

A Decade of Implementation
Forest Rights Act in Tripura
An Assessment



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Forest Rights Act in Tripura - An Assessment

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Government of Tripura, Agartala

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ABBREVIATIONS

CAF- Compensatory Afforestation Fund Act, 2016
CAMPA- Compensatory Afforestation Management and Planning Authority
CBD- Convention on Biological Diversity
CFR-LA- Community Forest Rights Learning and Advocacy
CFRMC- Community Forest Rights Management Committee
CFRs- Community Forest Resource Rights
COP- Conference of the Parties
CRs- Community Rights
CSD- Campaign for Survival and Dignity
CSO- Civil Society Organizations
CTH- Critical Tiger Habitat
DCC- District Convergence Committee
DDC- District Divergent Committee
DLC- District Level Committee
DRDA- District Rural Development Agency
FAC- Forest Advisory Committee
FD- Forest Department
FDC- Forest Development Corporation
FDCM- Forest Development Corporation of Maharashtra
FRA- Forest Rights Act (Also known as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights Act)
FRCs- Forest Rights Committees
FSI- Forest Survey of India
GGS – Group of Gram Sabhas
GRs- Government Resolutions
IFA- Indian Forest Act
IFRs- Individual Forest Rights

ITDA- Integrated Tribal Development Agency
JFMC- Joint Forest Management Committee
MFPS- Minor Forest Produce
MGNREGA- Mahatma Gandhi National Rural Employment Guarantee Act
MoEF-Ministry of Environment and Forests
MoEFCC- Ministry of Environment, Forests and Climate Change
MoTA- Ministry of Tribal Affairs
MREGS- Maharashtra Rural Employment Guarantee Scheme
MVFR- Maharashtra Village Forest Rules
NFP - National Forest Policy
NTFPS- Non-Timber Forest Produce
OTFDs- Other Traditional Forest Dwellers
PA - Protected Area
PESA- Panchayat Extension to Scheduled Areas
POR-Primary Offence Report
PTGs- Primitive Tribal Groups
PVTGs- Particularly Vulnerable Tribal Groups
RF- Reserved Forests
RoR- Record of Rights
SDG- Sustainable Development Goal
SDLC- Sub Divisional Level Committee
SLMC - State Level Monitoring Committee
SHG- Self-Help Groups
ST – Scheduled Tribe
TATR- Tadoba-Andhari Tiger Reserve
TCP- Tiger Conservation Plan
TDD- Tribal Development Department
TP- Transport Permit
TRI- Tribal Research Institute
VFR - Village Forest Rule
VLf- Vidharba Livelihood Forum
VSS- Van Suraksha Samiti
ZZKS- Zabran Zot Kruti Samiti

Message

The FRA came into force in Tripura in January 2008, but the actual implementation was deferred till August, 2008 due to Assembly election. The implementation of this act has thrown up a number of issues, ranging from concerns about how various committees have been constituted and rates of claim received, rejection and how exactly government has implemented the Act in the state and various line departments involved with this act to facilitate the stake holders of this act. Tripura ranked 3rd position in the country in terms of percentage of titles distributed (64.20%) over number of claims received in each states as on 31st January, 2017 after Kerala (65.54%) and Odisha (64.44%).

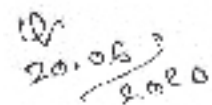
Under this background Tribal Research & Cultural Institute had decided to carry an evaluation study on implementation of FRA in Tripura after its decadal implementation in the state.

I feel happy that Tribal Research and Culture Institute is publishing the book 'Forest Rights Act in Tripura – An Assessment' based on the empirical research study

I strongly believe that the study will provide immense inside about the implementation procedure of FRA in Tripura and the recommendations will be helpful to prepare the roadmap for forest land based development plan for the tribal communities in the state.

I congratulate the authors and wish grand success of their hardwork.

Place: Agartala
Date: 03/08/2020


(D. Debbarma)
Director
Tribal Research and Cultural Institute
Government of Tripura



डॉ. राजीव मोहन पंत,
निदेशक
Dr. R. M. Pant.
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Foreword

Forest dwellers are one of the poorest groups in our country. To correct the historical injustice to the forest dwellers the Ministry of Tribal Affairs was asked to prepare a draft of The Scheduled Tribes (Recognition of Forest Rights) Bill, which was placed before the Parliament in 2005. The Scheduled Tribes and Other Traditional Forest Dwellers Act (or simply known as Forest Rights Act- FRA) was finally passed in 2006 and came into force on January 1, 2008 to ensure both individual and community resource rights. It notified in the Rules the rights of the forest dwelling people, recognizing them in the Indian forest policy formation for the first time. This Act is crucial to the rights of millions of tribals and other forest dwellers in different parts of our country as it provides for the restitution of deprived forest rights across India, including both individual rights to cultivated land in forestland and community rights over common property resources. The act also goes beyond the “recognition” of forests rights and also empowers the forest rights holders, Gram Sabhas and local level institutions with the right to protect, regenerate, conserve and manage any community forest resource.

It is in this perspective I find the book on **Forest Right Act in Tripura: An Assessment** has addressed all varied parameters associated with the implementation of the act in the state of Tripura. Tribals are true owners of forest and it is their main land since generations. If one would recall, it may be considered valid to say that one most glaring miss and slip in tribal development related issues has been absence of a mandatory necessity to facilitate and confer land ownership rights to those tribal populations over natural resource rich-areas that they have been residing around for generations – both nurturing and utilizing in a way sustainable for them to reap long-term benefits, if only there are no external compulsions and extraneous factors compelling them to go for unsustainable exploitation to meet greedy needs that of non-ecological population. This lack of ownership has also made them feel alienated from plethora of development schemes and plans that have been undertaken by varied government departments, the fund allocation to those has also seen a constant rise, yet, without equitable outputs and outcomes. One most obvious reason of this failure to make an acceptable dent among the tribal populations has been lack of generation of ownership feeling amongst them for all those varied development programs. This lack of ownership clearly points at absence of synergy between what they (the ecological people) needed and what were they offered. The states have failed to mainstream and internalize the needs and aspirations of the tribal communities with the development packages being offered resulting in outright rejection of such moves.

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I personally congratulate the Authors for presenting intelligent readers complete accounts on implementation process and impact of Forest Right Act for tribal development in Tripura by using their technical and academic expertise and excellence. This book shall prove a unique milestone in this field of enquiry and might prove useful for the readers from all walks of life, be it students, researchers, academicians, philosophers, managers, policy makers, officials, professors, and above all to the main stakeholders themselves.

Finally, I hope this volume will enlighten the researchers to open new horizons. In order to achieve sustainable development goals propagated by UN, tribal development can be kept on agenda for upholding India's role in sustainable development. Once again I congratulate authors for their painstaking research and rich contribution in the field of tribal development research.

Date: 29th July, 2020



(Prof. R. M. Pant)

Preface

The Schedule Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 popularly known as the Forests Rights Act (FRA) was enacted in 2007 through the Ministry of Tribal Affairs to meet the 'historic injustice done to forest-dwelling communities'. These communities were cultivating and occupying forest land and collect and using forest produce since ages but had no tenurial security. Broadly speaking, this act recognizes and vests individual forests dwellers with forests rights to live and cultivate in and around the forest land which was occupied before 13th December, 2005 and (grants community forests rights to manage, protect, regenerate the forest under section 3 (1) (i) and to own and dispose minor forest products from forests where they had traditional access) depend on the forest or forest land for bonafide livelihood needs. (National Committee on Forest Rights Act, Dec. 2010).

The FRA came into force in Tripura in January 2008, but the actual implementation was deferred till August, 2008 due to Assembly election. The implementation of this act has thrown up a number of issues, ranging from concerns about how various committees have been constituted and rates of claim received, rejection and how exactly government has implemented the Act in the state and various line departments involved with this act to facilitate the stake holders of this act.

Tripura ranked 3rd position in the country in terms of percentage of titles distributed (64.20%) over number of claims received in each states as on 31st January, 2017 after Kerala (65.54%) and Odisha (64.44%).

This book named 'Forest Rights Act in Tripura – An Assessment' is an outcome of concurrent evaluation study sponsored by Tribal Research and Cultural Institute, Government of Tripura to assess the implementation procedure, performance and find out the impact of FRA among the tribal beneficiaries.

The book consists five chapters. The first chapter is an introduction about the Schedule Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act and its silent features. It also discusses the evolution of forest rights acts in India. Based on secondary information, the second chapter is about the implementation and performance of FRA in different states in India. The chapter also mentioned different circulars issues by the Ministry of Tribal Affairs, Government of India time to time for proper implementation of FRA.

Methodology of the evaluation research and about the study area was discussed in chapter three. Chapter four is based on empirical research and assess the implementation and performance of FRA in Tripura. This chapter is divided into two parts. First part critically analysis the implementation process of FRA in Tripura in the light of the guideline of the Act. Second part of this chapter is the assessment of impact of the act among the tribals – the main forest dwellers in the state. The last chapter concludes the findings of the study. It also prescribes policy direction for possible consideration of the Government for better implementation.

Our sincere thanks go to the Sri. S. Debbarma, Director, Tribal Research and Cultural Institute, Government of Tripura for considering the research report to publish in book form. We are also thankful to all the members of Research Advisory Committee and Manuscript Committee of Tribal Research & Cultural Institute for keeping faith on us. Special thank goes to Sri. Bidyut Kanti Dhar, Research Assistant of TR & CI for his sincere efforts in various stages to bring the manuscript in book form.

We duly acknowledge the hard work of Shri. Pran Krishna Banik, Research Scholar, Department of Rural Studies, Tripura University during various stages of the present study. The study is enriched enormously by the discussions with villagers during the study. We duly acknowledge their support and information sharing. In this regards we are indebted to Shri. Jayanta Reang, Shri. Monglafru Mog, Shri. Mani Debbarma, Shri. Kathai Mog and Shri. Debraj Debnath who worked hard as field investigators.

The study provides some suggestions and recommendations for possible consideration of the Government of Tripura. We hope Government of Tripura would consider the suggestions seriously.

However, we are responsible for any fault that may remain.

Date: 12/03/2020
Place: Agartala, Tripura

Dr. Jayanta Choudhury
Shri. Ratan Ghosh



FOREST RIGHTS ACT : AN INTRODUCTION

1.1. Background

The forest dwellers have always been dependant on the vegetation found in the forests. The tribals have always believed that by virtue of their heritage, there cannot be any dispute their right over the forest. It was the government rules that made life of the forest dwellers miserable and the collection of fuel wood, fodder etc. were severely restricted.

1.1.1. Forest Right Acts during Pre- Independence Piced

Before Independence, **The Indian Forest Act 1865** gave the British Raj the authority to declare any land as forest land. As a result, the rights of tribal people were constrained in the name of 'national interest'. **The Indian Forest Act 1878** divided forests into three categories - reserve forest, protected forest and village forest. This method of division of forests strengthened government control over forests and forest resources which not only restricted free entry for tribal communities but also restricted their entry in certain other classified forest areas. **The National Forest Policy 1894** again laid emphasis on the regulation of community rights and restrictions on the privileges previously enjoyed by the villagers in the immediate neighbouring forests and brought about a formal relationship to be maintained by the tribals with the Forest Department as a crucial issue in forest management. It protected hill slopes and imposed a ban on shifting cultivation (**Action Aid India, 2013**). **The Land Acquisition Act of 1894** maintained that any land could be acquired by the government for use of public purpose with no or minimal compensation being offered. The Forest Act, The Forest Working Plan, the Survey and Settlement Operations in forest regions all attempted to limit the rights of forest dwellers over the forest resources long been used by them. **The Indian Forest Act, 1927**, which replaced the earlier 1878 Act, was introduced with the aim and objective of consolidating the law relating to forests, transit of forest produce and duty leviable on timber and other forest produce, This Act enabled the colonial

Government to declare more and more land as reserve forests, without ascertaining the rights of tribals and other forest dwellers. **The Government of India Act 1935** consolidated the power of the state on forests so as to meet the requirements of the British industry, military and commerce. By this, forest resources of India during the pre-British era were siphoned off for commercial use by non- tribals and even non- Indians. It may be noted here that most of the provisions of the India Act 1935 were adopted in the Post-Indian context.

1.1.2. Forest Right Acts during Post Independence Piced

In the post independent India, the right over the forests has always been the cause of problem between the forest department and the local forest dwellers, maximum of them are tribals. The major problems that the tribals have faced in the post independent India are (**Jain and Sharma, 2015**).

- 1) Grazing in the forests has been prohibited.
- 2) High rates for permits were charged by the government for little forest produce.
- 3) Agriculture land that comes under the forests which was allocated before has now been asked by the government to be vacated.
- 4) The cattle trenches that are dug to protect the forests prevent free flow of water that was being supplied to their lands.”

The first **National Forest Policy of 1952** redefined the forest policy and traditional rights of forest dwelling tribes. The Forest Policy maintained that for the conservation and protection of forests, it was important to control the exploitation of minor forest produce, and the forest conservation act of 1980 was brought in to play. This policy converted certain concessions enjoyed by tribals for long by withdrawing the release of forest land for cultivation, controlling free grazing, encouraging tribals to do away with the practice of shifting cultivation. All forest land was put under the control of the central government and the old acts from the colonial rule continued to play their part in the name of public good and development. The state governments devised their own interpretation to the state policy by providing tribals rights and privileges over cultivation, grazing, collection of fuel wood, forest produce, timber for house construction and undertaking shifting cultivation. The new rules and regulations of the forest department put the forest dwellers on the mercy of the forest department, especially the lower level officials who for their own benefit would harass these locals. Forest dwellers have also fallen victim to commercialization of forests.

The National Commission on Agriculture (NCA) 1976 revised the National Forest Policy which recommended that forests be managed efficiently for commercial purposes and for minimisation of forest productivity, but the Commission became silent about the traditional rights of tribals. Under the 42nd Amendment of the Constitution in 1976, the forest was deleted from the State list and entered it under the concurrent list.

Wildlife (Protection) Act 1972 and the **Forest (Conservation) Act 1980** identified environmental protection and recognition of the rights of the tribal communities as mutually incompatible objectives.

Forest Conservation Act 1980, vested powers with forest officers to arrest people and seize forest goods from them. This Act also reflected the colonial legacy which did not treat tribals as friends of the forest and empowered the state government to declare any reserve forest as non-reserved and also allotted forest land for non-forest purposes. With this Act, deforestation took place over large areas which were handed over for mining, industry and various other project purposes.

The National Forest Policy 1988 talked more on environmental stability through the preservation of forests by replacing contractors by tribal co-operatives, gave concession to ethnic minorities and provided suitable alternatives for shifting cultivators. This policy emphasised on a social forestry plan, afforestation so as to supply fuel wood, fodder, minor forest produces (MFPs), and timber to the villagers. The concept of Joint Forest Management (JFM) started as a participatory model of forest resources management. However, it did not replace the Community Forest Management (CFM) that had existed earlier in many parts of the country.

The Biological Diversity Act, 2002 also acknowledged the importance of local people's participation in any attempt towards conservation of biodiversity. The Act talked about creation of Biodiversity Management Committees (BMC) at the village level as mandatory.

The 3rd Five Year Plan was of the opinion that “development of forestry and forest industries is also essential for raising the income of the tribal people who live in the forest areas”. During Fourth Five Year Plan, the Working Group of Welfare of Backward Classes stated that the current law had totally put the tribals at a complete disadvantage. Displacement of the forest dwellers has continued because of poor livelihood. Eviction from their ancestral forest lands by the forest department has also contributed to their movement from the forest lands.

The Wild Life Protection Act of 1972 and its subsequent amendment in the year 1999 further restricted the rights of the forest dwellers in wild life sanctuaries and national parks. These were also a cause for the dislocation of the forest dwellers.

The National Forest Policy of 1988 recognised the forest rights of the forest dwellers and took the first steps towards acknowledging them. The MoEF issued a set of circular in 1990 to help people understand and execute these changes made to the forest act.

National Advisory Council over the latter part of 2004 decided to find a solution to this problem once and for all, and decided that a new legislation needs to be formulated for the rights of settlement of the forest dwellers and tribal communities. In an affidavit to the Apex Court, in June 2004, the Government of India admitted to the historical injustice that had been levied upon the tribals and the forest dwellers of the subcontinent. This historical injustice started by the Wildlife (Protection) Act 1972 (the ‘WPA’) and was followed by the Forest Conservation Act 1980 (the ‘FCA’) was in the name of environmental protection. However, these Acts has always been at logger heads vis-a-vis recognition of rights of the tribals.

1.2. Scheduled Tribes and Other Traditional Forest Dwellers (OTFDs) (Recognition of Forest Rights) Act 2006

In post 1990s era, one finds a shift in the approach of the state towards forests, forest resources and forest dwellers. The Inspector General of Forests, in 2002, issued an order requiring the eviction of all “encroachments” from forest areas across India. Accordingly, in 2004, in the Parliament, MoEF informed that they had cleared 1.5 lakh hectares of forest land. The Planning Commission, in 2006, estimated that from 1951 to 1990, 21.3 million people have been displaced by development projects. Meanwhile, the Supreme Court passed an interim order

Forest Rights Act : An Introduction

restraining the Central Government from regularising any encroachment without permission of the Court. This forced civil societies of India to organize campaigns/movements/protests against this order. A large section of people in India came together in solidarity with tribals and other forest dwellers and demanded legislation in favour of tribals in the country. Civil Society Organisation groups came out with a draft bill after a series of meetings and consultations, to recognise people's rights over forest land (**ActionAid, 2013**).

The Ministry of Tribal Affairs (MoTA) formed a Technical Resource Group to make a draft of the Scheduled Tribes (Recognition of Forest rights) Bill 2005. The Joint Parliamentary Committee reviewed the draft of the Bill in December 2005, which was placed in both the houses of the Parliament in May 2006 and finally, the Act was passed by the Parliament on 18th December 2006 and the Rule of the Act in 2008.

Forest dwellers are one of the poorest groups in our country. To correct the historical injustice to the forest dwellers the Ministry of Tribal Affairs was asked to prepare a draft of The Scheduled Tribes (Recognition of Forest Rights) Bill, which was placed before the Parliament in 2005. The Scheduled Tribes and Other Traditional Forest Dwellers Act (or simply known as Forest Rights Act- FRA) was finally passed in 2006 and came into force on January 1, 2008 to ensures both individual and community resource rights. It notified in the Rules the rights of the forest dwelling people, recognising them in the Indian forest policy formation for the first time. This Act is crucial to the rights of millions of tribals and other forest dwellers in different parts of our country as it provides for the restitution of deprived forest rights across India, including both individual rights to cultivated land in forestland and community rights over common property resources. The act also goes beyond the "recognition" of forests rights and also empowers the forest rights holders, Gram Sabhas and local level institutions with the right to protect, regenerate, conserve and manage any community forest resource.

1.2.1. Significance of the FRA 2006

- For the first time Forest Rights Act recognises and secures
- Community Rights or rights over common property resources of the communities in addition to their individual rights
- Rights in and over disputed land Rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests into revenue villages.
- Right to protect, regenerate or conserve or manage any community forest resource which the communities have been traditionally protecting and conserving for sustainable use.
- Right to intellectual property and traditional knowledge related to biodiversity and cultural diversity
- Rights of displaced communities
- For empowerment of these communities, the FRA clarified further that these communities had the sole right to sell proceeds from forests.

- Right to hold and live in the forestland under the individual or common occupation for habitation or for self, cultivation for livelihood
- Right to in-situ rehabilitation including alternative land in cases where the STs and other traditional forest dwellers have been illegally displaced from forestland.

1.2.2. Salient Features of the Forest Rights Act, 2006

The salient features of the Act, as reported in the annual report of the MoTA, 2015-16, are given as under:

- (1) Section 3 of the Act lists the rights which shall be the forest rights of the forest dwelling
 - (a) right to hold and live in the forest land under the individual or common occupation for habitation or for self cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dweller;
 - (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 within or outside village boundaries;
 - (d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;
 - (e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;
 - (f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;
 - (g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;
 - (h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in 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 or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of 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 the traditional forest dwellers, 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 13th day of December, 2005.

Forest Rights Act : An Introduction

- (2) Section 3(2) of the Act provides for diversion of forest land for certain facilities managed by the Government notwithstanding anything contained in the Forest Conservation Act, 1980 and which involve felling of trees not exceeding seventy five trees per hectare and the forest land to be diverted for the purpose is less than one hectare and the clearance of such development project is recommended by the Gram Sabha.
- (3) Section 4(1) of the Act recognizes and vests forest rights in forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers notwithstanding anything contained in any other law for the time being in force.
- (4) Section 4(2) of the Act provides for modification or resettlement of forest rights in critical wildlife habitats of National Parks and Sanctuaries.
- (5) Section 4(4) stipulates that the rights conferred under this Act shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons.
- (6) Section 4(5) mandates that no forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers shall be evicted or removed from the forest land under his occupation till the recognition and verification procedure is complete.
- (7) The right to hold and live in the forest land under the individual or common occupation for habitation and for self-cultivation for livelihood by a member or members shall be restricted to area under actual occupation and shall in no case exceed an area of four hectares as per Section 4(6) of the Act. Section 4(7) of the Act provides that forest rights shall be conferred free from all encumbrances and procedural requirements.
- (8) The forest rights recognized and vested under this Act includes the right of land who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition as per Section 4(8) of the Act.
- (9) Section 5 of the Act empowers the holders of forest rights, the Gram Sabha and the village level institutions to
- (a) protect the wildlife, forest and bio-diversity
 - (b) ensure that adjoining catchment area, water sources and other ecological sensitive areas are adequately protected
 - (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage and
 - (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the bio-diversity are complied with.
- (10) Section 6 (Chapter IV) of the Act deals with the authorities and procedures to vest forest rights. There is a three tier structure of authorities to vest forest rights, the Gram Sabha is the initiating authority for determining the nature and extent of individual or community forest rights or both. The Sub-Divisional Level Committee examines the resolution passed by the Gram Sabha and forwards it to the District Level Committee for the final

decision. Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee and any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee. The decision of the District Level Committee on the record of forest rights is final and binding. There is a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called by that agency.

(11) The Ministry of Tribal Affairs, Government of India is the nodal agency for the implementation of this Act as per Section 11 of the Act.

1.3. Forest Rights Rules, 2012

In implementation of the FRA, there are issues at two levels: first the policy, legislation, and rules are proper and in place and second, the actual execution or implementation of the process. The status of implementation of the Act remained extremely poor since the very beginning. MoEF and MoTA constituted a joint committee in April 2010 to review implementation of the FRA. To attend the objectives of the Act, the MoTA initiated the process of amendments in the Rule and the “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 came into force on 6th September 2012.

The Rules with major amendments are as follows:

1. **Identification of Hamlets or Settlements:** Every panchayat, within its boundaries, prepares a list of group of hamlets or habitations, unrecorded or unsurveyed settlements or forest villages or taungya villages, formally not part of any Revenue or Forest village record. The Sub-Divisional Officers of the Sub Division Level Committee consolidate the lists of hamlets and habitations which at present are not part of any village.

2. **Forest Rights Committee:** The members of the Forest Rights Committee shall not be less than ten but not exceeding fifteen persons and wherein at least two-third members shall be the Scheduled Tribes and not less than one-third of such members shall be women. Where there are no Scheduled Tribes, at least one third of such members shall be women. The Forest Rights Committee shall not reopen the forest rights recognized or the process of verification of the claims already initiated before the date of coming into force of the Amendments Rules, 2012.

3. Functions of the Gram Sabha:

The Gram Sabha shall –

- a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;
- b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims;
- c) pass a resolution on claims on forest rights after giving reasonable opportunity to

interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;

- d) consider resettlement packages under the Act and pass appropriate resolutions;
- e) constitute committees for the protection of wildlife, forest and biodiversity, from amongst its members;
- f) monitor and control the committee and shall prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwellers and integrate such conservation and management plan with the micro plans or working plans or management plans of the forest department with such modifications as may be considered necessary by the committee.
- g) approve all decisions of the committee pertaining to issue of transit permits, use of income from sale of produce, or modification of management plans.

4. **The quorum of the Gram Sabha meeting** shall be not less than one-half of all members of such Gram Sabha: Provided that at least one-third of the members present shall be women; Provided further that where any resolutions in respect of claims to forest rights are to be passed, at least fifty per cent of the claimants to forest rights or their representatives shall be present; Provided also that such resolutions shall be passed by a simple majority of those present and voting.

5. **Sub-Division, District and State level Committees:** The Rules laid down the constitution and functions of the Sub-Division, District and State level Committees. The Sub-Divisional committee would mainly co-ordinate between the Gram Panchayats and help them to procure various document, forms, proforma of claims maps etc. for processing the applications of claims and forward the claims approved by the **Forest Rights Committees** to the District level committee. The functions of the district level committee would mainly to examine and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee. The District committee hears petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee. The Committee also ensure that a certified copy of the record of the right to community forest resource and title under the Act is provided to the concerned Gram Sabha. The State Level Monitoring Committee shall meet at least once in three months to monitor the process of recognition, verification and vesting of forest rights, consider and address the field level verification and vesting of forest rights, consider and address the field level problems, and furnish a quarterly report.

[It may be mentioned here that Rule 12A (3) provides that in the event of modification or rejection of a claim by the Gram Sabha or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee (SDLC) to the District Level Committee (DLC), such decision or recommendation on the claims shall be communicated in person to the claimant to enable him to prefer a petition at the concerned level.]

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Rule 12 A (6) provides that the SDLC or DLC shall remand the claim to the Gram Sabha (GS) for reconsideration instead of modifying or rejecting the same in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination

Rule 12 A (7) provides that in case where the resolution passed by the GS with supporting documents and evidence is upheld by the SDLC with or without modification but the same is not approved by the DLC, the DLC shall record detailed reasons for its rejection and make these available to the claimants or GS.

Rule 12 A (10) states that all decisions of the SDLC and DLC that involve modification or rejection of a Gram Sabha resolution or recommendation of the SDLC shall give detailed reasons for such modification or rejection, as the case may be: Provided that no recommendation or rejection of claims shall be merely on any technical or procedural grounds:

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

6. Particularly Vulnerable Tribal Groups: The District Level Committee shall ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, and their claims for habitat rights are filed before the concerned Gram Sabhas.

7. Post Claim Support: The State Government shall ensure through its departments especially tribal and social welfare, environment and forest, revenue, rural development, panchayati raj and other departments relevant to upliftment of forest dwelling scheduled tribes and other traditional forest dwellers, that all government schemes including those relating to land improvement, land productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act.

1.4. Significant aspects of the FRA 2006 and Rules of 2012

Ministry of Tribal Affairs, Government of India has in various time periods issued guidelines and clarifications on Forest Rights Act 2006 and Rules of 2012. Some of the significant aspects of the FRA and FR Rules, (MoTA-UNDP project, January 2016) are given below:

1.4.1. Implementation Procedure of FRA

- There is no time limit for receiving applications and the Gram Sabha which is in the best position to decide its own cut-off date.
- District Collector has no power to delegate his power to sign the title deeds to the Revenue Divisional Officer or any other official.

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- The FRA and FR Rules do not permit formation of any committee other than the Forest Rights Committee and the Committee under Rule 4(1)(e). Nor do they permit constitution of a committee comprising persons other than the members of the Gram Sabha,
- Ministry of Tribal Affairs in a circular dated 5.3.2015 indicated the composition of the Sub Divisional Level Committee and the District Level Committee to be appointed in case of municipal areas.
- Where the SDLC or the DLC finds that the decision of the Gram Sabha is incomplete, or prima facie requires additional examination, it should remand the claim back to the Gram Sabha for reconsideration instead of modifying or rejecting it. Where the SDLC or DLC reject or modify the decision of the Gram Sabha, they must provide detailed reasons for doing so (see Rule. And the claims should not be rejected merely on technical or procedural grounds.

1.4.2. The Gram Sabha and its Meetings

- Gram Sabha should not be called at the Gram Panchayat level for the purpose of FRA. As per the provisions of the FRA, Gram Sabhas are to be held at the village/habitation level.
- The Panchayat is required to convene the first meeting of the Gram Sabha, for the purpose of constitution of the Forest Rights Committee.
- All adult members of the village participate in the Gram Sabha meetings, and not only a single representative from each family.

1.4.3. Applicability of FRA

- The term ‘forest land’ as land of any description falling within any forest area, and including unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks. This definition is in strict compliance with the Supreme Court judgment.
- FRA is applicable in National Parks, Wildlife Sanctuaries, and Tiger Reserves.
- The FRA is applicable to claimants in respect of forest lands wherever they may be located; no exception is made for municipal areas.

1.4.4. Eligibility Criteria for FDSTs and OTFDs

- If the persons belonging to Scheduled Tribes who have moved to non-Scheduled Areas in the State can also claim forest rights as forest dwelling Scheduled Tribes, because as per the Constitution (Scheduled Tribes) Order, 1950, the Scheduled Tribes are recognised as such for the entire State, and not just to the area of their domicile or the Scheduled Area or any other geographical location.

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- For the purpose of establishing their eligibility, OTFDs can rely upon and produce two or more of any of the evidences listed in Rule 13 (including oral testimony and physical evidence), and are not restricted only to Census of India data.
- It does not require that the claimants and their ancestors have to prove they lived in the same village for 75 years. The requirement is that they should be forest dwellers for 75 years. It is also important to clarify that it is a particular forest dwelling community which has to establish this fact, and it is not necessary that every individual claimant has to prove it.
- There is no provision in the law that forest dwellers should be solely or even primarily dependent on the forests for their livelihood, or for disqualifying persons whose family income is derived from a basket of sources including Government job or salaried income.
- Merely residing in revenue lands is not a disqualification from eligibility under the FRA, as long as the lands on which grazing rights are sought are forest lands.

1.4.5. Minor Forest Produce

- FRA clearly defines the term “minor forest produce” which include all non-timber forest produce of plant origin, including bamboo, tendu or kendu leaves etc. Accordingly the right of ownership, access to collect, use, and dispose of all the MFPs as defined in the Act has to be recognised and vested with the forest dwelling Scheduled Tribes (FDSTs) and other traditional forest dwellers (OTFDs) under the Act.
- There is a common misconception that forest rights under Section 3(1)(a) can only be vested in individuals, and the remaining rights under Section 3(1) (b) to (m) can only be vested in the Gram Sabha. There is no obstruction in the law for vesting any of the rights under Section 3(1), including forest rights to MFP, in an individual, a group of individuals, a user group, or a Gram Sabha.
- The FR Rules of 2012 provide that the transit permits for transportation of minor forest produce shall be issued by the Committee constituted by the Gram Sabha or the person authorised by the Gram Sabha. The existing transit permit rules at the State level can be accordingly modified in relation to transportation of minor forest produce with respect to right holders under FRA and align it with the provisions of FRA.
- The power of decision-making with respect to MFPs clearly lies with the Gram Sabha, and the Committee formed under Rule 4(1)(e) of the FR Rules is its delegate or executive arm. The actions of the Committee are subject to approval, modification or repeal by the Gram Sabha.

1.4.6. Conversion of Forest Villages and Unsurveyed Villages

- District administration under the leadership of the Collector, and in collaboration with the Panchayati Raj institutions, take pro-active steps to ensure that all forest villages and other such villages are identified, as a preliminary to conversion to revenue village.

