlement pattern is linear. Most of the houses are *katcha* type with thatched roof. Some are of tiled roof. Village forests and cashew plantation are raised in the eastern side of the village spreading over about 603.52 acres. In the middle of the village has its shrine for the deity covering an area of 3.18 Ac. About 68 acre land is irrigated through a Canal and river Ramial.

The village settlement comprises of multi-ethnic groups. This village was settled approximately 200 years ago. At the beginning of the settlement there were 5 families of Ganda and one Pana family only. Others came later, after 1965. At the time of study the village has 243 households with 1255 population. Out of total 243 households of the village, 144 are S.Ts, 26 are S.Cs and 73 are of other castes. The ethnic groups inhabiting in the village are STs, like Santal and Munda, SCs, like Ganda, Pana and Hadi and OCs, such as Brahmin, Paika, Chasa, Mohanta, Kamar, Barik and Kumbhar.





*View of Dongapal Village during Transect Walk*

Net area of the land utilized by the villagers for agriculture is 318.68 acres, 63.66 acres is fallow land and 67.9 acres is used for grazing of animals. About 4 acres of land are used for plantation and groves etc. VSS has been constituted with 120 members and 15 Executive Committee members. The villagers with the help of forest department protect 70.50 acres of village forests.

The village has two schools, one UP School and another of KG standard. Two Anganwadi centers are functioning in the village. Out of 3 wells in the village, two are defunct. However, River Ramial is a dependable source of water supply to the village. The village is provided with electricity being used for domestic purpose. An NGO, namely CEID is functioning in the village to help the villagers in applying for their claims under the Act.

***Constitution of FRC:***

The Pallisabha of the village, being given the status of Gram Sabha by the Govt. of Orissa, sat on 23.3.08 and constituted a 15-member FRC as per the rules of the FRA. In the Palli Sabha 120 villagers out of 830 voters and Government Officials, like Welfare Extension Officer and Revenue Inspector were present. The peoples' participation in Palli Sabha is very small in number as most of them are poor, illiterate and unaware of the Act. The FRC includes 13 males and 2 females, 11 STs, 1 SC and 3 OC, members. Sri Lasa Hansdah and Sri Prasana Kumar Singh have been elected as the President and the Secretary of the FRC, among the ST people respectively. Within the 15 FRC members, 5 are literates, 7 are studied up to primary level and 3 are under matriculates.

Thus the constitution of FRC has confirmed to the principle of 10-15 members of which 1-3<sup>rd</sup> are ST (the President and the Secretary), but with 2 women out of 15 members, it has debased the norms of selection of 1/3<sup>rd</sup> women members. The SDLC has been intimated about the constitution of FRC of the Dongapal village through Kanakadahad Block Development Officer.

***Functions of FRC:***

The message of the FRA has not reached to the people in the letter and spirit of the Act. In the Palli Sabha meeting people were only told about the formation of FRC, but not its functions. Neither the villagers nor the FRC members were fully aware about the provisions of the Act. Their awareness was limited to submission of individual claims for encroached land for settlement. When enquired about community right, people remained mute on community rights and use of forest land for non forest use, and their claims for de-reservation of forest land for village



development purpose. The Palli Sabha/GS was not aware of its power and to prepare a list of ST people of the village resulting in all 56 claimants who received *patta* had rushed to Tahasil Office for getting caste certificates at their own cost. Later being informed from the Welfare Extension Officer of Kanakadahad Block the Pallisabha listed out the names of the remaining ST claimants of the village and passed resolution affirming that the claimants belong to the aforesaid category.

Since its constitution, the FRC sat twice i.e., on 20th October, 2008 and 27<sup>th</sup> January, 2009 only. The required numbers of the claim forms were not made available to FRC. The FRC had received and approved as many as 126 claims of the Individuals rights on forest land. No community right claims had been received. All the 126 claims had been sent to SDLC. Joint verification in respect of 56 ST individuals claims were examined in the presence of the revenue and forest staff and the claimants. After joint verification in the filed, the same were sent to the SDLC for approval. The SDLC had approved 56 individual claims out of 126 claims submitted by the FRC through the Executive Officer, Gram Panchayat.

A local NGO namely Kranti Sangathan claimed to have provided FRA forms on its own effort. From the filed investigation, it was found that the number of forms supplied was inadequate to meet the entire requirement of the village. People of the village including most of the FRC members reported that they were not aware about the functions of the FRC and provisions of the Act. Currently the Collector Dhenkanal who is the Chairman of DLC has instructed all revenue, welfare and forest officials for suo motto collection of claim forms from all the pre-1980 and post-1980 forest land encroachers under the FRA. Accordingly, all claimants have applied for rights over the forest land and their claims have been sent to SDLC for approval.

On verification of the records of forest department officials and members of the VSS it is noticed that Dangapal Vana Sarankshan Samiti has been formed with effect from 30.9.99. It has been constituted with 120 signatories and the village forest area spreading 156.11 acre. Unfortunately, community claims over this forest patch has not been made as the people are not aware of the provision of CFR under the FRA.



*Interview with FRC members*



*FGD at Dongapal Village*

#### *FGD Findings:*

One FGD was organised at Dangapal village on dt. 7.9.2009. About 20 members including the Research personnel, WEO, Kankadahad Block, Forester, RI and key functionaries of the village and local NGO representative participated in the FGD. The following are the findings of the FGD on implementation of FRA in the village:

- Forest Rights Committee has been constituted in the village.
- An NGO namely "Anchalika Vikash Parishad" played some role in collecting applications forms from the villages (Form A of the FRA rules). The applicants



who applied for their claim had to go to Kankadahada market to obtain xerox copy of the application form on payment of Rs 2/- per each copy.

- Though 177 applicants applied for their claims on forest land, yet they have little idea about the provisions of the FRA, 2006.
- The concerned RI and forester in presence of the FRC members had conducted joint verification of the applications received in the first phase from the ST people of Santala Sahi only. Cases of other communities have not been verified as their applications from the SDLC were not available with the verification team.
- The villagers as well as the FRC members are not aware of the provisions of the FRA, its benefit and the duties and responsibilities of the beneficiary, villagers towards protection and conservation of wild life, forest and bio-diversity etc. No training has been given to the FRC members or villagers either by the government officers or by any NGOs. No NGO has been involved by the SDLC. No leaflet/booklet containing the provisions of the Act has been distributed among the villagers/FRC members. No meeting of the FRC has been held since its formation.
- No notice has been served to the villagers calling for applications from them to file their claims under the Act. No application for community claims has been received by the FRC. In most of the cases application claims have been submitted directly either to WEO or to the RI without the resolutions of Gram Sabhas. This happened due to ignorance of the provisions of the Act.
- Claims from Other Traditional Forest Dwellers (other than ST) have not been submitted because of a rumor that the Act is meant for S.Ts only. It is difficult for other traditional forest dwellers to prove themselves that they are in the village for 3 generations prior to 13.12.2005.
- No register/record of receipt of applications has been maintained by the FRC, with regard to joint verification made and forwarded to the Gram Sabha for consideration. In most cases the applicants have deposited their applications directly through NGOs and through the concerned WEO or RI.
- As many as 56 title certificates have been distributed in the village under the Act. But on verification, it was found that in the said certificates, boundaries of the given plots and *mouzas* identity has not been mentioned.
- No revenue or forest map has been supplied to the FRCs. As such the claimant is unable to identify whether the land claimed by him is a revenue land or forest land. As a result, where the certificate holders have got less area than he applied for, he is used to complain against such act of Amin/RI /forest officials and the FRC members.
- The villagers confirmed before the research team that there is no dispute over village boundary or on the claimed land.

*Views of the Villagers (15 Sample Heads of Households of Dongapal):*

The sample of 15 head of households, comprised of 14 ST and one SC. It included 3 FRC members, 13 BPL families, 1 Antordaya beneficiary, 1 NREGP got certificates of titles, and five are yet to get. Twelve respondents were cultivators Primary level and 1 passed ME. Educationally 3 illiterate, 3 just literates, 8 studied up to farmers and one was small farmer.

Among 15 respondents, 5 were not aware of the Act and its provisions and the rest 10 were aware (5 through the intervention of NGO and 2 through government officials and 1 from VSS and 1 from GP Secretary and 1 by self effort).

Five respondents have got certificates of titles for 6.22 Ac of forest land. On an average, each family got 1.20 Ac of land. They expressed satisfaction over obtaining *patta* of the lands. They felt happy that they could be able to get the land *patta* from government at their door step for the first time. On perusal of *pattas* it was noticed that no *mouza* has been mentioned there in and description of *choupadi* or boundaries of the individual plot. The measurement of the area of the plot in the *patta* is mentioned in acres at some cases and in hectares at other cases.



*Santal (ST) people of Dongapal village distributed with patta to under FRA*

Out of 15 respondents, 8 were in favour of reconstitution of the FRC and 9 suggested to get the forms through the Palli Sabhas/FRC. Joint verification for identification and finalization of land of others should be done quickly. The Panchatiraj, Revenue and Forest Officials should change their mind and come forward to helping the ST claimants. Only 5 respondents suggested for early settlement of lands for the non-tribals (Other Traditional Forest Dwellers).

#### Case Study-1 (ii): FRC of Ballikuma village

##### *Village Profile:*

This village comes under Ballikuma Gram Panchayat in Kankadahada block of Dhenkanal district and is covered under Kankadahada MADA pocket. The village is bounded by Dhuli Nala in the north-west, Jhanjirbena village forest in the south and the Hunda Pahada in the East. The village is situated at a distance of about 10 km from Kankadahada block, 55 km from the district headquarters and 10 km from the Ballikuma Police Station. The nearest bus stop is 7 km away from the village and it is connected by block road.



*View of Ballikuma Village      Transect Walk at Ballikuma Village*



The village is comprised of multi-ethnic groups. This village was settled approximately 100 years ago. At the outset, about 20 to 30 households of only Santal tribe settled in the village. 2 families of Kamar and 3 families of Pano caste came later to settle in the village.

The settlement is linear pattern having *katcha* houses either with thatched roof or tiled roof. The village consists of 3 *Sahies*, such as Ballikuma, Kainisahi and Hatibari having 113 households with 596 people. The inhabitants are Santal (ST), Pano (SC), Tanti and Kamar (OC). Out of 113 households, 37 are of BPL category and 35 persons are OAP holders. Similarly, 7 ODPs and 17 WPs, 40 Antordaya and 4 Annapurna Yojana beneficiaries are living in the village.

The villagers are utilizing 1.50 acres of land (1 acre revenue land & 0.50 acre of forest land) as *Jahira* (Sacred Grove) and 7.04 acre of rev. land for grazing purpose. Land used for Agriculture purposes is 75.31 acres, of which 40 acres are forest land.

Besides, 6.00 acres of land inside Reserve Forest is being used by the villagers for *Jantal* (Shrine for the village deity). A community house is located in the middle of the village. Out of rest area of 45.31 acres of land in the village, 17.24 acres are fallow lands and 7.04 acres are permanent pastures and grazing lands. Village forest 3.38 acres and 45.29 acres are protected forest situated within the village.

The village market covers 7 Acs. of forest land, a school and an Anganwadi centre is constructed in 3.00 Ac. and 0.10 Ac. of forest land respectively. There are 5 tube wells of which 4 tube wells are functioning. It has one pond and one WHS with coverage of 3.00 Ac. of forest land. However, Ramial river is the main water resource for irrigation and drinking purposes. Besides, water from Dhulinaala over 60 acres of forest land is used by the villagers. There is no electricity in the village.

#### *Constitution of FRC:*

The village Ballikuma comes under Ballikuma GP of Kankadahad Block in Dhenkanal district. The Pallisaha of the village, which was given the status of Gram Sabha by the Govt. of Orissa sat on 16.3.08 to select the FRC. One hundred and six members out of 296 of the Pallisabha and Govt. Officials, like IPO/F.G/GP Secretary were present in the meeting. In the meeting, a 12-member FRC, including 8 males and 4 females, 12 STs were selected unanimously. From among the ST people, Sri Sunaram Hansdah and Sri Durga Ch. Soren were elected as the President and the Secretary of the FRC respectively. All 12 FRC members were under matriculates.

The constitution of FRC has confirmed the principle of 10-15 members. Out of 12 FRC members, all are STs including one President, one Secretary and 1/3<sup>rd</sup> women members (4/12). The SDLC has been intimated about the constitution of FRC of the Ballikuma village through Kanakadahad Block Development Officer.

#### *Functioning of the FRC:*

The villagers and members of the FRC were not aware about the process of recommending the applications of the claimants to the SDLC. The NGO, namely Kranti Sangathan supplied the application form to the villagers by way of organizing meeting and collected the filed in applications and submitted the same directly to the SDLC. The FRC was not informed about the activities of the said NGO. The FRC was aware about the demarcation of traditional and forest area under protection. The FRC was aware that the joint verification of land at different villages of the GP was going on.

The FRC and Palli Sabha of the village sat twice to consider the claims received and for their approval. No separate register were found to have been maintained. The proceedings are recorded in Palli Sabha register kept with the Gram Panchayat Secretary. The Forest Right Committee has initiated the process of collection of application forms only. It received 71 applications for the claims, out of which 68 were



individual claims and 3 were community claims. Joint verifications have not yet been conducted to settle the claims. Though the Forest Right committee met on 26.7.2008, they could not recommend any claim to the Gram Sabha because of non receipt of joint verification report. They have not come across with any conflicting cases in which two claimants have claimed for the same patch of land. The members of the FRC reported that they have requested the SDLC to supply village maps and forest maps to FRC verbally but the same have not been supplied to them as yet. However, no written request was made in this regard. The FRC members informed that 3 applications have been received from the village community to vest rights with the village community to use (6 acres of forest land for village shrine, 1.50 ac. for *Jahira*, 7.04 acre for cattle grazing, 25 acres for water resources and 45.29 acres for plantation).