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- The forest villages referred to under the FRA includes not only the forest villages recorded as such in the Forest Department records, but also any other old habitations, unsurveyed villages, and other villages in forests whether recorded, notified or not. Therefore, inclusion in Government records is not a necessary precondition for the recognition of this important forest right under Section 3(1)(h).
- Since the rights conferred under the FRA apply to all forest lands, if there are villages inside any forest which is not necessarily classified as forest land, these villages are also required to be converted into revenue villages under the FRA.
- Section 4(1) of FRA states that such forest rights are recognised and vested “notwithstanding anything contained in any other law for the time being in force, meaning thereby that the forest rights are recognised and vested regardless of whether such forest rights might be contrary to other laws. After FRA came into force on 31.12.2007, the interim order dated 13.11.2000 of the Hon’ble Supreme Court (where it was stated, “*Pending further orders, no dereservation of forests/sanctuaries/national parks shall be effected.*”) would be guided by the provisions of the FRA. Therefore, recognition and vesting of all forest rights, including the settlement and conversion of forest villages and other such villages into revenue villages under Section 3(1)(h), are not in violation of or contradictory to the Supreme Court’s order of 13.11.2000.
- Approval under Section 2 of the Forest Conservation Act, 1980 is not required for conversion of forest villages, old habitations, unsurveyed villages and other villages in forests, whether recorded, notified or not, into revenue villages. The District Level Committee is the final authority for approving the right relating to conversion of forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act.
- The conversion of forest villages into revenue villages would enable the Government to extend all the development facilities to these villages and the residents of this village would be entitled to get the benefits of the development programmes and schemes of the Government.
- The forest villages and other such villages located inside Wildlife Sanctuaries and National Parks are also, required to be converted into revenue villages under Section 3(1)(h) of the Act.

1.4.7. Title and Record of Rights

- The title given under the FRA is a legal title and is a formal recognition of the forest right which is recognised and vested in the right holders in the form of a signed document by the competent authority under the Act. The purpose of rights recognition is realised only when permanent record of rights are entered into Government books of records.
- The Revenue and the Forest Departments are required to prepare a final map of forest land so vested and the concerned authorities are required to incorporate the forest rights so vested in the revenue and the forest records within a period of three months after completion of the process of recognition of rights and issue of titles.

- If the forest land is under the administrative control of the Revenue Department, the Revenue Department should maintain record of rights. If the forest land is under the administrative control of the Forest Department, the forest department should maintain the records and the records of the titles for individual land rights and conversion of villages, also need to be recorded in the Revenue records. States may take appropriate steps to enter the record of rights in the relevant State records.

1.4.8. Community Forest Resource Rights

- The **community (forest) rights** are the various rights under Section 3(1) which are vested and recognized in a village community, and exercised together as a community. This would include *nistari* rights, the right to MFP, fishing and grazing rights, to conversion of forest villages into revenue villages, right to access biodiversity and intellectual property rights and so on. While, the Community Forest Resource (CFR) is the customary common forest which harks back to the traditional or customary boundaries of the village, and includes seasonal use of pastoralists. And even where such traditional or customary forests have been declared as protected areas, they are still included within the definition of CFR.
- The CFR right, therefore, is much wider than the various community rights delineated under Section 3(1) in that it extends over a geographical area where the community traditionally and customarily had access, and also vests important responsibilities and powers in the Gram Sabha to ensure the CFR area, and the wildlife, water sources, forests, and biodiversity it comprises, is protected from harm.
- The Committee constituted by the Gram Sabha is required to prepare the conservation and management plan for CFRs in order to sustainably and equitably manage such CFRs for the benefit of FDSTs and OTFDs. Such conservation and management plans are to be integrated with the micro plans or working plans or management plans of the Forest Department with such modification as may be considered necessary by the Committee.
- The title holders have right over trees on the forest land for which forest rights have been recognized under FRA.

1.4.9. Status of JFM Committees

- The pre-existing JFM Committees, which have been in existence for last 15-20 years in some States are not statutory bodies, but have been constituted under a Government of India resolution of June 1990. Besides, areas managed by JFMCs and the CFRs are not co-terminus – while the CFR recognises traditional boundaries and customary practices, areas managed by JFM Committees are based on Forest Department working plan priorities.
- Automatic conversion of JFM Committees into Committee under Rule 4(1)(e) is neither mandated nor desirable under the FRA as the objectives, structure and mandate of JFM is different from that of the Committee under Rule 4(1)(e). It is the prerogative of the Gram

Sabha to decide whether to nominate the members of the JFM Committees in the new Committee under Rule 4(1)(e) or constitute it with new members.

- As per the provisions of FRA and FR Rules, automatic conversion of JFM areas into CFR areas is neither mandated nor desirable as the objectives, structure and mandate of JFM is different from that of the forest right under community forest resource under FRA.

1.4.10. Development and FRA

- The FR Rules of 2012 provide for post claim support to the forest rights holders, and require that it is the responsibility of the State departments of tribal and social welfare, environment and forest, revenue, rural development, Panchayat raj and other departments to ensure that all Government schemes, including those for land improvement, land productivity, basic amenities and other livelihood measures, are provided to forest dwellers and communities whose rights have been recognised and vested under FRA.
- Article 275(1) of the Constitution of India provides an opportunity to each State Government to apply for grants for implementation of FRA. Grants under Special Central Assistance (SCA) to Tribal Sub Plans (TSP) can also be allocated for the development of land over which rights have been recognised.
- No permission is needed for forest clearance under the Forest (Conservation) Act, 1980, for diversion of forest land for development facilities, since the FRA frees the forest rights of all encumbrances and procedural requirement of the 1980 Act in terms of Section 4(7). However such development facilities must fulfill the conditions under Section 3(2) of the FRA.
- The minimum requirements necessary to demonstrate compliance with the FRA prior to diversion of forest land under the Forest (Conservation) Act, 1980 or any other development activity in forest areas are a) the concerned Gram Sabha certifies that the rights recognition process under the FRA is complete in the area being proposed for diversion, and b) the decision of Gram Sabha in support of diversion of forest land for the stated non-forest purposes, by way of a resolution.
- The Supreme Court in 2013 (the *Orissa Mining Corporation case*) held that the decision of affected Gram Sabhas is necessary before diversion of forest land for non-forest purposes or for any development project, big or small. Failure to obtain such decision of the Gram Sabha prior to diversion of forest land would effectively nullify Section 5 of the Act.
- Clearances of different kinds and under different statutory laws are required for development projects, such as “forest clearance” under the Forest Conservation Act, 1980, environmental clearance under the Environment (Protection) Act, 1985 and its various Rules and guidelines, and other clearances. These laws are, accordingly, regulatory in nature. The Gram Sabha is vested with the power and responsibility to protect, preserve, conserve and manage its forests and CFRs. Therefore, before forests in its area can be diverted for any other

development purpose, the Gram Sabha has to consider this at a specially convened meeting, and after carefully considering all factors, take a decision on the proposed diversion, after certifying that the rights recognition process is complete. This process is not comparable with the grant of a forest clearance or a 'No Objection Certificate' (NOC) by an administrative or regulatory authority. Instead, this process requires thoughtful and informed application of mind by the Gram Sabha so that it takes a careful and considered decision on the matter.

- It is the Gram Sabha which is the competent authority to certify that any particular development project has the go-ahead of the village community, through a resolution of a properly convened meeting of the Gram Sabha.

1.4.11. Estimation of Minimum Eligible CFR Area

There is a general lack of in-depth understanding about Community Forest rights (CFR) provisions and the empowerment they bring to local communities in most states. Sometimes, even awareness of the FRA at a rudimentary level is lacking. There is continued misinterpretation and misunderstanding about the provisions of the Act, including the misconception that section 3(2) also deals with community forest rights.

The **community forest rights** are the various rights under Section 3(1) which are vested and recognized in a village community, and exercised together as a community. This would include *nistari* rights, the right to MFP, fishing and grazing rights, to conversion of forest villages into revenue villages, right to access biodiversity and intellectual property rights and so on. While, the **Community Forest Resource Right (CFR)** is the customary common forest which harks back to the traditional or customary boundaries of the village, and includes seasonal use of pastoralists. And even where such traditional or customary forests have been declared as protected areas, they are still included within the definition of CFR. The CFR right, therefore, is much wider than the various community rights delineated under Section 3(1) in that it extends over a geographical area where the community traditionally and customarily had access, and also vests important responsibilities and powers in the Gram Sabha to ensure the CFR area, and the wildlife, water sources, forests, and biodiversity it comprises, is protected from harm.

FRA recognizes 14 pre-existing rights of forest dwellers on all categories of forestland, including Protected Areas (PAs). The major rights are:

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

As per the Forest Survey of India 2009, nearly one-fourth (23%) of India's land surface is covered with forests. The estimated number of forest-dependent people in India ranges from 250 to 350 million.

Rights and Resources Initiative (RRI) et al (2015) estimated that “approximately 100 million acres, or 40 million hectares, are eligible for CFR recognition”. RRI used Census 2001 and Forest Survey of India (FSI) 1999 data for the purpose. *Citizens' Report* (2016) as part of Community Forest Rights-Learning and Advocacy (CFR-LA) process has updated the RRI 2015 report by using 2011 Census data and make a quantitative estimate of forest land that has the potential to be recognized as CFR area, and compare it to the actual forest area recognized as CFRs across the country. But their estimate has excluded the states of Jammu & Kashmir, Arunachal Pradesh, Manipur, Nagaland, Mizoram and Meghalaya. The five north-eastern states are excluded because of lack of reliable data while J&K was excluded as the Act is not applicable in the state yet (they had developed a quantitative methodology to compute the potential area of the critical CFR rights, but they had not developed a similar quantitative potential estimate for CFRs and IFRs).

The following assumptions were made in the *Citizens' Report* to calculate CFR potential.

- **Forest land within revenue village boundary:** All forest land within the revenue village boundary is eligible for recognition as CFR. The report used Census 2011 on village land used to calculate the extent of forest land within the village boundaries.
- **Forest land outside revenue village boundaries:** A large part of legal forest area is located outside the village boundaries as reserve forest, or as other forest category. A major portion of such forests can be recognized under FRA as it either falls within the traditional boundary of villages, or is a source of livelihood for villager residents.
- **Area under JFM as minimum estimate:** The area under JFM sets the lowest limit of forest land to be recognized as CFR, as this area is already being used and protected by forest dwelling communities. JFM areas include forests inside as well as outside village boundaries. (It may be mentioned that FRA supersedes JFM, or similar arrangements, by vesting management rights and empowering the gram sabha to govern all CFR areas).
- **Individual Forest Right (IFR) Land:** IFRs are recognized on land which is de facto under non-forest use by right holders, but is de jure recorded as forest. Almost all IFR land is located close to habitation and would come within forest land eligible for CFR recognition. As these would be recognized as individual rights, this report had deducted these areas from the total area under CFR.

Under the above assumptions, the potential forest area eligible for CFRs had been estimated in the Citizens' Report, taking the sum of the estimates of forests inside and outside village boundaries over which CFR claims might realistically be staked, and by deducting the already recognized IFR area from this total. The figures given below for CFR potential area might be taken as the bare minimum estimate and a low benchmark in indicating the magnitude of the potential of FRA.

Table-1.1. : Potential forest area eligible for CFR

India (excluding five NE States and J&K) and Tripura	Recorded Forest Area (acres)	Estimation of forest land with customary boundaries	of which land recognized under IFRs (In acres)	Minimum potential for CF Recognition in India (In acres)
India	160,834,544	89,45,687	3,845,743	85,605,944
Tripura	1,354,618	1,319,622	434,119	885,503

Source : CFR-LA, 2016

The details of information for other states is given at the Annexure - I

The bare minimum estimated potential forest area over which CFR rights can be recognized in India, excluding five north-eastern states and J&K, is approximately **85.6 million acres** (34.6 million ha). It is estimated that rights of over 200 million STs and OTFDs in over 170,000 villages should be recognized under FRA, mostly through Community rights (CR) and CFR provisions. In most states, only IFRs have been recognized and only a few states have implemented the CFR provision.

Table-1.2: Comparison between the potential and the performance of CFRs

State	Potential for CFR Recognition (acres)	CFRs Recognised (in acres)	Remaining Potential for CFRs (in acres)	% of potential achieved
India	85,605,944	278,2078	82823866	3.25%
Tripura	885,503	N.A.	885,503	0.01%

Source : CFR-LA, 2016

The quantitative comparison between the potential and the performance of CFRs does not reflect the actual quality of CFR rights recognition. For the whole country (excluding the five north-eastern states and J&K), only 3 per cent of the minimum potential of CFR rights has been achieved in the last 10 years.

According to the *Citizens' Report*, "The low performing states have a very low level of implementation compared to their potential (less than 2 per cent). IFR focused states have only implemented IFR (individual occupancy) and ignored CFR and CR implementation. Implemented IFR (individual occupancy) and ignored CFR and CR implementation. CFR laggard states have implemented both IFRs and CRs, but have ignored implementation of the most important CFR rights. Finally, the better performing states show substantial efforts in implementing both CFRs and IFRs."

The state-wise promise and performance of CFRs is given below:

Categories	States
1. Laggard states Not in extremely poor performance	Assam, Bihar, Goa, Himachal Pradesh, Tamil Nadu, Uttarakhand, Haryana, Punjab, Sikkim
2. Low performing states Achieved less than 3% of minimum potential	Rajasthan, West Bengal, Karnataka, Jharkhand
3. States with only IFR Implementation	Tripura, Uttar Pradesh
4. States which have ignored CFRs but implemented CRs and IFRs	Telangana, Andhra Pradesh, Madhya Pradesh, Chhattisgarh
5. States with both IFR and CFR implementation	Maharashtra, Odisha, Kerala, Gujarat

Source : CFR-LA, 2016

Implementation and Performance of FRA : Across the States

2.1. Implementation of FRA :

Arunachal Pradesh

Arunachal Pradesh is wholly domiciled by various ethnic tribal groups whose land and forests are specifically identified with natural boundaries of hillocks, ranges, rivers and tributaries. Barring few pockets of land under wildlife sanctuaries, reserved forests, most of the land in entire State is community land. Territorial boundaries of land and forest belonging to different communities or tribes are also identified in the same line leaving no scope for any dispute over the possession of land, forest and water bodies among the tribes. Therefore, Forest Rights Act does not have much relevance in Arunachal Pradesh.

Manipur

In tribal communities and tribal chiefs are already holding ownership of forest land as their ancestral land in non-Reserved Forest Area. Therefore, implementation of the Forest Rights Act is perceived minimal in Manipur.

Meghalaya

96% of forest land is owned by clan / community / individuals. Implementation of the Act has, therefore, limited scope.

Mizoram

Mizoram Assembly on 29.10.2009 has resolved that the Forest Rights Act shall be adopted in the entire State of Mizoram with effect from 31.12.2009.

Nagaland

In Nagaland the land holding system and the village system of the Naga people is peculiar in that the people are the landowners. There are no tribes or group of people or forest dwellers in the State of Nagaland. Hence, Forest Rights Act, 2006 per se may not be applicable to the State of Nagaland. However, a committee has been constituted to examine the applicability of the Act in Nagaland as per provision of Art. 371(A) of Constitution of India.

Implementation and Performance of FRA : Across the States Introduction

Sikkim

In Sikkim, there are no Forest Dwelling STs and Other Traditional Forest Dwellers in the true sense of the terms. Most of the STs of Sikkim hold revenue land in their own name and they are not solely dependent on the forests for their livelihood.

Kerala

State has taken pro-active steps towards implementation of FRA, 2006 in campaign mode wherein the Forest, Revenue and Tribal Departments have jointly undertaken selection of the potential areas and likely claimants for individual and community rights and the claimants have been made aware about FRA through ST promoters and pamphlets printed in local language and dialects of each community. The District Tribal offices help in filing of applications and the Survey Departments helps in preparation of maps for the area. Presently, GIS based mapping is being done in one District. List of hamlets and habitations have been made for Gram Sabhas and FRCs have also been informed. Due to high density in forest, only manual survey is feasible. This takes much time.

Jharkhand:

The lack of awareness is the main cause for low filing of claims and overall poor implementation of FRA in the State Jharkhand State Government has been taking steps for awareness generation on FRA. This includes- i) translation of FRA into local languages, ii) mass publicity campaign through advertisement in local newspaper throughout districts, iii) radio jingles through AIR and FM channels, iv) telecast of documentary films on Doordarshan, v) special drive campaign on gram sabha, vi) distribution of FR act in 6 regional languages, vii) awareness generation through 5 mobile vans at divisional levels etc. The State is intending to introduce GPS and GIS in implementation of FRA. In the state most of the forest rights are settled under Chhotanagpur Tenancy Act (CNTA) and Santhal Parganas Tenancy Act.

2.2. Performance of FRA :

The main source of the performance of recognition of rights under FRA is the monthly reports of MoTA, which provides consolidated data as well as state-wise progress of FRA implementation upto 30th April, 2017.

Table- 2.1 : State-wise progress of FRA upto 30th April, 2017

States	No. of Claims received upto 30.04.2017			No. of Titles Distributed upto 30.04.2017			Total Titles Distributed as percentage of total Claims received upto 30.04.2017		
	Individual	Community	Total	Individual	Community	Total	Individual	Community	Total
Andhra Pr.	169,088	4,711	173,799	85,678	1,415	87,093	50.57	30.01	50.11
Assam	1,53,955	6,016	1,59,971	57,523	1,177	58,700	38.48	19.43	47.94
Bihar	8,027	0	8,027	13	0	13	1.51	0.00	1.51
Chhattisgarh	843,539	25,977	869,516	333,718	13,714	347,432	44.30	48.94	44.44
Goa	9,572	561	9,733	0	5	5	0.00	0.85	0.03
Gujarat	182,839	7,187	190,026	80,535	3,488	84,023	44.01	48.53	44.21
Himachal Pr.	991	65	1,056	0	7	7	0.00	0.20	0.06
Chandigarh	32,224	3,366	35,590	54,468	1,723	56,191	54.88	52.45	54.87
Karnataka	295,725	5,341	301,066	13,431	628	14,059	4.16	0.94	4.98
Kerala	35,140	1,395	36,535	21,559	NA	21,559	68.07	NA	68.54
Madhya Pradesh	574,902	59,816	634,718	2,14,420	27,422	241,842	36.77	68.87	38.83
Maharashtra	335,050	11,408	346,458	166,868	5,748	172,616	50.59	50.39	50.09
Odisha	612,355	15,153	627,508	462,887	5,891	468,778	66.28	43.85	65.80
Rajasthan	7,515	685	8,200	46,134	77	46,211	51.31	0.47	50.92
Tamil Nadu	18,430	5,361	23,791	0	0	0	0.00	0.00	0.00
Telangana	183,137	5,437	188,574	93,434	721	94,155	51.06	21.01	50.5
Tripura	198,238	277	198,515	123,020	35	123,055	63.07	9.56	63.00
Uttar Pr.	92,550	1,124	93,674	17,712	813	18,525	19.14	75.06	35.81
Uttarakhand	182	0	182	0	0	0	0.00	0.00	0.00
West Bengal	131,953	10,119	142,072	44,444	686	45,130	33.68	6.78	34.78
Total	4,031,768	138,428	4,170,196	17,29,923	62,893	17,92,816	42.91	45.45	42.99

Source : CFR-LA, 2016

Livelihood in Forest Dwellers

Section 2(i) of FRA clearly defines the term “minor forest produce” which include all non-timber forest produce of plant origin, including bamboo, tendu or kendu leaves etc. Accordingly the right of ownership, access to collect, use, and dispose of all the MFPs as defined in the Act has to be recognised and vested with the forest dwelling Scheduled Tribes (FDSTs) and other traditional forest dwellers (OTFDs) under the Act (See Section 3(1)(c) of the Act).

Livelihood is an important issue in everyone’s life. Without enhancing livelihood people’s standard of living can’t be improved. The Scheduled Tribes traditionally live, mainly in forests, hills, undulating inaccessible terrain in plateau areas, rich in natural resources and Govt. of India has taken several initiatives for improving tribal livelihood. Forest Rights Act (FRA) is one of those which ensure the tribal rights on forest. In this context present study aims to highlight the status of FRA beneficiary, implementation status, scope and difficulties, environmental consequences of FRA etc.

Implementation and Performance of FRA : Across the States Introduction

Under the Forest Rights Act, 2006, the forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers have been vested with right of ownership, access to collect, use and dispose of minor forest produce (MFP) which has been traditionally collected within or outside village boundaries.

Ministry of Tribal Affairs, Government of India estimated, in 2014, that about 100 million forest dwellers depend on the Minor Forest Produce (MFP) for food, Shelter, Medicines, cash income etc. Contribution of the MFP to the household income varied between 10 to 70 percent and about 25 to 50 percent of the forest dwellers depend on MFP for food requirements. The price of the MFP is most often determined by the traders than by demand/supply (except few high revenue items nationalized by the state government). As a result, the unscrupulous traders may operate freely in the market.

In order to achieve social safety measure for the MFP gatherers, who are primarily members of Scheduled Tribes. Sustainable use, conservation of biodiversity, maintenance of ecological balance and ensuring livelihood and food security of forest dwelling scheduled tribes and other traditional forest dwellers, a package of interventions viz. Minimum Support Price (MSP), Trade Information System, Supply Chain Infrastructure, Value Addition and Scientific Harvesting of MFP have been introduced.

In order to ensure livelihood and food security of forest dwellers, a package of interventions like Minimum Support Price (MSP), Trade Information System, Supply Chain Infrastructure, Value Addition and Scientific Harvesting of MFP was introduced during 2013-14. The Ministry of Tribal Affairs, Government of India launched, in January, 2014 a Scheme “Mechanism of Marketing of Minor Forest Produce (MFP) through Minimum Support Price (MSP) and development of Value Chain for MFP”. This scheme was later revised in October, 2016. Initially, this scheme was a Central Sector Scheme where 100% Grant-in-aid was provided by the Ministry of Tribal Affairs to the Implementing Agencies. Recently, Government of India included this scheme as a component of an *Umbrella Scheme for Development of Scheduled Tribes* under the category of ‘Core of the Core’ scheme.

Each State/UT has to furnish monthly progress report (MPR) on the performance to the Ministry of Tribal Affairs (MoTA) the main source of the performance of recognition of rights under FRA is the monthly reports of MoTA, which provides consolidated data as well as state/UT wise progress of FRA implementation.

The MPR for the month April, 2017, for 35 states and UTs revealed the following information -
1. Administrative set-up of FRA implementation : 8 states/UTs have not furnished any information in this regard, and out of the remaining 27 states/UTs -

- 24 states/UTs appointed state nodal officer, while 3 states (Arunachal Pradesh, Mizoram and Sikkim) could not appoint any nodal officer till now.
- 27 states constituted SDLC, DLC and SLMC at the State, District and Sub-divisional level.
- Only 20 states/UTs could constitute Forest Right Committees in the respective areas.

2. Status of distribution of titles w.r.t claims received as on April, 2017:

Regarding the percentage of Titles distributed over number of claims received, only the following 7 states distributed titles more than 50% of the total claims (Individual and Community) received.

The ranking of these States is given below:

Odisha (65.71%), Kerala (65.54%), Tripura (63.01%), Jharkhand (54.81%), Rajasthan (50.92%), Telangana (50.51%) and Andhra Pradesh (50.14%). It may be noted here that in earlier years, Tripura used to ranked 2nd, while Kerala 1st, but now Odisha become first. In the all India level, titles were distributed for only **42.97%** of the total claims received (**vide Table-I**).

3. Performance in the title distribution of Individual and Community Claims:

It may be pointed out that as mentioned earlier, the IFR focused states have only implemented IFR (individual occupancy) and ignored CFR and CR implementation. This is evident if the performance of states is compared with respect to the distribution of forest rights for individual occupancy and community occupancy. If we compare the ranking of States by title distribution of Individual and Community Claims (**vide Table-3**), we observe that the overall ranking of States for distribution of forest rights (for amalgamated individual and community occupancy) maintains the same pattern as that of distribution of individual rights. But in the case of distribution of community rights, most of the states lagged behind. For example, Odisha, Tripura, Rajasthan, Telangana and Kerala have done well for the title distribution of Individual claims but performed poorly for the title distribution of the community claims. On the other hand Uttar Pradesh, Madhya Pradesh and Maharashtra have done well for the title distribution of community claims but performed poorly for the title distribution of the Individual claims.

4. Claims Rejected:

It has been observed that the proportion of rejection of claims is very high. Overall about 44.31% claims (**44.87 % for Individual and 27.93 % for community**) were rejected. More than 50% of the Individual claims were rejected up to April. 2017 in the state of Uttar Pradesh (81%), West Bengal (66.18%), Maharashtra (65.17%), Madhya Pradesh (61.33%), Karnataka (56.59%), Chhattisgarh (55.35%) and Bihar (52.54%). While More than 50% of the Community claims were rejected up to April. 2017 in the state of West Bengal (91.45%), Tripura (80.14%) and Jharkhand (52.83%).

It may be mentioned here that Rule 12A (3) of 2012 provides that in the event of modification or rejection of a claim by the Gram Sabha or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee (SDLC) to the District Level Committee (DLC), such decision or recommendation on the claims shall be communicated in person to the claimant to enable him to prefer a petition at the concerned level.

Besides Rule 12 A (6) provides that the SDLC or DLC shall remand the claim to the Gram Sabha (GS) for reconsideration instead of modifying or rejecting the same in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.

Implementation and Performance of FRA : Across the States Introduction

Rule 12 A (10) states that all decisions of the SDLC and DLC that involve modification or rejection of a Gram Sabha resolution or recommendation of the SDLC shall give detailed reasons for such modification or rejection, as the case maybe: Provided that no recommendation or rejection of claims shall be merely on any technical or procedural grounds. And no committee (except the Gram Sabha or the Forest Rights Committee) at the Block or Panchayat or forest beat or range level, or any individual officer of any rank shall be empowered to receive claims or reject, modify, or decide any claim on forest rights.

It has also been observed that most cases the claimants were never informed of their rejection of claims, far from providing them with detailed reasons for such rejection. This is due to the fact in most states there is a general lack of in-depth understanding, even awareness of the FRA at a rudimentary level.

Table 2.2.: Percentage of total Titles and forest land Distributed with respect to total Claims received upto 30.04.2017

Sr. No.	States	No. of Claims received upto 30.04.2017			No. of Titles Distributed upto 30.04.2017			No. of Claims Rejected	% of Titles distributed over number of claims received	Forest land distributed (Ha.)		
		Individual	Community	Total	Individual	Community	Total			Individual	Community	Total
1	Odisha	5,12,362	12,133	6,25,298	4,10,238	5,891	1,11,189	1,19,529	65.33%	296149	115914	462063
2	Kerala	76,340	1,292	57,538	24,229	N/A	24,229	7,889	65.24%	13562	N/A	27962
3	Tamil Nadu	298348	272	198315	129020	39	129075	65539	65.01%	179392	37	176469
4	Chhattisgarh	90,594	3,586	1,02,510	54,458	1,755	55,183	27,652	52.87%	99767	18415	35181
5	Madhya Pradesh	70,515	685	71,203	36,183	72	36,255	34,230	50.92%	22303	197	22500
6	Uttar Pradesh	183107	3025	186,341	93194	721	93215	80630	50.23%	121113	183750	305193
7	Andhra Pradesh	1,05,878	4,511	1,75,590	85,638	1,415	87,044	62,956	50.14%	89917	17891	209408
8	Chhattisgarh	8,40,536	35,977	8,69,516	9,79,718	12,712	1,86,493	4,75,119	44.44%	95311	56352	387092
9	Odisha	1,82,869	7,187	1,90,056	80,078	3,487	83,562	0	43.97%	50536	464863	314402
10	Karnataka Pradesh	3,71,902	39,816	6,14,718	2,11,120	27,122	2,38,812	3,05,609	34.82%	320971	326987	647058
11	Assam	2,45,962	6,346	1,25,011	57,225	1,577	58,832	0	3.92%	N/A	N/A	
12	West Bengal	1,18,27	10,119	149081	44444	686	45130	96887	61.96%	8504	751	8736
13	Mizoram	3,35,950	11,406	3,64,358	1,06,858	5,745	1,12,646	2,31,855	96.99%	99514	1,95165	995099
14	Uttar Pradesh	26,520	1,124	93,614	17732	843	18522	71635	38.35%	0	0	0
15	Karnataka	3,98,795	5,741	5,64,576	17,433	678	18,149	1,71,593	4.25%	6667	162101	17307
16	Bihar	5,062	0	3,022	121	0	121	3,215	1.31%	N/A	0	
17	Uttar Pradesh	591	68	659	0	7	7	0	1.66%	0	1890	3890
18	Goa	2,272	301	9,733	0	3	3	29	0.02%	0	2	2
19	Tamil Nadu	18230	3951	21781	0	0	0	6	0.002%	0	0	0
20	Uttarakhand	182	0	182	0	0	0	1	0.00%	0	0	0
TOTAL		4031557	133425	4169982	1728817	62889	1791706	1846528	42.97%	1655395	3907981	5563376

Source: Ministry of Tribal Affairs, 2017

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Table-2.3: Ranking of major States in terms of Claims rejected for Individual and Community												
States	Total Titles Distributed as percentage of total Claims received upto 30.04.2017			Ranking of states in terms of distributed claims			Total No. of Claims Rejected			Claims rejected as % of total claims received		
	Ind	Comm	Total	Ind	Comm	Total	Ind	Comm	Total	Ind	Comm	Total
Andhra Pradesh	59.67	30.64	50.11	7	8	7	61965	1825	63799	56.62	36.74	36.70
Assam	33.48	24.43	37.75	10	9	11	0	0	0	3.00	0.00	0.00
Bihar	1.5	0.00	1.4	15	17	15	4215	0	4215	57.54	0.00	57.54
Chhattisgarh	42.30	48.94	44.44	8	5	8	455892	7221	471113	55.34	27.80	54.52
Chia	0.00	0.83	0.93	16	16	17	23	4	27	3.71	0.84	3.74
Goa	42.04	48.53	44.21	9	6	9	0	0	0	3.00	0.00	3.00
Haryana Pradesh	0.00	10.29	1.06	16	14	16	0	0	0	3.00	0.00	3.00
Jharkhand	54.98	57.43	54.51	4	3	4	25916	1726	27652	79.11	57.84	79.97
Karnataka	4.16	10.94	4.58	15	12	14	160697	2515	171502	50.59	43.81	56.35
Kerala	68.66	NA	65.52	1	17	2	7889	0	7889	21.85	0.00	21.02
Madhya Pradesh	46.77	68.87	58.55	11	2	10	352597	12903	365500	61.32	40.15	59.21
Maharashtra	30.20	50.29	50.72	13	4	12	230620	1836	231856	65.17	16.05	63.62
Odisha	66.28	45.85	62.30	2	7	1	29150	379	19520	24.36	2.75	25.89
Rajasthan	51.4	10.47	50.93	5	13	5	29230	0	29230	78.56	0.00	78.07
Tamil Nad.	0.00	0.00	0.00	16	17	18	0	0	0	3.00	0.00	3.00
Telangana	51.36	21.04	50.51	6	10	6	79708	1682	80890	43.26	49.09	43.26
Tripura	67.97	19.89	63.00	3	11	3	65557	222	65779	64.07	90.14	33.12
Uttar Pradesh	13.14	75.00	16.51	14	1	13	74015	0	74015	81.00	0.00	80.00
Uttarakhand	0.00	0.00	0.00	16	17	18	0	0.00	1	3.54	0.00	3.55
West Bengal	37.98	6.78	51.76	12	15	12	87325	9224	96587	55.15	91.45	67.98
Total	42.91	45.15	42.99				1809015	38667	1847682	41.87	27.93	44.31

Source : Ministry of Tribal Affairs, 2017

Table-2.4. : Ranking of States by title distribution of Individual and Community Claims

States	Ranking of States w.r.t total Title distributed as % of total Claims (Individual & Community) received	Ranking on the basis of title distributed and Claims received	
		Individual	Community
Odisha	1	2	7
Kerala	2	1	NA
Tripura	3	3	11
Jharkhand	4	4	3
Rajasthan	5	5	13
Telangana	6	6	10
Andhra Pradesh	7	7	8
Chhattisgarh	8	8	5
Gujarat	9	9	6
Madhya Pradesh	10	11	2
Assam	11	10	9
West Bengal	12	11	15
Maharashtra	13	12	4
Uttar Pradesh	14	13	1
Karnataka	15	14	12
Bihar	16	15	17
Himachal Pradesh	17	16	14
Goa	18	16	16
Tamil Nadu	19	16	17
Uttarakhand	19	16	17

Source : Ministry of Tribal Affairs, 2017

1.3. Instructions and Explanations from MoTA regarding Implementation of FRA

Ministry of Tribal Affairs, to ensure effective implementation of the Act, issued various Instructions and Explanations to all the State Governments and UTs Since 2012. The major Instructions and Explanations are as follows:

Implementation and Performance of FRA : Across the States Introduction

1.3.1 Process of Recognition of Rights:

- On receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue Departments remain present during the verification of the claims and the evidence on the site.
- In the event of modification or rejection of a claim by the Gram Sabha or by the Sub-Divisional Level Committee (SDLC) or the District Level Committee (DLC), the decision on the claim should be communicated to the claimant to enable the aggrieved person to prefer a petition to the SDLC or the DLC.
- All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution/ recommendation should be recorded the reasons for not accepting the recommendations of the Gram Sabha, in writing, and a copy of the order should be supplied to the claimant.
- The four hectare limit specified in Section 4(6) applies to rights under section 3(1)(a) of the Act only and not to any other right under section 3(1), such as conversion of pattas or leases, conversion of forest villages into revenue villages etc.