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*FRC Members of Ballikuma Village*



*FGD at Ballikuma Village*

**Findings of FGD:**

One FGD was organised at Ballikuma village on dt. 8.11.2009. About 20 members including the research personnel, the concerned WEO, Kankadahad, Forester, RI and key functionaries of the village and local NGO representatives participated. The FGD on implementation of the FRA at the village reveals the following:

(i) The village is not a part of any bigger habitat. There is no dispute regarding boundary of the village. The villagers mostly depend on agriculture for their livelihood. The Palli Sabha/Gram Sabha in its meeting held on 16.3.2008 constituted Forest Right Committee consisting of 12 members. But no meeting of FRC was held thereafter. Adivasi Kranti Sangathan (an NGO) had supplied the application forms to the villagers and helped them in filing the claims. Though, the FRC received application forms from



the above NGO. But maps and other records in respect of the revenue and forest land and guidelines regarding duties and responsibilities of the FRC members have not yet been received by them.

(ii) The FRC received 68 individual claims and 3 community claims. Thirty-five families have not applied for claims. There is no gap between the amount of land being occupied and claimed by claimants. Canal, shrines and roads of the village come under Forest land. No claim received by FRC was rejected so far. Due to ignorance of the provisions of the Act and submission of applications for claims, villagers could not file community claims for collecting minor forest produces, use of water bodies and claim for cattle grazing.

The villagers wanted that application forms should be supplied to the FRC and villagers. The Revenue and Forest Department personnel should be engaged at the earliest and technical support may be extended for undertaking joint verification and finalization of claims.

#### *Views of the Villagers (15 Sample Heads of Households of Ballikuma):*

There were 15 (12 ST + 3 SC) respondents including 4 FRC members, 13 BPL families, 2 Antodaya beneficiaries, 2 NREGP beneficiaries. Among them, 7 respondents claimed and applied for forest land and 8 did not apply. Twelve respondents were cultivators and 1 was a wage earner and 2 were service holders. Educationally, 6 were illiterate, 1 just literate, 1 studied up to Primary level and 4 passed HSC and 3 studied up to + 2 level. As per their economic status, 6 were marginal farmers, 7 small farmers and 2 big farmers.

Among 15 respondents, 5 were not aware of the Act and its provisions and the rest 10 were aware (5 through the intervention of NGO and 2 through Government Officials and 3 through the GP Secretary). None of the respondents had got certificates of title of forest land. All were eagerly waiting to avail the benefit of the FRA at the earliest.

Out of 15 respondents, 9 wanted to know the status of their claims made, 7 were in favour of reconstitution of the FRC and 10 suggested to get the forms through the Palli Sabhas/FRC. They claimed immediate conduct of joint enquiry for identification and finalization of forest land claims. Most of them were of the opinion that the Panchyati-Raj, Revenue and Forest Department officials should change their mindset and come forward for helping the ST claimants. Only 5 respondents suggested for early settlement of lands for the non-tribals (Other Traditional Forest Dwellers).

#### *Views of Officials at Block and Social Activist:*

Besides, the Research Team collected the views of BDO and WEO Kanakadahad, RIs of the concerned RI Circles and Social Activist and Shri Pratap Charan Marandi-President, Adivasi Kranti Sangathan. Their views are reproduced below.

#### *Awareness*

- Awareness training on FRA was organized for RIs and PRI members at Kankadahad block on dt 18.1.2009 and for FRC members at block level twice. Awareness drive continued during different Pallasabha meetings and through official visits to different villages and meetings as well.

#### *FRC performance*

- More number of applications is yet to come.
- Small number Community claims are made.
- There is no case conflict between individuals or villages noticed so far.
- People have shown interest in knowing about the Act and its implementation.

### *Problems:*

- Survey and verification work at FRC level is running slow. It has not covered 55 villages in 9 GPs located in western part of Kanakadahad block which covers a vast area where communication is too difficult and which needs more manpower.
- Under the available mechanism it is not possible to give time for attending to the growing demands of claims of peoples. Greater awareness through joint intervention of forest Department and NGOs is required.
- RIs are given assignments on population basis but it should be done on area basis, particularly keeping in view Maoist-affected and vastness of the area as working there for the RIs is a time consuming process.
- As many as 17 claim cases have been rejected as they are not coming under forest land. It is too difficult to settle the returned cases of 6,585 OFD + ST claims which require resubmission with evidences and
- NGO activists distributed forms without informing the FRC and Govt. officials which creating difficulties in the follow of process.
- Claim applications were neither filled in nor examined by the FRC/ Palli Sabha properly. Most of the applications are submitted without Photo ID cards, signatures and without mentioning name of caste of claimant. Some individuals have submitted applications in duplicate without mentioning their areas in occupation.
- Maps of the forest mouzas and GPS machines are not available to the verification team in time.
- In the ST villages, there is no conflict. The presence of SC and OC people in some villages has created conflicts as they failed to get the benefits.

### *Suggestions:*

- Retired personnel from forest and revenue departments are required to facilitate the process.
- PRI members and official members and the FRC members should be trained to mobilize the people.
- The conflict between the revenue and forest lands as record by the departments concerned should be resolved first and clarification is to be made accordingly to settlement of claims.
- All the claims of a village should be considered at a time for joint verification of land. Otherwise doubt will continue to prevail in the minds of people who are left out.



## Case Study- II: Implementation of FRA in Gajapati District

### *Gajapati District Profile:-*

As per 2001 census, Gajapati District has 1 Sub-Division, 3 Tahasils, 7 Community Development Blocks, 2 Urban Local Bodies, 129 Gram Panchayats and 1619 villages, out of which 1512 are inhabited and 107 un-inhabited. The geographical area of this District covers 4325 sq km, out of which, the share of the total recorded forest area is 2468.98 sq. km. (57.09. %). The break up of the category of forest area is as follows.

Map of Gajapati District



The coverage of forest area (in sq. km.) by legal status in Gajapati District is presented below.

Year/ District	Reserve Forest	Demarcated Protected Forest	Un-Demarcated Protected Forest	Un- Classified Forest	Other Forest under Control of Revenue Dept.	Total Govt. Forest
2006- 07	416.89	108.15	1149.41	0.13	794.40	2468.98

The scheduled tribes inhabitants of the district are Bhuyan, Jatapu, Kandha, Kondadora, Lodha, Munda, Matya, Shabar, Saora, Saunti, Tharua, etc.

The total number of households of the district is 111405, out of which 100306 households are reportedly from rural area and the rest 11099 households are from urban area. The total population of the district is 518837 persons. Among them, 465949 (89.81 %) persons live in rural area and 52888 (10.19%) in urban area.

The population structure of different ethnic groups in the rural area of the district is as follows.

### Composition of Rural Population in Gajapati District

Magnitude	ST	SC	OC	Total
Numbers	261906	30358	173685	465949
%	56.21	6.51	37.28	100.00

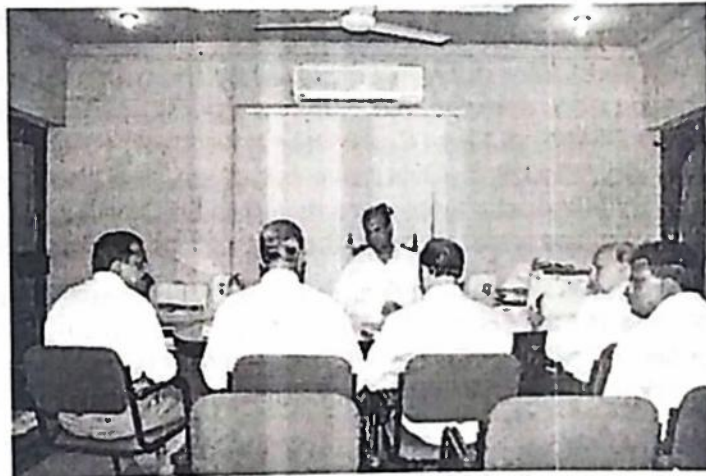
The above statement shows that the STs (56.21%) outnumber the counterpart prospective other traditional forest dwellers (43.79%).

#### *Constitution of District Level Committee:-*

In pursuance of the Resolution No. 4694/SSD, Dated, Bhubaneswar, the 1st February 2008 TD-11-3/08, a 7-Member District Level Committee (DLC) has been constituted on 27.2.2008 for implementation of FRA in Gajapati District with three official members like the District Collector as the Chairman, Project Administrator, ITDA as the Member Secretary and District Forest Officer as member and 4 nominated members from the Zilla Parishad. In conformity to the aforesaid government resolution, the DLC has been duly constituted and copies of the notification containing names of members of the district level Committee have been furnished to the nodal department for FRA, namely the ST&SC Development Department, Government of Orissa.

#### *Functions of District Level Committee: -*

The District Level Committee has conducted 6 meetings (25.10.2008, 13.8.2008, 22.11.2008, 6.12.2008, 5.9.2009 & 23.10.2009) since its constitution. Besides, in other district level meetings such as Standing Committee, Task Force Committee, Vigilance and Monitoring Committee, etc., chaired by the Collector and District Magistrate, the issues relating to FRA have been discussed.



#### *Interview with Chairman & Collector, Gajapati and P.A. ITDA Paralakhemundi & Member Secretary, DLC.*

On perusal of proceedings of DLC of last 6 meetings held during October, 2008 to October, 2009 the following decisions are taken and issues discussed.

- Non-acceptance of DFO representative instead of DFO himself to attend a statutory DLC meeting.
- Approval of claims subject to final decision of Orissa High Court.
- Thorough verification of claim cases (1990) as on 6.12.2008.



- Provisions of FRA after vacation of stay was explained to all concerned on 5.9.2009 and cooperation from all quarters were insisted.
- Special drive to clear all pending claims by October, 2009.
- Huge gap between receipt of application forms by FRCs (+2,423) and distribution of certificate of titles (2107).
- PA ITDA was instructed to engage more number of retired RIs/Amins to settle claims with help of forest staff.

For spreading the message of the FRA, copies of the FR Act and Rules both in Oriya and English were distributed among the various stake-holders, like. Zilla Parishad members, Panchayat Samiti members, Gram Panchayat members, Gram Sabhas etc. Training programmes were organised at Balaji Kalyan Mandap as per the following schedule.

- Dt. 29.2.2008: For All Zilla Parishad members, Sarpanches, , and Chairman, P.S
- Dt.4.3.2008: For ZP Committee, All district level officers, DFO, Range Officers
- Dt. 13.3.08: For all Sarpanches , Samiti member), Ex-Chairman
- Dt. 14.3.08: For GP Officer, ICDS staff, all Ward Members, Chairpersons and Secretaries of FRCs

Revenue maps have been supplied to all the Gram Sabhas and the Forest Rights Committees through RIs and Amins and electoral rolls by GPs. Some claims of Saora who are tribal groups have been examined and addressed. Claims of Lanjia Saora are under process and waiting for joint verification. As per provision in the act titles copies were already distributed to claimants and Gramsabhas.

The DLC has received 7240 individual claims from the Sub Divisional Level Committee and considered and finally approved 5625 claims and granted record of forest rights. 503 Claimants have been issued title certificates of 728 Ac. of forest land under occupation through peoples' representative like MP, MLA, and Chairman P.S.

No petitions (cases) from persons aggrieved by the orders of the Sub Divisional Level Committee have been received. No petitions (cases) from persons aggrieved by the orders of the Sub Divisional Level Committee have been received. Similarly, there are no cases of inter-district claims. Govt have not given clearance for change in the ROR. However, copy of title documents were issued to DFO and copies kept in district office for incorporation of the forest rights in the relevant government records.

Collector and Chairman has been doing in-depth review of implementation of the Act in each Revenue Officers meeting (monthly) in the district. The office of PA ITDA and Member Secretary, DLC has been furnishing review note along with the MPR to the nodal department, i.e., ST & SC Development Department regularly every month.

DFO/Range Officer has approved village maps (forest maps) indicating the forest demarcation line. Quarterly report on proposals submitted by Divisional Forest Officer (DFO) for use of forest land for non forest purpose has not yet been submitted by the DFO for approval of DLC. No government authority or committee has been penalized or proceeded against under the provision of the Act for violating provisions under section 7 of the Act the Act.

On the basis of the review taken by the DLC, and the latest MPR, October, 2009 on FRA submitted by DLC the implementation status of FRA in Gajapati District is given in the statement below.