Minor Forest Produce/Non- Timber Forest Product (NTFP)

- “Minor Forest Produce” (MFP)/ Non- Timber Forest Product (NTFP) defines to include “all non-timber 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 monopoly of the Forest Corporations in the trade of MFP/NTFP, especially in case of high value MFP/NTFP, such as, tendu patta, is against the spirit of the Act and should henceforth be done away with.
- The forest right holders or their cooperatives/ federations should be allowed full freedom to sell such MFP/NTFPs to anyone or to undertake individual or collective processing, value addition, marketing, for livelihood within and outside forest area by using locally appropriate means of transport.
- The State Governments should exempt movement of all MFPs/NTFPs from the purview of the transit rules of the State Government and, for this purpose, the transit rules be amended suitably. Even a transit permit from Gram Sabha should not be required. Imposition of any fee/charges/ royalties on the processing, value addition, marketing of MFP collected individually or collectively by the cooperatives/ federations of the rights holders would also be ultra vires of the Act.
- The State Governments need to play the facilitating role in getting forest dwellers remunerative prices for the MFP/NTFP, collected and processed by them.

(Ministry has received petitions that Tribal communities are not getting the benefits of ownership of MFP/NTF. So, the above instructions has been reiterated in a MoTAD.O.(F.No 18/02/2013-CP &R) dated 2nd January, 2014 so the process may be expeditiously reoriented to ensure compliance with the law.)

Community Rights:

- The District Level Committee should ensure that the records of prior recorded nistari or other traditional community rights are provided to Gram Sabhas.
- District Level Committee should play a pro-active role in ensuring that all Particularly Vulnerable Tribal Groups (PTGs) receive habitat rights in consultation with the concerned PTGs' traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas.
- The State Governments may convert all such erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. It was also clarified that the conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc. Records of the forest villages maintained by the Forest Department may thereafter be suitably updated on recognition of this right.

Community Forest Resource Rights:

- Any restriction, such as, time limit, on use of community forest resources other than what is traditionally imposed would be against the spirit of the Act.
- In case no community forest resource rights are recognized in a village, the reasons for the same should be recorded.
- The Committees constituted under Rule 4(e) of the Forest Rights Rules, 2008 would work under the control of Gram Sabha. The State Agencies should facilitate this process.
- Gram Sabha is empowered to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the bio-diversity.

Protection Against Eviction, Diversion of Forest Lands and Forced Relocation :

- No eviction should take place till the process of recognition and vesting of forest rights under the Act is complete.
- The State Government should ensure that all diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 take place in compliance with the instructions contained in the Ministry of Environment & Forest's letter dated 30.07.2009, as modified on 03.08.2009.
- The State Governments should ensure that the rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers, residing in National Parks and Sanctuaries are recognized first before any exercise for modification of their rights or their resettlement, if necessary, is undertaken and no member of the forest dweller is evicted from such areas without the settlement of their rights and completion of all other actions required under section 4 (2) of the Act.
- The State Level Monitoring Committee should monitor compliance of the provisions of Section 3(1)(m) of the Act, which recognizes the right to in situ rehabilitation including alternative land in cases where the forest dwellers have been illegally evicted or displaced from forest land without receiving their legal entitlement to rehabilitation

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Awareness-Raising, Monitoring and Grievance Redressal :

- Each State should prepare suitable communication and training material in local language for effective implementation of the Act.
- The State Nodal Agency should ensure that the Sub Divisional Level Committee and the District Level Committee make district-wise plans for trainings of revenue, forest and tribal welfare departments' field staff, officials, Forest Rights Committees and Panchayat representatives.
- In order to generate awareness about the various provisions of the Act and the Rules, especially the process of filing petitions, the State Government should organize public hearings on local bazaar days or at other appropriate locations on a quarterly basis till the process of recognition is complete. The Gram Sabhas also need to be actively involved in the task of awareness raising.
- If any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or Gram Sabha through a resolution against any higher authority or Committee or officer or member of such authority or Committee gives a notice as per Section 8 of the Act regarding contravention of any provision of the Act or any rule made thereunder concerning recognition of forest rights to the State Level Monitoring Committees, the State Level Monitoring Committee should hold an inquiry on the basis of the said notice within sixty days from the receipt of the notice and take action, if any, that is required. The complainant and the Gram Sabha should be informed about the outcome of the inquiry.

1.3.2. Conversion of all forest villages into revenue villages

[Background: During first 5 years of FRA operation, State Governments were not taking any action for conversion of forest villages and other such villages into revenue villages as the State Forest Department officials still consider that the provisions of the Forest Rights Act, 2006 do not supersede the provisions of Forest (Conservation) Act, 1980 and the Hon'ble Supreme Court judgment dated 13.11.2000 in I.A. No.2 in W.P.No.337/ 1995 regarding diversion/ denotification of forest land and that the de-reservation/ de-notification of forest villages and other such villages was stayed. There was also no clarity on the procedure to be followed for conversion of such forest villages and other such villages into revenue villages amongst the State Government officials. Besides MoTA in its D.O. (No.23011/33/2010-FRA) issued details Guidelines for conversion of forest villages into revenue villages.]

In order to bring about clarity on the above issues and to expedite the conversion of the forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act, the following clarifications were issued to all the State Governments/ UT Administrations by MoTA.

Sl.No	Issue	Clarification
1	Whether the provisions of the Forest Rights Act, 2006 supersede the provisions of Forest (Conservation) Act, 1980 and the Hon'ble Supreme Court judgment dated 13.11.2000 in I.A.No.2 in WO No.337/ 1995	<p>✚It is a well settled principle of statutory interpretation that a subsequent statute supersedes all preceding court judgments or orders of prior date.</p> <p>✚Under Section 3(1) of the Act, including the right under Section 3(1)(h) mentioned that “<i>notwithstanding anything contained in any other law for the time being in force</i>”. This non-obstante clause, therefore, recognizes and vests the forest rights under Section 3(1) in accordance with the provisions of the FRA, regardless of whether such forest rights might be contrary to other laws, which includes statutory law as well as judicial precedent, if any.</p> <p>✚Under the provision of the Section 4(7) of the Act means that recognition and vesting of all forest rights, including the settlement and conversion of forest villages and other such villages into revenue villages under Section 3(1)(h), has been exempted from the requirements of Section 2 of the Forest (Conservation) Act, 1980 as well as the requirement of compensatory afforestation as well as payment of net present value.</p> <p>✚After operationalization of the Forest Rights Act, 2006 with effect from 31.12.2007, the interim order dated 13.11.2000 of the Apex Court in I.A.No.2 in WPNo.337/1995, which was passed in the context of the widespread violation of the provisions of the Forest (Conservation) Act, 1980 would, therefore, be guided by the provisions of Section 3(1)(h) of the FRA, 2006.</p>
2	Whether approval of the Ministry of Environment & Forests under Section 2 of the Forest (Conservation) Act, 1980 is required for conversion of forest villages	<p>✚Under Section 2 of the Forest Conservation Act, 1980 of the Ministry of Environment & Forests is not required for conversion of forest villages and other such villages into revenue villages.</p> <p>✚The District Level Committee is the final</p>

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	and other such villages into revenue villages.	authority for approving the record of forest rights specified in Section 3(1) of the Act, including the right relating to conversion of forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act.
3	Whether conversion of forest villages and other such villages is required in lands which are not classified as forest lands.	<p>✚The Supreme Court in a landmark judgment dated 12.12.1997 in the Godavarman case, held as under: "<i>The term "forest land" occurring in Section 2 (of the Forest Conservation Act, 1980) will not only include "forest" as understood in the dictionary sense, but also any areas recorded as forest in the Government record irrespective of the ownership.</i>"</p> <p>✚The term 'forest land' is to be widely understood in its wider definition, that is, including not only forest land classified as such, but also all other forests, which would include revenue forests, private forests, community forests, and any other kind of forest lands.</p> <p>✚Forest Rights Act apply to all forest lands including such villages on forest lands which are not necessarily classified as forest land. These villages are also required to be converted into revenue villages.</p> <p>✚The forest villages and other such villages located inside the Wildlife Sanctuaries and National Parks are also, therefore, required to be converted into revenue villages</p>
4	How the old habitations, unrecorded or unsurveyed settlements and other villages on the forest land which are not part of any Revenue or Forest village record are to be converted into revenue villages	✚The FRA Rules of 2012 provides that on recognition of such hamlets and habitations as a village, the process of recognition and vesting of rights in these hamlets and habitations is to be undertaken without disturbing any rights, already recognized

1.3.3. Record of Rights issued under FRA

- The Records of Rights issued under the Forest Rights Act 2006 (FRA) should also mention the name of the Caste / Tribe so that, in future, the people do not have any difficulty in obtaining Caste Certificates.
- The village maps and the village records should also indicate the community land classified into various categories as per the local revenue code / law.
- On completion of the process of settlement of Rights and issue of titles, the Revenue and Forest Departments are to prepare a final map of the forest land so vested and the concerned authorities are required to incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of record updating under the relevant State laws or within a period of three months, whichever is earlier. Eventually, the right holders under FRA have to be issued Record of Rights under the Revenue Code / Law and treat them at par with other land holders.
- FRA requires conversion of all forest villages, old habitations, unsurveyed villages and other villages in forest whether recorded, notified or not, into revenue villages. The States have been asked to take necessary action for such conversion. In this connection, the entire records should follow the protocol of the revenue code / law.

1.3.4. Recognition and vesting of Community Forest Resource (CFR)

- The authority to protect, regenerate or conserve or manage CFRs, is the Gram Sabha along with the committee for protection of wildlife, forest and biodiversity constituted under FR Rule 4(1)(e).
- The Gram Sabha and the Committee under FR rule 4(1)(e) shall be the authority to modify the micro plan or working plan or management plan of the Forest Department to the extent necessary in order to integrate the same with the conservation and management plan for the CFR as passed by the Gram Sabha.
- The State Government shall make available through its departments, funds available under Tribal Sub Plan, MGNREGA, funds for forestry available with the Gram Panchayat, Funds under CAMPA to the committee at the Gram Sabha constituted under FR Rule 4(1)(e) for development of CFR. The State Governments may also send proposals to Ministry of Tribal Affairs for development of CFR as per FR rule 16.
- As per Rule 12(B)(4) in case where no community forest resource rights are recognized in a village, the reasons for the same shall be recorded in writing by the Secretary of the District level committee.

1.3.5. Clarification pertaining to recognition of Habitat rights under FRA

- There was a confusion regarding the English word “habitat” and its Hindi translation “aawas” in the FRA document. Due to this misinterpretation, many States have equated the term “habitat” to mean providing housing facilities as under *Indira Awas Yojana* and other such housing scheme.

Implementation and Performance of FRA : Across the States Introduction

- The right to community tenures of habitat and habitation may be recognized over customary territories used by the Particularly Vulnerable Tribal Groups (PVTG) for habitation, livelihoods, social, economic, spiritual, sacred, religious and other purposes. In some cases the habitats of PVTGs may overlap with forests and other rights of other people / communities.
- District Level Committee (DLC) is to ensure that all PVTGs receive habitat rights in consultation with the concerned traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary, by recognizing floating nature of their Gram Sabhas.
- Where the claims of PVTGs have already been filed, the DLCs should take steps to ensure recognition of their rights along with mapping of the area of each claim over which their rights have been recognized.

1.3.6. Training and use of technology

- Extensive training programmes are taken up for officials, Ward Members, Gram Sabha Members, Panchayat Secretaries, field officials of forest, tribal welfare and land administrative departments and SDLC and DLC members etc. on priority basis.
- In many States, FRA, 2006 has been translated in local languages, wherever possible translation of the Act, Rules and guidelines may be made in tribal languages to create wide spread awareness.
- The funds have been made available by this Ministry to conduct training and awareness programmes on FRA. States lacking resource persons to conduct the trainings for master trainers can approach the Tribal Research Institute, Bhubaneswar which has also been recognized as the National Resource Centre by this Ministry.
- Geo-referenced database of vesting of rights and maps may also be created in order to ensure proper implementation of Forest Rights Act. The geo-referenced data should be corroborated with other sources of information supplemented with ground verification as delineated under Rule 13 of the FR Rules so as to rule out possibility of wrongful claims or denials.
- For identification of forest land under the Community Forest Resource rights and community purposes, geo referencing may, particularly, be useful.
- In Sixth Scheduled areas, most of the rights have already been vested. These recognized rights should be translated into individual and community record of rights as per the process laid down under FRA, 2006.

Research Methodology and Study Area

3.1. Objectives

Present study has examined the following two issues at two levels in implementation of the FRA 2006.

The issues are -

- Firstly, the policy, legislation, and rules are in conformity and in accordance with the main objectives of the FRA 2006, and,
- Secondly, the actual execution or implementation process of the FRA.

Study Objectives

1. To understand the implementation procedure, major challenges, scope and challenges of FRA in Tripura.
2. To study the impact on FRA of beneficiaries.

3.2. Sample Blocks/Villages

The main objective of our study is to examine the impact of the forest *patta* distribution under FRA 2006 and the economic conditions of the *Patta* holders. *Reang* community is the only Particularly Vulnerable Tribal Groups (PVTG) in Tripura. Reang community mostly lives within forest areas. It is expected that they would be mostly benefited from the forest patta distribution. In selection of sample blocks, we have used the report prepared by the State Government Department of TRP & PTG on the “Socio-economic Survey on PTG Families in Tripura” in 2016. The main criteria of the selection of the sample blocks have been the predominance of Forest (patta) land holder family, Hard-core Jhumia and BPL family. Besides, blocks from districts would be selected. The block wise relevant information from the TRP&PGP survey report is given below:

On the basis of above mentioned report, the following blocks have been selected for our study.

Table -3.1. : Selection of Blocks on the basis BPL, Jhumia and Forest (patta) holder family

District	Sub-division	Block	% of BPL Family	% of Jhumia Family	% of Forest (patta) holder family
South	Shantabazar	Bagalai	35.2	9.1	48.6
Gomat	Amarpur	Amarpur	67.6	24.8	59.7
Dhalai	Arubasa	Gangalagan	60.6	47.1	88.7
North	Kanchanjur	Dasda	45.2	45.6	100.0

Source: Department of TRP & PGP, Government of Tripura

The State Government is committed to the need for ensuring the economic upliftment of the Forest Dwellers vested with the rights under the Act and has taken initiative in this direction for dovetailing various schemes of the line Departments and MGNREGA. So far, 93,349 nos. ST families have been provided assistance under the program with financial involvement of Rs.134.11 crore. 28,162 ST forest dwellers have been provided IAY house (up to 31st March, 2016).

In order to study the impact of the various schemes of the line Departments for the Forest Dwellers on their economic condition, we have used the following information for the year 2010-11. The erstwhile district wise achievements of the line departments (except MGNREGA) during 2010-11 under FRA are given below:

In the selected Blocks, we have selected Villages with pre-dominant patta holders and who have received Government assistance around 2010-11 or before.

Table 3.2. : Number of Sample Households in the Sample Villages/VCs

District	Sub-division	Block	Village/VC	Sample Households	As per 2001 census Total Popn	ST Popn
South	Shantabazar (107)	Bagailai	Lokhulokha VC	52	1,453	1,384
			Utan Devapur VC	55	1,282	1,182
Gomat	Amarpur (107)	Amarpur	Rajkang VI	55	1,652	1,475
			Kurumachara VC	52	868	868
Dhalai	Arubasa (108)	Gangalagan	Rathnamkhari VC	51	281	281
			Gangnamga VC	57	455	357
North	Kanchanjur (90)	Dasda	Dhar Biswara VC (Chanchura)	42	1,452	1,452
			Damanripura VC	48	888	798
Total sample :				412		

Source : Researcher's Calculation

Note: All the selected Sample Villages are within the Tribal Sub-Plan (TSP) areas

3.3. Profile of Sample Villages :

One of the major sources of information of the sample blocks and villages is the Census documents for the year 2011. But, while examining the figures of Census 2011, we should keep in mind the following aspects of the Census 2011.

- a) At the time of collection of data for Census 2011, there were 4 districts, 17 Sub-divisions, 40 blocks and 878 census Villages. But, at present, there are 8 districts, 23 sub-divisions and 58 blocks. So, specific care was taken to locate the sample villages from the District Census Handbook 2011. For example, Amarpur block is now included in the newly created Gomti district (and not South as earlier). Similarly, the selected sample villages that are now included in the Ganganagar block were included in the Ambassa block during 2011 census operation.
- b) At present, there are elected 591 Gram Panchayats and 587 Village Committees, against 878 revenue or census villages. As a result, the name of the elected GP or VC does not always match to that of the census village. In fact, out of the 8 sample village committees, 6 of them match that of the census villages. But, in the case of sample VC Devipur, the corresponding census village is Uttar Debipur. And the census village Tuichhama is actually corresponding to VC Uttar Tuisama.
- c) It may be mentioned here that 2011 census can provide us an overall socio-economic condition of the sample villages and be taken as the benchmark indicators of the amenities of the sample villages.

3.3.1. Demography :

In Table 1-3.3, some basic demographic information on the sample villages as per District Census Handbook 2011 is provided.

- The Child population (0-6 years) in Ganganagar village is unusually low (7.7 %).
- The SC population in Rajkang village is quite high (21%), while in other villages it is less than 1%. The ST population is more than 80% in 4 of the sample villages, while in others it is around 50%.
- Literacy rate is very high, among both males and females (82%) in Kurmacherra village.
- Percentage of main workers is maximum (57.74 %) in Radharambari village, and minimum (13%) in Dasamanipara village.
- Predominance in cultivators in Devipur, Radharambari and Ganganagar, while agricultural labourers is predominant in Kurmacherra and Dasamanipara villages

Table-3.3 : Selected Information for the Sample Villages

District / Block	South/Bagula		Gomti /Amurpur		Dhals/Gangnagar		North / Dusda	
Sample Village and Items of Information under Census 2011	Lazmicherra	Uttar Dewipur	Rajkang	Karmacherra	Radharamburi	Gangnagar	Uttar Tuisarra (Talehara)	Dasara Anigara
1. Total Households	350	392	718	291	123	121	961	163
2. Total Population	1867	1719	3138	1172	523	1063	1557	721
a) Male	765	493	1560	593	270	287	2372	416
b) Female	802	457	1578	582	253	256	2185	355
3. Total Population (0-6 Years)	311	277	380	189	90	81	735	172
a) Male	125	115	190	97	51	41	355	96
b) Female	116	143	190	92	43	40	380	77
4. Age 0-6 Yrs Population(%)	15.38	5.84	12.40	16.29	18.93	7.77	16.13	22.71
5. Total SC Population	0	1	660	3	1	1	11	0
6. Share of SC Population	0	0.05	21.04	0.26	0.19	0.10	0.24	0
7. Total ST Population	1457	1402	1814	1164	519	484	2263	402
8. Share of ST Population	92.98	80.16	57.81	99.76	99.74	16.40	19.64	55.14
9. Literacy Rate Total (%)	62.72	54.51	72.94	81.61	62.9	78.04	68.05	53.83
Male (%)	68.89	65.48	80.76	81.96	68.89	88.94	75.97	66.35
Female (%)	56.85	43.52	65.21	81.27	56.52	64.53	59.05	39.15
10. Total Worker (Number)	564	955	1398	664	313	781	2247	466
11. Total Worker (% of Population)	33.99	54.43	44.55	56.51	59.45	74.88	49.31	60.44
a) Male (%)	55.42	54.14	57.63	56.66	58.15	86.02	56.28	55.53
b) Female (%)	17.46	54.72	31.62	56.76	61.66	40.63	41.74	66.2
12. Total Main Worker (No)	562	689	1027	555	302	185	1401	102
13. Main Worker % of Population	29.01	39.39	32.72	47.23	57.74	17.74	30.74	13.22
a) Male (%)	45.1	48.99	51.28	54.97	56.67	22.61	44.35	23.8
b) Female (%)	5.96	29.4	17.55	39.34	58.89	2.75	15.97	0.85
14. Composition of Main Workers								
a) Cultivation (%)	36.99	56.89	14.41	3.24	56.62	62.7	25.91	16.67
b) Agricultural Labourer (%)	18.62	8.14	26.68	89.37	28.08	2.7	35.11	66.67
c) Other Main Workers (%)	44.15	24.96	58.71	6.85	5.96	34.59	35.4	16.67
15. Marginal Worker % Population	30.49	27.63	26.54	16.42	2.1	57.14	18.56	47.21
16. Non Worker % of Population	66.01	45.57	55.45	43.49	40.15	25.12	50.69	39.56

Source: District Census Handbook, 2011

3.3.2. Amenities :

District Census Handbook provides information on amenities for each census village. It may be noted that for some amenities like housing, drinking water, lighting, latrine, drainage etc are presented only for the district and block wise (and not village wise). So, this information is excluded here. Amenities in the sample villages as per Census 2011 are given in Table 3.4 and 3.4A.

Table-3.4: Amenities in the Sample Villages

District / Block	South/Hagari		Guria / Anagar		DhalabGanganagar		North / Basda	
Sample Village and Amenities as per District Census Handbook 2011	Laxmicherra	(Uttar) Daspur	Rajrang	Karna Sena	Radhama nihar	Gangwan gar	Uttar Tuisant (Tuphlangam)	Dasmaz pam
Education								
Pre-Primary School	2	b	b	2	a	a	a	1
Primary School	3	3	3	3	2	1	6	1
Madia School	1	1	1	1	1	1	1	1
Secondary School	1	1	1	1	1	b	c	1
Other	IT&I							IT&I
Health								
CHC	c	c	b	c	c	c	c	c
PHC	a	c	b	c	c	1	c	b
Sub-centre (PHS)	1	b	b	c	1	a	2	c
MCW	c	c	1	c	c	c	b	c
Dispensary (DH)	1	1	b	1	c	c	1	1
Veterary Hospital (VHL)	1	b	1	1	c	c	c	c
FWC	c	c	b	c	c	c	c	c
Traditional	1	b	1	3	11	11	11	3
Drinking Water								
Tap Water	Yes	Yes	Yes	No	No	No	Yes	No
Well	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Hand Pump	Yes	No	Yes	Yes	No	No	Yes	Yes
Tube Well/Bore Well	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Spd	No	No	No	No	Yes	Yes	No	No
Canal / Canal	No	No	Yes	Yes	yes	Yes	Yes	Yes
Canal / Pond / Lake	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Other	Yes	No	No	No	No	No	No	No
Sanitation								
Community toilet Excl Barh	No	No	No	No	No	No	Yes	Yes
Sanitary Hardware Shop	No	No	No	No	No	No	No	No
Community Bio gas	No	No	No	No	No	No	No	No
Communication								
Post Office	c	c	a	Yes	c	c	c	c
Sub-Post Office	Yes	Yes	Yes	c	a	a	a	Yes
Post & Telegraph Office	c	c	a	c	c	c	c	Yes
Telephone (Land lines)	a	c	Yes	Yes	c	c	c	Yes
Public Call Office	1	c	11	c	c	c	c	Yes
Mobile Phone coverage	Yes	Yes	Yes	Yes	Yes	Yes	a	a
Internet Common Service	c	c	a	c	c	c	c	c

Source: District Census Handbook, 2011 * Note : A, B, C denotes

Table 3.4A: Amenities in the Sample Villages

District / Block Sample Village and Amenities as per District Census Handbook 2011	South Dugaili		Comit/Amarpur		Dholaj/Cheganagar		North / Doodh	
	Lamachauri	Chitrey Dolepur	Engaul,	Kumard ara	Bachan mbari	Changan ar	Uthra Porsana (Chokhama)	Doodh anipara
Communication (contd.)								
Post office (Public & Post)	b	c	Yes	c	Yes	c	a	Yes
Auto Service	c	c	Yes	c	a	c	a	c
Trucks and Vans	c	c	Yes	c	Yes	c	a	c
Traders	c	c	Yes	Yes	Yes	c	a	c
Cycle/Rickshaw Service	c	c	Yes	c	a	c	a	c
Cabs driven by Animals	c	c	c	c	a	c	a	c
Rover Drive Service	c	c	c	c	a	c	a	c
Connected to NF	b	c	c	c	a	c	a	a
Connected to SIF	c	c	Yes	c	c	c	Yes	Yes
Connected to M JIC	c	c	Yes	Yes	a	Yes	a	c
Connected to O JIC DR	c	c	c	c	c	Yes	a	c
Power Banks	Yes	a	Yes	c	a	Yes	a	a
Kandhari Roads	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Finance and Banking								
Co-op & Low-cost Bank	c	c	a	c	a	c	a	Yes
ATM	c	c	c	c	c	c	a	b
Agricultural Credit Society	c	c	b	c	c	c	a	Yes
Self Help Group (SLG)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Other Amenities								
PHS Shop	Yes	Yes	Yes	Yes	a	b	Yes	Yes
Market / Key market	Yes	b	Yes	Yes	a	a	Yes	c
Weekly Fair	Yes	Yes	a	Yes	Yes	Yes	Yes	Yes
Agri Marketing Society	c	Yes	a	c	b	c	a	Yes
ICDS Centre	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Anganwadi Centre	Yes	c	Yes	Yes	Yes	Yes	Yes	Yes
ASHA	Yes	b	Yes	Yes	Yes	Yes	Yes	Yes
Community Centre	c	c	Yes		a	c		b
Sports Field	c	b	Yes	Yes	a	b	Yes	Yes
Cinema / Video Hall	b	c	c	c	c	c	a	b
Public Library	c	c	b	c	c	c	Yes	Yes
Newspaper Supply	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Postm. station	Yes	Yes	Yes	Yes	a	Yes	Yes	Yes
Birth & Death Registration	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Domestic power supply	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Agricultural power supply	Yes	Yes	Yes	Yes	No	No	Yes	No

Source: District Census Handbook, 2011

Note: If amenities available code - Yes is given, otherwise code - No. If not available within the village, the distance range code viz; a for < 5 Kms, b for 5-10 Kms and c for above 10 kms of nearest place where facility is available is given)

3.3.3. Salient Features of the Sample Villages

- **Population:** Uttar Tuisama (Tuichhama) is the village with largest area and population, and Rajkang is the 2nd largest populous village but 6th village in order of area. In terms of density of population, Rajkang is the first, while Dasamanipara is the last.
- **Education:** Out of the 8 sample villages, 5 have no pre-primary schools, but in Laxmicherra and Kurmacherra, there are 2 pre-primary schools each, while Dasamanipara has 1 school. All the sample villages have at least one primary and one middle school. And all the villages, except Ganganagar and Uttar Tuisama (Tuichhama) have 1 secondary school. And Laxmicherra and Dasamanipara have another Higher Secondary school.
- **Health:** In all the sample villages, there is no Community health centre (CHC) or Primary health sub centre (PHS), except in the Ganganagar village where there is 1 PHS. Primary health sub centre (PHS) is also not available in the sample villages except in Laxmicherra, Radharambari and Uttar Tuisama (Tuichhama). These health institutions are available around 10 kms away. Dispensary (D) service is available in uncovered village of (Uttar) Devipur, Kurmacherra and Dasamanipara. So, every sample village at least one health institution from Dispensary upwards. Veterinary hospital (VH) is available only in 3 villages, namely, Laxmicherra, Rajkang and Kurmacherra. In one village, Rajkang, traditional practitioner and faith healer is available.
- **Drinking Water:** Tap water (Treated/Untreated) is available in half of the sample villages. Each village has at least one source of under-ground water like Tube wells / Bore well, Hand pump and Well water (Covered / Uncovered). Every sample village uses at least one source of surface water (Spring, River / Canal and Tank / Pond / Lake).
- **Communication:** Only in the Kurmacherra village, there is one Post Office, and in 4 of the villages has only a Sub-post office. While in 3 of the sample villages (Radharambari, Ganganagar and Uttar Tuisama (Tuichhama) there is neither any Post office or Sub-post office. It may be mentioned that all the sample villages, except Dasamanipara and Uttar Tuisama (Tuichhama) is covered by the Mobile phones. And none of the sample village is covered by the Internet service.
- **Road Transport:** Bus services are available in the 3 sample villages (Rajkang, Radharambari and Dasamanipara). Rajkang is the only village where all the road transports are plying. Pucca road is available in only 3 sample villages (Laxmicherra, Rajkang and Ganganagar). 3 sample villages (Rajkang, Kurmacherra and Ganganagar) are connected to major district road (MDR).
- **Finance and Banking:** The banking service and Agricultural Credit Society is available only in the Dasamanipara village. In other villages, this service is available beyond 10 kms. It may be pointed out that in all the sample villages, Self-Help Group (SHG) has been constituted.

- **Baric Amenities:**

- ✦ Public distribution system (PDS) shop is available in all the sample villages except in Radharambari and Ganganagar village.
- ✦ Mandis / Regular market has been established in 4 sample villages.
- ✦ Weekly Haat is organized in all the sample villages except Rajkang.
- ✦ Agricultural marketing society is functional only in (Uttar) Devipur and Dasamanipara.
- ✦ ICDS Centre has been established in all the sample villages.
- ✦ Anganwadi Centre has been established in all the sample villages except (Uttar) Devipur.
- ✦ ASHA has been established in all the sample villages except (Uttar) Devipur.
- ✦ Community Centre has been established only in Rajkang.
- ✦ Sports Fields are available in half of the sample villages.
- ✦ There is no Cinema/ Video Hall in any sample villages.
- ✦ There is no Public Library in villages except Uttar Tuisama (Tuichhama) & Dasamanipara.
- ✦ Newspapers are being supplied in all the sample villages.
- ✦ Assembly Polling station existed in all the sample villages except in Radharambari.
- ✦ The facility of Birth & Death Registration is available in all the sample villages.
- ✦ Domestic power supply is available in all the sample villages.
- ✦ Agricultural power supply is available in all the sample villages except Radharambari, Ganganagar and Dasamanipara.

3.3.4. Land Use Pattern in the Sample Villages

As reported by Census Handbook 2011, Land Use Pattern in the Sample Villages is given below (**Table-3.5**)

Table-3.5: Land Use Pattern in the Sample Villages

District / Block	South/Baguafa		Gomti /Amurpur		Dhalai/Ganganagar		North / Dasdu	
Land Use Pattern in the Sample Villages	Laxmi cherra	(Uttar) Devipur	Rajkang	Kurmacherra	Radharambari	Ganganagar	Uttar Tuisama (Tuichhama)	Dasamanipara
Total Area (hectare)	1333	1081	913	513	608	1510	1879	1385
Total Population	1567	1719	3118	1175	523	1013	1557	771
Population Density	118	162	344	229	86	69	243	56
Total Households	350	395	718	291	123	121	961	163
Distance from Town	c	c	b	c	c	c	c	c
Land Use								
Forest Area (ha)	405	405	336	177	41	464	1522	1236
Forest coverage (%)	30.38	37.47	36.80	34.50	6.74	30.73	81.00	89.24
Area Non-agri Uses(ha)	802	517	19	46	547	862	53	15
% of Non-agri uses	60.17	47.83	2.08	8.97	89.97	57.09	2.82	5.42
Un-cultivable land(ha)	1	10	0	0	0	0	52	0
Permanent Pastures(ha)	1	0	10	0	0	0	13	0
Land under Misc Use(ha)	1	0	0	56	0	0	13	43
Cultivable Waste (ha)	1	60	0	0	20	60	9	0
Fallow Land (ha)	1	0	54	0	0	0	0	0
Current Fallow (ha)	1	0	0	0	0	0	0	0
Net Area Sown (ha)	119	90	799	352	0	31	208	31
% of Net Area Sown	8.93	8.33	87.51	49.12	0.00	2.05	11.07	2.24
Irrigated Area (ha)	0	41	32	0	0	21	147	0
% of Irrigated Area	0	3.76	3.50	0.00	0.00	5.01	7.82	0.00
Other Areas (ha.)	0	41	32	0	0	0	147	0

Source: District Census Handbook, 2011

It is evident from the Table-3.5 that-

- Forest coverage is more than 80% in the Uttar Tuisama (Tuichhama) & Dasamanipara village. And in the Radharambari it is only 7%, and in the remaining 5 villages forest coverage is about 35%.
- About 90% areas in Radharambari is for non-agriculture use, while in 3 sample villages (Laxmicherra, (Uttar) Devipur and Ganganagar), it varies between 50% to 60%. And in the remaining 4 sample villages, it is less than 10%.
- Net Area Sown is maximum in Rajkang (87.5%) and then in Kurmacherra (49%). In the remaining 6 sample villages, the Net Area Sown is about less than 10% of the total areas.
- Irrigated area is less than 8% in half of the sample villages, and nil in the remaining sample villages.

3.6 : Amenities and Assets in rural areas of the Sample Blocks

Item / Rural Block	Bagairi	Amnarpur	Changanmagan / Amhasan	Dandla
Total Rural Households	29,637	12,860	11,600	18,440
1. Housing condition				
a) Permanent	1,710 (5.8%)	708 (5.51%)	595 (5.16%)	265 (1.43%)
b) Semi Permanent	21,197 (72.2%)	19,119 (78.68%)	8,577 (74.26%)	8,937 (48.49%)
c) Temporary	6,455 (21.98%)	2,035 (15.9%)	4,030 (34.72%)	9,200 (49.97%)
2. Main source of Drinking water				
a) Tap water from treated source	693 (2.31%)	3,263 (25.37%)	693 (5.97%)	739 (4.01%)
b) Tap water from untreated source	7,098 (23.98%)	2,719 (21.2%)	2,100 (18.1%)	2,822 (15.3%)
c) Covered well	251 (0.85%)	248 (1.93%)	412 (3.55%)	126 (0.68%)
d) Un-covered well	7,571 (25.54%)	4,030 (31.41%)	5,171 (44.58%)	4,011 (21.79%)
e) Handpump	8,604 (29.03%)	727 (5.62%)	912 (7.86%)	1,407 (7.63%)
f) Tubewell/Borehole	4,200 (14.15%)	1,275 (9.91%)	782 (6.74%)	1,251 (6.78%)
g) Spring	735 (2.47%)	347 (2.66%)	513 (4.41%)	416 (2.25%)
h) River/canal	203 (0.68%)	197 (1.53%)	655 (5.65%)	2,951 (16.01%)
i) Tank/pond/Lake	810 (2.73%)	77 (0.6%)	71 (0.61%)	107 (0.58%)
j) Other Sources	235 (0.79%)	17 (0.13%)	510 (4.39%)	98 (0.53%)
3. Main source of Lighting				
a) Electricity	17,804 (60.07%)	8,719 (64.44%)	5,582 (48.98%)	7,506 (40.73%)
b) Kerosene	11,387 (38.42%)	3,959 (30.79%)	5,306 (46%)	16,514 (89.26%)
c) Solar	347 (1.17%)	401 (3.12%)	546 (4.71%)	938 (5.09%)
d) Other oil	47 (0.16%)	51 (0.4%)	13 (0.11%)	11 (0.06%)
e) Any other	8 (0.03%)	21 (0.16%)	2 (0.02%)	22 (0.12%)
f) No lighting	44 (0.15%)	89 (0.69%)	21 (0.18%)	11 (0.06%)
4. Type of Latrine facility				
a) Flush/Pot latrine				
i) Piped sewer system	492 (1.64%)	122 (0.95%)	443 (3.82%)	492 (2.67%)
ii) Septic tank	874 (2.95%)	671 (5.22%)	446 (3.84%)	361 (1.96%)
iii) Other system	1,400 (4.72%)	1,577 (12.26%)	784 (6.76%)	1,477 (7.94%)
b) Pit Latrine				
i) With slab/Ventilated improved pit	11,697 (39.2%)	5,141 (39.98%)	5,885 (50.75%)	4,912 (26.65%)
ii) Without slab/open pit	7,145 (24.11%)	2,151 (16.8%)	1,744 (15.02%)	3,552 (19.25%)
c) Night Soil disposed into open drain	37 (0.12%)	37 (0.29%)	11 (0.09%)	21 (0.11%)
d) Service Latrine				
i) Night soil removed by human	16 (0.05%)	11 (0.09%)	17 (0.15%)	97 (0.53%)
ii) Night soil removed by animals	19 (0.06%)	20 (0.16%)	27 (0.23%)	152 (0.82%)
e) No latrine within premise				
i) Pacht Latrine	1,109 (3.74%)	513 (4.04%)	538 (4.63%)	809 (4.39%)
ii) Open	4,947 (16.69%)	2,279 (17.73%)	4,506 (38.87%)	6,972 (37.84%)

Source : Census of India 2011

Note : Figures in the brackets give the percentages of the households

Implementation and Performance of FRA in Tripura

4.1. Implementation of FRA in Tripura

The directions of the MoTA on FRA and role of the Tripura Government

4.1.1. Awareness-Raising

[MoTA instructed that “each state should prepare suitable communication and training material in local language for effective implementation of the Act”. Besides, “The State Nodal Agency should ensure that the SDLC and the DLC make district-wise plans for trainings of revenue, forest and tribal welfare departments’ field staff, officials, Forest Rights Committees and Panchayat representatives.

Most of the forest dwellers and patta holder are tribals. But, the state Government published a booklet only in Bengali language in 2008. The FRA Act and Rules were never translated in “kokbarok” language. The FRA Rules of 2012 was never translated in any local language. In our sample blocks, it has been observed that the training on FRA for the elected Village Council members were far from satisfactory. Besides, it has been found out that the awareness and knowledge level among most of the sample households is very poor.

4.1.2. Monitoring of FRA implementation

It was disappointed to find that the minutes of the meetings of our sample district or sub-divisional level are not available for any point of time. The same situation prevails in our sample Village Council (VC) level. It was observed, in the sample villages, that the complete list of the patta holders is not generally transferred to the respective VCs. As a result, the partial list of patta holders is available at the VC level. The only other source of patta holders (again partial) is the annual report of the VC. The very encouraging phenomena, found in our survey, are that in most cases of the patta holders, their land was demarcated and they have also received the sketch of the plot.

The possible reasons might be as follows:

- As by May, 2012, 92 percent of the total potential claimants and 96 percent of total potential title holders for distribution of the forest land was covered, the SDMC and DLC did not find any interest for monitoring the process during last five years. This may

Implementation and Performance of FRA in Tripura

also be the reason for not circulating the crucial FRA Rules of 2012 in any local language (although the state representative promised in the MoTA sponsored National Meeting on Implementation of the FRA in December, 2012, “A booklet / pamphlet on Amended Rules, 2012 is being prepared in local languages for distribution to all implementing agencies /PRIs.”) .

- During 2015, the election to the VCs was held. Most of the newly elected members, as revealed from our survey, have very little knowledge about the FRA. They are only aware that pattas were given and some sort of assistance is to be provided to them. Most of them are also not aware from which department the assistance to the patta holder would flow. There was no training, particularly, for the newly elected members.
- In the sub-division and district level, most of the officers who were involved in the initial stage were moved from their earlier positions during last 5 years. And no orientation programme was arranged for the new people. It is a pity that both the State Government and the Government of India did not take into consideration that continuous training and reorientation programme is the basic pre-condition of the successful implementation of the FERA 2006.

4.1.3. Rejected Claims

MoTA instructed the State Governments that “In the event of modification or rejection of a claim by the Gram Sabha or SDLC or DLC, the decision on the claim should be communicated to the claimant to enable the aggrieved person to prefer a petition to the SDLC or the DLC.” And “All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution/ recommendation should be recorded the reasons for not accepting the recommendations of the Gram Sabha, in writing, and a copy of the order should be supplied to the claimant.”

It may be mentioned that in the said National Meeting on Implementation of the FRA in December, 2012, Tripura Government promised that “Grounds for rejection have been listed and the concerned claimants shall be informed by 30 June 2013.” And “Claims rejected for want of documents shall be reviewed by June 2013.” It appears, state government did not take any step to fulfill its promise. That is why the figure of the rejected claim remained static from 2012 to 2015. The abnormal rise of the rejected claim figures for the year 2016 and 2017 would only raise the doubt that whether the members of the SDLC and DLC are fully aware of the process of claim rejection. We had the similar experiences in our sample sub-divisions. In our sample villages we did not receive any complain of claim rejection.

4.1.4. Conversion of all forest villages into revenue villages

MoTA suggested the following procedure for Settlement and Conversion into revenue villages in 2013. The major procedural steps are as follows:

Forest Rights Act in Tripura An Assessment

1. All villages/settlements on forest land should be identified with the help of District Statistical Handbooks and Census Village Directories. All settlements with zero revenue land should be presumed to be forest villages in order to be converted into revenue villages under the Act.
2. The Sub-Divisional Officers of the Sub Divisional Level Committee shall consolidate the lists of hamlets and habitations which at present are not part of any village but which fall within the definition of ‘forest villages’ under Section 3(1)(h) of the Act, and shall forward the same to the Collector.
3. Collector shall be responsible for ensuring that residents of such villages/old habitations are enabled to claim their conversion/settlement.
4. The list as prepared in each district, with updates of new additions where applicable, shall be communicated to the State Level Monitoring Committee, which should maintain a consolidated state-wide list of forest villages and old habitations and the status of their conversion.
5. A claim for the conversion of forest villages, old habitations, unsurveyed villages and other villages on forest land, whether recorded, notified, or not, into revenue villages under section 3(1)(h) of the Act, shall be made collectively by the Gram Sabha of the settlement.
6. A progress report, with the district-wise list of forest villages and the status of their conversion, should be communicated to the Ministry every three months.

It appears that the State Government have not taken any action for conversion of forest villages and other such villages into revenue villages as the State Forest Department officials, it seems, still consider that the provisions of the Forest Rights Act, 2006 do not supersede the provisions of Forest (Conservation) Act, 1980. Besides, State Government is found to be not furnished any report on the status of conversion of the forest villages.

4.1.5. Community Rights and Community Forest Resource Rights (CFR)

The community rights are the various rights under Section 3(1) which are vested and recognized in a village community, and exercised together as a community. This would include nistari rights, the right to MFP, fishing and grazing rights, to conversion of forest villages into revenue villages, right to access biodiversity and intellectual property rights and so on. While, the Community Forest Resource (CFR) is the customary common forest which harks back to the traditional or customary boundaries of the village, and includes seasonal use of pastoralists. And even where such traditional or customary forests have been declared as protected areas, they are still included within the definition of CFR. The CFR right, therefore, is much wider than the various community rights delineated under Section 3(1) in that it extends over a geographical area where the community traditionally and customarily had access, and also vests important responsibilities and powers in the Gram Sabha to ensure the CFR area, and the wildlife, water sources, forests, and biodiversity it comprises, is protected from harm.

In the Citizens’ Report (2015), it has been estimated that minimum potential for CFR recognition in Tripura is 357057 hectares, but the state actually distributed only 36.76 hectares under community forest rights. In the National Meeting on Implementation of the FRA in December, 2012, it was recommended that “The (Tripura) State Government needs to clearly formulate the plans related

Implementation and Performance of FRA in Tripura

to recognition of CFR rights where they have not yet been implemented. Clear assessment has to be undertaken to list all the villages with forest interface” It is unfortunate that the State Government is yet to any steps for recognition of community rights.

It has also been observed that the rights of some nomadic tribes who are also PVTGs have not been properly addressed since their customary practices over their geo-physical spread of resources have not been properly defined and addressed under FRA by the concerned authorities. Besides, the shifting cultivations practised by PVTGs are also not recognised in the field over their shifting cultivation patches. They are encouraged to apply for land settlement under individual rights for which the concerned communities are yet to be ready.

The poor performance of Tripura, like many other states is that there is a general lack of in-depth understanding about Community Forest rights (CFR) provisions and the empowerment they bring to local communities. Sometimes, even awareness of the FRA at a rudimentary level is lacking.

4.1.6. Minor Forest Produce (MFP)/Non- Timber Forest Product (NTFP)

According to the guidelines of MoTA, “The monopoly of the Forest Corporations in the trade of MFP/NTFP, especially in case of high value MFP/NTFP is against the spirit of the Act and should henceforth be done away with.” And also The State Governments should exempt movement of all MFPs/NTFPs from the purview of the transit rules of the State Government and, for this purpose, the transit rules be amended suitably. Even a transit permit from Gram Sabha should not be required. Imposition of any fee/charges/royalties on the processing, value addition, marketing of MFP collected individually or collectively by the cooperatives/ federations of the rights holders would also be ultra vires of the Act.”

In our sample households we have not received any complain whether tribal communities are not getting the benefits of ownership of MFP/NTFP. They mostly sale their MFP/NTFP in the local market But, the State Government is to amend the transit rules. The Forest Corporations still controls the trade of MFP/NTFP.

4.1.7. Diversion of Forest Lands

According to the guidelines of MoTA, “No eviction should take place till the process of recognition and vesting of forest rights under the Act is complete.” And, “The State Governments should ensure that the rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers, residing in National Parks and Sanctuaries are recognized first before any exercise for modification of their rights or their resettlement, if necessary, is undertaken and no member of the forest dweller is evicted from such areas without the settlement of their rights and completion of all other actions required under section 4 (2) of the Act.”

Both the Central and state governments have made repeated attempts to dilute the requirement of informed Gram Sabha consent for forest diversion in MoEFCC’s August 3, 2009 circular. FCA Amended Rules 2014, empower the collector to seek Gram Sabha consent “wherever

required” when neither the FRA or its Rules vest such powers in the collector. MoTA has repeatedly made it clear that such circulars and orders exempting compliance with FRA are illegal, but without much effect.

The State Governments, in the National Meeting on Implementation of the FRA in December, 2012, reported that “Percentage of Critical Wildlife Habitats (CWH) area of the total protected area is 66% and total families likely to be affected is around 2055.” It has been reported that most of the evicted or displaced from forest land families were rehabilitated.

In 2015, State Government passed “Tripura Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2015”. In this Rules, there is a special provision for acquisition of land in Scheduled Areas. There may be a scope of applying this Rules 2015 to the rehabilitation of the evicted or displaced forest land families.

4.1.8. Use of technology for Implementation of FRA

MoTA has issued, in 2015, the following guidelines for use of technology in FRA implementation

- Geo-referenced database of vesting of rights and maps may also be created in order to ensure proper implementation of Forest Rights Act. The geo-referenced data should be corroborated with other sources of information supplemented with ground verification as delineated under Rule 13 of the FR Rules so as to rule out possibility of wrongful claims or denials.
- For identification of forest land under the Community Forest Resource rights and community purposes, geo referencing may, particularly, be useful.
- In Sixth Scheduled areas, most of the rights have already been vested. These recognized rights should be translated into individual and community record of rights as per the process laid down under FRA, 2006.

Government of Tripura has already started preparing Geo-referenced database mainly for the MGNREGS. Using the GPS technology, State Government has completed Demarcation of Patta Forest land. In our sample villages, it has been observed that the FRC or VC are not involved in the GPS mapping.

4.2. Implementation Process of FRA in Tripura

In the implementation of FRA there are issues at 2 stages: first the policy, legislation and rules are proper and in place and second, the actual execution or implementation of the process. The status of implementation of the act remained extremely poor since the very beginning. Various civil society organizations (CSOs) were reported the facts of the problems in the implementation process either inherent in the act or rules or created by the implementing agencies of the Government and presented them MoTA. MoTA and MoEF had constituted a joint committee in April 2010, to review the implementation process of FRA in the country. The overall finding of the committee is that, the implementation of the FRA has been poor and therefore it's potential to achieve livelihood security of forest dwelling communities and it's hardly possible to changes in forest governance along with strengthening the forest conservation. (Manthan, Report of National Committee on Forests Rights Act, December 2010)

Implementation and Performance of FRA in Tripura

The FRA came into force in Tripura in January 2008. As per provision of the Forest Rights Act, Tribal Welfare Department is the Nodal Department for implementation of the various provisions of Forests Rights Act 2006. As per provisions of the SoTFD (RoFR) Act, 2006 and SoTFD (RoFR) rules, 2007 various committees were formed in the state at different level for smooth and effective implementation of the act which are as follows.

1. FRC committees for all gram Panchayat and village committees under Tripura Tribal Area Autonomous District Council
2. Sub-divisional level committee (SDLC) for all sub-divisions
3. District Level Committee (DLC) for all districts
4. State Level Committee (SLC) for each state and chief secretary is the chairman of the committee.

In Tripura, the implementation procedure has been done mainly through 3step mechanism (FRC at Gram Sabha level, SDLC at sub-divisional level, and DLC at District level) mainly deals with claimants application received to distribution of the certificate of entitlement through the involvement of other department like Village council office, department of Tribal welfare, department of forest and Tehsil.

Step-I

At first claimants collected 'form' which was distributed by village council office or tribal welfare department at sub-divisional level. There are 2 types of claimants form, under Annexure-I, form-A is a 'claim form for Rights to forest land' and form-B is a 'claim form for community Rights'. Annexure-II is a title for forest land under occupation and Annexure-III is a 'Title to community forests rights'. In Tripura most of the claimants were applied for individual forests rights under form-A and some of the claimant(s) had been filled up form-B for community rights. Claimants were also instructed to submit the proof of residence with time period since he/she (claimant) have been living for, Ration card, Aadhar card, Voter ID card with filled up form. After annex all the documents claimant(s) were submitted it to the FRA committee in their respective village council office and village officials received the application form by completing an instant verification whether all the necessary documents were arranged or not. After receiving a good number of applications, Village council arranged a 'Gram Sabha' meeting with FRC members and all the claimants in the village. After proper verification of documents and scrutinize their existence village council have been passed a resolution by the name of all claimants those applied for 'patta' land under FRA 2006. After passes the resolution they sent it to the tribal welfare department at sub-divisional level.

Step-II

After receiving the applications from village council, SDLC has called a meeting, which was chaired by SDM and SDFO was the member secretary and all the SDLC member were present in the meeting including other official representative from forest, Revenue Inspector (RI), Tehsildar from respective tehsil mauza. An order was issued in the meeting for joint inquiry which was conducted by Department of forest and Tehsil to verify those forest lands/plots of which was claimed for patta

land by the claimants/villagers/forest dwellers. Mainly President and Secretary or any other member of FRA committee at village level might be present during the joint inquiry as s/he was well aware about the proper existence and rationale of their claimed forest land/plot of claimants within the village boundary. This joint inquiry have been conducted so that, authority could be able to check or investigate whether the claimed forest land was 'dense forest or not' or 'is it wild life area or not' or may be land occupied by someone else or any allegation by the neighbours or not etc. If anything found wrong which was violate the any provisions of this act then the claim was summarily rejected by the authority and if everything was found genuine, the SDLC prepared a final list of valid claimants and approved and the list sent to the DLC at District level.

Step-III

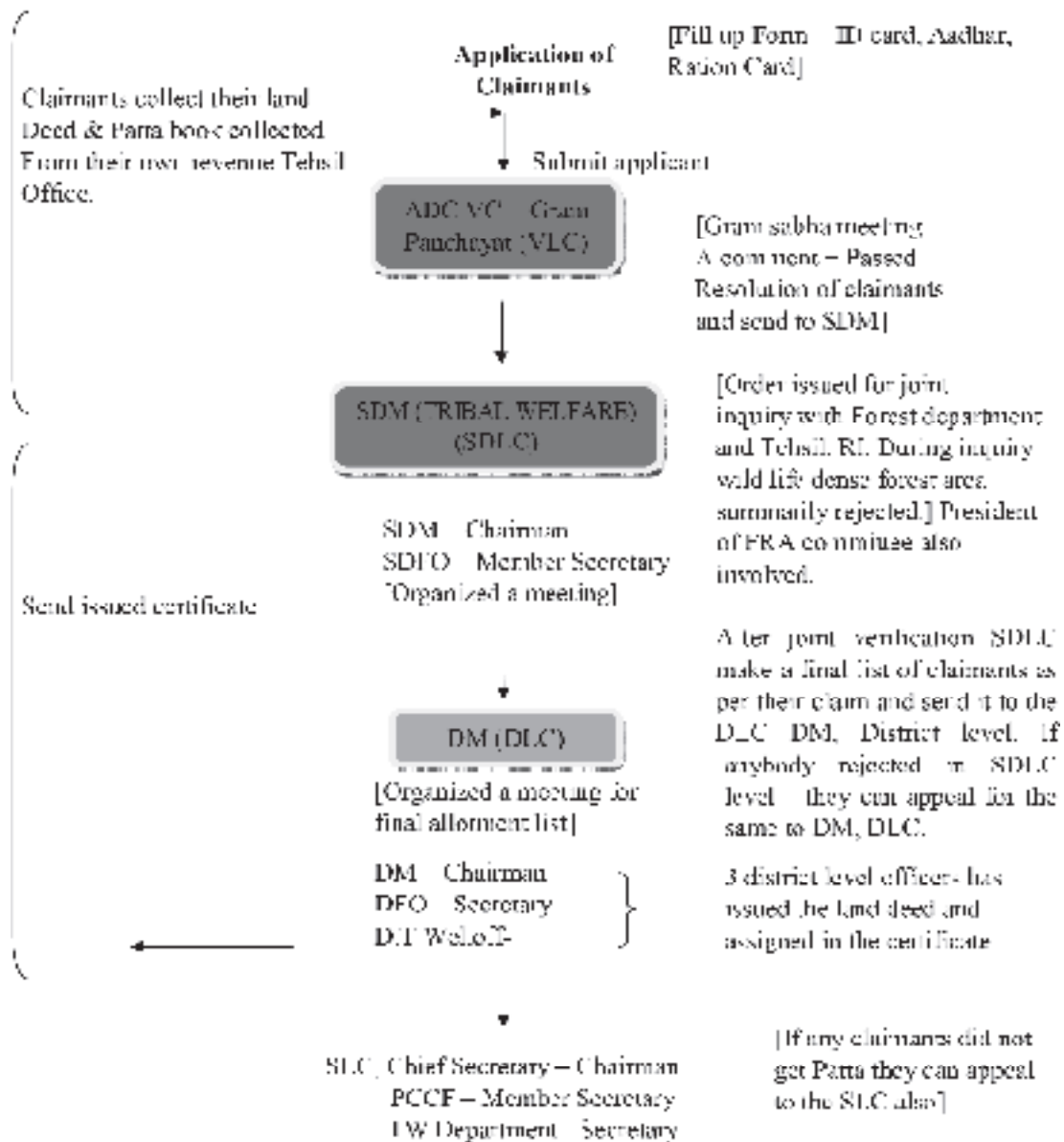
After receiving the approved list from SDLC, the DLC would conduct a meeting of whom DM/ DC acted as Chairman, DFO acted as a Secretary and in the presence of District Tribal Welfare officer or officer in charge of the tribal affairs and other members were present from District Panchayat and members nominated by ADC or Regional Council. Three district level officer (DM/ DC, DFO, TWO) was the undersigned for and on behalf of the Government of Tripura to confirm the forest rights by the claimants name. After issuing the certificate (land deed), DLC sent it to SDLC and then beneficiaries were collected their certificate of allotted land from SDLC/ Village Council office and later on a 'pass book' of patta have been issued which was distributed by the respective revenue Tehsil/Taluk/Mauza of where beneficiaries were belong to.

Apart from DLC at District level, a State Level Committee (SLC) also formed in the structure as per provision of the act. The SLC was chaired by Chief Secretary, Principle Chief Conservator of Forests (PCCF) was member secretary and other members from various department (Revenue, Tribal or Social Welfare, Forest, Panchayati Raj Department). SLC mainly liable for overall monitoring the process of recognition and vesting of forest rights in the state. Also look after all the public grievances related to FRA implementation. In addition, it is important to mention that, if any claimants didn't get land rights (patta) or may be rejected for any reason at SDLC or Gram Sabha level, s/he was not satisfy with the reason of claims rejection then he/she may having full rights to appeal or filed all grievances in upper DLC level for justification and if claimants not satisfy by DLC's decision again he/she can appeal to SLC level for the more clarification against public grievance and SLC is the apex body of the entire FRA implementation structure.

And lastly after getting the land deed officially, beneficiaries were eligible to enjoy all (13 rights) the rights mentioned in the provisions of the act over the allotted land. Hereafter land demarcation process and pillaring has been started through concerned Tehsil-mouja and this process has been done in the presence of beneficiary and may be the presence of FRC members together in the village. A brief structure of FRA implementation process in Tripura is as follows.

Implementation and Performance of FRA in Tripura

Diagram 1: Implementation Process of FRA in Tripura



4.3. Compensatory Afforestation Fund Bill, 2016 (CAF) Vis-a-Vis FRA in Tripura

On the last day of the concluded Rajya Sabha session (May 2016), Prime Minister Narendra Modi told retiring members that they would probably have felt more satisfied had two crucial pieces of legislation been passed during their tenure. One, the PM said, was the constitutional amendment related to the Goods and Services Tax; the other was about setting up a new institution called CAMPA - Compensatory Afforestation Management and Planning Authority.

Compensatory Afforestation: The simple principle at work here is that since forests are an important natural resource and render a variety of ecological services, they must not be destroyed. However, because of developmental or industrial requirements, forests are routinely “diverted for non-forest purposes”. In such cases, the Forest (Conservation) Act of 1980 requires that non-forest land, equal to the size of the forest being “diverted”, is afforested. But since afforested land does not become a forest overnight, there is still a loss of the goods and services that the diverted forest would have provided in the interim period. Afforested land is expected to take no less than 50 years to start delivering comparable goods and services. To compensate for the loss in the interim, the law requires that the Net Present Value (NPV) of the diverted forest is calculated for a period of 50 years, and recovered from the “user agency” that is “diverting” the forests.

“User agencies”, which are often private parties, are not expected to undertake afforestation work themselves. This work has to be done by the state government. But the entire expenditure to be incurred on creating this new ‘forest’, including purchase of land for the purpose, has to be borne by the user. The state government eventually has to transfer this land to the forest department for maintenance and management. Thus, if any user agency wants to divert forest land for non-forest purposes, it has to deposit money for compensatory afforestation as well as pay the NPV, besides a few other charges. Currently, more than Rs 40,000 crore has accumulated from these sources, and the fund is increasing at the rate of about Rs 6,000 crore every year.

It is to manage this money, and to use it for the designated purposes, that CAMPA is proposed to be set up. The compensatory afforestation money and NPV are supposed to be collected from the user agency by the government of the state in which the project is located, and deposited with the central government. The money will eventually flow back to the state to be used for afforestation or related works.

Salient Features of the CAF Bill, 2016

- Establishment of non-lapsable, interest bearing National Fund under public account of union of India and constitution of a National Authority for its management and utilization.
- Establishment of non-lapsable, interest bearing State Fund under public account of each State and constitution of a State Authority for its management and utilization.
- Establishment of a Monitoring Group to assist National Authority in monitoring and evaluation
- Transfer of funds available with the ad-hoc CAMPA to National Fund, and further transfer of ninety percent to the respective State Funds
- Credit of future receipts directly to respective State Funds
- Transfer of ten percent of amounts credited directly into the State Fund during a year to the National Fund on year to year basis.

Implementation and Performance of FRA in Tripura

- NPV and penal NPV shall be used for artificial regeneration (plantation), assisted natural regeneration, forest management, forest protection, forest and wildlife related infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities in the manner as may be prescribed by the Central Govt.
- Central Government in consultation with the State Governments and after previous publication to make rules for carrying out the purposes of the Act. (CAMPA Rules is yet to be framed)

Table-4.1. CAMPA Funds (Rs. in crores)

Tripura / India	Total Amount as on 31.03.2016			Distribution Between centre and State	
	Principal	Interest	Total	Centre	State
Tripura	131.82	49.76	181.58	18.16	163.43
India	29,139.60	11000.00	40139.60	4013.96	36125.64

Source: The Compensatory Afforestation Fund Bill, 2016, A brief Overview, Ministry of Environment, Forest and Climate Change, Government of India

Civil society organisations of the country and abroad, including various movement groups and grassroots level organisations, had pointed out the numerous problems with the CAMPA Bill, in particular its probable adverse effects on the implementation of the Forest Rights Act. It was emphasised time and again that neither typical forestry operations such as plantations nor ecological interventions such as habitat regeneration and forest restoration can be successfully done without community consent, participation and control, in other words, implementing the Forest Rights Act in letter and spirit. In the post-FRA forest governance scenario of the country, forest department had only nominal control over many forest areas. Yet the CAMPA Bill does not even mention FRA, and unequivocally provides for the entire CAMPA funds to be spent through the forest bureaucracy.