Sl. No.	FRA Implementation Status		Magnitude of Claims	
			Individual	Community
1	No. of villages		1528	
2	No of FRCs constituted		1449	
3	No. of claims received by FRCs		42,423	71
4	No. of claims verified by FRCs and sent to Gram Sabhas		23,921	5
5	No. of claims approved by GS and sent to SDLCs	Families	23,921	5
6		Area in Ac	-	7.43
7	No. of claims remanded/rejected by Gram Sabhas to FRC		0	-
8	No. of claims approved by SDLC and sent to DLC	Families	7,987	-
		Area in Ac	12,492.42	-
	No. of claims remanded to GS by SDLC		15,934	5
9	No. of claims rejected by SDLC		0	-
10	No. of claims approved by DLC for titles	Families	6,506	-
		Area in Ac	8,366.58	-
11	No. of claims remanded to SLDCs by DLC		15,934	-
12	No. of claims rejected by DLC		0	-
13	No. of Certificates of Titles distributed	Families	6,293	-
		Area in Ac	9817.08	-
14	No. of Certificates of Titles distributed to PTGs	Families	503	-
		Area in Ac	728	-

Source: Office of PA ITDA, Paralakhemundi and Member Secretary, DLC, Gajapati (Data compiled)

Up dated data by end of 22<sup>nd</sup> November, 2009 gathered from DLC, Gajapati reveals that a total of 42,423 individual claims were received out of which 23,921 claims were verified by FRCs and sent to Gram Sabhas. The Gram Sabhas have approved as many as 23,921 family claims measuring 14,295.45 acres of forest land and submitted them to SDLCs. The SLDCs have not rejected any case and remanded 15,934 claims to GS and approved 7,987 claims covering 12,492.42 Ac. of forest land and submitted them to DLC. The DLC has approved claims 6,506 families covering 8,366.58 Ac. of forest land. It rejected no claims and remanded 15,934 claims to SDLCs. 6,293 families have got certificate of titles covering 9817.08 Ac. of forest land under the FRA. The achievement of receipt and approval of community claims in the district is abysmally poor. The FRC has received 75 community claims and verified. It had got approval of 5 such claims measuring an area of 7.43 Ac by GS and sent the same to SDLC. The SDLC has remanded all the 5 cases to GS. The Statement presented above details the implementation status of the individual as well as community claims.

The Research Team had interviewed the Collector and Chairman, DLC, Gajapati and PA ITDA Paralakhemundi and Member Secretary, DLC and also DFO and member, DLC on functioning of FRA, problems experienced in implementation of the Act and invited their suggestions for overcoming the above mentioned problems for effective implementation of the FRA separately. Information obtained from them is compiled and placed in the following lines.

**Problems:**

- Circular regarding constitution of FRC in forest villages has not yet been received in the District. The clarification communicated vide letter No. 17014/02/2007-PC&V (Vol. VII) Government of India, Ministry of Tribal Affairs Dated June 9, 2008 that Scheduled Tribes and other traditional forest dwellers who are not necessarily



residing inside the forest but are depending on the forest for their *bona fide* livelihood needs would be covered under the definition of "forest dwelling Scheduled Tribes" and "other traditional forest dwellers". This is not noted and communicated to all concerned with implementation of the Act by the Ministry of Environment & Forests, New Delhi 110 003.

- The task of FRA implementation is Herculean. Time is inadequate. In the mid way of implementation, the High Court stay orders and general election at the parliament as well as state interrupted the process of implementation of the Act. The stakeholders have not properly understood the FRA in spirit and letter. The pace of progress of FRA implementation is abysmally low. The situation is severe in rural interior and PTG pockets.
- The community at large failed to understand the importance of the FRA. Lack of evidence in case of Non ST People claiming for title, i.e 75 yrs proof is a problem in giving title certificates in favour of these people
- Non-Tribals claimed settlement of forest land at per with Tribals, i.e claim as on 13.12.2005 instead of 75 years back for which they are not interested to assist village committee or FRC meetings.
- There were shortage of officer and staff at ITDA office. Due to illiteracy and ignorance, the FRCs are not functioning effectively for discharge of their duties and to fulfill the legitimate demands of the people.
- People are ignorant about the land (at or close to their villages under Forest/Revenue Departments) they used and thus most of the claims submitted to FRC stand unsettled. Forest land under Forest Dept has not been verified. Only forest land under the control of Revenue Department has been verified in different villages. So distribution of titles is limited to forest under Revenue Department.
- Awareness among the FRCs especially their Presidents and Secretaries are quite unimpressive. Involvement of the NGOs in awareness building seems to be casual. The awareness campaign could not communicate the message of the provisions of the community rights and rights over the protection and the conservation of forest and wildlife in the FRA.
- According to the provisions of the act, the title is not alienable or transferable, the demand of titleholders in future for the same can not be dispensed with.

#### *Suggestions:-*

- Govt. may consider filling up the post of SO., ITDA and may give clearance to fill up the post of Statistical Asst. and class IV staff.
- Reserved forest land in the district is less than the Revenue land. As per pre 1980 forest settlement the forest land had been changed as Revenue land without change in record. KISSAM of land such as *pahada, parbat, patharabani, dangar*, etc. should be given equal status of forest land.
- In case of a non tribal forest dweller, where the tribals do not agree that these non-tribals are settled for 75 years, DLC need not reject these cases out right but after receipt of such cases, should return to Sub Collector/FRC for reconsideration.
- Modalities to synchronise the records of FRA and Revenue Deptt. are not yet decided. This should be finalized. At government level.

- To empower FRC, training camps were organized in Panchayat level. But more training to the members of FRC is required along with assistance of a technical person such as RI/Amina/Forester etc. An ex-officio RI should be kept at Grama Panchayat level to chalk out plan for identification of land and settlement.
- Wards of big disputed villages should be considered as a separate revenue village. Instruction from government may be issued on this issue.
- Government should assist these titleholders to develop the forestland given to them through the land development schemes such as NREGS etc. apart from providing irrigation facilities. Under the National Horticulture Mission this land should be developed.
- It may not be possible to finalize all the cases within 9.12.2009. It need be extended, to 31.3.2009.
- The cases settled by FRC should be recorded in the Revenue settlement.
- The villagers (Lanjia Saora/PTG) of LSDA Seranga should take the first step for organization of separate meetings and pass resolutions to reclaim community owned forest land taken away by the Forest Department before and after 1980 and to say their rights dating back to pre-independence era should be recorded in the village registers maintained under the Forest Rights Act of 2006. The resolutions should be sent to the different FRA Committees that will forward them to the senior district officials for action.

***Constitution of Parlakhemundi Sub-Divisional Level Committee:-***

In pursuance of the Resolution No. 4694/SSD, Dated, Bhubaneswar, the 1st February 2008 TD-11-3/08 a 6-Member Sub-Divisional Level Committee (SDLC) for implementation of FRA in Paralakhemundi Sub-Division has been constituted on 27.02.08 with the Sub-Collector as the Chairman, DWO as the Member Secretary and ACF (from District Forest Office) as member and 3 Nominated Members from the Panchayat Samities. Among the nominated members, two are STs and one woman. The SDLC has been duly constituted in conformity to the aforesaid Govt. Resolution.

***Functioning of the Sub-Divisional Level Committee:-***

Since the formation of SDLC as many as 29 Sub-Divisional Level Committee meetings have been conducted under the Chairmanship of Sri Madhab Ch. Bariha, Sub-Collector, Parlakhemundi.

Steps have been taken to ensure for free, open and fair meetings by intimating the chairpersons of the block, samiti members, Sarapanchas, ward members and Gram Panchayat secretaries for propagation of Forest Right Act.

As many as 9 trainings have been organised at Sub-Divisional level for creating awareness about the provisions of the Forest Right Act. CCD, IWD, OTELP, Lanjia Saora Development Agency, Seranga and Saora Development of Agency, Chandragiri are associated with awareness building activities on implementation of Forest Right Act. Sub-Divisional Level Committee had organised meetings at the village level, G.P., Block and District levels. Besides, publicity on FRA was done through use of leaflets and loud speakers. The awareness drive centred round the objectives and procedures under the Act and its rules and to provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna, which need to be conserved and protected. The performance of the NGOs is very positive for bringing out the awareness among the tribals and traditional forest dwellers. Parlakhemindi ITDA including OTELP has been providing the forms to the beneficiaries directly free of cost.



There is no evidence for fixation of responsibility by the SDLC for non-constitution of FRC. The SDLC, Paralakhemudi has not engaged any retired RIs and Amins on contractual basis for preparation of maps for early finalization of verification in the field but the DLC, Gajapati has engaged adequate number of RIs /Amins DEOs.

Forest and revenue maps and electoral rolls have been provided to the president and members of the FRC as well as the Gram Sabha through the Joint verification team of Revenue, Forest and ST & SC Development Department officials.

Consolidated maps and details provided by the Gram Sabhas and resolutions of the concerned Gram Sabhas have been collated. The SDLC has received resolutions of the Gram Sabhas and their maps for individual and community cases and examined them to ascertain the veracity of the claims as follows:

SI no.	Types of Claim	No. of claims Received	No. of claims Examined
1	Individual Claim	7240	7240
2	Community Claim	5	Nil
3.	Use for Development Works	Nil	Nil
Total		7245	7240

No disputes between Gram Sabhas on the nature and extent of any forest rights have been received. No petitions from persons including State agencies aggrieved by the resolutions of the Gram Sabhas have been received. No inter Sub-Divisional claims have so far aroused among the neighbouring Sub-Divisions of Paralakhemundi.

At the field level RI, Forester and WEO have visited and attended for joint verification to examine the applications received from 431 villages. At the SDLC the Sub-Collector, ACF and WEO have visited once for correctness of the Forest Right enquiry. The result is very positive. The SDLC has yet to prepare any Block or Tahasil wise draft records of proposed forest rights with reconciliation of Government records.

The magnitude of claims (Individual and Community) forwarded with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision is as follows:

- No. of Individual Claims-7240
- No. of Community Claims-05
- No of diversion proposal for development programmes-Nil

Awareness has been created. Application forms have been supplied. Collection of applications has been done. Regarding method of collection of applications from the villagers, the Sub-Collector informed that as the members of the FRCs are mostly illiterate, the RI/Forester concerned collect the application from the FRCs for joint verification as well as for rectification of defects in the applications wherever necessary. Then the corrected applications are sent to the SDLC by RI for consideration.

No possibility of non submission of applications for claim. Claims are being settled on the basis of revenue and forest map, Resolution of the FRC, voter ID cards and joint verification report of RI, FRC and Forester. One NGO namely CCD, Paralakhemundi is operating in the area to gear up the FRA implementation process.

**Problems:-**

The SDLC has experienced the following problems in implementation of the FRA, including:

- Shortage of technical and non-technical staff.
- Non-Placement of funds with SDLC to meet the contingent expenditures, like use of vehicles with fuel for field visits, wants of modern equipments (GPS machines) for field measurement.

The Chairperson of Parlakhemundi SDLC suggested the following for overcoming the hindrances, and for effective implementation of the FRA.

- Adequate number of staff should be provide and the required funds be placed at SDLC level.
- The 75 years for non-ST forest dwellers should be reduced to 25/30 years.
- Awareness should be conducted in a definite interval continuously till completion of the process.
- It is not possible to complete to issue pattas to all applicants within December 09, 2009. It should be extended for indefinite period.
- We need one year more to cover to issue Pattas to all the applicants.

#### *Constitution and functions of FRCs (Gajapati Dist.):-*

In Gajapati district out of 1528 villages, the FRCs have been constituted in 1449 villages. As many as 77 villages are reported to be uninhabited and in 2 more villages the FRC could not be constituted for want of quorum in Palli Sabhas. It is reported by the district administration and District Forest Officer that there are no forest habitations/villages or settlements in both the districts, which are technically not part of any Gram Panchayat in the districts.

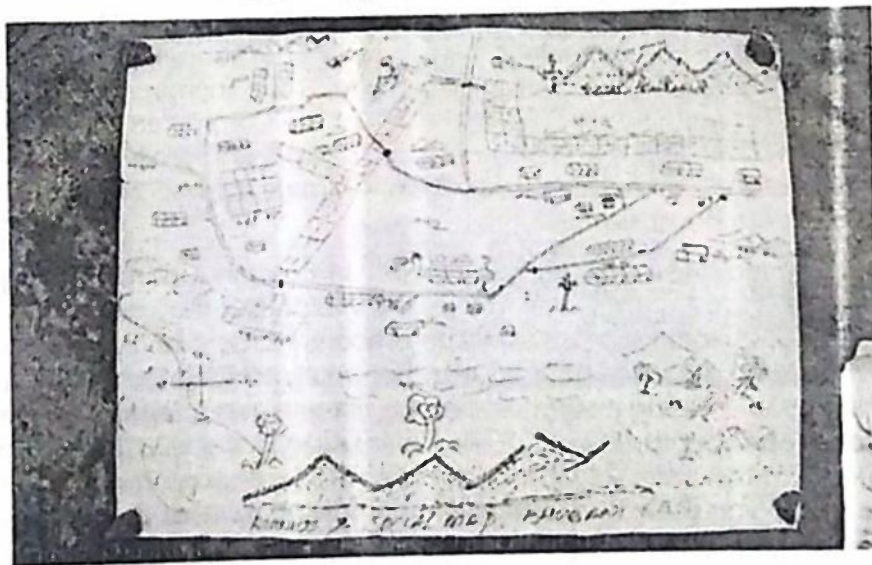
#### *Structure and functions of FRCs in the Villages:*

#### Case Study 2 (j): FRC of Bhubani Village under LSDA, Seranga (Micro Project)

##### *Village Profile:*

Bhubani village is situated under Bhubani Gram Panchayat of Gumma Block. It comes under LSDA Seranga (Micro Project). It is located at a distance of 8 km from the Block headquarters and 35 km from the district headquarters. The RI office is 40 km and the Forest Range Office is 35 km away from the village settlement.

#### **Social Map of Bhubani Village**



*Courtesy DFO & villagers of Bhubani, LSDA, Seranga, Gajapati*



The village settlement is on the foothill surrounded by the hill ranges and scattered. Guagoor hill in north, Baditan hill in south, Raiba hill in east and Tabarba hill in west bound it. Houses are *katcha* type with thatched roof or tiled roof. Few houses were found with RCC roof. Some families are provided with houses under IAY scheme.

It is exclusively a tribal village. There are 121 Lanjia Saora households with 560 people. Population of the village was 560 at the time of study. The villagers have their community hall in the middle of the village constructed on 0.50 acre of revenue land. They have sacred grove in the western side and shrines for deities in the northern side of the village. The total agricultural land of the village is 435.23 acres, 68.38 acre is follow land and 20.08 acre of land is used for grazing of animals. They depend on 126 ha of reserved forest in the western side of the village for their livelihood.

There are 2 community ponds in the village on 1 acre of land. The villagers use 3 wells and 5 tube wells to meet their drinking water requirement. A school and a child labour school are running in the village.

As many as 14 older persons, 2 physically challenged, 10 widows have been covered under the respective schemes. Numbers of beneficiary covered under Antordaya and Arnapuma Yojana are 55 and 4 respectively. Six SHGs have been formed with 90 members. VSS and the FRC have been constituted. But there is no patta holder under the FRA. The village, however, needs electrification and infrastructure for medical and education facilities.

#### *Functioning of FRC:*



The Palli Sabha of the village in its meeting held on 28.3.2009 had constituted its Forest Right Committee. In the meeting 15 members were selected to the FRC with Sri Sherab Sabar as the President and Sri Sushil Kumar Gamango as the Secretary. All the 15 members of the FRC are STs, out of which, 4 are women. This shows the woman representation in the FRC is less than 1/3<sup>rd</sup> of its strength, which is not in conformity with the provisions of the Act.

However, the members of the FRC explained that at the time of constitution of the FRC women did not want to be its member. As regards educational qualifications of the members, the secretary of the FRC is a matriculate, 8 are members are under-metric and rest six members are illiterate. Two members of the Committee are govt. servants. One is serving as Home Guard and another is a Grama Rakhi. While occupation of the 5 male members of the Committee is cultivation, 4 female members help their family in cultivation along with house works.

The village committee intimated the Secretary of Bhubani Grama Panchayat about constitution of the Forest Right Committee in the village. But they did not intimate the same to the SDLC, as they do not know the process. NGOs, like 'Prem Plan', 'Kutam', 'Adivasi Development Society, Gumma,' and 'Jana Kalyan Pratisthan', Parlakhemundi played some roles in creating awareness among the villagers in applying claims to the FRC. Palli Sabha listed out the names of the STs residing in the village and passed joint resolution affirming that the claimants belong to the ST category. The FRC initiated the process for determining the nature and extent of individual claims.

The FRC has received total 115 individual claims, but it has not received any claim for community right on forest or forestland. The reason is that the villagers for community purposes use no forestland in the village. The forestland has been



encroached by the individuals and they accordingly applied for the title certificates on the encroached forestland. No forest land left for community claim. FRC listed out the names of the claimants, prepared maps and records after verifying the applications and recommended to the Grama Sabha for further consideration and approval. Grama Sabha recommended all the 115 applications to the SDLC for consideration without joint verification report. The FRC did not find any gap between the amount of land occupied and claim applied for by the claimants. Joint verification by the RI, forest officials and the FRC members has been completed in 61 cases till 20.11 2009. As the concerned RI was on leave, joint verification on rest cases could not be conducted. The FRC assured that joint verification in other cases would be completed within 15 days after the RI returns from leave. However, due to want of verification report no case, out of 115 cases, recommended by the Gram Sabha to the SDLC, has been returned for reconsideration. Proceedings of the SDLC on the reconsideration of the Gram Sabha have not been received by the FRC.

The members of the FRC admitted that due to their ignorance about the provisions of the Forest Right Act, they did not request the SDLC to supply village maps, forest maps, etc. But they stated that during verification, concerned RI brings the revenue map and records and show to the FRC members. For the purpose of joint verification, RI and Amin of Advangi revenue circle has been engaged. The FRC was given prior intimation about programme for joint verification by the RI through the ward member of the village. Joint verification on 61 individual claims has been completed in presence of RI, Advangi revenue circle, FRC members in presence of villagers and concerned applicants. During verification of the applications, the FRC noticed one conflict case in which two applicants claimed for single patch of forestland, which has not yet been decided.

The members of the FRC are well aware of the traditional boundary and forest area of the village. The Forest Right Committee is performing well in the village. However, the FRC requires further training for their empowerment.

#### *Findings of FGD:*

Bhobani village settlement is approximately 200 years old. The people of the village belong to Lanjia Saora, a Primitive Tribal Group. This PTG is the original settler of the village. About 200 years ago 15-20 Lanjia Saora families settled there. No other tribe or caste resides in the village. This village is surrounded by the revenue villages such as Tumkur, Sardang, Tangihike and Ameising. They have some disputes on the boundary of the village with the adjacent villages on revenue land only. The villagers share the water from Natangi Jholi, a hill stream originated from Bhobani hill. The Forest Right Committee has been constituted consisting



of 15 members. But adequate guidelines/assistance has not been received by the FRC to implement the provisions of the Act. However, concerned RI and Amin provided the maps and records during verification. Till the date of study, the FRC received 115 individual claims. The villagers have applied no claim for community right.

The villagers need services of the required R.I./Amin/forest officers should be deployed to conduct joint verification and finalize the claims. Adequate training need



be imparted to the FRA members and steps should be taken to activate the villagers in implementing the Act.

*Views of the Villagers (15 Sample Heads of Households of Bhubani:*

There were 15 respondents including 15 ST, 1 FRC member, 5 BPL families, 8 Antordaya beneficiaries and 2 NREGP beneficiaries. Among them, 13 respondents were cultivators and 2 were forest gatherers. Educationally, 8 were illiterate, 1 just literate, 3 studied up to ME standard and 3 passed HSC. Economically 2 were landless, 8 were marginal farmers, 2 small farmers and 3 big farmers.



*Research Team Members, PA, ITDA, PO, OTELP and Villagers participated in FGD and Awareness Building at Bhubani Village*

Out of 15 respondents, 3 are not aware of the Act and its provisions and the rest 12 are aware (9 through the intervention of NGO and 1 through person, 1 through villager and 1 through Sarpanch. Eight out of 15 respondents claimed and applied for forest land and 7 did not apply. None of them have got certificates of titles. Out of 15 respondents, 8 wanted to know the status of their claims made, 9 were in favour of reconstitution of the FRC and 8 suggested to get the forms through the Palli Sabhas/ FRC, 4 suggested for early action on joint enquiry for identification and finalization of land. Eleven respondents suggested that the Panchayatiraj, Revenue and Forest Officials should change their mind and come forward for helping the ST claimants.

Case Study 2 (iii): FRC of Angada Village

*Village profile:*

Bhubani is a village of Bhubani Grama Panchayat under Gumma block. It is bounded by the villages namely Amising in north, Sadasang in south, Kulpat in east and Puturu in west. It is situated at a distance of 2 km from Bhubani G.P and 11 km from Gumma Block. Its distance from the district headquarters is 42 km. The office of the RI and Range Officer are 70 km and 42 km away from the village, respectively. It is a ST (PTG) Lanjia Saora village. It comprises of three hamlets, namely, Tidasing, Abasing and Kumulsing. There are 85 Langia Saora householders in the village. Total population of the village is 522. The village settlement is located at the foot of a hill and there the houses are scattered.



The sacred grove is situated in the western side and shrines for the deities in the eastern side of the village. The grazing land is located at the west-southern side and the village forest is found all sides spreading on 200 ha of forest land. There is a



community hall in the middle of the village constructed on ½ acre of forestland. Total area of the agricultural land in the village is 218.28 acre, 42.35 acres are fallow land and 8.05 acre is used for grazing of animals.

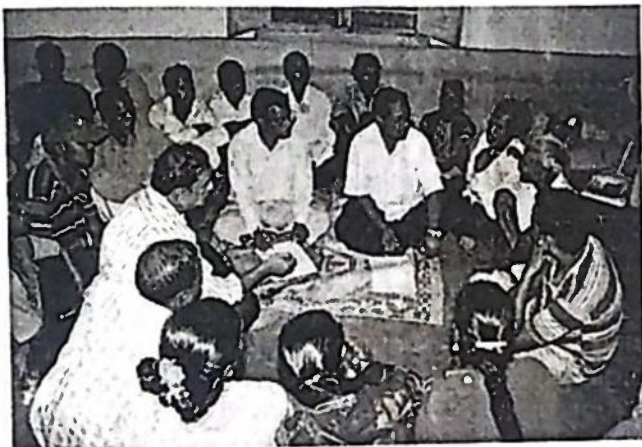
There is a school and non-formal school center run by TD Project. There is a pond. 30 acres of land are irrigated through 3 MIPs. There is one well, 2 tube wells, one pond to supply drinking water for the villagers. Two hill streams flow close to the villager. Pipe water supply system exists in the village. Four SHGs have been formed with 60 members. They do their business by installing a rice haler and by collecting MFPs.

A VSS is constituted to protect and manage the village forest. The FRC has been constituted under the FRA with 15 members. Nine widows are getting pension under widow pension scheme and 56 beneficiaries are under Arnapura Yojana. Not a single family has so far been given certificate of titles for forest land under the FRA.

#### *Functioning of FRC:*

The Palli Sabha of the village in its meeting held on 16.3.2008 has constituted a 15-member Forest Right Committee, with Sri Narasingha Mandal as the President and Smt. Sansari Gamango as the Secretary. The Gram Sabha has intimated the SDLC about constitution of FRC.

All the 15 members of the FRC are S.Ts, out of which 5 are women, which is in conformity with the provisions of the Act. Out of 15 members, 12 are illiterate, two of them have passed class IX and one has passed VII class. The Secretary of the Committee Smt. Sansari Gamango is a working woman serving as peon in the village school. All the male members of the Committee except secretary do cultivation. The female members usually help the head of the household in cultivation along with the house work. NGOs like 'Prem Plan', 'Kutam', Adivasi Development Society, Gumma and 'Jana Kalyan Pratisthan', Parlakhemundi have played some roles in creating awareness among the villagers in filling claim forms and their submission to the FRC. No training has been imparted either by the NGOs or by Govt. officers. The FRC has listed out the names of the claimants.



The FRC has initiated the process for determining the nature and extent of individual claims. They received 56 individual claims vesting of rights of forest land. The FRC listed out the names of the claimants. No claim from pastoralist and nomadic tribes has been received. The FRC also has not received any community claim. The individual applications were with the RI. Joint verification on these claims has not been conducted. The members of the FRC told that after joint verification, meeting of the FRC will be held and these applications will be sent to Palli Sabha for consideration along with the joint verification report. On an enquiry whether there is any gap between the amount of land being occupied by an individual and his/her claim and if there is any conflict over a single patch of claimed land by two or more individuals, the FRC replied that these cases could be assessed only after joint enquiry is over.

But no claim for community right on forest or forestland is received. The members of the FRC admitted that due to their ignorance about the provisions of the Forest Right Act, they did not request the SDLC to supply village maps, forest maps, etc. But RI brings the village map and other records with him for joint verification. The members of the FRC are well aware of the traditional boundary and forest area of the



village. The Forest Right Committee is performing well in the village. However, the FRC requires further training for their empowerment.

*Findings of FGD:*

The village settlement is approximately 200 years old. The ethnic habitants are Lanjia Saora, a Primitive Tribal Group. No other tribe and caste reside in the village. Surrounding revenue villages are Kulpat, Puturu, Angda, Bhobani, Abasing, Papada and Kitunga. It has 73 house holds. This settlement is not a part of any bigger habitat/settlement. There is dispute on village boarder and *pahada* with Abasing and Kitunga villagers.

Forest Right Committee has been constituted consisting of 15 members of which 5 are women. The FRC met twice at Seranga after its constitution. But neither the members of the Forest Right Committee nor the villagers are trained. Only President and Secretary of the FRC were sensitized. Rest of the members of the FRC and villagers were not aware about the provisions of the Forest Right Act. Application forms were supplied to the villagers only. No training has been given to the FRC members or villagers on implementation of the FRA. As many as 56 individual claims were collected by the RIs but these applications were not verified till the date of study. No community claim was received by the FRC. A school is running in the village on the forestland. Villagers did not apply for community claim or individual claim for collection of minor forest produce or over water bodies and grazing land because they feel that it is not necessary because there is no restriction to collect MFPs and to use water resources.

Training and publication are necessary to promote the villagers to come forward to submit their individual as well as community claims. Govt. officials should be pro active in giving training and creating awareness through leaf let/posters among the villagers. Steps should be taken to complete the joint verification process so that village could consider on the claims applied for by the villagers.

*Views of the Villagers (15 Sample Heads of Households) of Angda:*

There were 15 respondents including 15 ST, 3 FRC member, 6 BPL families, 8 Antordaya beneficiaries and 1 NREGP beneficiaries. Among them, 14 respondents were cultivators and 1 forest gatherers. Educationally, 8 were illiterate, 5 just literate, 1 each studied up to Primary and ME standard and 1 passed HSC and 1 passed intermediate. Economically, 4 were landless, 6 were marginal farmers, 3 small farmers and 2 big farmers.

Out of 15 respondents, 5 are not aware of the Act and its provisions and the rest 10 are aware (4 through the intervention of NGO and 5 through Govt. Officials and from 1 Sarpanch. 10 out of 15 respondents claimed and applied for forest land and 5 did not apply. None of them got certificates of titles.

Out of 15 respondents, 8 wanted to know the status of their claims made, 10 were in favour of reconstitution of the FRC and 7 suggested to get the forms through the Palli Sabha/FRC, 7 suggested for Joint enquiry for identification and finalization of land should be done quickly. 12 suggested that the Panchayatiraj, Revenue and Forest Officials should change their mind and come forward for helping the ST claimants.