The Supreme Court in 2013 (the Orissa Mining Corporation case) held that the decision of affected Gram Sabhas is necessary before diversion of forest land for non-forest purposes or for any development project, big or small. Failure to obtain such decision of the Gram Sabha prior to diversion of forest land would effectively nullify Section 5 of the Act.

Clearances of different kinds and under different statutory laws are required for development projects, such as “forest clearance” under the Forest Conservation Act, 1980, environmental clearance under the Environment (Protection) Act, 1986 and its various Rules and guidelines, and other clearances. These laws are, accordingly, regulatory in nature. The Gram Sabha is vested with the power and responsibility to protect, preserve, conserve and manage its forests and CFRs. Therefore, before forests in its area can be diverted for any other development purpose, the Gram Sabha has to consider this at a specially convened meeting, and after

carefully considering all factors, take a decision on the proposed diversion, after certifying that the rights recognition process is complete. This process is not comparable with the grant of a forest clearance or a 'No Objection Certificate' (NOC) by an administrative or regulatory authority. Instead, this process requires thoughtful and informed application of mind by the Gram Sabha so that it takes a careful and considered decision on the matter.

Hence, it may be concluded that the CAMPA Bill, 2016 is in contravention of the FRA act, 2006 and is liable to be declared void under the Court of Law.

4.4. The Indo-German Development Co-operation Project (IGDC)

The Indo-German Development Co-operation Project entitled "Participatory Natural Resource Management in Tripura" primarily aims at enhancing the livelihoods of poor rural people (with the focus on tribal shifting cultivators) and improvement in the environmental conditions in the target areas as a secondary purpose.

In view of the above, the Project envisages at selection of target groups with following characteristics, viz- high level of poverty (mostly but not exclusively), tribal communities, a high level of dependency on shifting cultivation, people living within and in proximity of high forest cover, degraded forest environment, inaccessibility, poor reaches to Government services and lack of infrastructure (roads, electricity, drinking water etc.), etc. The proposed implementation strategy of the Project aims at "Improved natural resource conditions for supporting enhanced livelihoods of forest dependent communities".

IGDC project started in Tripura during 2009 and extended initially first up to March, 2017 and then extended further.

Total project area : 3,43,100 ha (having about 65% forest area)

Total households : 61334 households (Population 2,65,825) having more than 94% ST and amongst which more than 70% are jhum cultivators and more than 67% BPL

Total Districts : Two (Dhalai & North)

There was eleven (11) blocks in the IGDC project area. Out of these 11 blocks, 2 blocks, namely, Ganganagar block in the Dhalai district and Dasda block in North district were included in the present study.

It may be mentioned here that one village, namely, Ganganagar in the Ganganagar block is common in the IGDC project area and our study area.

4.5. Progress of Implementation of FRA in Tripura

Each State Government and UT is required to submit Monthly Progress Report (MPR) on the FRA implementation to the Ministry of Tribal Affairs. The reports are available from the year 2008. Total Patta land distributed was reported from the year 2012. In the state, the community claim is minimal

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(277). The rejection of community claim was very high (222). It may be remembered that as per the Citizens' Report (mentioned earlier), the minimum potential for Community Forest Rights (CFR) Recognition in Tripura is 885,503 acres and land recognized under Individual Forest Rights (IFR) Recognition is 434,119 acres. But, in Tripura CFR forest land distributed only 550 acres, and IFR forest land distributed about the same as the Citizens' Report. Tripura report is given in Table 13.

Table - 4.2.: Progress of Implementation of FRA in Tripura

Period of Reporting of MPR by the MoTA	Total Number of Claims Received	Total Number of Titles Distributed	Title distributed as % of total Claims received	Total Para land distributed (acres)	Total Number of Claims Rejected	Total Claims rejected as % of total Claims received
Up to November 2008	53554	0				
Up to March 2009	160046	29507	18.44		28,169	18
Up to March 2010	164736	84750	51.45		73,697	45
Up to May 2012	182581	120013	65.73	4,16,555.58	21,384	12
Up to March 2013	183617	120473	65.97	4,16,555.58	21,384	12
Up to April 2014	1,82,617	120473	65.97	4,16,555.58	21,384	12
Up to May/ 2015	1,82,617	1,20,473	65.97	4,16,555.58	21,384	12
Up to April 2016	191653	122583	63.96	437,653.38	65,900	34
Up to April 2017	198015	125025	63.01	435,817.04	65,778	33

Source: Forest Rights Act, a weapon for democracy in the Forest, Vasundhara, 2017, www.fra.org.in

It may be pointed here that the information furnished by the MoTA varies marginally from that supplied by the state Tribal Welfare Department. The comparison, as on 31st March, 2017, is given below:

Table - 4.3.: Comparative Progress of FRA in Tripura and India

Item	TWD, GoT	MoTA, GoI
a) Claims received from Sch. Tribes (in nos.)	1,64,464	
b) Claims received from Other Traditional Forest Dwellers (in nos.)	23,774	
Total Claims received (a+b)	<u>198238</u>	<u>1,98,515</u>
a) Forest Rights so far vested - Sch. Tribes (in nos.)	1,27,155	
b) Forest Rights so far vested - Other Traditional Forest Dwellers (in nos.)	02	
Total Forest Rights so far vested (a+b)	<u>127157</u>	<u>1,25,075</u>
Quantum of land involved (in Hectares) (Individual)	1,76,332.56	175696
Community claims approved (in nos.)	55	55
Quantum of land involved (in Hectares)	36.897	36.76

Source : <http://twd.tripura.gov.in/forest>

FRA 2006 came into force on January 1, 2008. After the completion of the Tripura state Assembly election process in March, 2008, the actual implementation of FRA 2006 started in the state. By August, 2008, State Government could appoint Nodal Officer of FRA and the different monitoring committees at State level, District level and Sub-Divisional levels were constituted. By September, 2008, FRA Act and the Rules were Translated into Bengali and distributed to Gram Sabha, FRCs etc. By October, 2008, 9 states (other than Tripura) informed MoTA the process of claims received and distribution. Tripura started the started furnishing claim related information to MoTA from the month of November, 2008.

It has been observed that up to May, 2012, even before the acceptance of the FRA Rules of 2012 (September, 2012), 92% of the potential claimants (to be submitted by April, 2017) could submit their claims by May, 2012. This implies average annual growth rate of claim application was less than 2%.

Similarly, in the case of distribution of title holders in the forest land 96% of total title holders up to April, 2017, allocated titles by May, 2012. And average annual growth rate of distribution of title holders between 2012 and 2017 was less than 1%.

The distribution of titles as % of claims received varies between 63 percent to 65 percent over the years. As to the rejection of claims (mostly individual) in comparison to total claims received stood around 12% over the years. Only in 2016 and 2017, besides 2010 it was around 33%. In our opinion, these figures were highly exaggerated.

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It may be mentioned that in the field of land distribution of Community Forest Rights (CFR), the performance of the state is extremely poor. This is due to general lack of in-depth understanding about Community Forest rights (CFR) provisions and the empowerment they bring to local communities in the state.

4.6. Performance of FRA in Tripura

Forest dwellers are one of the poorest groups in our country. To correct the historical injustice to the forest dwellers, Government of India enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which is commonly known as Forest Rights Act (FRA) to undo the historical injustices suffered by the tribal community, as acknowledged by the Government. FRA ensures both individual and community resource rights. The Act came into operation with the notification of Rules on 01-01-2008 for carrying out the provisions of the Act. The act also goes beyond the “recognition” of forests rights and also empowers the forest rights holders, Gram Sabhas and local level institutions with the right to protect, regenerate, conserve and manage any community forest resource. . Further, to strengthen the Forest Right Rules, 2008, the Ministry of Tribal Welfare had amended the Rules 2008 in September, 2012 to provide more scope to the people to have greater control over forest rights resources.

For smooth and effective implementation of the provisions of the SOTFD (RoFR) Act, 2006 and SOTFD (RoFR) Rules, 2012, the following committees had been constituted in Tripura:

- i. Forest Rights Committees for all Gram Panchayat and Village Committees under Tripura Tribal Area Autonomous District Council .
- ii. State Level Committee (SLC) on Forest Rights Act , 2006 and Chief Secretary is the Chairman of the committee.
- iii. District Level Committee (DLC) on Forest Rights Act, 2006 for all Districts .
- iv. Sub-Divisional Level Committee on Forest Rights Act, 2006 for all Sub-Divisions.

In Tripura, Forest Rights Committees were constituted in all the 1040 Gram Panchayat and Village Committees under Tripura Tribal Area Autonomous District Council, with minimum of 10 members and maximum of 15 members. In the committee there would be at least one-third tribal members and one-third women members. These committees would invite applications from the eligible families and maintain a **register** of them. The committee, on the basis of the majority decision, selects the families to be eligible for land **patta** and submit the list to the Sub-Divisional Committee.

The State Government is alive to the need for ensuring the economic upliftment of the Forest Dwellers vested with the rights under the Act and has taken initiative in this direction for dovetailing various schemes of the line Departments and MGNREGA. So far 93,349 nos. ST families have

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been provided assistance under the program with financial involvement of Rs.134.11 crores. 28,162 ST forest dwellers have been provided IAY house (up to March, 2016).

The following statement showing the monthly update of status of implementation of the FRA, 2006 for the period ending 31st January, 2017 as furnished by the Tripura Government to the Ministry of Tribal Welfare.

Statement showing status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in TRIPURA, as on 31st January 2017.

Table - 4.4.: Implementation and Achievement of FRA in Tripura

Item	Achievement
1) Appointment of a Nodal officer	Yes
2) Status of formation of various Committees	Yes
(a) SDLC	Yes
(b) DLC	Yes
(c) SLMC	Yes
3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
4) Creation of Awareness about the provision of the Act and the Rules	Published in 3 local daily news for 3 consecutive days about the Act/Rules. Booklet in local language distributed. Awareness programme organized in 30 places
5) Arrangements made for the training of PRI officials, SDLC, DLC members	Workshop organized for the officials of PRI/SDLC/DLC
6) Constitution of Forest Rights Committees by the Gram Sabhas	1,040
7) No. of claims filed at Gram Sabha level	1,94,028 (1,93,751 individual and 277 community)
8) No. of claims recommended by Gram Sabha to SDLC	1,43,881 (1,43,779 individual and 102 community)

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9) No. of claims recommended by SDLC to DLC	1,26,853 (1,26,757 individual and 96 community)
10) No. of claims approved by DLC for title	1,24,596 (1,24,541 individual and 55 community)
11) Number of titles distributed	1,24,596 (1,24,541 individual and 55 community)
12) Extent of forest land for which title deeds issued (in acres)	1,34,210.18 (1,34,119.30 individual and 91.17 community)
13) No. of claims rejected	65,902 (65,880 individual and 22 Community)
14) Projected date for distribution of title deeds	Not Given
15) Problems/Remarks:	Not reported.

Source : <http://twd.tripura.gov.in/forest>

Table -4.5. : Departmental support for FRA beneficiaries

District	Horticulture	Agriculture	Fisheries	Forest	Handloom and Sericulture	Total
North	5911	5911	249	NA	NA	12071
Dhalai	686	NA	1106	NA	60	5852
South	823	1591	NA	753	NA	3167
West	NA	2047	NA	391	40	2478
Total	11420	9549	1355	1144	100	23568

Source : TW Department, 2010-11

Note : NA- Not available

The above table indicates that there are at least 23568 FRA beneficiaries (excluding MGNREGA) in the state who received benefits 5 years ago, and their benefits would be visible now. So, in the study, we have given more emphasis for sample households who received Government assistance around 2010-11 or before.

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Table - 4.6 : Block wise Progress of the FRA in Tripura up to December 2016

District	Sub-Division	Total Applications Received			Claims re-verified by GP/VC	Rejected Claims by GP/VC	Applications received by SDLC from GP/VC			Claims to be verified in SDLC	Rejected Claims in SDLC
		ST	OFP	Total			ST	OFP	Total		
Unokati	Kumbhla	1713	0	1713	0	39	1634	0	1634	142	0
	Kumarghat	5170	611	5781	0	247	4923	611	5534	0	611
	Damoherra	1780	632	2412	0	0	1780	632	2412	0	539
	Pansagar	2467	0	2467	0	0	2467	0	2467	0	386
Dhalai	Kanchampur	10933	341	11296	0	0	10933	341	11296	0	1138
	Amhasa	8874	1053	9927	0	0	8874	1053	9927	222	1015
	Kamalgan	7381	711	8092	0	313	6783	98	6881	211	225
	Chakabura	9933	178	10111	0	770	9363	0	9363	373	451
Gurmati	Loumari	13014	113	13127	0	1613	11502	0	11502	1345	0
	Amarpur	11383	632	12015	0	2573	9339	0	9339	0	0
	Udaipur	9526	1426	10952	0	4157	6795	0	6795	0	0
	Kuchua	12320	4685	17005	0	7750	9255	0	9255	0	0
South	Sandirbazar	10364	2977	13341	0	4047	8954	0	8954	0	0
	Belkora	4541	7873	12416	0	8827	3689	0	3689	0	0
	Sabarna	11293	1515	12808	0	3410	9398	0	9398	0	1651
West	Sadar	72	24	96	0	0	72	24	96	0	40
	Moharpur	2742	0	2742	0	0	2742	0	2742	0	370
	Jirania	4102	10	4112	0	0	4102	10	4112	0	1530
Khawai	Khawai	9283	907	10190	305	905	9079	2	9081	0	1839
	Taliamuri	12433	730	13163	0	0	12433	730	13163	0	4239
Sepahijala	Bishalgarh	949	1509	2458	0	2145	312	0	312	0	0
	Sourma	7854	8114	15968	0	8779	7189	0	7189	0	0
	Jampujala	6996	233	7229	0	4061	3168	0	3168	0	0
Total		159873	13874	173747	305	49756	142708	3591	143798	2368	14647

Source: Department of Tribal Welfare, Government of Tripura

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Table -4.6A: Block wise Progress of the FRA in Tripura up to December 2016 (condt.)

District	Sub-Division	Applications received by DLC from SBLC			No. of Forest Rights so far approved			Claims pending for verification in DLC	Claims Rejected in DLC	Amount of Patta Land Involved for Vesting of Forest Rights (Ha.)
		ST	OED	Total	ST	OED	Total			
Unnikari	Kailashar	1505	0	1505	1505	0	1505	3	0	7553
	Kumarghat	4921	0	4921	4921	0	4921		0	2240
North	Dumcheria	1573	0	1573	1569	0	1569	3	4	1048
	Paishagar	3081	0	3081	2926	0	2926	3	55	5300
	Kanchiapur	10098	0	10098	9518	0	9518	0	580	26936
Dhulai	Ambaria	8451	56	8527	8449	0	8449	0	78	15495
	Kamalpur	4403	57	4465	4510	0	4510	3	55	5546
	Gandachera	8625	0	8625	8625	0	8625	3	0	12558
	Teeratal	10454	0	10454	10459	0	10459	3	5	74115
Gurudui	Amurpur	9339	0	9339	9339	0	9339	0	0	10268
	Dhalpur	6585	0	6585	6428	0	6428	157	0	5627
	Kortook	9255	0	9255	8463	0	8463	792	0	9271
South	Santinagar	8994	0	8994	8994	0	8994	0	0	5644
	Balonia	5689	0	5689	5689	0	5689	3	0	156
	Sonobani	7606	0	7606	7606	0	7606	3	0	9549
West	Sadar	56	0	56	56	0	56	3	0	49
	Mohanpur	2172	0	2172	2172	0	2172	3	0	2133
	Baria	2922	0	2922	2922	0	2922	3	0	4872
Khewpi	Khowa	7180	2	7182	7167	2	7169	3	13	9215
	Teliamura	8986	0	8986	8709	0	8709	3	277	16788
Sepahijala	Budalgudi	313	0	313	313	0	313	3	0	289
	Sonamara	3229	0	3229	3229	0	3229	3	0	1595
	Jamoujaila	3163	0	3163	3168	0	3168	3	0	4221
Total		123457	139	123594	121377	9	121381	958	1277	174873

Source: Department of Tribal Welfare, Government of Tripura

Table -4.6 B: Block wise Progress of the FRA in Tripura up to December 2016 (condt.)

District	Sub-Division	Patta Pass Book Distributed	Demarcation of Patta Land by GPS Completed	Pillering Completed	LAY houses given to Patta Holders	Patta to be Cancelled	Demarcation of Patta Land by GPS to be completed	Pending completion of Pillering
Unokati	Kailashur	1505	1505	1492	671	57	0	13
	Kumarghat	4923	4923	4923	2241	247	0	111
North	Damcherra	1569	849	849	35	0	720	720
	Panisagar	2926	2925	2926	862	0	0	0
	Kanchampur	9518	9497	9497	2915	0	21	21
Dhaka	Ambasa	8449	8264	8264	1331	0	85	85
	Kamulbar	4310	4311	4311	563	0	0	0
	Gandachera	8625	8255	8255	1433	0	270	270
	Lortari	10459	10459	10250	1690	0	0	209
Gomati	Amarpur	9339	9339	9338	1190	0	0	0
	Udaipur	6428	5855	5856	856	0	572	572
	Kerbook	8473	7715	7715	1317	0	748	748
South	Santichuzur	8782	8782	8782	1693	212	212	212
	Belonia	3622	3622	3622	657	19	67	67
	Satrocm	6543	6908	6908	1534	7	698	698
West	Sadar	56	56	56	40	0	0	0
	Mohanpur	2089	2172	2134	1205	0	0	38
	Jirania	2790	2790	2767	1583	0	133	153
Khuwai	Khowz	7012	7012	6732	2179	0	157	436
	Tellamura	8363	8706	8393	2444	0	3	316
Sepahijala	Bishalguri	313	313	313	172	0	0	0
	Somnara	3076	3075	2705	611	0	152	524
	Jampa jala	2565	2565	2564	856	0	602	604
Total		121725	120100	118853	28162	542	4441	5799

Source: Department of Tribal Welfare, Government of Tripura

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Table -4.6.C : Progress of the FRA in 4 sample Sub-Divisions up to December 2016

Sr No.	FREM	District	South	Central	Dhalai	North	Tripura
		Sub Division	ShantiBala	Amarpur	Ambarso	Kanchan	
1	Total Applications Received						
	ST		10054	11385	8874	10953	
	OFD		2977	632	1063	341	
	Total		13031	12017	9937	11296	
2	Claims re-verified by GP/VC		0	0	0	0	
3	Rejected Claims by GS/VC		4027	3578	0	0	
4	Applications received by SDLC from GP/VC						
	ST		8994	9339	8451	10098	
	OFD		0	0	76	0	
	Total		8994	9339	8527	10098	
5	Claims to be verified in SDLC		0	0	395	0	
6	Rejected Claims in SDLC		0	0	1015	1198	
7	Applications received by DLC from SDLC						
	ST		8994	9339	8451	10098	
	OFD		0	0	76	0	
	Total		8994	9339	8527	10098	
8	No. of Forest Rights so far approved						
	ST		8994	9339	8449	9518	
	OFD		0	0	0	0	
	Total		8994	9339	8449	9518	
9	Claims pending for verification in DLC		0	0	0	0	
10	Claims Rejected in DLC		0	0	76	586	
11	Total Patta Land Involved for Vesting of Forest Right to (Ha.)		9624	10268	15495	20036	
12	Patta Pass Book Distributed		8782	9339	8449	9518	
13	Demarcation of Patta Land by GPS Completed		8782	9339	8364	9297	
14	Pillering Completed		8782	9339	8264	9297	
15	LAV houses given to Patta Holders		1673	1190	1381	2915	
16	Patta to be Cancelled		2/2	0	0	0	
17	Demarcation of Patta Land by GPS to be completed		2/2	0	85	21	
18	Pending completion of Pillering		2/2	0	85	21	
Claims rejected by the VC as % total claims received			31.03	31.45	0.00	0.00	27.1
Applications sent to SDML as % total claims received			68.97	77.71	79.87	100.00	78.24
Rejected Claims in SDML as % of Claims received from VC			0	0	12.79	10.61	10.18
Claims received by the DLC as % total claims received by GP/VC			68.97	77.71	85.81	89.49	89.05
Claims rejected by DLC as % Claims received from SDML			0	0	0.89	5.74	0.1
Total Forest Rights approved as % total claims received			68.97	77.71	85.03	81.26	81.82
Patta Pass Book distributed as % of Forest Rights Approved			97.61	100.00	100.00	100.00	97.74
Demarcation of Patta Land as % Patta approved			97.61	100.00	98.99	98.78	98.73
Pillering completed as % Patta Approved			97.61	100.00	98.99	98.78	98.73

Source: Tribal Welfare Department, Government of Tripura

Table -4.7 : Govt. Assistance in the Sample Sub-Divisions up to December 2016

District	South	Central	Dhalai	North
Sub-Division	ShantirBajar	Amarpur	Ambassa	Kanchanpur
1. No. of Forest Rights so far vested				
a) ST	8994	9339	8449	8518
b) OITF	0	0	0	0
c) Total	8994	9339	8449	8518
2. Horticulture Schemes				
a) No. of Families covered	456	1062	521	262
b) Areas covered (Ha.)	53	248	110	111
c) Amount assisted (Rs.in lakhs)	19	49	19	7
3. Agriculture Schemes				
a) No. of Families covered	2730	5231	7306	0
b) Areas covered (Ha.)	2629	3338	8105	0
c) Amount assisted (Rs.in lakhs)	76.43	122.52	102.41	0
4. Animal Resources Schemes				
a) No. of Families covered	24	48	24	30
b) Areas covered (Ha.)	0	0	0	0
c) Amount assisted (Rs.in lakhs)	1.188	2.376	1.188	1.485
5. Fisheries Schemes				
a) No. of Families covered	64	63	164	265
b) Areas covered (Ha.)	6.84	8.28	28.88	40.71
c) Amount assisted (Rs.in lakhs)	1.714	20.344	18.033	41.152
6. Forest Schemes				
a) No. of Families covered	1002	905	7478	8908
b) Areas covered (Ha.)	388.72	995.85	4792.18	5117.64
c) Amount assisted (Rs.in lakhs)	85.09	193.82	1021.83	1033.76
7. Handloom, Handicraft & Sericulture				
a) No. of Families covered	5	5	20	0
b) Areas covered (Ha.)	2.5	2.5	7.5	9
c) Amount assisted (Rs.in lakhs)	1.1	1.1	2.1	0

Source: Tribal Welfare Department, Government of Tripura

4.6. Impact of FRA

As indicated before, the sample district, sub-division, block and villages or village committees are given below. It may be mentioned here that all the selected sample villages were within the Tribal Sub-Plan (TSP) areas and all the sample villages were within the Village Committees (VC) of the Tripura Tribal Areas Autonomous District Council (TTAADC). The details of the sample villages are given below. For most of the items block wise information would be presented, in place of village, in order to get more meaningful results.

Table-4.8. : Sample Households and the Sample Villages

District	Sub-division	Block	Village/VC	Sample Households	As per 2011 census		
					Total Population	ST Population	Area (hectare)
South	Shantibharia (107)	Bagaria	Lakshmana VC	52	1567	1457	1333
			Uttar Devdara VC	55	1749	1402	1081
Gomati	Amarpur (107)	Amarpur	Baklung VC	55	3138	1814	913
			Kumarchama VC	52	1175	1154	513
Dhalai	Ambassa (108)	Gangsnagar	Radharambari VC	51	523	515	608
			Gangsnagar VC	57	1043	484	1510
North	Kanchanpur (90)	Dastla	Uttar Tuisama VC (Tuisama)	42	4557	2262	1879
			Dasamanipara VC	48	77	402	1385
Total sample				412			

4.6.1. Demographic

Table-4.9 gives the distribution of population and religion of households among the sample villages. It is revealed from the table that the female population is about 6% more than the male population. One of the reasons might be that some of the male persons are residing outside the villages, may be due to occupation (this is permissible under FRA 2006). The concentration of the Hindu community is maximum in 5 villages, while Christian community is maximum in Uttar Tuisama and Radharambari villages, and the Buddhist community is predominant in the Dasamanipara village.

As per Table-4.10, the Reang tribal community (78%) and Jamatia tribal group (21%) are very predominant in the sample villages.

Table -4.9: Distribution of Households by Sex and Religion

District	Sub-division	Block	Village Council	Sample Households	Population			Religion			
					Male	Female	Total	Hindu	Buddhist	Christian	Others
Ganai	Annapur	Annapur	Bijlang	55	34	40	74	51	1	3	0
				52	193	153	356	40	0	12	0
				107	227	203	430	91	1	15	0
Sub-total				100	52.79	47.21	100	85.05	0.93	14.02	0
Percentage											
North	Kanchampur	Dodu	Huar Tuisima	42	175	291	466	3	0	39	0
				48	103	88	191	23	34	1	0
				90	278	379	657	26	24	40	0
Sub-total				100	42.31	57.69	100	28.89	26.67	44.44	0
Percentage											
Bhalui	Aurbaser	Gangaurig	Radharuniani	51	117	115	232	28	0	23	0
				57	106	218	324	50	1	6	0
				108	223	333	556	78	1	29	0
Sub-total				100	40.11	59.89	100	72.22	0.93	26.85	0
Percentage											
South	Shantinbajar	Bagai	Lakhsheera	52	119	119	238	40	11	1	0
				55	104	93	197	49	5	1	0
				107	223	212	435	89	16	2	0
Sub-total				100	51.26	48.74	100	83.18	14.95	1.87	0
Percentage											
TOTAL				412	951	1127	2078	284	42	86	0
				100	47.77	54.23	100	68.93	10.19	20.87	0

Source : Field Survey 2017

Table - 4.10: Distribution of Households by Tribe

District	Sub-division	Block	Village Council	Sample Households	Tribe				
					Reang	Tripura	Jamatia	Cakma	Debbanua
Gomati	Amarpur	Amarpur	Rajrang	55	41	1	13	0	0
Sub-total			Kumar chena	52	39	3	10	0	0
				107	80	4	23	0	0
Percentage				100	74.77	3.74	21.49	0	0
North	Kanchurpur	Dasda	Utar Tuisana	42	41	0	0	0	1
Sub-total			Dasamunpara	48	24	0	0	24	0
				90	65	0	0	24	1
Percentage				100	72.22	0.00	0.00	26.67	1.11
Daba	Ambassa	Ganganagar	Radjarambari	51	50	0	0	0	1
Sub-total			Ganganagar	57	36	0	0	0	21
				108	86	0	0	0	22
Percentage				100	79.63	0.00	0.00	0.00	20.37
South	Shantirajar	Begala	Lakshichena	52	41	11	0	0	0
Sub-total			Deopur	53	30	0	0	5	0
				107	91	11	0	5	0
Percentage				100	85.05	10.28	0.00	4.67	0.00
TOTAL				412	322	15	23	29	23
Percentage				100	78.16	3.64	21.49	5.48	5.58

Source : Field Survey, 2017

4.6.2. Migration

It may be mentioned here that if the persons belonging to Scheduled Tribes who have moved to non-Scheduled Areas in the State can also claim forest rights as forest dwelling Scheduled Tribes, because as per the Constitution (Scheduled Tribes) Order, 1950, the Scheduled Tribes are recognised as such for the entire State, and not just to the area of their domicile or the Scheduled Area or any other geographical location. So, it does not require that the claimants and their ancestors have to prove they lived in the same village for 75 years (about 60 years in Tripura).

Table-4.11: Block wise distribution of Households according to Migration Status

Block	Sample Households	Whether Migrated to present Address		Whether want to Migrate Elsewhere	
		Yes	No	Yes	No
Amarpur	107	26	81	0	107
Percentage	100	24.30	75.70	0	100
Dasda	89	15	74	1	88
Percentage	100	21.11	78.89	1.11	98.89
Gangajamari	108	40	68	0	108
Percentage	100	37.04	62.96	0	100
Bagalai	107	15	92	3	104
Percentage	100	14.02	85.98	2.8	97.2
TOTAL	412	100	312	4	408
Percentage	100	24.27	75.73	0.97	99.03

Source : Field Survey, 2017

In the sample villages, less than 25 percent of the households migrated to their present place of residence. It appears that most of the present households are happy with their existing place of residence. Only less than 1% of the sample households do not want to migrate elsewhere.

4.6.3. Economic Status

In the Table-4.12 below the economic status of the sample households is given. It has been observed that about one-third sample households are living above the poverty level, particularly in the Dasda block. The rest of the households are various levels of poverty in other blocks. This may be due to high level of marginal and non-workers in the sample blocks.

Table-4.12: Block wise distribution of Households according to Economic Level

Block	Sample Households	Economic Level of the Households					
		APL	BPL	BPL Listed	Aanapurna	Antoday	No card
Amarpur	107	17	56	10	0	18	0
Percentage	100	15.89	52.34	4.95	0	16.82	0
Dasda	90	49	26	2	0	13	1
Percentage	100	54.44	28.90	2.22	0	15.33	1.11
Gangunagar	108	33	43	13	0	16	1
Percentage	100	30.56	39.81	1.89	0	14.81	0.93
Angala	107	41	31	14	1	19	1
Percentage	100	38.33	28.97	13.08	0.92	17.76	0.93
TOTAL	412	140	156	47	1	67	3
Percentage	100	34.94	37.86	1.41	0.24	15.78	0.73

Source : Field Survey, 2017

4.6.4. Financial Inclusion

Table-4.13 below gives the status of banking facilities in the sample villages. It has been observed that about 98% of the sample households are having bank account. But the disappointing fact is for about more than 60% of the households, the locations of the respective banks are more than 5 km away.

It may be mentioned that as per District Census Hand book 2011, the location of the Commercial & Co-operative Banks is within Dasamanipara village of Dasda block and within 5 km of the Rajkang village of the Amarpur block. In rest of the villages the banks are located more than 10 km away.

Table-4.13: Distribution of Households according to Banking Facility

Block	Sample Households	Whether having Account in Bank		Distance from the Patta holder's house to the nearest bank (Km)			
		Yes	No	< 1 km	1-2 km	2-5 km	> 5 km
Amarpur	107	106	1	1	2	53	51
Percentage	100	99.07	0.93	0.93	1.87	49.54	47.66
Dasda	90	89	1	2	2	56	30
Percentage	100	98.89	1.11	2.22	2.22	62.22	33.33

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Changabagar	108	108	0	7	9	26	66
Percentage	100	100	0	6.48	8.33	24.07	61.19
Bagufa	107	102	2	2	0	2	100
Percentage	100	95.33	4.67	1.87	0	4.67	55.40
TOTAL	412	405	7	12	13	140	247
Percentage	100	98.30	1.70	2.91	3.16	33.98	59.95

Source : Field Survey, 2017

4.6.5. Educational Status

It may here note that as per District Census Handbook 2011 for Sample Villages, Literacy Rate was minimum in Dasamanipara (53.83%) and maximum in Kurmacherra (81.61 %). But in our sample Villages the average literacy rate is 50%. As per survey report, the literacy is maximum in Dasda block (65.56%) and minimum in Bagafa block (35.51%). Up to high school level educated persons in the sample villages is about 29%, while the persons with education level of Higher Secondary and above is less than 2%. The details are given Table-6 below.

Table- 4.14 : Educational Level

Block	Sample Households	Educational Level						
		Illiterate	Literate	Primary	Elementary	High School	H.S.	Above H.S.
Amarpur	107	55	11	15	7	12	1	1
Percentage	100	51.40	10.79	14.03	6.54	15.89	0.93	0.93
Dasda	90	31	26	2	3	22	3	3
Percentage	100	34.44	28.96	2.22	3.33	24.45	3.33	3.33
Gangabagar	108	51	30	14	6	7	0	0
Percentage	100	47.22	27.78	12.96	5.56	6.48	0	0
Bagafa	107	69	12	11	11	4	0	0
Percentage	100	64.49	11.21	10.28	10.28	3.74	0	0
TOTAL	412	206	79	42	27	50	7	7
Percentage	100	50.00	19.17	10.19	6.55	12.14	0.97	0.97

Source : Field Survey, 2017

4.6.6. Primary Occupation

In the survey, an attempt has been made to identify the main sector wise primary occupation of the sample households and placed in Table-4.15. It is revealed that the primary occupation of about

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75% of the households belong to Agriculture Sectors (42.2%), like cultivation and agriculture labour, and Non-Farm Sectors (33.0 %), like wage labour, handloom and handicraft. Forestry is the main occupation for about 5% of the sample households. This pattern follows in all the sample villages. It may be pointed out that in the District Census Handbook 2011, the same pattern also followed for the sample villages.

Table-4.15: Distribution of population according to Primary Occupation

Primary Occupation	Amarpur	Dasda	Ganganagar	Hagafa	Total
1. Agriculture Sector	54	30	60	67	211
Percentage	41.86	32.26	41.67	50.00	42.2
2. Non-Farm Sector	44	37	39	45	165
Percentage	34.11	39.78	27.08	33.58	33.00
3. Service Sector	5	2	6	2	15
Percentage	3.88	2.15	4.16	1.49	3.00
4. Forestry Sector	2	0	18	5	25
Percentage	1.55	0	12.5	3.73	5.00
5. Livestock Sector	0	0	0	0	0
Percentage	0	0	0	0	0
6. Business Sector	6	2	1	1	10
Percentage	4.63	2.15	0.69	0.75	2.00
7. Job Sector	3	9	5	2	19
Percentage	2.33	9.68	3.47	1.49	3.80
8. MGNREGA	4	2	4	6	16
Percentage	3.10	2.15	2.78	4.48	3.20
9. Other Govt. Schemes	3	1	0	0	4
Percentage	2.33	1.08	0	0	0.80
10. Other Sectors	8	10	11	6	35
Percentage	6.20	10.75	7.64	4.48	7.00
Total	129	93	144	134	500

Source : Field Survey, 2017

4.6.6. Secondary Occupation

In the **Table-4.16**, the distribution of the sample households as per secondary occupation is provided. Here secondary occupation is defined as the occupation where earnings and time spent in a year is less than that of primary occupation.

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It has been found that agriculture sector is the major source (64.81%) of secondary occupation in the Amarpur block, may be due to high incidence (more than 50%) of net area sown in the block. Livestock Sector (Piggery, Goattary, Dairy, Duckery, Poultry, Fishery etc.) is the major source (about 25%) of secondary occupation in all the sample blocks. Households earn about 10% from MGNREGA.

Table -4.16: Distribution of Sample Households according to Secondary Occupation

Secondary Occupation	Amarpur	Dasda	Ganganagar	Bagafa	Total
1. Agriculture Sector	70	2	0	2	74
Percentage	64.81	4.44	0.00	4.21	19.40
2. Non-Farm Sector	1	1	0	2	4
Percentage	0.93	1.11	0.00	2.11	1.00
3. Service Sector	0	0	0	0	0
Percentage	0	0	0	0	0
4. Forestry Sector	2	2	5	2	11
Percentage	1.85	4.44	4.59	2.11	3.23
5. Livestock Sector	27	22	29	16	94
Percentage	25.00	24.44	26.61	16.84	23.38
6. Business Sector	1	0	0	1	2
Percentage	0.93	0.00	0.00	1.05	0.50
7. Job Sector	0	0	0	0	0
Percentage	0	0	0	0	0
8. MGNREGA	7	11	13	5	36
Percentage	6.48	12.22	11.93	3.16	8.46
9. Other Govt. Schemes	0	0	0	1	1
Percentage	0	0	0	1.05	0.15
10. Other Sectors	0	48	62	68	178
Percentage	0.00	53.33	56.88	69.47	43.78
TOTAL	108	90	109	95	402
Percentage	100.00	100.00	100.00	100.00	100.00

Source : Field Survey, 2017

4.6.7. Distribution of various cards

Table-4.17 gives the distribution of various cards issued to the households. It may be mentioned here that the performance of the state in the coverage of MGNREGA Job Card and ADHAAR CARD is very good (more than 95%) throughout the state. This is reflected in the sample households, where the overall achievement is more than 98%. Although 77% of the sample households received RSVM card, but only less than 10% of the sample households are having Kishan Credit Card. This may be due to their less agriculture activities.

Table-4.17: Number of various Cards issued to the Households

Block	Sample Households	MGNREGA Job Card		ADHAAR CARD		Kishan Credit Card (KCC)		RSVY Card	
		Yes	No	Yes	No	Yes	No	Yes	No
Amarpur	107	102	5	106	1	8	99	95	14
Percentage	100	95.32	4.67	99.07	0.93	7.48	92.52	86.92	13.08
Dasda	90	89	1	89	1	3	87	67	23
Percentage	100	98.89	1.11	98.89	1.11	3.33	96.67	74.44	25.56
Gangamagar	108	107	1	106	0	5	103	103	5
Percentage	100	99.07	0.93	100	0	4.63	95.37	95.37	4.63
Bugufu	107	106	1	106	1	24	83	59	22
Percentage	100	99.07	0.93	99.07	0.93	22.43	77.57	55.10	18.90
TOTAL	412	404	8	406	3	40	377	318	94
Percentage	100	98.06	1.94	99.27	0.73	9.71	90.29	77.18	22.82

Source : Field Survey, 2017

4.6.8. Monthly Family Income

Total monthly family income from the primary and secondary sources is given in the **Table-4.18**. It is evident from the table that 40% of the poorest families in the sample villages earning Rs.5000 per family per month, while another 52% of the households earn between Rs.5000 to Rs.10000/-. Thus about 92% of the sample households have monthly average income of less than Rs.10000/-. It may be mentioned that according to this survey about 35% of the sample households are living above the poverty line.

Table-4.18: Total per monthly Family Income (Rs.) from Principal and Secondary occupation

Block	Sample Households	Total per month Family Income (Rs.) (3-V)					
		< 5000	5000-10000	10001-12000	12001-15000	15001-20000	>20000
Amarpur	107	35	60	5	2	2	1
Percentage	100	32.71	57.94	4.68	1.87	1.87	0.93
Dasda	90	43	35	1	3	3	3
Percentage	100	47.78	38.89	1.11	3.33	3.33	3.33

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Gangaganagar	108	51	94	0	1	0	0
Percentage	100	47.22	86.90	0	0.93	0	1.33
Bagathi	107	36	63	1	3	1	1
Percentage	100	33.65	59.75	0.93	2.81	0.93	0.93
TOTAL	412	165	216	7	11	6	7
Percentage	100	40.05	52.42	1.70	2.67	1.46	1.70

Source : Field Survey, 2017

4.6.9. Allocation of Forest Patta land

Section 4(4) of the FRA, among other things, provides that a forest right conferred under the Act shall be heritable but not alienable or transferable, and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person. In the absence of a direct heir, the heritable right shall pass on to the next of-kin. There is no bar in the Act to the registration of the forest right conferred under the Act jointly in the name of both the spouses who are married inter-caste, provided the applicant is either an FDST or fulfils the criteria for an OTFD. But in the sample villages, we have observed that in about 72% of cases, titles were allocated jointly in the name both husband and wife. While in 23% and 4% cases titles were allocated to only husband and wife respectively. But we have not come across so many single head families in our survey of the villages, besides, it has been recorded that in Dasda block 2 pattas were allocated to “other” households, which is not permissible under FRA.

Table-4.19: Family member to whom patta land have been allocated

Block	Sample Households	Family members to whom Patta is given			
		Husband	Wife	Both	Others
Amarpur	107	37	7	63	0
Percentage	100	34.58	6.54	58.88	0
Dasda	90	21	1	66	2
Percentage	100	23.33	1.11	73.33	2.22
Gangaganagar	108	29	2	77	0
Percentage	100	26.86	1.85	71.3	0
Bagathi	107	8	7	93	0
Percentage	100	7.48	6.54	85.98	0
TOTAL	412	94	17	294	2
Percentage	100	22.82	4.13	72.33	0.49

Source : Field Survey, 2017

4.6.10 : Time Gap between Application and Receiving Patta

There is no time limit for submitting applications for recognition of forest rights under the Forest Rights Act. Processing of applications by Gram Sabhas have to be done as per FR Rules 2012. The Gram Sabha shall call for the claims and authorise the Forest Rights Committee to accept the claims. Such claims are to be made within a period of three months from the date of such calling for the claims. The Gram Sabha may, if considered necessary, extend such period after recording the reasons it is doing so.

In the sample villages, 87% of the households received pattas between 3 and 6 months of their submission of applications. And 12% of households received pattas after 6 months of their submission of applications. Only 2 household, one each in Amarapur and Bagafa block received patta within 3 months of their submission of applications.

Table-4.20: Distribution of Households according to time gap of receiving Patta

Block	Sample Households	Gap between Claim Application and Patta Allocation in months			
		< 1 month	1-3 months	3-6 months	> 6 months
Amarapur	107	0	1	106	0
Percentage	100	0	0.93	99.07	0.00
Daeda	90	0	0	90	0
Percentage	100	0	0	100	0
Ganganagar	108	0	0	108	0
Percentage	100	0	0	100	0
Bagafa	107	0	1	55	51
Percentage	100	0	0.93	51.40	47.68
TOTAL	412	0	2	359	51
Percentage	100	0	0.49	87.14	12.38

Source : Field Survey, 2017

4.6.11. Sizes of patta land

The act has given the people the right to own the land of title deeds in case they have been engaged in cultivation of these lands. No documentary proof was necessary for those who had been cultivating land up to four hectares, as long as it was done to satisfy their own needs.

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People who had taken up the land on lease or were on a government lease and whose land had been forcefully or illegally taken up by the forest department and was a subject to dispute could now claim title to these lands. However this land cannot be sold or transferred except for the right of inheritance

Rule 12(A)(8) of the FR Rules states that the land rights for self-cultivation recognised (under Section 3(1)(a)) shall be, within the specified limit of 4 hectares, include the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce.

According to the Table-13 given below, the distribution of sample households in terms of receiving patta land is 6.8% of less than 0.5 ha.; 14.8% between 0.5 to 1.0 ha.; 45.33% between 1.0 to 2.0 ha. and 33.0% between 2.0 ha. to 4.0 hectare. The average size of the patta land is only 1.76 hectare.

Table-4.21: Distribution of Households according to the amount of allocation of the patta land (in hectare)

Block	Sample Households	< 0.50 ha		0.50 - 1.0 ha		1.01-2.0 ha		2.01-4.0 ha		> 4.0 ha		Total	
		No	Area	No	Area	No	Area	No	Area	No	Area	No	Area
Amapur	107	13	4.64	45	43.73	26	48.62	23	83.75	0	0	107	180.74
Average		0.38		0.97		1.87		3.64		0		1.68	
Dasda	90	10	5.24	8	5.83	63	39.14	9	25.58	0	0	90	73.79
Average		0.52		0.73		0.62		2.62		0		1.46	
Gangamar	108	4	0.73	0	0	48	75.03	56	149.60	0	0	108	226.63
Average		0.18		0		1.58		2.67		0		2.10	
Bagala	107	1	0.49	8	7.2	50	75.15	48	105.3	0	0	107	185.14
Average		0.49		0.89		1.5		2.15		0		1.73	
TOTAL	412	28	11.10	61	56.73	187	288.94	136	359.23	0	0	412	666.30
Average		0.40		0.93		1.28		2.64		0		1.76	
Percentage of households		6.80		14.80		45.39		33.20		0.00		100.00	

Source: Field Survey, 2017

4.6.12. Categories of forest patta and its distribution status

The minimum potential for Community Forest Rights (CFR) Recognition in Tripura is 885,503 acres and land recognized under Individual Forest Rights (IFR) Recognition is 434,119 acres. But, in Tripura CFR forest land distributed only 550 acres, and IFR forest land distributed about the same as its potential. In the *National Meeting on Implementation of the FRA in December, 2012*, Tripura Government had agreed “to clearly formulate the plans related to recognition of CFR rights” and “Clear assessment has to be undertaken to list all the villages with forest interface” It is unfortunate that the State Government is yet to take any step for recognition of community rights. The poor performance of Tripura, like many other states is that there is a general lack of in-depth understanding about Community Forest rights (CFR) provisions and the empowerment they bring to local communities. Sometimes, even awareness of the FRA at a rudimentary level is lacking.

In the Table-14 below, the progress of distribution of the Forest Patta Land for the sample blocks have been provided. In only Dasda block some action has been made in the area of Community forest rights. In the cases of Individual Forest Rights, about 86% of families, demarcation of patta land were completed, and Sketch of Patta Land were completed in about 74% of families, while in the overall state Demarcation of Patta Land were completed in 96% of patta holders.

Table-4.22: Status and progress of distribution of the Forest Patta Land

Block	Sample Households	Category of Forest Right		Demarcation of Patta Land		Sketch of Patta Land	
		Individual	Community	Yes	No	Yes	No
Amarpur	107	107	0	90	17	88	19
Percentage	100	100	0	84.11	15.89	82.24	17.76
Dasda	90	82	8	87	3	77	13
Percentage	100	91.11	8.89	96.67	3.33	85.56	14.44
Gangamagar	108	108	0	91	17	99	9
Percentage	100	100	0	84.26	15.74	91.67	8.33
Bagala	107	107	0	88	19	30	64
Percentage	100	100	0	82.24	17.76	28.45	63.55
TOTAL	412	404	8	256	56	303	109
Percentage	100	98.06	1.94	86.41	13.59	73.54	26.46

Source : Field Survey, 2017

4.6.13. Training of the Patta holder

For the sustainable management of land allotted under FRA and diversification of livelihood activities, basic training in some areas is necessary for the patta holders or their families. Ministry of Tribal Affairs is providing funds for officials, Ward Members, Gram Sabha Members, Panchayat

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Secretaries, field officials etc. But no such fund available for the training of patta holders. Indo-German Development Cooperation Project, Tripura, in conducting training programmes for the patta holders on types of vocational trainings / trades (Tailoring, Handloom / Weaving, Motor Driving, Basic computer learning etc.). But, Tripura Government did not conduct any training programmes for the patta holder.

In Table-15 below, some information on training programmes is given. In the sample households we find 92% of them did not attend any type training programmes and out of those who had attended training, 2.67% were government sponsored. So, it is not surprising that more than 90% of households in every sample village did not find these training programmes useful.

Table-4.23: Training attended by the Patta holder or Family Member

Block	Sample Households	Training Attended		Training Organiser			Usefulness	
		Yes	No	Govt.	Autonomous	Other	Yes	No
Amarpur	107	11	96	7	3	1	5	98
Percentage	100	10.28	89.72	6.54	2.80	0.93	8.41	91.59
Dasda	90	7	83	1	6	0	5	85
Percentage	100	7.78	92.22	1.11	6.67	0.00	5.56	94.44
Gangnamur	108	10	98	0	0	1	5	100
Percentage	100	9.26	90.74	0.00	0.00	0.93	7.41	92.59
Bagula	107	3	104	3	2	0	1	106
Percentage	100	4.67	95.33	2.80	1.87	0.00	0.93	99.07
TOTAL	412	33	379	11	20	2	22	390
Percentage	100	8.01	91.99	2.67	4.85	0.49	5.38	94.62

Source : Field Survey, 2017

4.6.14. Location of Patta land

There is no indication in the FRA 2006 regarding the location of the patta land. It is desirable that the distance of the patta land from the home of the patta holder should as minimum as possible for better management of patta land. An attempt has been made in the survey to collect information in this regard and given in Table-4.24 below.

It is reported that only about 15% of the households were allocated patta land within 1 km of their homes. And this distance is 1 to 2 km for about 30% of the households, while the distance is 3 to 5 km for about 32% of households. And, about 5% of the patta holder received land beyond 5 km.

Table-4.24: Distance of the Patta land from Home (Km)

Block	Sample Households	Distance of the Patta land from Home (Km)					
		< 1 Km	1-2 km	2-3 km	3-4 km	4-5 km	> 5 km
Amarpur	104	34	41	15	14	10	6
Percentage	100	22.43	38.32	14.02	13.08	9.35	6.00
Dasda	70	13	13	14	15	11	4
Percentage	100	14.47	14.44	15.56	16.67	12.22	4.44
Ganganagar	82	1	22	25	15	16	2
Percentage	100	0.93	20.37	23.15	13.89	14.81	2.78
Ragufa	100	14	50	26	11	10	9
Percentage	100	13.08	28.04	24.30	10.28	9.35	8.41
TOTAL	356	53	108	80	55	47	16
Percentage	100	14.61	29.78	22.35	15.49	13.20	4.49

Source : Field Survey, 2017

4.6.15. Investment in Patta Land

Under Section 3(2) of FRA, even prior or during the process of recognition and vesting of rights, developmental rights can be exercised by the forest dwelling communities. Besides, post claim support to the forest rights holders can be provided, through the State Government, from all Government schemes, including Article 275(1) grants under Special Central Assistance (SCA) to Tribal Sub Plans (TSP) and schemes on land improvement, land productivity, basic amenities and other livelihood measures.

But the patta holders also invest some funds from their own capital in the patta land along with the government assistances. The investment of own capital is presented in Table-4.25 below.

It is evident from the table 37% of the patta holders invested in land from their own capital. And out of them 44% of families invested less than Rs.10.0 thousands and about 15% of the families invested more than Rs.40 thousands in land.

Table-4.25: Investment of own capital in patta land

Block	Sample Households	Investment in land		Amount of Investment (Rs.in '000)				
		Yes	No	< 10 thousand	10 to 20 thousand	20-40 thousand	40-50 thousand	> 50 thousand
Amarpur	107	41	53	6	7	12	5	11
Percentage	100	41.12	58.88	5.61	6.54	11.21	4.67	13.08
Darda	99	14	76	8	8	0	0	0
Percentage	100	15.56	84.44	6.67	4.89	0.00	0.00	0.00
Gangalagar	108	23	85	11	7	7	0	1
Percentage	100	21.30	78.70	11.19	6.48	3.70	0.00	0.93
Binguli	107	71	45	44	9	14	4	1
Percentage	100	66.36	32.71	41.12	8.41	13.08	2.80	0.93
TOTAL	412	153	259	68	31	33	8	16
Percentage	100	37.14	62.86	44.44	20.26	19.61	5.22	10.46

Source : Field Survey, 2017

4.6.16. Awareness / Knowledge level of FRA

In this survey, we were interested to get some insight on the awareness level of the sample households on the FRA 2006. The respondents were asked 16 questions on various aspects of FRA and responses were taken at 3 levels (disagree, neutral and agree). Hence, if the score is 16 then the awareness level is least and 48 score means awareness level is highest. In Table-4.26, the awareness level for the sample households is given. It is seen that 32% of households has minimum level of awareness of FRA, while only 6% of households has maximum level of awareness.

Ministry of Tribal Welfare instructed the State Governments that “In order to generate awareness about the various provisions of the Act and the Rules, especially the process of filing petitions, the State Government should organize public hearings on local bazaar days or at other appropriate locations on a quarterly basis till the process of recognition is complete. The Gram Sabhas also need to be actively involved in the task of awareness raising.” This has not been followed adequately in the state. This is the main reason of lack of awareness among the patta holders.

Table-4.26: Awareness / Knowledge level of FRA Rights by the Sample Households

Block	Sample Households	Awareness level (minimum 16, maximum 48)			
		16 to 24	25 to 32	33 to 40	41 to 48
Amarpur	107	41	61	4	1
Percentage	100	38.32	57.01	3.74	0.93
Dasda	90	22	50	14	4
Percentage	100	24.44	55.56	15.56	4.44
Ganganagar	108	58	47	3	0
Percentage	100	53.70	43.52	2.78	0.00
Bagafa	107	10	51	25	21
Percentage	100	9.35	47.66	23.36	19.63
TOTAL	412	131	309	46	26
Percentage	100	31.80	50.73	11.17	6.31

Source : Field Survey, 2017

4.6.17. Change in Income Level before and after Patta distribution

In our study, an attempt was made to examine the income level before and after Patta distribution. The following two assumptions were made for this analysis:

- The time gap between 2 periods is minimum 5 years, and
- The income level has been calculated without inflation correction.

The household monthly Income, Saving and Debt before and after Patta distribution is given in Table-4.27.

It is evident from the table that average monthly family income has increased by about 115% in the sample blocks. In the Amarpur block the income increase is maximum (148%) and in the Ganganagar block it is minimum (83%). The average family saving is about 5% of the total income, which is double that of before receiving patta land. It has been observed that average family debt have increased by 10 times (16% of income to 70% of income) after receiving patta land. It has been found that during survey that patta holders received loans from the financial institutions and other individuals mainly for investment in land. In absence of government financial support, the high incidence of indebtedness occurred in the sample villages.

Table-4.27: Household monthly Income, Saving and Debt before and after Patta distribution (Rs.)

Block	Sample Households	Average Income (Rs.)		Average Savings (Rs.)		Average Debt (Rs.)	
		Before	After	Before	After	Before	After
Attarpur	107	4095.28	10158.88	47.2	406.26	26.68	9607.48
Percentage	100		148.06	1.15	4.90	0.65	94.57
Dusda	90	7440	9174.74	217.78	887.78	722.22	4989
Percentage	100		106.63	4.90	9.68	16.27	54.58
Gangamagar	108	4121.3	7562.04	81.48	216.2	1388.89	7377.36
Percentage	100		83.49	1.98	2.86	33.70	97.56
Bagafa	107	1906.54	4506.54	2.98	116.82	158.88	12.09
Percentage	100		136.37	0.11	2.59	8.35	0.27
TOTAL	412	14563.12	31401.3	348.54	1627.06	2296.57	21985.93
Percentage	100		115.63	2.39	5.18	15.77	90.91

Source : Field Survey, 2017

4.6.18. Change in Expenditure on Food, Health and Education

After receiving patta land, the patta holders could double their family income. Due to increase in income, they could spend more on food, health and education. The information is given in Table-4.28.

It has been found out that the consumption of food of the patta holder families increased by about 50% uniformly in all the sample villages. The expenditure on health care and education increased by about 100% for the patta holder families. But, the survey data shows that when in the state the cost of health care and education is insignificant in Government institutions, the money spent on health care and education is quite high in the sample villages.

Table-4.28: Average monthly Expenditure (Rs.) on Food, Health and Education

Block	Sample Households	Average Food Consumption(Rs.)		Average Health Expenditure(Rs.)		Average Education Expenditure(Rs.)	
		Before	After	Before	After	Before	After
Anurpur	107	2509.43	3700.93	410.78	878.97	671.69	1664.48
Percentage	100		47.48		102.05		147.80
Dasda	90	2386.67	3720.55	446.67	810.81	760.56	1299.44
Percentage	100		55.87		81.24		70.85
Ganganagar	108	2272.03	3514.81	521.3	973.8	515.67	1094.44
Percentage	100		58.90		86.80		111.83
Bagula	107	2402.83	3764.15	432.07	904.24	793.39	1372.35
Percentage	100		56.85		109.38		72.97
TOTAL	412	4510.96	14699.89	1810.32	3517.01	2742.31	5430.71
Percentage	100		54.56		94.28		98.03

Source : Field Survey, 2017

4.6.19. Change in Employment generation

- The FRA Rules (as amended on 6.9.2012) require that it will be the responsibility of the State departments of tribal and social welfare, environment and forest, revenue, rural development, Panchayat raj and other departments to provide for post claim support to the forest rights holders. But it has been found out that in the sample blocks, as evident from the Table-4.29, the average annual employment generation increased only about less than 2%. The increase in employment generation of women is more than men.

Table- 4.29: Annual Employment generation (in days)

Block	Sample Households	Head		Women		Other		Total	
		Before	After	Before	After	Before	After	Before	After
Amarpur	107	28184	30414	642	1510	38	95	28864	32019
Average		263.40	284.24	6.00	14.11	0.36	0.89	269.76	299.24
Dasda	90	18940	22900	649	993	271	411	25580	32704
Average		210.44	254.44	71.32	104.37	2.46	4.57	284.22	363.38
Gangachar	108	24578	23728	18675	18913	306	306	43559	42947
Average		227.57	219.70	172.92	175.12	2.83	2.83	403.32	397.66
Bagai	107	17420	22925	3790	5516	402	469	21612	28910
Average		162.80	214.25	35.42	51.55	3.76	4.38	201.98	270.19
TOTAL	412	89122	99967	39876	53332	967	1981	119615	136580
Average		216.32	242.64	71.67	85.76	2.35	3.11	290.33	331.50

Source: Field Survey 2017

4.6.20. Change Operating of cultivated land, water bodies and horticulture

In the survey, information had been collected on the operation of cultivated land, water bodies and horticulture among the patta holders, before and after the allocation of Patta. The operation of other natural resources like Jhum cultivation, Fisheries etc. have been excluded from the Table-4.30 as given below. It has been found out in each sample village the land related activity has increased for the patta holders. The improvement in Amarapur block is much more than other sample blocks

Table-4.30: Operating of cultivated land, water bodies and horticulture among households

Block	Sample Households	Cultivated Land		Water Bodies		Horticulture /Garden	
		Before	After	Before	After	Before	After
Amarapur		42	63	15	21	1	2
Percentage of increase			154.76		40.00		100.00
Dasda		16	17	6	14	0	16
Percentage of increase			6.25		133.33		
Gangenagar		4	5	6	12	1	4
Percentage of increase			25.00		100.00		300.00
Bagafa		58	66	3	12	0	0
Percentage of increase			11.86		300.00		
TOTAL	112	121	151	30	59	2	22
Percentage of increase			24.79		96.67		1000.00

Source : Field Survey, 2017

4.6.21. Change in Type of House

In the Census Handbook 2011, block wise type of houses was published. Here, houses were divided into 3 categories, namely, Permanent (houses whose walls & roofs are made of pucca materials like burnt bricks, G.I.Sheets, Abestos Sheets, Tiles, RBC/RCC concrete etc. are used for walls and roofs. Semi Permanent houses refer to those houses made of other types of materials. And Temporary houses refer to those houses having wall and roofs made of Kutcha materials). According to the Census 2011, in the entire sample blocks less than 5% are the permanent houses and less than 40% of the houses have temporary structure. In the survey, 3.88% houses have Pacca houses (permanent), which has increased from 0.97 % before receiving patta. It may noted that semi permanent houses (Mixed and Mud Wall) of the patta holders have increased by about 32%, while the temporary houses (Kacha and Tong Ghar) have declined by about 25% . Most of the patta holders live in a single room house, only in Bagafa block, there are 5 households who have more than one room. As reported by the TW department Tripura, IAY houses provided to the Sample blocks up to March 2016 was 7159.

Table-4.31: Distribution of the Sample households by the Type of House

Block	Sample Households	Kacha		Pucca		Mixed		Mud Wall		Tong Chur		More than one room	
		Before	After	Before	After	Before	After	Before	After	Before	After	Before	After
Amarpur	107	14	4	1	5	4	17	36	7	52	10	0	0
Percentage	100	13.08	3.74	0.93	4.67	3.74	15.89	33.64	6.56	48.60	9.35	0.00	0.00
Dasda	90	16	10	1	6	38	18	21	49	14	7	0	0
Percentage	100	17.78	11.11	1.11	6.67	42.22	20.00	23.33	54.44	15.56	7.78	0.00	0.00
Garguagar	108	5	10	2	3	13	26	9	27	79	42	0	0
Percentage	100	4.63	9.26	1.85	2.78	12.04	24.07	8.33	25.00	73.15	38.89	0.00	0.00
Bagaria	107	39	31	0	2	5	5	11	16	43	48	4	5
Percentage	100	36.45	28.97	0.00	1.87	4.67	4.67	10.28	14.95	40.85	44.85	3.74	4.67
TOTAL	412	74	55	4	16	60	66	77	163	194	107	4	5
Percentage	100	17.96	13.35	0.97	3.88	14.56	16.01	18.69	39.56	46.3	25.97	0.97	1.21

Source: Field Survey 2017

4.6.22. Change in sources of Drinking Water

Block wise sources of drinking water is given by the Census Hand book 2011. According to this document, the main sources of drinking water in the sample blocks are Tap water (mainly unmineralised), Un-covered Well, Handpump, Spring and River. The same pattern, more or less has been observed in our sample villages. In the sample villages, it has been observed that the practice of using Chemta/Rain water, Open Well and Pond as source of drinking water among the patta holders have declined, while the use of Pipe/Tap water supply has increased.

Table-4.32: Distribution of sample households by the source of Drinking water

Block	Sample Households	Water supply		Hand Pump		Mark Well		Pond		Chemta/Bagin		Well		More than 1 source	
		Before	After	Before	After	Before	After	Before	After	Before	After	Before	After	Before	After
Amarpur	107	0	21	1	9	4	2	1	1	47	12	52	29	0	0
Percentage	100	0	27.66	0.93	8.41	3.74	4.67	1.87	0.93	47.93	11.21	49.53	27.10	0.00	0.00
Basda	20	1	20	15	5	11	23	1	0	42	30	5	0	14	14
Percentage	100	1.11	22.22	14.44	2.33	12.22	25.56	1.11	0.00	46.67	23.33	3.33	0.00	15.56	15.56
Gangaragoo	106	19	48	1	1	1	0	1	0	72	25	16	7	7	7
Percentage	100	9.26	44.44	0.93	0.93	0.93	0.00	0.93	0.00	66.67	41.67	14.81	6.48	6.48	6.48
Kargala	107	2	4	10	15	5	3	7	3	51	46	32	36	0	0
Percentage	100	1.87	3.74	9.35	14.02	4.67	2.80	6.54	2.80	47.66	42.99	29.91	33.64	0.00	0.00
ICF AI	412	13	133	95	98	21	91	11	4	212	135	104	72	81	81
Percentage	100	3.16	29.85	6.07	6.80	5.10	7.52	2.67	0.97	51.46	32.28	25.24	17.48	5.10	5.10

Source: Field Survey, 2017

4.6.23. Sanitation type in Sample households

According to the Census Handbook 2011, Pit Latrine (with or without slab) is the major source of latrine facility in about 40% to 70% of households in the sample districts, while 20% to 40% of the households have no latrine facilities within the premise.