Case Study 2 (iii): FRC of Rajpur Village

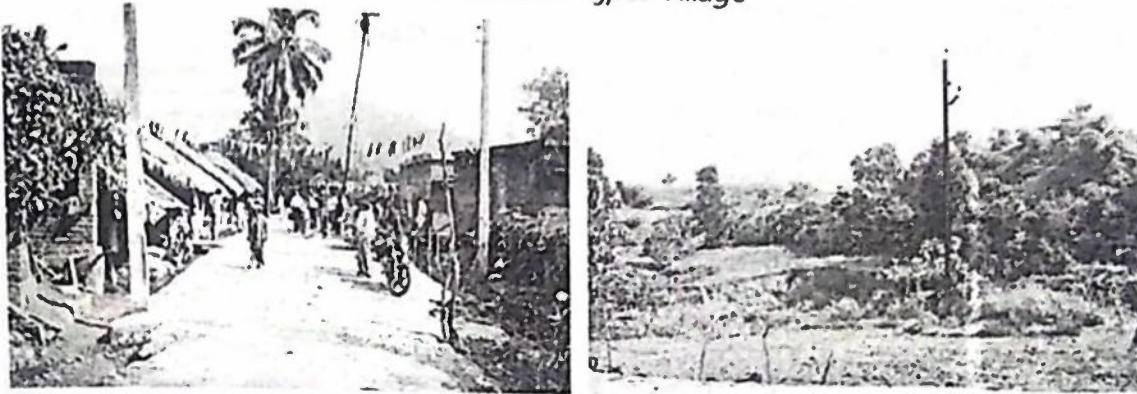
*Village Profile:* The village comes under Sanatundi Gram Panchayat in Rayagada Block. It is bounded by the village Mauna in the north, Mahendra Tanaya hill in east, Champapet village in south and Tubusing hill in west. This village comes under ITDA, Parlakhemundi. The village settlement is at a distance of 3 km from the G.P. headquarters and 2 km from the block headquarters. The office of the RI is at a distance of 20 km and that forest ranger is at a distance of 25 km from the village.



The settlement pattern is linear and settled in plain area. Houses are in both sides of the road running through the village. Most of the houses are of *katcha* type with thatched roof. Some are of *pucca* type. However, houses under IAY scheme have been provided to the villagers.

The village has 18 households and 88 population, all belong to Saora Community. The village has sacred grove and Shrines for deities in southern side, grazing land in the southern side, cremation ground in the northern side and side of the village. Padijhola Nala flows in the western side of the village. Area of agriculture land is 91.49 acres and land use for grazing of animals is 4.480 acres. 111.382 acres are fallow land. 19.330 acres of village forest exists in the village.

*Hill-View of Rajpur Village*



No infrastructure for irrigation, medical and development of education is created. The villagers use 2 tube wells for drinking purpose and water from nearby Jalanga river for irrigation purpose. Two old persons, 2 widows have been benefited through OAP and WP. 8 persons come under BPL category. Under Antordaya scheme, 3 persons have been benefited. VSS and FRC have been constituted in the village. 9 villagers have got title certificate under FRA.

Rajpur is a Revenue village. The village is uni ethnic and settled approximately 150 years ago. The original settlers of the village were Sudha Sabara. No other caste is settled in the village. Total households of the village were 18 with 88 populations at the time of study. The villages i.e. Muhan, Hatibari, Badtundi, Laxmipur and Champapur situated around the village. There is no dispute regarding boundary of the village. The villagers use water from Mahendra Tanaya River and Kumulsingh hill stream.

*Functioning of FRC:*

*FRC Members of Rajpur village*

The Palli Sabha of the Village met on 9.3.2009 and on 16.3.2009 and selected 15 persons, all are S.Ts, as the members of the Forest Right Committee out of which 5 are female members. OTELP helps the villagers in submitting their applications for claims. Literature and booklet on provisions of FRA was circulated/supplied by OTELP. The Officers of Rayagada Block provided training to the members of FRC. Besides, RI, Amin,



and Forest Officers extended their cooperation and assistance for proper implementation of the provisions of the Act. An NGO namely SWSS also helped the villagers in this direction. All the 18 households applied for their claims, out of which title certificates have been distributed to 9 persons. Nine applications were rejected, as



the lands applied for are not in the forestland, as such were inadmissible under the Act. There is no gap between the amount of forestland being occupied and claimed by the forest dwellers and the pattas which has been distributed to them. But in case where the claimant claimed for the land taking the revenue and forest land together, claims for forestland were considered and the claims for revenue land were rejected. But no community claim has been received by the FRC though two tanks exist in the village are on the forest land (0.50 acre each). The villagers want that FRA may be amended to cover all the cultivable lands even though not recorded as forestland.

#### *Findings of FGD:*

The Gram Sabha in its meeting held on 9.3.2008 has constituted Forest Right Committee in which 44 villagers out of total population of 54 were present. Thus 88 % of the villagers were present at the time of selection of members to the FRC. In the meeting 15 members were selected. Sri Dandasi Khandual and Sri Bhima Raghab were selected as the president and Secretary of the FRC. All the 15 members of the Committee are S.Ts of which 5 are women as per the provision of the Act. As regards educational qualification of the members, the President Sri Khandual studied up to class VII and the Secretary Sri Bhima Raghab is up to class III. Other 13 members are illiterate. Occupation of all the members of the committee is cultivation. Female members do their household work and also help the male members of the family in cultivation.



*FGD at Rajpur Village*

The Gram Sabha intimated the SDLC about constitution of the Forest Right Committee in the village. After constitution of FRC, Grama Sabha met thrice, to discuss about the progress of work. i.e. on 16.3.08, 7.6.2008 and 28.1.2009 respectively An NGO namely Society for the Welfare of the Weaker Section (SWWS), Paralakhemundi created awareness programme in the village about the provisions of the Act. Palli Sabha listed out the names of the S.Ts residing in the village and passed joint resolution affirming that the claimants belong to the S.T category. The FRC initiated the process for determining the nature and extent of individual claims.

The FRC received 18 individual applications for diversion and vesting of rights of forestland on the claimants. Joint verification by the RI, Forest officials and FRC has been completed in all 18 cases. No claim for community right on forest or forestland is received. FRC has also not received claims of pastoralists or nomadic tribes, as there is no such group in the village. Prior intimation was given to the claimants about the programme of joint verification and the claimants were present at the time of verification. FRC listed out the names of the claimants, prepared maps and records after verifying the applications and recommended to the Grama Sabha along with joint verification report for further consideration and approval. Grama Sabha recommended 9 applications to SDLC for consideration. FRC did not find any gap between the amount of land occupied and claim applied for by the claimants. Proceedings of the SDLC on the recommendation of the village committee have not been received by the FRC. FRC has not kept a copy of the joint verification report with them.

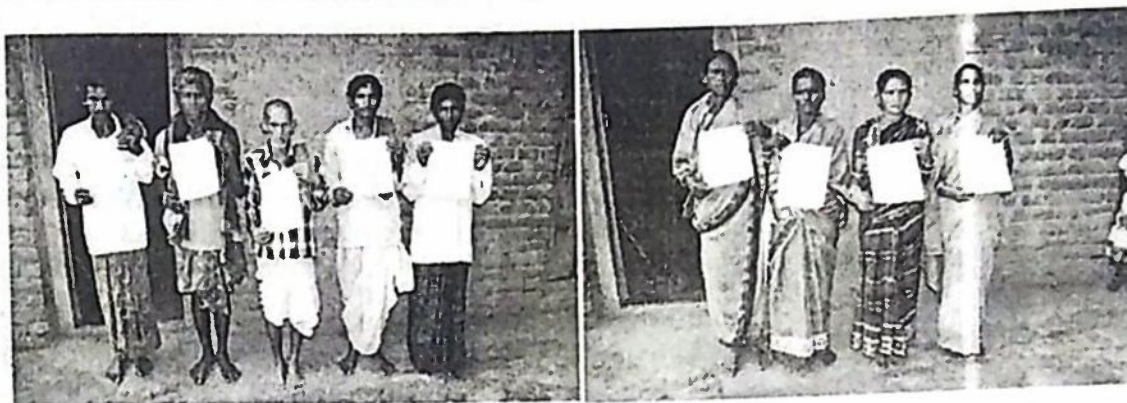
The members of the FRC admitted that due to lack of awareness about the provisions of the Act, they have not requested the SDLC to supply village maps, forest maps etc to FRC. But they stated that during verification, concerned RI brings the revenue map and records and show to the FRC for the purpose of joint verification,



The members of the FRC are well aware of the traditional boundary and forest area of the village. The Forest Right Committee is performing well in the village. However, FRC requires further training for their empowerment.

*Views of the Villagers (15 Sample Heads of Households of Rajpur)*

There were 15 respondents including 15 STs, 8 FRC members, 2 BPL families and 9 NREGP beneficiaries. Among them, 13 were cultivators and 2 wage earners. Educationally, 5 were illiterate, 5 just literate, 3 studied up to Primary and 2 passed HS. Economically, 1 was landless, 8 were marginal farmers, 4 small farmers and 2 big farmers.



*ST People Distributed with Certificate of Titles of Forest Land under FRA*

Out of 15 respondents, 1 was not aware of the Act and its provisions and the rest 14 were aware (13 through the intervention of NGO and 1 through Govt. Official) of it. All 15 respondents claimed and applied for forest land, but 9 got certificates of titles. Claims of 6 respondents were rejected at FRC level during joint verification for their encroachment on lands was done on non-forest land. Since the villagers are satisfied with the decision of the FRC they had nothing to suggest.

Case Study 2 (iv): FRC of Padmapur Village

*Village Profile:*

This village Padmapur is included in Karadasing Gram Panchayat under Rayagada Block. Distance of this village settlement from the block headquarters is 2 km and 3 km from Block Headquarters. The R.I. office is at a distance of 17 km and the Range office is at a distance of 10 km from this village. It is bounded by Nuasahi village in the North, Krishapur in the south, Linichanda Pahada and Godisahi village in the east and Karadasing village in the West. Tanya River flows in the western side of the village.

The village settlement is linear type and located in plain area. The village is uni-ethnic comprises of 3 sahis. There were 67 households in the village with a population of 803 at the time of the study. Both *pucca* as well as *katcha* houses are found with thatched roof. Houses under IAY scheme have also been provided to some of the villagers. This settlement spreads over 601.096 acres of land of which 419.012 acre is arable land, 2,348 acres are fallow land, 24.840 acres are used for grazing of animals and rest 2.348 acre is put to non agricultural use. Villagers also depend on the 8.08 ha of reserved forest for their lively hood. A hill stream flows in western side of the village spreading over 500 acre of forestland. It has 3 wells, 3 tube wells and one pond to meet the drinking water requirement.



*Padmapur Village View*



It has one school and one AWC, one community center. 3 SHGs have been formed having 52 members. Apart from that, VSS, FRC have been constituted. An NGO namely 'Society for the Welfare of the Weaker Section' is working in the village. 77 villagers are under BPL category. 11 persons are covered under OAP, 7 under ODP and 14 under WP, 19 under Antordaya and 3 under Arnapurna Yojana.

#### *Functioning of FRC:*

The Village Committee in its meeting held on 16.3.2008 has constituted 15 members' Forest Right Committee, with Sri Hadi Jani as the President and Sri Baishnaba Gamango as the Secretary. The village committee intimated SDLC about constitution of FRC. All the 15 members of the Committee are S.Ts, of which 4 are women, which is less than the prescribed woman component. Out of 15 members, 7 are illiterate, one of them is matriculate, four are under matric, one studied up to class II, one is up to class IV and one is up to class VII. The president of the Committee is a retired health worker. Now he has engaged himself in cultivating lands. Occupation of 8 members is cultivation. One of them does business along with agriculture. The female members help the head of the household in cultivation in addition to the household chores.

An NGO namely SWWS has created awareness among the villagers about the provisions of the Act.

The FRC has initiated the process for determining the nature and extent of individual claims. They received total no. of 122 individual applications and 7 community claims for diversion and vesting of rights of forest land on the claimants. The Palli Sabha has prepared a list of households as well as names of the claimants. No claim of pastoralist and nomadic tribes has been received. Joint verification for 45 cases were conducted in which FRC members, Claimants, Amin were present. But no forest officer was present during the verification. For joint verification no written intimation was served to the claimants. However, they were intimated verbally. No conflicting case, in which for a single patch of land, more than one person has applied, is found. The verified cases have not been sent to Palli Sabha till the time of study. Village community applied for 5 acres of forest land for village shrines, 10 acre for grazing land, 7 acres for orchards, 0.30 acre for meeting ground and 1 acre for water source. But joint verification has not been conducted on these claims. The members of the FRC stated that they requested the RI to provide a copy of the village map to the FRC to which he denied. The members of the FRC admitted that due to their ignorance about the provisions of the Forest Right Act, they have not requested the SDLC to supply village maps, forest maps etc to FRC.



*FRC Members of Padmapur Village*



*FGD at Padmapur Village*

The members of the FRC are well aware of the traditional boundary and forest area of the village. The Forest Right Committee is performing well in the village. However, FRC requires further training for their empowerment.

#### *Findings of FGD:*

Padmapur village settlement is more than 200 years old. Since the beginning of the settlement, Sudha Soura tribes have been residing in the village. No other tribe or caste is found in the village. This is a revenue village bounded by Nuasahi village in the north, Krishapur in the south, Liminchuda Pahad and Godisahi village in the east and Karadasingh village in the west. River Mahendratana flows in the western side of the village. This village does not form a part of any bigger village.