In the present study the patta holders increased the use of Pucca and Pit latrine by about 32%. As a result, the use of kachha latrine reduced by about 12% and use of “open” latrine has been reduced by about 20%. The details are given in Table-4.33.

Table-4.33: Distribution of sample households by type of Sanitation

Block	Sample Households	Pucca		Kachha		Pit		Open	
		Before	After	Before	After	Before	After	Before	After
Amarpur	107	7	36	57	51	12	18	29	7
Percentage	100	6.54	33.64	53.27	47.66	11.08	16.82	27.10	6.57
Dasda	99	1	13	68	5	15	23	6	1
Percentage	100	1.11	14.14	75.56	5.67	16.67	27.78	6.67	1.11
Ganganagar	108	0	32	56	25	5	21	47	17
Percentage	100	0	29.63	51.85	23.14	4.63	19.44	43.52	15.74
Bagafa	107	16	29	70	20	0	16	51	32
Percentage	100	4.95	27.10	65.38	28.04	0.00	14.95	47.66	29.91
TOTAL	412	24	110	22	170	22	80	133	52
Percentage	100	5.83	26.70	53.64	41.26	5.36	19.42	32.24	12.62

Source : Field Survey, 2017

4.6.24. Availability of Electricity in Sample Households

As per Census Handbook 2011, 95% of the households in the sample blocks were using Electricity and Kerosene. Out of which Electricity were using more than 60% households in Amarpur and Bagafa blocks and in Ganganagar and Dasda blocks this is about 50% and 30% respectively. As to the Solar lighting, less than 5% of the households were using it.

In our sample villages, the position of Electricity improved after allocation of patta land. The average proportion of the patta holders with Electricity has increased from 19% to 75%. But till now there remains 25% families of patta holders who are not having Electricity. The position of solar power is far from satisfactory. Solar lighting is now using only one household.

Table-4.34: Distribution of Sample Households by type availability of Electricity

Block	Sample Households	Having Electricity		Not Having Electricity		Solar power	
		Before	After	Before	After	Before	After
Amarpur	107	20	97	85	15	1	0
Percentage	100	18.69	89.95	80.37	14.02	0.93	0.00
Jasda	90	50	74	29	16	1	0
Percentage	100	55.56	82.22	44.44	17.78	1.11	0.00
Gangganagar	108	15	65	93	43	0	0
Percentage	100	13.89	60.19	86.11	39.81	0.00	0.00
Bagala	107	15	80	91	26	1	1
Percentage	100	14.01	75.29	79.85	24.27	0.98	0.93
TOTAL	412	80	311	329	100	3	1
Percentage	100	19.41	75.49	79.64	25.27	0.73	0.24

Source : Field Survey, 2017

4.7. Problems and Suggestions

During the survey, the households were requested to state the problems, if any, regarding the patta distribution and the management patta land. Besides, they were also requested to offer any suggestion in order to sustain their livelihood.

Major Problems faced by the Patta holders

Most of the respondents stated that they have no problem regarding patta allotment, but many of them mentioned the following problems:

- Demarcation of patta land has not been done properly in some cases. This creates a situation of conflict with the neighbors.
- Due to lack of support from the government agencies (financial and technical), it is becoming difficult to sustain livelihood.

It may be mentioned here that according to the Department of Tribal Welfare report, in the sample blocks, upto December, 2016, total pass book distributed was 36088, while Demarcation of Patta Land by GPS Completed in 35982 (99.7%) cases. But the information from our survey revealed that the process of demarcation is yet to be completed in a large number of cases.

According to another report of the TW department, most of the patta holders of the sample blocks were given assistance, upto December, 2016, under various schemes of Agriculture, Horticulture, Animal Resource, Fisheries, Handloom, Handicraft etc. But, in our sample villages we have not come across much evidence of the government assistance. Moreover, the average indebtedness of the sample households are quite high.

Requirement of the Sample Households

- The main requirement of the sample households is the planting materials. Their main choices are Rubber, Banana, Pineapple, Orange, Coconut, Mango, Jackfruit, Teak, Garjan etc.
- Besides planting materials, some of the households required IAY type house and water sources, both for cultivation and drinking purpose.

Case Study -1

A beneficiary named Ganesh Reang (42) resided at Chakaho para, Debipur village under Bakafa R.D. Block of south Tripura District. He has total 4 members in his family including his wife and 2 school going daughter, those studying in H.S and elementary level. The family having an add-haq BPL card. The family was depended mainly on Rubber plantation as well as also practicing Jhum cultivation as their traditional occupation. Apart from that they have planted banana in the few portion of cultivated land. Mr. Reang also doing MGNREGA work as a secondary earning source. From all sources their monthly family income was reported around (Rs.10, 500 – 11,000). Mr. Reang and his family living in their own homestead land of about 7 ganda. In addition approx. 25 kani cultivated land also occupied by this family. In the year of 2007 Mr. Ganesh Reang has been claimed for land rights under Scheduled Tribes and Other Traditional Forest Dwellers Act (recognition as Forest Rights Act) 2006 as per his occupied land. He was staying over 50 years long in the claimed land and he got the land deed in 2008 as an individual forest right. He has received 2.078 hector as a patta land which was demarcated by the local Tehsil and also getting a land sketch of the patta



land. After getting patta land he was practicing Jhum cultivation in 5 kani land as well as he have been planted Rubber plants about 650 nos. in 6.15 kani area of the patta land in 2010. Apart from that he had planted about 100 Nos. of Banana plants in 15 ganda area. From all the sources he has earned mostly from rubber i.e. 6000 per month, 2500 per month from Jhum as well as met their own consumption and earned from banana plants 300-400 per month. So Mr. Reang using his patta land very positively as his main income source fully depends on patta land and also getting a good amount of income from patta land.

He did not receive any further assistance from line dept. except a loan amount of Rs. 30000 from SBI by submitting land deed of FRA. He used this amount of loan to bought rubber plants and other household activity. He invested his own capital in patta land. He did not get any training from Govt. line Dept.

According to him after getting patta land he has earned more compare to before getting patta in 2007. He reported, in 2007 his monthly income was around 4000 whereas at present he earned about 11000 per month. Now he spent 1000/- for bank savings and he has no indebtedness at present. Apart from that in food, health related, education purpose he spent more money compare to before getting FRA right. Housing types/ pattern also changed now as converted it into 'pacca' house from 'tong ghar'. Also using electricity, TV, Mobile etc. and having two-wheeler also. Mr. Ganesh also reported their social status also increasing in and outside of the family and in the peer group also. So from the entire study some of the beneficiary was found those were getting very positive impact from the patta land of whom Mr. Ganesh Reang is one of them. He also reported, he did not get full amount of land as per his occupied area and according to him in his area rubber plants was mostly preferred followed by banana (*Champa, Bangla*) etc. Bamboo was less profitable compare to other cultivation he also added.

Case study-2

Harijoy Reang (50) a beneficiary under FRA2006, resided at Tongphang Para, Uttar Tuisama under Dasda R.D Block of Kanchanpur, North District. He has total 6 members in his family including his wife, 3 daughters and lives in his own homestead land of about 5 ganda. They are having an antodaya card holder. His three daughters are elementary level passed and only Son is a student of class VII. This family mainly doing agricultural labour and his wife also doing NREGA work and their daughters are involved in household activity. From all the source they earned almost 10,500 per month. He has claimed for individual patta land in 2009 and he got 6.87 *satak* land after 4 months of application through FRA Act, 2006 as per his occupied land. Land demarcation and sketch of patta land also received. After getting patta land he had planted 500 nos. Supari (Betelnut) plant before 2 years ago and also planted 500 nos. of rubber plants before 5 years ago, and both the plants growing well and though he was not getting earning from this plants but he reported he is much hopeful to get income very soon from Rubber plants. He has also received some assistance from Govt. line department. i.e. 1 kani pond excavated in the patta land. He also received 200 nos. rubber plants from ADC Sub-zonal office. He invested some own capital for rubber plants (300 nos.) and planted total 500 Nos. together. Mr. Harijoy Reang not received any training from the line department.

As per his opinion, though his total family income increased but till now not getting earning from patta land. But he was confident that within a year he will get minimum (7,000-10,000) per month from patta land. In the present study Mr. Reang had been identified who used his patta land in a very positive manner for securing economic efficiency in near future.

Conclusion and Recommendations

5.1. Major Issues Related to Implementation

The necessity of any Amendment of FRA : This Act is truly democratic. It gives all the rights of the assigned forest land to Gram Sabha (GS). The Act in itself does not need (any) major modification, but the implementation of the Act is critical.

Role of the Governments: The performance of FRA has been very poor, particularly in the field of Community Forest Rights. It reflects deep structural and institutional issues. Absence of political will is the key obstacle in achieving the potential of FRA both at the national and state levels.

At the National Level:

MoTA is not provided with dedicated budgetary support for FRA implementation. As a result, there was a lack of capacity-building effort in the nodal MoTA. Government of India, only recently (2015), allocated some funds for capacity-building, and that is also for the technology improvement. Due to lack of political will on the part of the Central Government, MoEFCC has been also allowed to function as if FRA doesn't exist, as evidenced by its passage of Compensatory Afforestation Funds (CAF) Act, 2016 and its continued support to Joint Forest Management (JFM), Village Forest Rules (VFRs) and Village Development Planning Implementation Committees (VDPIC), which are all conflicting with provisions of FRA. Similar hurdles are being experienced at the state level.

Weak Central nodal agency: MoTA is the central nodal agency for the implementation of FRA, but is under-staffed and under-resourced to supervise this massive task. But, despite all its constraints, MoTA has tried bravely to strongly resist the efforts to dilute FRA provisions. MoTA has brought to the notice of states violations or poor or non-implementation of FRA, and issued guidelines and directives for effective implementation from time to time. But, failed to address strongly the implementation challenge faced by FRA, may be because of lack of support from the Government of India.

At the State level

Tripura State Nodal Agencies: The statutory State Level Monitoring Committee (SLMC) for FRA is non-functional in Tripura. SLMCs is to meet quarterly as required by the law. But, for all purposes, the SLMC is defunct here. Same situation prevails all the DLCs and SDMLs. The is may be due to the fact that the state could distribute titles more than 90% of the claimants by 2012, (before the publication of the amended Rules). As a result, most of the petitions filed to SLMCs, DLC or SDML remain unaddressed. The reasons for claim rejection mostly not communicated to the concerned persons, as required by the Act. Besides, The state tribal welfare departments (nodal agencies at the state level) have not been provided the human and financial resources to implement FRA.

Role of the Forest Bureaucracy in Tripura: In Tripura, forest department in Tripura have largely been apathetic to FRA with forest bureaucracy effectively dictating the agenda of FRA implementation. Forest officials are imposing Village Development Planning Implementation Committees (VDPIC), which are all conflicting with provisions of FRA, as in the case of IGDC Project. We strongly feel that due to not cooperation in the verification proceedings of CFR, the performance of the allocation of the CFR is so poor.

Poor functioning of FRC, DLCs and SDLCs: FRCs were mostly formed at the village Council levels even though the Amendment Rule of 2012 provides for the formation of FRCs at small hamlets. And it is the VCs that perform the lead role for the benefits of the forest dwellers. The legal authority of the gram sabha for determining the nature and extent of rights, and governance of forests is often seriously undermined by the bureaucracy.

Mandatory functions of the SDLC and DLC like meeting at intervals of time, proper scrutiny of applications, field level verifications of sites and proper co-ordination at various levels between the departments were not taking place, as reported in our sample districts and sub-divisions.

CFR rights under Section 3(1) of FRA: As mentioned before, Tripura Government could cover all most all the holder of the potential Individual Forest Rights areas. But its performance in respect of the Community Forest Rights is very poor, less than 0.01% of the potential CFR areas.

Some of the common problems relating to CFR in the state are as follows:

- Community Rights (CR), and development rights under Section 3(2), have been reported as Community Forest Rights (CFR) rights due to lack of clarity at all levels of implementation agencies;
- Even where Gram Sabhas have filed CFR claims, these are either ignored or are pending at SDLCs and DLCs without any response;
- Customary boundaries delineated by the Gram Sabha are not accepted or are arbitrarily changed by revenue and forest department functionaries during field verification;
- There is a possibility that CFR titles were being issued to JFM committees in violation of FRA, although this is despite clear instructions from MoTA against this;

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- FRA specifically provides for rights of pastoral communities, including community user rights to water bodies, grazing (settled or transhumant) and traditional seasonal resource access over landscapes. There has been little progress towards recognition of rights of the pastoral communities in the state under CFR;
- Plantation activities carried out by Forest Department on forest lands and community lands under different schemes of the Government have restricted land areas for settlement of Community Claims under FRA. In addition to this, forest patches are kept reserved for further plantations and kept out of the distribution plan under FRA.

Conversion of forest villages to revenue villages: The identification and conversion of forest villages and un-surveyed settlements on forest land remains largely ignored and not implemented in the state. The FRCs or the Gram Sabhas were generally not consulted in this regard.

Rights related to NTFP: State laws and policies in Tripura have not been changed to align with the provisions of FRA, especially for high value NTFPs. The amended FRA rules of 2012 giving the Gram Sabhas authority to issue transit permits for NTFPs. But, the state forest departments have been denying transit permits to Gram Sabhas.

Rejection of Claims of the Individual Forest Rights: In the state level the figure of the rejected claim remained static (12%) from 2012 to 2015, and the rejected claim increased to about 34% for the year 2016 and 2017. In the sample 4 blocks, out of total claim applications received (46291) at the VC level, total claims rejected was 6625 (14.3%), while at the Sub-Divisional level, out of the total claims received from the VC level (36566), total claims rejected was 2213 (5.9%), and at the District level, out of the total claims received from the Sub-Divisional level (36958), total claims rejected was 658 (1.78 %). According to the FRA, due process required to be followed while rejecting claims—such as recording reasons for rejections, communicating them to the claimants, and hearing their appeals. It appears that such procedures have not been followed in the state.

Conflicting and Divergent Policies

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

Compensatory Afforestation Fund Act 2016: The details of the CAF Act, 2016 was discussed earlier. The state institutions set up under the CAF Act are dominated by forest bureaucracy with no representation of forest dwellers. CAF Act also provides incentives to displace forest dwellers from protected areas by making a specific provision for funding relocation. Forest dwellers and STs have widely opposed the CAF Act for not requiring consent of the Gram Sabhas to use their traditional lands and forests for compensatory afforestation.

Conclusion and Recommendations

Conflicts with Joint Forest Management: First, it needs to be understood that JFM Committees are not statutory bodies, but rather have been constituted under a Government of India resolution of June 1990. In most States, these Committees are functioning under a JFM Scheme, with the purpose of involving people in the management of forests. On the other hand, where the conferment of a CFR right is concerned, it is a substantive statutory right under a Central legislation, the FRA. Automatic conversion of JFM Committees into Committee under Rule 4(1)(e) is neither mandated nor desirable under the FRA as the objectives, structure and mandate of JFM is different from that of the Committee under Rule 4(1)(e). Besides, As per the provisions of FRA and FR Rules, automatic conversion of JFM areas into CFR areas is neither mandated nor desirable as the objectives, structure and mandate of JFM is different from that of the forest right under community forest resource under FRA. JFM is another major instrument forest bureaucracy uses to retain its control over forests and forestall forest jurisdiction transfer to Gram Sabhas under FRA.

Application of FRA in the Municipal Areas: For the applicability of Forest Rights Act in municipal areas, guidelines issued by the Ministry of Tribal Affairs in 2015. This guideline indicated the composition of the SDML and DLC in the municipal areas. But, Tripura Government is yet to take any initiative in this regard.

Demarcation of approved Patta Forest Land: According to the report of the State Tribal Welfare Department, Demarcation of Patta land as percentage of total Patta approved is more than 96% in our sample 4 sub-divisions. But, many of the sample households reported that the demarcation of their patta land were faulty and incomplete. This gap may be due the fact that the processes of verification by the field staff of Forest Department and preparation of maps by the Revenue Department have neither involved the beneficiaries nor the members of FRC

5.2. Major Findings from the Sample Villages

In the sample study 412 households from 8 villages were selected in 4 blocks (Bagafa, Amarpur, Ganganagar and Dasda) of the 4 districts (South, Gomti, Dhalai and North) to evaluate the impact of patta distribution under FRA.

Major Problems faced by the Sample Households

Most of the respondents stated that they have no problem regarding patta allotment, but many of them mentioned the following problems:

- Demarcation of patta land has not been done properly in some cases. This creates a situation of conflict with the neighbors.
- Due to lack of support from the government agencies (financial and technical), it is becoming difficult to sustain livelihood.

The major findings from the sample villages are as follows:

- Female population is about 6% more than the male population. One of the reasons might be that some of the male persons are residing outside the villages, may be due to occupation.

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- The concentration of the Hindu community is maximum in 5 villages, while Christian community is maximum in 2 villages, and the Buddhist community is predominant in one village.
- The Reang tribal community (78%) and Jamatia tribal group (21%) are very predominant in the sample villages.
- About 25% of the households migrated to their present place of residence and less than 1% of the sample households do not want to migrate elsewhere.
- About one-third sample households are living above the poverty level. This may be due to high level of marginal and non-workers in the sample blocks.
- About 98% of the sample households are having bank account, but for about more than 60% of the households, the locations of the respective banks are more than 5 km away.
- In the sample Villages the average literacy rate is 50%. Educated persons with high school level is about 29%, while the persons with education level of Higher Secondary and above is less than 2%.
- The principal occupation of the households belong to Agriculture Sectors (42.2%), like cultivation and agriculture labour, and Non-Farm Sectors (33.0%), like wage labour. Forestry is the main occupation for about 5% of the sample households.
- Agriculture sector is the major source (19.4%) of secondary occupation and Livestock Sector (Piggery, Goatry, Dairy, Duckery, Poultry, Fishery etc.) is the major source (about 25%) of secondary occupation in all the sample blocks.
- The coverage of MGNREGA Job Card and ADHAAR CARD in the sample villages is more than 98%. About 77% of the sample households received RSVY card, but only less than 10% of the sample households are having Kishan Credit Card.
- About 40% of the poorest families in the sample villages earning Rs.5000 per family per month, while another 52% of the households earn between Rs.5000 to Rs.10000/-.
- In the sample villages, about 72% of cases, titles were allocated jointly in the name both husband and wife. While in 23% and 4% cases titles were allocated to only husband and wife respectively.
- The claims of patta land are to be settled within a period of three months from the date of receiving their applications. In the sample villages, 87% of the households received pattas between 3 and 6 months of their submission of applications. And 12% of households received pattas after 6 months of their submission of applications. Only 2 household, received patta within 3 months of their submission of applications.
- The distribution of sample households in terms of receiving patta land is 6.8% of less than 0.5 ha.; 14.8% between 0.5 to 1.0 ha.; 45.33% between 1.0 to 2.0 ha. and 33.0% between 2.0 ha. to 4.0 hectare. The average size of the patta land is only 1.76 hectare.
- The State Government is yet to take any step for recognition of community rights. In only Dasda block some action has been made in the area of Community forest rights. In the cases of Individual Forest Rights, about 86% of families, demarcation of patta land were completed, and Sketch of Patta Land were completed in about 74% of families in the sample villages.

Conclusion and Recommendations

- In the sample households there are 92% of them did not attend any type training programmes and out of those who had attended training, only 2.67% were government sponsored. And more than 90% of households in every sample village did not find these training programmes useful.
- In the sample villages, only about 15% of the households were allocated patta land within 1 km of their homes. And this distance is 1 to 2 km for about 30% of the households, while the distance is 3 to 5 km for about 32% of households. And, about 5% of the patta holder received land beyond 5 km.
- In the sample villages, 37% of the patta holders invested in land from their own capital. And out of them 44% of families invested less than Rs. 10.0 thousands and about 15% of the families invested more than Rs. 40 thousands in land.
- In this survey, we were interested to get some insight on the awareness level of the sample households on the FRA 2006. The respondents were asked 16 questions on various aspects of FRA and responses were taken at 3 levels (disagree, neutral and agree). Hence, if the score is 16 then the awareness level is least and 48 score means awareness level is highest. It is seen that 32% of households has minimum level of awareness of FRA, while only 6% of households has maximum level of awareness.
- The average monthly family income has increased by about 115% in the sample blocks after receiving patta land. The average family saving is about 5% of the total income, which is double that of before receiving patta land. It has been observed that average family debt have increased by 10 times (16% of income to 70% of income) after receiving patta land.
- After receiving patta land, the patta holders could double their family income. Due to increase in income, the consumption of food of the patta holder families increased by about 50% uniformly in all the sample villages. The expenditure on health care and education increased by about 100% for the patta holder families.
- The FRA Rules of 2012 require that it will be the responsibility of the State Government and its various departments to provide for post claim support to the forest rights holders. But the average annual employment generation increased only about less than 2% for the patta holders. The increase in employment generation of women is more than men.
- In each sample village the land related activity, like the operation of cultivated land, water bodies and horticulture has increased for the patta holders.
- In the sample households, 3.88% houses have Pacca houses (permanent), which has increased from 0.97 % before receiving patta. It may noted that semi permanent houses (Mixed and Mud Wall) of the patta holders have increased by about 32%, while the temporary houses (Kacha and Tong Ghar) have declined by about 25% .
- In the sample villages, it has been observed that the practice of using Cherra/Rain water, Open Well and Pond as source of drinking water among the patta holders have declined, while the use of Pipe/Tap water supply has increased.
- The patta holders increased the use of Pacca and Pit latrine by about 32%. As a result, the use of kachha latrine reduced by about 12% and use of “open” latrine has been reduced by about 20%.

- In the sample villages, the position of Electricity improved after allocation of patta land. The average proportion of the patta holders with Electricity has increased from 19% to 75%. But till now there remain 25% families of patta holders who are not having Electricity.

5.3.1 RECOMMENDATIONS

Institutional Reforms

Strengthening MoTA, State Implementation agencies

- Ministry of Tribal Welfare should be strengthened by adequate human and financial resources for implementation.
- Appointment of officials, dedicated full-time to FRA implementation at sub-divisional and district levels.
- Strengthening state nodal agency, by instituting FRA cells and dedicated staff for FRA implementation and monitoring.
- Continuous training and capacity-building programmes for implementation agencies at all levels, in collaboration with TRIs, CSOs and peoples' organisations.
- Streamlining the functioning, accountability and transparency of SLMCs, DLCs and SDLCs by ensuring regular meetings, time bound decisions and uploading their meeting minutes and action taken reports on websites for making them accessible to the public.
- Revenue, forest and tribal departments and *panchayats*, should co-ordinate with each other. FRA should be dealt with in conjunction with TTAADC Act, 1985.

Creating awareness

- The biggest hindrance in implementation of FRA is the lack of awareness about it at all levels, most of all the Gram Sabhas.
- MoTA should launch a fresh CFR campaign in mission mode in association with state tribal/social welfare departments, Panchayats and civil society networks.
- Fresh mass awareness programmes using mass media, training sessions for FRC/SDLC/DLC members, production and distribution of material in multiple languages.
- All training programmes, including for SIRDs, SDLCs, DLCs, FRCs, must include emphasis on FRA's provisions for gender equal rights, women participation in Gram Sabah's decision-making and CFR governance.
- Ground-level implementation of FRA and CFR provisions would require a massive effort to mobilize government resources and non-government actors such as grass roots organizations and panchayati raj institutions.

Ensuring Effective Monitoring And Accountability

- MoTA and state tribal departments should develop district-wise potential and performance data and maps for effective monitoring of implementation.
- Social audit of FRA, similar to that of MGNREGA, should be introduced for FRA.
- Regular progress reports by districts and states should also be made public with punctuality.

Conclusion and Recommendations

- MoTA must revise its format for monitoring FRA implementation to include disaggregated information on CFRs, CRs, IFRs, habitat rights, pastoralist communities' rights, and rights of women (as joint or single holders of IFRs).
- There should not be rejection of claims. Claims may be resubmitted with compliance bases on the feedback of SDLC and DLC
- While using the GPS method in land settlement, the community should be involved and the sketch map should be accurate as per the patch in use by the community

5.3.2. Addressing Conflicting Processes and Policies

Need for an inter-ministerial process

- An inter-ministerial process to review and harmonize laws, policies and institutional structures conflicting with FRA to create an enabling environment for its implementation needs to be set up urgently.
- The Prime Minister's Office should send clear directions to MoEFCC and Forest Departments to cooperate and support FRA and stop obstructing its implementation;
- MoEFCC and MoTA need to coordinate to ensure that all forest-related laws and policies are harmonized with FRA by undertaking a systematic review;

5.3.3. Addressing Issues Post-Recognition of Rights

Updating Record of Rights: The legal requirement of final mapping of forest land and incorporation of the rights in records has not been initiated in the state, creating confusion about the areas and jurisdiction of the Gram Sabhas. The process of modification of land and forest records to incorporate rights granted under FRA, particularly CFRs, should be immediately initiated. The coordinating department (Tribal Welfare) should develop and maintain all related records, maps etc., for each village on priority in order to expedite the process of implementation.

Facilitating community forest governance as provided under FRA: Management of CFRs is a major emerging issue as more and more CFRs are being recognized. But, MoTA is creating confusion by issuing, on the one side, directions under Section 12 of FRA clarifying that the gram sabha is the authority for CFR management competent to develop its own plan and formulate its own rules, and on the other hand MoTA has now asked MoEFCC to formulate rules for CFR management, giving away gram sabha's most crucial power provided under FRA. It is essential that a set of broad guidelines should be collectively drafted by MoTA for all CFRs.

Strengthening Gram Sabha as the basic unit of forest governance: FRA empowers the gram sabha to be the primary institution to make decisions about forest rights, forest governance and decisions related to forest diversion. Considering the number of violation of gram sabhas' legal authority in such decisions, there is a need to reinforce this authority.

Supporting mechanisms for management and transport of NTFP: In 2012, MoTA had sent a letter to all Chief Secretaries to modify their states' transit permit rules with gram sabhas empowered to issue transit permits. Procedural obstacles in the collection, sale and

transportation of NTFPs by right holders and gram sabhas need to be effectively removed. Tripura should implement the 2012 directive of MoTA on NTFPs.

5.3.4. Addressing the Unaddressed

FRA implementation in Protected Areas : MoTA and MoEFCC need to ensure that the blatant violation of the spirit and letter of FRA in protected areas must stop and that right recognition under FRA in Pas must be initiated on an urgent basis. Relocations carried out in violation of FRA must be stopped with proactive intervention from MoTA. Governance of protected areas must be based on FRA as recognition of rights and the gram sabha-based plans for management of CFRs.

Nomadic communities, PVTGs, shifting cultivators: Recognition of rights and monitoring FRA processes related to unprivileged groups like PVTGs, nomadic communities, pastoralists, shifting cultivators, and women has received the least attention so far. So, guidelines need to be issued for facilitating claims of these sections, including through relevant action by SDLCs. Rights of PVTGs need to be pro-actively recognized and declared suomotu by DLCs, using criteria which have been applied in order to declare them as PVTGs, in the first place, as evidence of their forest rights. SDLCs and DLCs must ensure that IFR titles are issued in the names of both spouses, and that special attention is paid to the claims of single women.

Particular attention to forest villages: MoTA must ensure compliance with its guidelines for the conversion of forest and un-surveyed villages into revenue by all state governments to stop their blatant violation in some states. In unsurveyed villages, customary community practices should be followed while settling claims, since these villages do not have individual records of the land. All forest villages should be converted to revenue villages within a time frame to ensure that development activities denied due to such non-conversion are overcome.

5.3.5. Addressing Compliance of FRA in Forest Land Diversion

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

5.4. Recommendations for the State Government

- Demarcation of patta land should be completed at the earliest.
- State Government should take necessary steps immediately for recognition of community rights.
- State Government should take initiative to offer suitable training programmes for the patta holders so that they can optimum utilize the natural resources under their control.
- State Government should initiate all types of support through the government agencies (financial and technical) to the patta holders for their sustainable livelihood. Intensive employment generation programmes with wider coverage particularly for the patta holders should be undertaken at the earliest by the State Government.