FRC was formed in the village committee meeting held on 16.3.2008 in which 290 villagers were present. 15 members were selected of which 5 were women. Thereafter Grama sabha meetings were held twice in which application forms were distributed. In the 2<sup>nd</sup> and 3<sup>rd</sup> meetings, 84 and 86 villagers were present respectively. But no register either for the meeting proceedings or for the details of the claims received has been maintained by FRC. No members of FRC, except President and Secretary, got training on implementation of Act. However, FRC made a list of 122 applicants who claimed for the individual rights over forestland. No family left claiming their rights over forestland. Out of 122 claims, the village committee rejected 81 as it was found during joint verification that the claims applied for are not recorded as forest land. Thus the village committee recommended 41 applications. During verification, no gaps between the amount of land being occupied and claimed by the claimants were found. The villagers have filed no application for community claim. No Revenue map or forest map has been supplied to FRC. However, during joint verification RI comes with records and maps. Villagers were satisfied with the performance of FRC and assistance provided by the Govt. officers.

#### *Views of the Villagers (15 Sample Heads of Households of Padmapur):*

There were 15 respondents including 15 ST, 6 FRC members, 10 BPL families, 1 Arnnapurna Yojana beneficiary and 7 NREGP beneficiaries. Among them, 14 respondents were cultivators and 1 was forest gatherer. Educationally, 2 were illiterate, 5 just literate, 3 studied up to primary standard and 5 passed HSC. Economically, 2 were landless, 8 were marginal farmers, 4 small farmers and 1 big farmer.

Out of 15 respondents, 6 were not aware of the Act and its provisions and the rest 9 were aware (5 through the intervention of NGO and 4 Govt. Officials). 8 out of 15 respondents claimed and applied for forest land and 7 did not apply. None of the claimants have got certificates of titles.

Out of 15 respondents, 8 wanted to know the status of their claims made, 10 were in favour of reconstitution of the FRC and 7 suggested to get the forms through the Palli Sabha/FRC, 5 suggested for Joint enquiry for identification and finalization of land should be done quickly. 11 suggested that the Panchayatiraj, Revenue and Forest Officials should change their mind and come forward for helping the ST claimants. Only 4 respondents suggested for early settlement of lands for the non-tribals (Other Traditional Forest Dwellers).

#### Case Study 2 (v): FRC of Tahajang Village (OTELP Area)

##### *Village Profile:*

The village Tahajang comes under Tarangagada GP of Gumma Block. It is at a distance of 9 km from the block headquarters.

The Forest clad hill ranges on the foot of the hill surround the village. Houses are mostly *katcha* type with thatched roof. Some are *pucca* house with tiled roof. Some families are provided with houses under IAY scheme. All weather roads connect the



village with District Head Quarters and GP Head quarters. The village is exclusively inhabited by the Saora Tribe having 56 house holds in three sahis with 346 populations. Almost all the villagers are Christian. Their Church is situated in the middle of the village over 1 acre of revenue land. One primary school is running in the village on an area of 0.50 acres of revenue land. The village has one A.W.C. Patches of agricultural land found around the villages. The villagers cultivate about 235.57 acres of land. 37.68 acres of land in the village is fallow land, 19.96 acres are for permanent pastures and grazing of animals. 8.58 acres are for non-agricultural use. A hill stream flows on the eastern side of the village spreading over 7.817 acres of forestland. It is adequately provided with sources of drinking water through 5 tube wells, 2 ponds, 3 dug wells. There is 2 numbers of dam in the village to facilitate irrigation to the agricultural lands. The villagers primarily depend on agriculture, cashew plantation, collection of MFPs and agricultural labour.

There is no electricity in the village. Electricity and medical facilities may be provided to the village. The lands owned by the villagers should be linked with different agricultural development schemes. FRC has been constituted in the village with 15 members of whom 4 are females. 52 title certificates under the FRA have been distributed to the villagers.

*Constitution and Functions of FRC:*

The Palli Sabha of the village in its meeting held on 16.3.2008 had constituted a 15-members' Forest Right Committee in which Sri Naum Gamango was selected as the president and Sri Lebeo Naik was selected as the Secretary of the FRC. All the 15 members of the Committee are S.Ts of which 4 are women. Thus the woman component in FRC is less than the limit prescribed in the FRA. As regards educational qualification of the members, both the president and the secretary of the committee are +2 students. 12 members are up to class III and one is illiterate. One of the female members of the Committee Smt. Santi Raita is an Anganwadi worker. 12 members live on agriculture. The president and Secretary of the committee are continuing their studies. The village committee intimated the SDLC about constitution of the Forest Right Committee in the village. After constitution of FRC, an NGO namely Centre for Community Development (CCD) Gajapati created awareness programme in the village and took steps for capacity building of the FRA members in order to empower them to perform their duties and responsibilities. Palli Sabha listed out the names of the S.Ts residing in the village and passed joint resolution affirming that the claimants belong to the S.T category only. The FRC initiated the process for determining the nature and extent of individual claims.



*FRC Members of Tahajang Village*

The FRC received 65 individual applications and 2 community claims for diversion and vesting of rights of forestland on the claimants. Joint verification by the RI, Forest officials and FRC has been completed in all 67 cases. FRC has not received claims of pastoralist and nomadic tribes, as there is no such group in the village. Prior intimation was given to the claimants about the programme of joint verification and the claimants were present at the time of joint verification. FRC listed out the names of the claimants, prepared maps and records after verifying the applications and recommended to the Grama Sabha along with joint verification report for further



consideration and approval. Grama Sabha recommended all the 67 applications to SDLC for consideration. FRC did not find any gap between the amount of land occupied and claim applied for by the claimants. Proceedings of the SDLC on the recommendation of the village committee have been received by the FRC.

The Gram Sabha had the claim for 2.00 acre of forest land for grazing the cattle, 3 acre for water source, 0.20 acre for school, right for MFP collection and 40 acres for bio diversity programme. The members of the FRC admitted that due to lack of awareness about the provisions of the Forest Right Act, they have not requested the SDLC to supply village maps, forest maps etc to FRC. But they stated that during verification, concerned RI brings the revenue map and records and show to the forest right for the purpose of joint verification.

The members of the FRC are well aware of the traditional boundary and forest area of the village. The Forest Right Committee is performing well in the village. However, FRC requires further training for their empowerment.

#### Distribution of Certificate of Titles of Forest Land under FRA to the villagers



#### Findings of FGD:

Tahajang village was settled more than 200 years ago. The original settlers are Lanjia Soura, a Primitive Tribal Group. No other tribes or castes are residing in the village. The village is surrounded by the Luang village in east, Pudei parbat, comes under Reserved Forest, in west, Sudia parbat (RF) in north and Parasambha Mauza in south. There is a Church, situated in the middle of the village. There is no dispute among the bordering villages. Sudajal Stream (Bada nala) flows through this village.



*FGD at Tahajanga Village*



*View of village forest at visit time*

F.R.C was formed by the village committee in its meeting held on 16.3.2008 in which Angan Wadi Worker, Head Master of Tahajang high school, an officer from arangad GP were present. 15 members were selected to the FRC of which 4 were women. The FRC met four times. In the 1<sup>st</sup> meeting 113 villagers participated. Number



of participants in 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> meeting was 129, 142 and 66 respectively. Training was imparted to the FRC members by the OTELP and book let were distributed to create awareness. An NGO namely Regional Centre for Development and Cooperation (CCD) also tried its best to train the people and supply of records etc. No Revenue map or Forest map is available with FRC. But RI/Amin, forest officers bring the maps and records with them at the time of joint verification. Guide lines/assistance is being provided by the SDLC/NGO/OTELP to the FRC. Sixty-five individuals applied for their claims over forestland and 2 applications for community claims were received by the FRC. The villagers claimed that right over 40 acres of forest land should be vested on the community for collection of MFPs, 3 acres of forest land for ponds and irrigation purposes and 0.5 acre of forest land for grazing of their domesticated animals. No application/claim has been rejected by the FRC. No family is left out from claiming their rights. The villagers are enjoying usufructs over 200 acres of village forests under JFM. VSS has been formed. According to the villagers FRC is performing well and Govt. officials are cooperating in the process of implementing the Act.

#### *Views of the Villagers (15 Sample Heads of Households of Tahajang*

There were 5 respondents including 5 STs, 1 FRC member and 5 BPL families. All 5 respondents were cultivators. Educationally, 1 was illiterate, 4 studied up to Primary standard. Economically, 3 were marginal farmers, 1 small farmer and 1 big farmer. Out of 5 respondents, 5 were aware of the Act and its provisions (1 through the intervention of NGO and 4 through Govt. Officials). All the respondents claimed and applied for forest land and got certificates of titles. All the 5 members availed 7.067 acres of land, on an average of 1.413 acres each. The villagers are satisfied with the decision of the FRC.

Post Study Gap and Gain of RFRA Implementation Status  
in Orissa State

T. Sahoo

1. Prelude:

Land at any situation can be categorized as Private Land, Revenue (Non forest Government) Land, Forest Land and Reserved Forest Land. Tribal interest on the land is addressed through Regulation 2 1956, PESA Act, 1996 as well as recent enacted Forest Right Act. Though the Scheduled Tribes have been living in forest areas for generations, none of their rights reported to be documented. Prior to implementation of the RFRA, Tribal were most dissatisfied among all class of people in the settlement of Land and creation of Land records as no appropriate and special forum was created to address tribal land issues. Thus, the Government of India has formulated Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 to recognize and crystallize the rights of the Schedule Tribes and other Traditional Forest Dwellers.

The passage of the STs and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was a watershed event in the hard-fought and prolonged struggle of Adivasis and other forest dwellers of India and added that for the first time in the history of the country, the State of Orissa formally acknowledged that rights which had been denied to the forest dwelling people for a longer time. As per this RFRA, the tribals will get right over the lands which have been in their possession prior to 13.12.2005. The Act, in brief, envisages recognition and approval of claims of tribals in agricultural lands, house sites and community claims including the habitat rights for the PTGs.

That the RFRA, 2006, provides;

- (i) Tenure security over the resources upon which mostly the STs have been customarily and critically depending – *indispensible to the livelihood security and development of PTGs/tribals,*
- (ii) security over community tenure, habitat and livelihood resources base, culture, customs and heritage and can check all types of exploitation and
- (iii) for rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities as per Section 3(1)(e).

Besides, the process of determination of rights as provided in the rules prescribes a special procedure to deal with the rights of PTGs. The Act affirms faith in the communities to protect, conserve and manage the forest, wildlife and biodiversity and to use the forest resources for the fulfillment of bona fide livelihood needs in a sustainable manner.

The Government of India and the Govt. of Orissa have been taking all-out efforts for undoing the historic injustice made to the forest depending communities through effective implementation of forest rights act. It is appreciable that among the Govt. of Orissa and its functionaries, especially within the ST Development Department, Revenue Department, Forest Department and Panchayatiraj Department, there have been a feeling of responsiveness and sensitivity about the following significant provisions of the Act and the possibility of their implementation and implications.



## 2. Implementation Status of Forest Rights Act-2006 as on 30th October -2010:

### 2.1 All India Status of FRA Implementation:

The data sourced from Ministry of Tribal Affairs, Govt. of India and different State Governments reveal the following implementation Status of Forest Rights Act-2006 in the country as on 30th October -2010. The implementation process of RFRA started immediately after the notification of the FRA rules and by 1 March 2008 all Committees at State/ District/Sub-Divisional and Village levels were constituted and monitored at the level of the Chief Minister. Since then till October ending, 2010 on basis of the information compiled from the reports submitted by different District Level Committees of different states constituted under RFRA (Recognition of Forest Rights Act-2006), Central Govt. claimed that in India more than 30.05 lakh claims have been filed and more than 10.80 lakh titles have been distributed. More than 29 thousand titles were ready for distribution. A total of 24, 81,449 claims have been disposed of (82.56%). A comparison of information provided by the different State Governments and mentioned in the following table reveals that the State Govt. of Orissa with distribution of as many as 2, 31,878 claims (2,31,312 individual and 566 community) has been in the forefront of implementing the RFRA. Table below shows State-wise status of implementation of RFRA as on 31st October, 2010.

Table -1

Statement showing State-wise status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.  
(As on 31st October, 2010)

States	No. of claims received	No. of titles distributed	Extent of forest land for which titles distributed (in acres)	Rank
Orissa	4,10,669 (4,08,560 individual and 2,109 community)	2,31,878 distributed (2,31,312 individual and 566 community)	3,01,629.06 for 1,69,897 titles #	1
Maharashtra	3,39,689 (3,35,701 individual and 3988 community)	1,04,767 distributed (1,04,344 individual and 423 community)	2,45,305.47 (2,26,340.80 individual and 18,964.67 community)	
Madhya Pradesh	4,09,000 (4,00,733 individual and 8,267 community)	1,03,258 distributed	3,59,502.09 for 89,035 titles #	
Chhattisgarh	4,91,374 (4,87,332 individual and 4042 community)	2,14,918 (2,14,668 individual and 250 community)	5,38,073.9 (5,36,301.22 for individual and 1,772.69 for community)	2
Andhra Pradesh	3,29,858 (3,22,955 individual and 6903 community)	1,67,208 (1,65,108 individual and 2,100 community)	14,42,467	3
Tripura	1,75,492 (1,75,215 individual and 277 community)	1,17,404 distributed	4,16,555.58 (4,16,498.79 for individual and 56.79 for community) for 1,16,100 titles	5

Jharkhand*	29,551 ( 29,097 individual and 454 community)	6,079 distributed (6,022 individual and 57 community)	Not Available	
Assam*	1,14,857	(1,10,019 individual and 4,838 community)	Not Available	
Gujarat*	1,91,477 (1,82,568 individual and 8,909 community)	19,054 distributed (18,745 individual and 309 community)	Not Available	
Jharkhand*	29,551 ( 29,097 individual and 454 community)	6,079 distributed (6,022 individual and 57 community)	Not Available	
Karnataka	1,62,874 (1,60,101 individual and 2,773 community)	6,280 distributed (6,279 individual and 1 community)	8,223.50	
Kerala	37,407 (36,038 individual and 1369 community)	12,971 distributed	16,181	
Rajasthan	60,353 (60,019 individual and 334 for community)	30,083 distributed (30,038 individual)	44,862.92 (44,456.54 for individual and 416.63 for community)	
Uttar Pradesh	91,406 (91,089 individual and 317 community)	10,092 distributed (10,084 individual and 8 community)	10,427.16	
West Bengal	15,511.08 (15,469.13 for individual and 41.95 for community)	1,37,162 [1,29,357 individual and 7,805 community]	26,701 distributed (26,612 individual and 89 community)	4

(Source: MOTA, GOI, New Delhi/www.forestrights.gov.in)

### 2.2 Status of FRA Implementation in Orissa State:

The progress of the implementation of the Forest Right Act 2006 in the State of Orissa is a welcome step taken by the State Government in order to make the law properly implemented for the benefit of the tribals and traditional forest dwellers of the State keeping in view for sustainable use and conservation of bio-diversity for maintenance of ecological balance ensuring livelihood and food security of the beneficiaries of the target group.

Information available with MOTA, GOI confirms that the State Government of Orissa has appointed a Nodal officer and has taken steps for formation of various Committees: (a) Forest Rights Committees by the Gram Sabhas at village level, (b) SDLC, (c) DLC and (d) SLMC, Translation of the Act and the Rules into the regional languages and distribution of the same to Gram Sabha, FRCs etc, Creation of Awareness about the provision of the Act and the Rules and make arrangements for the training of PRI officials, SDLC, DLC members as well as Village Forest Rights committee members. The Orissa Govt. has not mentioned any projected date for distribution of title deeds to all the eligible claimants and identified the implementation problem that forest land in the State is unsurveyed and detailed maps/records are not available which impede further progress. As on 31st October, 2010 the State Govt. of Orissa has claimed the following progress in status of claims received and disposed of under RFRA. The progress of implementation of FRA by end of October, 2010 has been given in the following



Sub Total	67,177	14.82	22,375	9.39	21,159	14,335.41
<b>II. North zone</b>						
11. Angul	8285	1.83	2490	1.04	2490	1509.31
12. Bargarh	3249	0.72	926	0.39	800	1483.52
13. Bolangir	3641	0.80	883	0.37	883	2124.44
14. Deogarh	11718	2.58	3858	1.62	3796	3414.00
15. Dhenkanal	12529	2.76	4885	2.05	4885	7087.25
16. Jharsuguda	9204	2.03	2152	0.90	2111	2039.79
17. Keonjhar	42590	9.39	23230	9.75	23230	24,400.29
18. Sambalpur	23332	5.15	9119	3.83	7826	11,383.56
19. Subarnapur	3269	0.72	310	0.13	245	469.68
20. Sundargarh	29051	6.41	9411	3.95	9124	17,927.07
Sub Total	1,46,868	32.40	57,264	24.03	55,390	71,838.91
<b>III. South Zone</b>						
21. Boudh	3499	0.77	1076	0.45	869	963.36
22. Gajapati	42423	9.36	22316	9.36	22316	38,899.11
23. Ganjam	10352	2.28	4752	1.99	4745	12,381.22
24. Kalahandi	7963	1.76	7233	3.03	7154	10,261.12
25. Kandhamal	51553	11.37	47973	20.13	47973	74,132.00
26. Koraput	33710	7.44	22559	9.47	21882	33,899.00
27. Malkangiri	27297	6.02	21146	8.87	18239	50,182.45
28. Nuapara	9112	2.01	2987	1.25	2987	7779.60
29. Nawarangpur	22312	4.92	15824	6.64	15824	29,920.37
30. Rayagada	30053	6.63	12774	5.36	12774	20,821.00
Sub Total	2,39,274	52.78	1,58,640	66.58	1,54,763	2,79,239.23
ORISSA	4,53,319	100%	2,38,279	100%	2,31,312	3,65,413.55

- Claims received by FRCs: No-4, 53,319/Areas in ac.- 5,27,097.75 Acres)
- Claims verified by FRCs: No-4, 08,560 (90.13% of the total claims received)
- Claims forwarded to SDLCs: No-3, 29,111/Areas in ac.- 5,27,097.75 Acres (72.60%)
- Claims approved by SDLCs: No-2, 45,401/54.13%/ Areas in ac.-3,91,169.82 Acres)
- Claims forwarded to DLCs: No-2, 38,279/52.56%/ Areas in ac.- 3,78,401.34 Acres)
- Claims approved by DLCs: No-2, 38,279/52.56%/ Areas in ac.-3,78,401.34 Acres)
- District having the highest number of claims received: Kandhamal (No-51553/11.37%/ Areas in ac.-76,681.00 Acres.)
- District having the highest number of claims approved: Kandhamal (No-47,973/10.58%/ Areas in ac. 74,132.00 Acres).

#### 2.2.1 Achievements of Community Claims:

In respect of community claims under FRA as many as 2666 cases were received by the FRCs in Orissa as on 31st October, 2010. After verification of these claims by the Gram Sabhas, the SDLCs and the DLCs, the latter approved 672 claims, out of which the certificate of titles were distributed in case of 566 claims, for which 47,262.51 acres of forest land along with Record of Rights were distributed.

The FRCs of Baleswar district in the Central zone has received 434 community claims, which are not finalized. Likewise, the FRCs of Bhadrak, Jagatsingpur, Jajpur and Puri districts have not received any community claims.

In Northern zone, the FRCs in the district of Sambalpur have received 333 (12.49%) numbers of community claims, out of which only 31 claims (4.61%) were approved by the DLC, but the FRCs of Keonjhar district have received 284 (10.65%) numbers of community claim cases out of which 210 (31.25%) claim cases are finally approved by the DLC and certificate of titles are distributed along with 5957.47 acres of forest land granted for community use purposes. The FRCs in the district of Bolangir in the Northern zone has not received any community claims.

The FRCs in the Koraput district in Southern zone, have received 330 (12.38%) numbers of community claims out of which after verification in different stages i.e. Gram Sabha, SDLC and DLC 58 (8.63%) claims were approved and in 51 claim cases the certificate of titles were distributed recommending 1780.87 acres of forest land for community use. Table-2 presents details of Zonal and District wise the FRA implementation status in respect of community claims in Orissa.

Table-3

Magnitude of FRA Claims of Community Rights in Orissa State  
(As on October, 2010)

Sl. No.	Areas/ Districts/ Zones	Magnitude of Claims				No. of certificates of titles distributed	Area in acres
		Received by FRCs		Approved by DLC for Titles			
		Number	%	Number	%		
<b>I. Central Zone</b>							
1.	Balasore	434	16.28	-	-	-	-
2.	Bhadrak	-	-	-	-	-	-
3.	Cuttack	19	0.71	3	0.45	3	7.29
4.	Jagatsinghpur	-	-	-	-	-	-
5.	Jajpur	-	-	-	-	-	-
6.	Kendrapara	145	5.44	-	-	-	-
7.	Khurda	2	0.07	-	-	-	-
8.	Mayurbhanj	43	1.61	43	6.40	41	19,141.89
9.	Nayagarh	91	3.41	2	0.30	2	500.00
10.	Puri	-	-	-	-	-	-
Sub Total		734	27.53	48	7.14	46	19,649.18
<b>II. North zone</b>							
11.	Angul	2	0.07	-	-	-	-
12.	Bargarh	24	0.90	-	-	-	-
13.	Bolangir	-	-	-	-	-	-
14.	Deogarh	60	2.25	5	0.74	5	11.56
15.	Dhenkanal	57	2.14	46	6.85	39	92.38
16.	Jharsuguda	8	0.30	1	0.15	1	2.00
17.	Keonjhar	284	10.65	210	31.25	210	5957.47
18.	Sambalpur	333	12.49	31	4.61	15	83.52
19.	Subarnapur	15	0.56	1	0.15	-	-
20.	Sundargarh	95	3.56	-	-	-	-
Sub Total		878	32.93	294	43.75	270	6146.93
<b>III. South Zone</b>							
21.	Boudh	104	3.90	-	-	-	-
22.	Gajapati	53	1.99	20	2.97	20	3342.75



23.	Ganjam	27	1.01	21	3.12	21	126.84
24.	Kalahandi	145	5.44	136	20.24	113	14,843.17
25.	Kandhamal	165	6.19	-	-	-	-
26.	Koraput	330	12.38	58	8.63	51	1780.87
27.	Malkangiri	103	3.86	63	-	25	964.52
28.	Nuapara	16	0.60	-	-	-	-
29.	Nawarangpur	84	3.15	32	9.37	20	408.25
30.	Rayagada	27	1.01	-	-	-	-
Sub Total		1054	39.54	330	49.11	250	21,466.40
ORISSA		2666	100%	672	100%	566	47,262.51

- Claims received by FRCs: (No-2666/100%/Areas in ac.- 47,262 51 Acres)
- Claims verified by FRCs: (No-2109/79.11%/Areas in ac.)
- Claims forwarded to SDLCs: (No-1179/44.22%/Areas in ac.- 73,714.14 Acres)
- Claims approved by SDLCs: (No-746/27.98%/Areas in ac.-56,371.05 Acres)
- Claims approved by DLCs: (No-672/25.21%/Areas in ac.-55,675.34)
- District having the highest number of claims received: (No-333/12.49%/Areas in ac.) Sambalpur.
- District having the highest number of claims approved: (No-210, 7.88%/Areas in ac.-5957.47 Acres) Keonjhar.

A comparative statement of FRA implementation status in Orissa in November, 2009 (before the FRA study under taken by SCSTRTI) and aftermath it in October, 2010 is presented in the statement given below.

### 2.2.3 Comparative statement of FRA implementation status in Orissa:

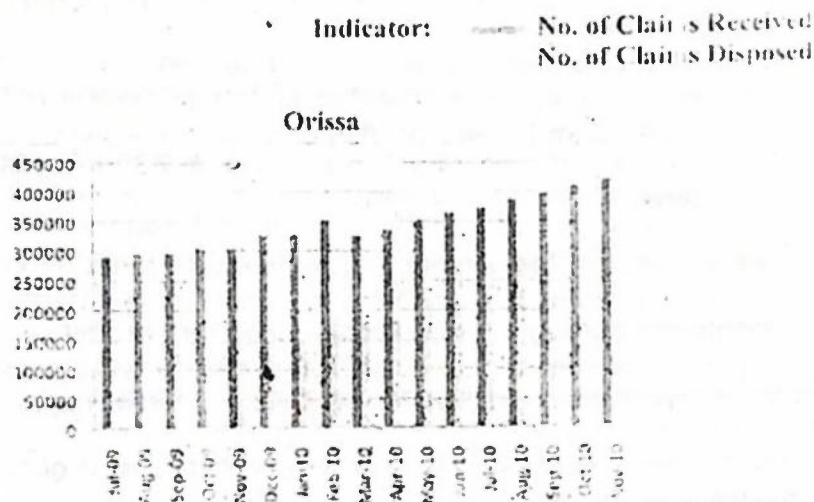
#### Comparative statement of FRA implementation status in Orissa

Sl. No.	Name of Item	Forest land Claims Recognized						Difference (Cl. VIII - VII)
		Individual		Community		Total		
		Nov., 2009	Oct., 2010	Nov., 2009	Oct., 2010	Nov., 2009	Oct., 2010	
I	II	III	IV	V	VI	VII	VIII	IX
1.	No. of claims filed at FRCs/ Gram Sabhas	3,22,590	4,53,319	1847	2,666	3,24,437	4,55,985	1,31,548
2.	No. of claims approved by DLCs for title	87,777	2,38,279	101	672	87,878	2,38,951	1,51,073
4.	Number of titles distributed	86,519	2,31,312	42	566	86,561	2,31,878	1,45,317
5.	Extent of forest land for which title deeds issued (in acres)	-	-	-	-	1,39,466.17	412676.06	273.209.89
6.	No. of claims rejected	385	98,822	0	486	385	99,308	98,923

The compilation of information on FRA implementation by SCSTR11 reveals that in a gap of about one year time, between before and after the FRA study, additional 1,31,548 claims under FRA was received by different FRCs in the state and 1,51,073 additional claims were approved, out of which 1,45,317 titles on forest lands measuring 2.73.209.89 ac. were distributed. During the same period as many as 98,923 additional claims were rejected at different level.

A trend chart of implementation of the Forest Rights Act, 2006 in Orissa State during the period from November, 2009 to November, 2010 indicating the month wise progress is furnished below.

Trend Chart of implementation of the Forest Rights Act, 2006 in Orissa



(Source: MoTA, Govt. of India, New Delhi)

#### 2.2.4 Status of Convergence of Programs & Schemes with Forest Rights Act, 2006:

The Govt. of Orissa have taken all out efforts to develop the forest land claims recognized and lands distributed to the Scheduled Tribes under FRA and make them economically useful for sustainable livelihood through convergence of different schemes and programmes during the year 2010. As a result of which as on 30th November, 2010, a total of 11262 beneficiary families have been benefitted under the schemes/programmes, like IAY (865 families), Mo Kudia (199 families), Mo Pukhari (3835 families), Land Development under MGNREGS (2620 families), National Horticulture Mission (1237 families), and Other Programs and Schemes (2506 families).

#### 2.3 Problem, clarification sought and matters relating to the Act pending at the level of Government of India:

The FRA, followed by the FRA Rules, completes two years but its objectives are not realized in the desired quantitative and qualitative terms. The Act has so far not reached to a sizable section of the forest communities and the total coverage is a major area of concern. Provisions relating to important rights significant to livelihoods and conservation, are not implemented in the ground to the desired extent. The achievements of community forest rights such as ownership rights on minor forest produces, rights of the PTGs over their habitats, rights of nomadic and pastoralist communities, rights of shifting cultivators, community rights over intellectual property



and traditional knowledge, rights of community forestry groups over their traditional conservation and other customary rights are yet to be addressed satisfactorily. Besides the community rights, there are some special provisions made for the displaced communities and communities residing inside the forest village/habitation located in the forest land, on which till date no noticeable action has been taken so far. Further, in most cases, the other traditional forest dwellers seem to be uncovered in the implementation process. Cases of violation of forest rights in protected areas, in areas proposed for diversion of forest land for development purposes have come up from time to time. Forest land in the State is unsurveyed and detailed maps/records are not available. This problem accounted for delay in disposal of many cases under FRA claims.

The Government of Orissa have requested for issue of directions on the following points, subsequent to the issue of Ministry of Environment & Forests letter No. 12-1/2006-FP dated 23.9.2010, addressed to the Chief Secretaries of all States for compliance of action on plots of forest land recognized for forest right:

- (a) For physically posting of pillars over boundary of recognized forest rights area of individual, if within a Reserve Forests Block or if not overlapping with a revenue plot(s), which may require additional expenditure and implementation cost of a few crores over 2.30 lakhs title holders of Orissa presently.
- (b) For bringing scattered plots recognized with forest rights consolidated in one corner of forest through amendment of rules for empowerment of Gram Sabha/ SDLC/ DLC to undertake such exercise after forest rights recognition process is completed and on unconditional willingness of title holder, as present provisions of FRA 2006 & Rules thereon do not permit this.

The Government of Orissa have also requested for issue of clarifications/guidelines on the following points:

- (a) Fixing up of a time limit for filing and deciding the claims under the Forest Rights Act, 2006 to enable issue of a certificate as required by Ministry of Environment & Forests' circular No. 11-9/1998-FC (pt.) dated 3.8.2009 for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980.
- (b) In cases where there are no villages inside Reserve Forest areas or unsurveyed forest areas, but the Scheduled Tribes/OTFDs, irrespective of where they stay, graze their cattle, or claim to collect MFP etc, then which Gram Sabha and at what distance from the concerned forest land should initiate action for settling the community rights of ST/ OTFDs in such forest areas which are beyond the limits of a village boundary. Also, in the case of a forest diversion proposal, which Gram Sabha at what distance, should initiate action to enable the State Government to issue a certificate as required under a circular issued by MoEF on 3.8.2009 that the proposal for diversion of forest land has been placed before each Gram Sabha of forest dwellers under the FRA.
- (c) Whether it is mandatory to complete the process of FRA, 2006 or to obtain the consent of Gram Sabha before diversion of any forest land for non-forest purposes can be allowed, as required under the circular dated 3.8.2009, issued by the M/o Environment & Forests.
- (d) Whether after vesting of forest rights of STs and OTFDs on a particular forest area, can the same forest area be diverted for non forest use for developmental

project or not. If diversion of such forest land is permissible (which is essential for development of the State) whether the vested forest rights need to be compensated for and if 'yes' how? Is there any norm to compensate such forest rights? Can the forest rights be suspended, acquired or taken away by the State if situation demands?

#### 2.4 Conclusion:

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has completed two years of implementation in the state of Orissa. Implementation of the law in the last two years while making impressive progress in recognizing and vesting the rights for the forest dwelling communities has also faced many issues and challenges. In the official progress reports published by MOTA, Govt. of India the state of Orissa has now made it to the top of the list in the implementation of the Forest Rights Act in all India level. The initiatives of Government of Orissa in issuing the highest number of facilitating circulars of FRA implementation and related issues and compilation and publishing of a Compendium, conducting a concurrent evaluation study through SCSTRTI, Bhubaneswar in December, 2009 to assess the ground situation and get feedback from the study and taking monthly review of the progress of the FRA implementation to identify the hindlers of the ongoing process for taking correcting measures and organization of special training programmes for the FRC members from the areas of PTGs for awareness generation about the forest rights of the PTGs have also been recognized widely. The required changes in the forest governance system to complement the process of recognition of forest rights and exercise of empowered authorities in support of governance of community forest resources and formulation of a strategy for implementation of the Act in a time bound manner and ensuring that title deeds are distributed to all the eligible claimants without delay are the need of the hour and they must be actualized.

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## LIST OF GOVERNMENT NOTIFICATIONS &amp; CIRCULARS ON FRA

GOVT. OF INDIA				
Sl. No.	Date	Notification/ Resolution Number	Issued By	Subject
1	3.11.05	F No. 2-3/2004 FC	Ministry of Environment and Forests, GOI	Guidelines for diversion of forest land for non forest purposes under the Forest (Conservation) Act, 1980- verification / recognition of rights of tribals and forest dwellers on forest land.
2	10.1.06	10F(cons) 2/05	Ministry of Environment & Forest	Diversion of Forest land for non-forest purpose under the forest (conservation) Act-1980 - verification recognition of rights of tribal and Forest Dwellers on forest law.
	14.2.06	D.O. No. 17014/2/2007	Meena Gupta, Secy, MOTA	Translation of FR bills in Oriya.
3	31 <sup>st</sup> Dec. 2007 and January 2008	F.No. 17014/02/2007	Gol	Notification of FRA and Rules.
5	11.1.08	D.O. No. 17014/2/2007	Sri G.B. Mukharjee, Secy, MOTA, GOI	Guidelines for monitoring of the FRA.
6	13.5.08	4-1/2007	MOEF, GOI	Disposal of petty forest offence cases by tribals and other deprived section of the society.
7	18.5.09	23011/15/2008-SG.II dated 18.5.2009	Ministry of Tribal Affairs, Government of India	Separate procedural guidelines for forest land diversion under section 3(2). Claims for Community Forest Resource Rights under section 3(1)(b),(c), (d),(e), (i) and (k) must be dealt with and recorded separately.

8	6.6.08	F 9-2/2008/5	ST & SC Welfare Deptt. MP	Provisions for providing initiative for implementation of FRA.
9	9.6.08	17014/02/2007	Ministry of Tribal Affairs, Gol	Implementation of FRA-clarification on the definition "Primary inhabitants".
10	9.6.08	17014/02/2007-PC & V (Vol VII)	Ministry of Tribal Affairs, Gol	STs and OTFDs who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs would be covered as given in sections 2(c) and 2(o) of the Act.
11	22.10.08	560/51/C.2.08	Secretary to Hon'ble PM, India	Summery of record of the meeting taken by the Principal Secretary to P.M. to review implementation of FRA on 17.10.2008.
12	27.10.08	7655/SW	Principal Secretary to P.M.	Review of the implementation of ST & Other Forest Dwellers on 17 <sup>th</sup> Oct.2008 of Orissa Andhra Pradesh, Jharkhand & Maharastra.
13	3.11.08	9F(misc)75PW	Forest & Environment Deptt.	Implementation of ST & OTFD (RFR) Act-2006 & Rules framed their under
14	3.12.08	23011/28/2008 SGII	MOTA,GOI	Clarification regarding consideration of claims under FRA Gram Sabha Should consider 3 months time for acceptances of cases.



**GOVT. OF ORISSA**

<i>Sl. No</i>	<i>Date</i>	<i>Notification/ Resolution Number</i>	<i>Issued By</i>	<i>Subject</i>
1	1.2.08	4694/SSD	ST & SC Development Department	Constitution of Committees (SLMC, DLC, SDLC) for implementation of FRA.
2	2.2.08			Trainers training workshop at BBSR.
3	15.2.08	6182/11.3.08/SSD	ST & SC Dev Dept, GoO	Implementation of FRA in the State.
4	21.2.08	8504	Panchayati Raj Department, GoO	Convening on Gram Sabha/Palli Sabha on 28 <sup>th</sup> February 2008.
5	25.2.08	GE (GL) S-22/2007/9775/R & DM	Revenue & Disaster Management Department, GoO	1. Training programme in district for Revenue, Forest, ST&SC and Panchayatiraj Dept. 2. Deployment of Amins to assists SDLCs. 3. Supply of village maps from forest and revenue machinery to GS/FRC free of cost 4. Association of credible VO.
6	26.2.08	9153/PR	Panchayati Raj Department/ GoO	Convening of Palli Sabha/Gram Sabha on 16 <sup>th</sup> and 23 <sup>rd</sup> March and constitution of FRC.
7	18.3.08	13090	P.R. Department	Information on implementation of the FRA.
8	20.3.08	10F (con)6/085073 F & E	Forest & Environment Deptt.	Implementation of ST & OTFD (RFR) Act-2006 & Rules framed their under.
9	24.03.08	13562/PR	Panchayati Raj Department/ GoO	To hold Palli Sabha within 30 <sup>th</sup> April, 2008 for constitution of Forest Rights Committee/ latter.
10	3.4.08		ST&SC Dev Dept, GoO	Proceedings of the 1 <sup>st</sup> meeting of State Level Monitoring Committee held on 3.4.2008
11	23/5/08		Panchayati Raj Department/ GoO	To hold Palli Sabha within 30 <sup>th</sup> June, 2008 and compliance be reported/ responsibility may be fixed in terms of necessary disciplinary action against defaulting concerned officer.
12	27.5.08	2230	ST& ST Dev Dept, GoO	Instructions to involve NGOs in implementing the FRA.

13	9.6.08	653/123/06	OTELP	Action on Land related matters to P.A. ITDA Parlakhemundi /Koraput/Th.Rampur; Balliguda.
14	12.6.08	670/123/06	OTELP	Settlement of Govt. Land including unsurveyed land with eligible landless tribal families and conforming forest rights as per the ST and other TFD, at 06 Rule 2007.
15	13.6.08	681	OTELP	Review of progress in settlement of land with landless vesting forest rights..
16	5.7.08	2392/SSD	ST & SC Dev Dept, GoO	Completion of process of recognition and vesting of rights by January 2009.
17	25.7.08	31074	P.R Department	Holding of Pali Sabha under the FRA.
18	21.7.08	825	OTELP	Monitoring of progress of land settlement.
19	24.7.08	836	OTELP	Engagement of staff to support for land survey in OTELP area.
20	4.8.08	896	OTELP	Information on 'Mo jami- Mo diha' campaign.
21	20.10.08	DO No 36829		Proper implementation of provisions of FRA and Rules.
22	23.10.08	4147	P.R. Deptt	Issue regarding verification of claims under FRA by SDLC.
23	24.10.08			Proceedings of Meeting of SLMC Pallisabha resolution may list out names of STs and SDLC may accept it.
24	31.10.08	42358	Rev. and Excise Deptt.	Conversion of forest villages to revenue village.
25	6.11.08	38766	ST& ST Dev Dept, GoO	Submission of MPR
26	6.11.08	28848	ST& ST Dev Dept, GoO	Engagement of retired Revenue Inspectors/ Amins.
27	11.11.08	TD-I-TSP-105/08-39223/SSD	ST & SC Dev Dept, GoO	Grants for implementation of FRA.
28	21.11.08	TD-11-51/08-40373	ST & SC Development Department, GoO	Frequently Asked Questions on FRA/Conversion of forest and unsurveyed villages and old habitations on forest land into revenue villages.
28	30.12.08	PRI-I (IV)-9/08-49408	Department of Panchayati Raj, Govt of Orissa	Special Palli Sabha on 18 <sup>th</sup> January 2009.



29	6.1.09	TD-II-11/08/SSD	ST & SC Dev Dept, GoO	Special Gram/Palli Sabha on 18 <sup>th</sup> January 2009.
30	4.2.09	6061	CS, GA Dept	Extract of portion of proceeding of SDLC/DLC be given to village level to ensure Appeal FRC for Forest habitation Sufficient dialogue with Civil society to creat awareness 2 nd round training and map preparation at SDLC.
31	17.4.09	13295/TDII-3/08	ST & SC Dev Dept, GoO	Engagement of Retired Forest Officials/RI, Amins for verification of claims.
32	10.7.09	24828/TD ii/618	ST & SC Dev Dept, GoO	Development of Forest villages details of population.
33	19.8.09	28286	ST & SC Dev Dept, GoO	Issue of certificates of titles subject to result of main writ petition.
34	21.8.09	28807	ST & SC Dev Dept, GoO	Local MLA should be invited to distribute patta.
35	31.8.09	DO No 30408	CS, GA Dept.	Issue of certificates of titles by 15.9.2009.
36	19.9.09	36818	Revenue & Disaster Deptt.	MLA/MP must be informed on the programmes and Distribution of titles.
37	6.10.09	36638/SSD TD-II 32/2008	ST & SC Dev Dept, GoO	Distribution of certificates of titles under FRA 06 & Rules 07 by 15.10.2009.
38	6.10.09	36639/SSD TD-II 32/2008	ST & SC Dev Dept, GoO	Organization of special awareness campaign and training for Special Officers of Micro Projects and separate reporting on Micro Projects in MPR.
39	2.12.09	43137	ST & ST Development Deptt.	100 person coverage of particularly vulnerable tribal groups (PTG) under the TRA/2006 as desired by C.M.
40	1.11.09			Minutes of meeting taken by Hon'ble CM 10% fund of Art. 275 (1) be spent Maintenance of record by GP for issue of notice to Revenue, Forest and WEOs



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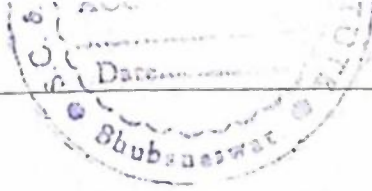
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