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Annexure-I

Statewide Minimum Potential for FRs excluding five NE States (In Acres)

State Name	Record of Forest Area (1999)	Estimated # of forest land within government & boundary	Of which land recognized under FRs (Hectares)	Minimum potential for CEE Recognition in India (excluding five NE States and J&K) (In acres)	Comments
Andhra Pradesh	1,271,747	91,651	0	50,65	Forest Area Inside Village Boundaries (Census 2011)
Andhra Pradesh	9,902,776	1,967,000	196,633	7765,677	Area under J&K ¹
Assam	6,527,504	578,605	77,608	600,995	Forest Area Inside Village Boundaries (Census 2011)
Bihar	1,103,771	224,040	0	124,040	Forest Area Inside Village Boundaries
Chhattisgarh	14,760,684	8,07,950	745,650	7,455,000	Data from Chhattisgarh Preamble and Performance Report (PM care)
Goa	902,555	200,347	0	200,347	Forest Area Inside Village Boundaries (Census 2011)
Gujarat	8,346,909	1,718,050	116,117	5,151,873	Data from Gujarat Preamble and Performance Report ¹
Haryana	981,151	40,500	0	60,000	Forest Area Inside Village Boundaries (Census 2011)
Himachal Pradesh	6,147,151	7,11,000	0.56	5,111,000	Data from HP Preamble and Performance Report
Kashmir	8,150,435	8,716,000	74,001,929	8,150,000	Area under J&K ¹
Karnataka	9,156,140	7,966,205	12,395	5,973,818	Forest Area Inside Village Boundaries (Census 2011)
Kerala	2,205,074	2,711,219	43,074	2,109,079	Forest Area Inside Village Boundaries (Census 2011)
Kerala, Pradesh	51,500,105	1,600,828	90,898	11,720,921	Area under J&K ¹
Mizoram	18,910,001	1,798,150	277,000	17,060,001	Mizoram State Preamble and Performance Report
Nagaland	14,159,190	6,77,000	288,880	2,788,210	Data from Nagaland Preamble and Performance Report ¹
Punjab	761,740	158,817	0	158,817	Forest Area Inside Village Boundaries (Census 2011)
Rajasthan	6,080,639	8,355,511	45,804	6,309,517	Forest Area Inside Village Boundaries (Census 2011)
Sikkim	1,442,727	22,440	0	22,440	Forest Area Inside Village Boundaries (Census 2011)
Tamil Nadu	5,600,619	1,921,887	0	1,921,887	Forest Area Inside Village Boundaries (Census 2011)
Telangana	6,146,668	3,706,507	381,050	3,325,507	Forest Area Inside Village Boundaries (Census 2011)
Uttar Pradesh	1,094,618	1,210,022	484,125	385,907	Forest Area Inside Village Boundaries (Census 2011)
Uttar Pradesh	9,306,000	1,512,070	0	7,519,070	Forest Area Inside Village Boundaries (Census 2011)
Uttar Pradesh	6,095,000	1,005,000	89,870	1,915,130	Forest Area Inside Village Boundaries (Census 2011)
West Bengal	2,034,113	1,404,127	20,405	1,483,722	West Bengal Preamble and Performance Report ¹
Total	100,814,566	89,451,687	3,845,740	85,605,944	

Source : Field Survey, 2017

Potential and Performance of CFR recognition

State	Potential for CFR Recogni- tion (acres)	CFRs Recognised (in acres)	Remaining Potential for CFRs (in acres)	% of potential achieved
AndN Islands	90,651	0	90,651	0%
Andhra Pradesh	2,765,367	0	2,765,367	0%
Assam	500,996	0	500,996	0%
Bihar	824,940	0	824,940	0%
Chhattisgarh	7,432,000	0	7,432,000	0%
Goa	207,342	0	207,342	0%
Gujarat	3,121,533	231,976	2,849,557	10%
Haryana	80,300	0	80,300	0%
Imamoh Pradesh	3,311,000	0	3,311,000	0%
Jharkhand	5,138,339	85,578	5,052,761	2%
Karnataka	5,873,818	18,676	5,855,142	1%
Kerala	2,198,639	298,340	1,899,299	16%
Madhya Pradesh	15,720,913	0	15,720,913	0%
Maharashtra	12,050,071	1,766,310	10,283,761	18%
Odisha	5,788,714	110,874	5,477,840	6%
Punjab	158,917	0	158,917	0%
Rajasthan	6,309,557	180	6,309,377	0%
Sikkim	951,149	0	951,149	0%
Tamil Nadu	1,921,537	0	1,921,537	0%
Telangana	3,373,527	0	3,373,527	0%
Tripura	888,203	0	888,203	0%
Uttarakhand	3,512,678	0	3,512,678	0%
Uttar Pradesh	1,913,577	0	1,913,577	0%
West Bengal	1,443,722	0	1,443,722	0%
INDIA	95,608,944	278,2078	8282,3866	

Source : Field Survey, 2017

Annexure-III

Recognition of rights under IFR Provision of FRA

States	MoTA Status Report until July 2016		As collected under State P&P Reports Process until July 2016		Comments
	LR Files	LR Cases are/were	LR Files	LR Data/Issues	
Andhra Pradesh	63,874	198,633	63,874	198,633	MoTA case were in analysis
Assam	75,407	77,509	NA	NA	MoTA data used in analysis
Bihar	232	NA	NA	NA	No data
Chhattisgarh	3,77,789	741,318	363,386	7,29,930	MoTA case were in analysis
Gujarat	75,167	116,117	90,240	116,117	MoTA case were in analysis
Haryana	NA	NA	NA	NA	No data
Himachal Pradesh	738	0.73	NA	NA	Data from independent sources are
Madhya Pradesh	46,773	97,830	93,574	76,011	Non-MoTA data collected from 907 independent individuals
Karnataka	8,159	11,166	8,922	15,785	Unlinked data available from Non-MoTA sources
Kerala	24,599	63,018	22,283	NA/001	MoTA case were in analysis
Madhya Pradesh	205,843	2,110,991	310,217	796,938	Data from OJAG, Forest Department and numerous
Odisha	106,003	231,421	66,337	232,088	Unlinked data collected from Voluntary P&P Reporters for analysis
Punjab	383,366	583,886	378,672	380,834	MoTA case were in analysis
Rajasthan	35,792	54,356	12,965	57,824	MoTA case were in analysis
Tamil Nadu	3723	NA	NA	NA	No data available
Telangana	69,486	818,194	99,486	8,11,100	Telangana P&P data shared from state Forest Department for analysis
Tripura	127,541	937,117	NA	NA	MoTA case were in analysis
Uttarakhand	NA	NA	45	NA	No data available
Uttar Pradesh	17,715	179,625	NA	NA	MoTA case were in analysis
West Bengal	48,339	26,404	11,349	17,500	MoTA data used for analysis

Source : Field Survey, 2017

TABLE 4, Potential and Performance of CFR recognition

State	Potential for CFR Recognition (acres)	CFRs Recognised (In acres)	Remaining Potential for CFRs (In acres)	% of potential achieved
Andaman Islands	90,651	0	90,651	0%
Andhra Pradesh	2,565,357	0	2,565,354	0%
Assam	500,595	0	500,595	0%
Bihar	824,940	0	824,940	0%
Chhattisgarh	7,452,000	0	7,452,000	0%
Goa	207,542	0	207,542	0%
Gujarat	3,131,533	281,570	2849963	10%
Haryana	60,320	0	60,320	0%
Himachal Pradesh	3,211,000	0	3,211,000	0%
Jharkhand	5,158,329	85,338	5,072,991	2%
Karnataka	5,073,818	38,675	5,035,142	1%
Kerala	2,198,039	298,540	1,900,299	13%
Madhya Pradesh	15,720,915	0	15,720,915	0%
Manipur	12,050,271	1,766,310	10,283,961	15%
Odisha	5,484,714	210,624	5,274,090	4%
Punjab	153,917	0	153,917	0%
Rajasthan	6,309,557	180	6,309,557	0%
Sikkim	951,445	0	951,445	0%
Tamil Nadu	1,921,537	0	1,921,537	0%
Telangana	3,373,527	0	3,373,527	0%
Tripura	885,404	0	885,404	0%
Uttarakhand	3,512,878	0	3,512,878	0%
Uttar Pradesh	1,913,577	0	1,913,577	0%
West Bengal	1,443,722	0	1,443,722	0%
	65,605,944	176,2075	62,823,066	

Source : Field Survey, 2017

Frequently Asked Questions on the Forest Rights Act

(Published by MoTA and UNDP in 2015)

Implementation Procedure of FRA

Q.1. Is there any deadline for submitting applications for recognition of forest rights under the Forest Rights Act?

There is no time limit for receiving applications. Processing of applications by Gram Sabhas have to be done as per FR Rules especially Proviso to Rule 11(1)(a), which provides that the Gram Sabha shall call for the claims and authorise the Forest Rights Committee to accept the claims. Since the Gram Sabha is the “authority to initiate the process for determining the nature and extent of individual or community forest rights or both”, the commencement of the process must be made by the Gram Sabha, and not the Forest Rights Committee. Such claims are to be made within a period of three months from the date of such calling for the claims. The Gram Sabha may, if considered necessary, extend such period after recording the reasons it is doing so.

Q.2. Why are there no cut-off dates with respect to the implementation of the Forest Rights Act and closing the processing of claims?

The FRA is intended to recognise the rights of the country’s poorest and most marginalised people. Such communities frequently will not even become aware of the existence of this legislation for long periods. Imposing a cut-off date would amount to penalising them for the failure of the state machinery to inform them of their rights.

Also, it is important to understand that cut-off dates are relevant in the case of schemes for regularizing fresh encroachments. Since FRA is not a law relating to regularisation of encroachments, but rather a law for recognition and vesting of forest rights in genuine claimants existing on the 13 December 2005, a cut-off date, as such, is not required. Any fresh encroachment that comes to the notice of the State forest departments would be treated under the applicable provisions of the Indian Forest Act, 1927 and other State-level laws.

Q.3. Can the District Collector delegate his power to sign the title deeds to the Revenue Divisional Officer?

As per Annexure II & III of the FR Rules, the titles for forest land and community forest rights are to be signed by the District Collector/Deputy Commissioner. This power is in exercise of the functions of the District Level Committee under Rule 8(h) of the FR Rules, and therefore it cannot be delegated to the Revenue Divisional Officer or any other official.

Q.4. Can a committee other than the Forest Rights Committee and/or comprising persons other than the members of the Gram Sabha be formed for assisting the Gram Sabha in discharge of its functions relating to recognition and vesting of forest rights under FRA?

The FRA and FR Rules do not permit formation of any committee other than the Forest Rights Committee and the Committee under Rule 4(1)(e). Nor do they permit constitution of a committee comprising persons other than the members of the Gram Sabha, for assisting the Gram Sabha in discharge of its functions relating to recognition and vesting of forest rights under the FRA. In fact, any decision/action taken by such a committee would be void and have no legal basis.

Q.5. How are the members of the Sub Divisional Level Committee to be appointed in case of municipal areas?

Insofar as rural areas are concerned, the SDLC should be composed strictly in accordance with the provisions of Rule 5 of the FR Rules. However, while applying the Forest Rights Act in municipal areas, guidelines issued by the Ministry of Tribal Affairs vide its circular dt. 5.3.2015 bearing F. No. 19020/02/2012-FRA (Vol. II) should be followed. In particular, clause 3.5 states as under: “3.5 The SDLC and DLC, composition in municipal areas, shall be as follows: a. In municipal areas not covered under the Sixth Schedule to the Constitution, the three representatives of Panchayati Raj Institutions in the SDLC, as specified in Rule 5(c) of the FR Rules, shall be replaced with representatives nominated by the municipality/municipalities in the Sub division; of whom at least two shall be Scheduled Tribes (STs) preferably those who are forest dwellers, or who belong to the particularly vulnerable tribal groups, and where there are no STs, two members who are preferably other traditional forest dwellers, and one shall be a woman member; Provided that where there are more than one municipality in the Sub-Division, the members shall be nominated from different municipalities in decreasing order of tribal population residing therein.”

Q.6. Can the decision of the Gram Sabha to reject or allow a claim be revisited/re-opened?

The decisions of the Gram Sabha and the Sub-Divisional Level Committee are subject to appeal and therefore can be re-considered at that stage. Where the SDLC or the DLC finds that the decision of the Gram Sabha is incomplete, or prima facie requires additional examination, it should remand the claim back to the Gram Sabha for reconsideration instead of modifying or rejecting it (see Rule 12A(6)). Where the SDLC or DLC reject or modify the decision of the Gram Sabha, they must provide detailed reasons for doing so (see Rule 12A(10)). Additionally, the FR Rules provide that claims should not be rejected merely on technical or procedural grounds (see proviso to Rule 12A(10)).

Other than that, the decisions of not only the Gram Sabha, but also the SDLC and the DLC can be revisited where the claims have been rejected on the ground of insufficient evidence. Taking into account reports that in many parts of the country, claims were being rejected on the ground of

lack of evidence or incomplete evidence, the Ministry of Tribal Affairs issued a Circular dt. 27.7.2015 (bearing F. No. 23011/18/2015-FRA) where it relied upon Rule 6(b) of the FR Rules to urge the SDLCs to assist the Gram Sabha by providing forest, revenue and geo-referenced maps. On this basis, it has been stated that claims rejected on the grounds of insufficient evidence or where prima facie additional evidence is required should be re-examined.

Q.7 Can an appeal be filed against the order of the DLC?

Section 6(6) of FRA clearly states that the decision of the DLC is final and binding. Therefore, the statutory process of appeal ends with the DLC. However, it is also necessary that reasons be supplied to the claimant/s for rejection of application, so that they can take any other legal recourse, such as, activating the writ jurisdiction of the constitutional courts, or any other avenue available in law.

If the decision of the DLC is in contravention of any provision of the FRA or Rules, proceedings under Section 8 can be initiated by the Gram Sabha with due notice to the State Level Monitoring Committee.

The Gram Sabha and its Meetings

Q.8 Is there a different requirement for constituting Gram Sabhas and holding their meetings in Scheduled Areas and non-Scheduled Areas?

The terms “Gram Sabha” and “village” for purposes of FRA are already defined in Sections 2(g) and 2(p) of the Act, where any forest village, old habitation or settlement and unsurveyed village may also be treated as village. Such entities, even if not notified or recorded as village, are recognised as village for the purpose of this Act. This means that whether in Scheduled Areas or non-Scheduled Areas, the Gram Sabha should be held at the hamlet level or the village level.

Q.9 In certain parts of the country, the population density is so low that there are only a handful of persons in a village. How are Forest Rights Committees to be constituted in such villages?

Under Section 2(p)(i) of the FRA, the definition of ‘village’ permits the formation of Gram Sabha for a “habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs “. Therefore, in case of villages with very low population density, a combined Gram Sabha of a cluster of villages can meet and constitute a Forest Rights Committee for the purpose of implementation of the FRA.

Q.10 Can Gram Sabhas be constituted and their meetings called at the Gram Panchayat level for the purpose of FRA?

Gram Sabha should not be called at the Gram Panchayat level for the purpose of FRA. A Gram Panchayat normally consists of more than one revenue villages. As per the provisions of the FRA, Gram Sabhas are to be held at the village/habitation level. Since the Gram Sabha plays a key role in the FRA, it is important that it should be called at levels that correspond to actual settlements and villages, where people know one another. The terms “Gram Sabha” and “village” for purposes of FRA are defined in Sections 2(g) and 2(p) of the Act.

Q.11 Who will preside over the meetings of the Gram Sabha after its first meeting is convened by the Panchayat? Do Panchayat Secretaries need to attend all Gram Sabha meetings under FRA?

Under the Forest Rights Rules, the Panchayat is required to convene the first meeting of the Gram Sabha, for the purpose of constitution of the Forest Rights Committee and other preliminary decisions. One important decision at this stage is the identification of Chairperson and Secretary of the FRC (see Rule 3(2) of FR Rules).

At this meeting the presence of the Panchayat Secretary is necessary. Thereafter, the Forest Rights Committee and the Gram Sabha can be left to continue their work, and the presence of the Panchayat Secretary at each and every meeting of the Gram Sabha is neither necessary nor required under the law. The Secretary of the FRC can maintain minutes of their meetings and pass resolutions without the presence of the Panchayat Secretary.

Q.12 Why has the clause on presence of 50 percent of the claimants of forest rights (Rule 4 (2)) been included? Will it not be difficult to meet such quorum, especially in States with low population density?

The requirement of 50% quorum for Gram Sabha meetings is necessary to ensure greater transparency and participation in decision-making. Rule 4(2) of the FR Rules also requires that of those present, at least one-third are women and at least 50% should be claimants / rights holders under FRA.

In many States, the experience of not being able to meet the minimum quorum requirement under the 1994 Act, even though it is much lower, is because Gram Sabha meetings are held at the Panchayat level. Members have to often travel long distance on foot through difficult terrain in order to attend these meetings. However, Gram Sabha meetings under the FRA are held in the revenue village or hamlet itself, which is easily accessible to all members, and there ought not to be any difficulty in meeting the 50% quorum requirement under the FR Rules. Also, all adult members of the village participate in these meetings, and not only a single representative from each family.

Applicability of FRA

Q.13 What are the areas to which FRA applies? Is it mandatory to extend the application of FRA to the entire State or can the same can be restricted to specified areas?

It is clearly stated in Section 1(2) of the FRA that it extends to the whole of India except the State of Jammu and Kashmir. Section 3(1) describes the various forest rights which are recognised and vested under the FRA “on all forest lands”.

The FRA under Section 2(d) defines the term ‘forest land’ as land of any description falling within any forest area, and including unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks. This definition is in strict compliance with the Supreme Court judgment in 1997, where it was mentioned “(t)he term “forest land” occurring in Section 2 (of the Forest Conservation Act, 1980) will not only include “forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership.”

Q.14 Is FRA applicable in National Parks, Wildlife Sanctuaries and Tiger Reserves?

Yes, FRA is applicable in National Parks, Wildlife Sanctuaries, and Tiger Reserves, as is apparent from the definition of ‘forest land’ under Section 2 (d) which describes forest land as “land of any description falling within any forest area and includes.....Sanctuaries and National Parks”. FRA only recognises pre-existing rights which are already being exercised by the eligible persons in the National Parks and Sanctuaries. Other than securing the tenure of the existing forest dwellers on the land, no new rights are being created which might potentially impact the ecological balance inside the protected areas.

Q.15 Is FRA applicable in Municipal areas?

A plain reading of Section 1(2) of the FRA demonstrates that it extends to the whole of India, and other than the State of Jammu and Kashmir, no part of the country is exempted from its application. Section 2(d) of the FRA defines the term ‘forest land’ widely to mean “land of any description falling within any forest areas. The Ministry of Tribal Affairs has also issued clarifications in this regard vide letter dated 29th April 2013 and 5th March 2015 where the confusion, if any, has been laid to rest.

Eligibility Criteria for FDSTs and OTFDs

Q.16 What is the criteria and evidence required for a Forest Dwelling Scheduled Tribe (FDST) to claim rights under FRA?

According to Section 2(c) of FRA, to qualify as FDST and be eligible for recognition of rights under FRA, three conditions must be satisfied by the applicant/s, who could be “members or community”:

1. Must be a Scheduled Tribe in the area where the right is claimed; and
2. Primarily resided in forest or forests land prior to 13-12-2005; and
3. Depend on the forest or forests land for bonafide livelihood needs.

Q.17 Can persons belonging to Scheduled Tribes who have moved to non-Scheduled Areas in the State claim forest rights as forest dwelling Scheduled Tribes?

To claim forest rights as a FDST, the FRA requires that the claimant should be a Scheduled Tribe in the relevant area. In some States, a person’s Scheduled Tribe status is restricted to a particular area or District within the State. However, in other States, as per the Constitution (Scheduled Tribes) Order, 1950, the Scheduled Tribes are recognised as such for the entire State, and not just to the area of their domicile or the Scheduled Area or any other geographical location.

Q.18 What is the criteria and evidence required for an Other Traditional Forest Dweller (OTFD) to claim rights under FRA?

To qualify as OTFD and be eligible for recognition of rights under FRA, two conditions need to be fulfilled:

1. Primarily resided in forest or forests land for three generations (75 years, in Tripura it is 60 years) prior to 13-12-2005, and

2. Depend on the forest or forests land for bonafide livelihood needs. Note also that Section 2(o) refers to “any member or community” for this purpose, and hence if an OTFD village establishes its eligibility under the Act, there is no need for every individual to do so separately.

Q.19 What is the meaning of the phrase “primarily resided in forests or forest land” with regard to eligibility of OTFDs for recognition and vesting of forest rights under FRA?

The phrase “primarily resided in forest or forest land” does not mean occupation. Proof of residence in the forests for 75 years where claim has been filed and current dependence on forest land will suffice for being considered as OTFD. According to the Ministry of Tribal Affairs in Circular dated 9.06.2008, “such 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 dweller’ as given in Sections 2(c) and 2(o) of the FRA 2006.” It is important to state that it is not necessary that exercise of forest rights for 75 years without interruption be proved. This would be an extremely onerous burden of proof on a claimant, and is not the intention of the law.

For the purpose of establishing their eligibility, OTFDs can rely upon and produce two or more of any of the evidences listed in Rule 13 (including oral testimony and physical evidence), and are not restricted only to Census of India data.

Q.20 When calculating “75 years”, if the claimants (and their ancestors) have resided in one village for the first 50 years, and then another village for 25 years, would both periods be included for filing a claim ?

Section 2(o) of FRA does not require that the claimants and their ancestors have to prove they lived in the same village for 75 years. The requirement is that they should be forest dwellers for 75 years. It is also important to clarify that it is a particular forest dwelling community which has to establish this fact, and it is not necessary that every individual claimant has to prove it.

Q.21 What is the meaning of “depend on the forest or forest lands for bonafide livelihood needs” in Section 2(c) and (o) of FRA?

The term “bonafide livelihood needs” has been explained clearly in Rule 2(1)(b) of the FR Rules as follows:

“b) “bona fide livelihood needs” means fulfillment of livelihood needs of self and family through exercise of any of the rights specified in sub-section (1) of Section 3 of the Act and includes sale of surplus produce arising out of exercise of such rights.”

This definition clearly displaces the misconception that bonafide livelihood needs mean mere survival. In fact, the entire FRA and FR Rules clearly recognise that forest dwelling communities are not restricted to mere subsistence, but rather are entitled to a healthy standard of living.

Q.22 Can a State Government provide that persons holding any permanent or Government job shall not be eligible as Other Traditional Forest Dwellers?

There is no provision in the law that forest dwellers should be solely or even primarily dependent on the forests for their livelihood, or for disqualifying persons whose family income is derived from a basket of sources. There is everylikelihood that a family may be depending for its livelihood needs both on the forest rights, as well as supplement their family income through a Government job or salaried income. In fact, there are many families where one or more adult member has a salaried job requiring him to live in an urban area, while the other family members reside in the village and are sustained through intricate and sustainable relationships with the forests and forest produce.

Q.23 Where one spouse works as a Government servant, while the rest of the family resides in the village, is such family eligible for making a claim under FRA?

Many situations may arise where one spouse works as a Government servant or in a salaried job, while the other spouse along with other members of the family resides in the village. It would be contrary to the letter and spirit of FRA to deny forest rights to such families, merely because one of the spouses has seized such opportunity. It is for this reason that the FRA contains no statutory bar on recognition of forest rights of such claimants, if they are able to satisfy the other eligibility criteria.

Nor does the FRA restrict the recognition of forest rights to ‘family’. A claimant can be an individual, a family, a community, or a Gram Sabha. Just because one member of the family is disqualified as a forest dweller, does not mean other members who meet the eligibility criteria cannot claim their rights.

Q.24 What is the status under FRA of grazing rights of pastoralist/nomadic communities, when such communities are residing in revenue lands, and not “primarily residing” in forests?

Merely residing in revenue lands is not a disqualification from eligibility under the FRA, as long as the lands on which grazing rights are sought are forest lands. Forest land has been widely defined under Section 2(d) of the FRA.

Q.25 Which Gram Sabha/s are such pastoralist communities required to file their claims?

Claims can be filed before their own Gram Sabhas. If the rights are exercised in forests traversing number of villages, they should also file before all the Gram Sabhas through which they traditionally have rights of passage and temporary grazing. This can be done as a community through traditional community institutions, or through individual members. Correspondingly, according to Rule 12(1)(c) of the FR Rules, the Forest Rights Committee has to ensure that the claims from pastoralists and nomadic tribes for determination of their rights are verified when such individuals, communities or their representatives are present, and no decision on these rights should be taken in their absence. It is possible that claims of nomadic pastoralists may be filed later by those who are residents of a particular village. This is because such nomadic communities are compelled to move from one

place to the next and therefore may not be aware of the need to file such claims within a time-frame. The Forest Rights Committee should not refuse to entertain such claims merely on the ground that they are delayed.

Particularly Vulnerable Tribal Groups (PVTGs)

Q.26 What is the meaning of ‘habitat’ in the context of forest rights of Particularly Vulnerable Tribal Groups (PVTGs)?

The FRA clearly lays down the definition of ‘habitat’ under Section 2(h), and further describes the forest right to such habitat under Section 3(1)(e). That apart, the Ministry of Tribal Affairs issued a clarification on 23.4.2015, where it stated that, the right to community tenures of habitat and habitation over customary territories used by PVTGs include not only habitation, but also social, economic, spiritual, sacred, religious and other purposes.

Q.27 Can the habitat rights of the PVTGs under FRA also include revenue lands?

FRA envisages recognition of forest rights of forest dwelling STs and OTFDs on ‘forest land’ as defined under Section 2(d) of the Act. This implies, unclassified forests, un-demarcated forests, existing or deemed forests, which are often on revenue lands, are also forest land under FRA. As a result, it is possible that forest land which comprises the habitat of PVTGs is spread over both notified forests (that is, in Government records) and also forests in the dictionary meaning (which could be on revenue lands or other categories of land). Habitat rights of PVTGs are therefore applicable over both recorded forests and also forests that come within the definition of forest land under the FRA on such revenue lands (land under the administrative control of the revenue department).

Q.28 How will the claims on rights of PVTG groups and habitat rights be facilitated particularly in view of the habitat involving more than one Gram Sabha?

The right to community tenures of habitat and habitation may be recognised over customary territories used by the PVTG for habitation, livelihoods, social, economic, spiritual, cultural and other purposes. In some cases the habitats of PVTGs may overlap with forests and other rights of other people/communities. The FR Rules (as amended on 6.9.2012) under Rule 8 envisage the role of the District Level Committee (DLC) to ensure that such rights of the PVTGs and other vulnerable communities are addressed keeping in mind the objectives of the FRA.

It has further been provided that, in view of their differential vulnerability of PVTGs, the DLCs should play a proactive role by initiating the process of recognition of rights of the PVTGs in consultation with their traditional institutions and ensure that their claims for habitat rights are filed before the concerned Gram Sabhas. For this purpose, wherever necessary, the floating nature of their Gram Sabhas should be kept in mind. This has also been reiterated by the Ministry of Tribal Affairs vide Circular dt. 23.4.2015. Where the claims of PVTGs have already been filed, the DLCs should take steps to ensure recognition of their rights along with mapping of the area of each claim over which their rights have been recognised.

Minor Forest Produce

Q.29 In certain States/areas, rights to MFP are already provided under the Forest Settlements under the Indian Forest Act. Are community rights to MFP under FRA relevant in such States/areas?

The FRA provides for recognition of pre-existing forest rights under Section 3(1) (b)(c)(d)(g). In particular, Section 3(1)(j) and (l) provide for the recognition of forest rights recognised under any State law and traditional rights customarily enjoyed. Finally, under Section 3(1)(i) the Gram Sabhas are vested with the right to protect, regenerate, conserve and manage their CFRs. Once these rights are recognised in accordance with the procedure under the FRA and FR Rules, a number of cascading rights and obligations result, including the establishment of Committees under Rule 4(1)(e) for the purpose of protection and conservation of the forests, wildlife, water resources and other natural resources in the CFR. Forest Settlements under the IFA, on the other hand, while they specifically articulate the nature and extent of the rights to MFP, do not necessarily also vest in the forest dwellers these other concomitant rights, responsibilities and powers as provided under the FRA.

States which have areas under the Sixth Schedule of the Constitution have special laws enacted by the Autonomous District Councils which recognise community rights in forest land. These rights are included in the definition of forest rights under FRA.

Q.30 Section 3(1)(c) of FRA confers ownership rights over minor forest produces (MFP) to forest dwelling STs and Other Traditional Forest Dwellers. Can ownership rights over bamboo, and other nationalised forest produce under the State forest laws be conferred under FRA?

Yes. The recognition and vesting of ownership rights over all minor forest produces (MFP) including bamboo and other nationalised forest produce are to be conferred to forest dwelling STs and OTFDs as and when the claim for such rights is made.

Section 2(i) of FRA clearly defines the term “minor forest produce” which include all non-timber forest produce of plant origin, including bamboo, tendu or kendu leaves etc. Accordingly the right of ownership, access to collect, use, and dispose of all the MFPs as defined in the Act has to be recognised and vested with the forest dwelling Scheduled Tribes (FDSTs) and other traditional forest dwellers (OTFDs) under the Act (See Section 3(1)(c) of the Act).

Q.31 Can MFP rights be conferred on individuals or groups of individuals, or only on Gram Sabha?

There is a common misconception that forest rights under Section 3(1)(a) can only be vested in individuals, and the remaining rights under Section 3(1) (b) to (m) can only be vested in the Gram Sabha. This is a misconception. Section 3(1) of FRA clearly states that all the forest rights listed “secure individual or community tenure or both”. Thus there is no obstruction in the law for vesting any of the rights under Section 3(1), including forest rights to MFP, in an individual, a group of individuals, a user group, or a Gram Sabha, unless such vesting militates against the nature of the right itself (such as the right under Section 3(1)(i) FRA).

Q.32 Can the Gram Sabhas issue MFP transit permits and what will happen to the existing transit rules?

Yes, the Gram Sabha has the authority to regulate transit permits for MFPs where rights have been recognised under FRA. The FR Rules (as amended on 6.9.2012) provide that the transit permits for transportation of minor forest produce shall be issued by the Committee constituted by the Gram Sabha under Rule 4(1)(e) or the person authorised by the Gram Sabha. The Rules further provide that all decisions of this Committee pertaining to issue of transit permits shall be placed before the Gram Sabha for approval.

The existing transit permit rules at the State level can be accordingly modified in relation to transportation of minor forest produce with respect to right holders under FRA and align it with the provisions of FRA.

Q.33 Between the Gram Sabha and the Committee under Rule 4(1)(e), where does the decision-making power lie?

The power of decision-making with respect to MFPs clearly lies with the Gram Sabha, and the Committee formed under Rule 4(1)(e) of the FR Rules is its delegate or executive arm. The actions of the Committee are subject to approval, modification or repeal by the Gram Sabha.

Q.34 Who can auction and/or dispose of the MFP–forest rights holder or the Committee under Rule 4(1)(e)?

All MFPs are not to be auctioned. The right to dispose of MFP covers the entire gamut of activities as described under Rule 2(1)(d), subject to the powers of the Gram Sabha under Section 5 of FRA. Where the MFP right vests in an individual, groups of individuals, or family, again the disposal of such MFP covers the entire gamut of activities as described under Rule 2(1)(d), but would be subject to the powers of the Gram Sabha under Section 5 of the Act.

Where the Gram Sabha is the sole owner, that is, of MFPs which are not collected/used by any individuals or family in the community, the auction and disposal of the MFP falls within the power and domain of the Gram Sabha. The Gram Sabha can either carry out this process itself, or authorise the Committee under Rule 4(1)(e) to carry out this function, but in the event that it does so, the Committee performs this function as a delegate of the Gram Sabha and not in its own right. All its decisions, in addition, are subject to the approval of the Gram Sabha.

An important underlying principle of FRA is that of sustainable use while ensuring livelihood and food security of the forest dwelling communities. This prevents the conversion of MFPs for commercial use at the cost of local needs, and also ensures that the rights of local artisans, who use the MFPs as raw materials, are protected.

Q.35 In case the right to dispose of MFP is with the forest right holders, can they dispose of MFP to anybody, or are they constrained to sell it to the Gram Sabha or the agency fixed by Gram Sabha only?

There cannot be any restriction upon the MFP right to the effect that it be sold only to the Gram Sabha or its agent (see Section 3(1)(c) and Rule 2(1)(d)). Such an interpretation of the

right to MFP would be quite incorrect, and would lead to particular hardship for forest dwellers who depend on low value MFPs for their livelihood and use, in particular those where value addition is a result of the labour invested in the collection and extraction, often in dangerous conditions. As stated earlier, where the owner of the MFP is an individual, group of individuals, or family, they are expected to adhere to the decision of the Gram Sabha under Section 5 and the Committee under Rule 4(1)(e) to the extent that the disposal and sale of the MFP impacts the sustainability of the resource. Save such restriction, the right to disposal cannot be curtailed.

- **In a situation where claimants do not qualify as OTFD or FDST, and therefore are ineligible to claim right to MFP under FRA, will it be necessary to draw up two sets of Rules—one for the ineligible persons and another for those whose rights to MFP (including bamboo) are recognised?**

The notion of ‘ownership’ under the FRA does not fall within the framework of the extant understanding of the right to private property, where ownership means absolute power to use and dispose of the subject property. Instead, forest rights under FRA fall within a framework of collaboration and democratic decision-making which is holistic and integrated with the larger forest ecosystem.

Some illustrative examples could include:

- ✦ The right to harvest flowers, fruits or leaves from a particular tree or trees, which vests in a particular individual or family;
- ✦ The segregation of collection, sale and transit rights of certain MFPs by subgroups in certain areas;
- ✦ Where value addition to the MFP results only by reason of the individual labour expended during extraction, failing which the produce would degrade (this is true of both high value as well as low value MFPs);
- ✦ Where the collectors of a MFP vary from season to season, or where different MFPs are collected only by particular communities; and so on.

In such scenarios, the FRA as well as the FR Rules clearly recognise that the rights of the individual/group of individuals/family to receive a fair reward for their labour and value addition, is harmonised with the powers, responsibilities and rights of the Gram Sabha. Therefore, the power of the Gram Sabha under Section 5 of the FRA to conserve, manage and preserve the forest resource for sustainable use, co-exists with the right of ownership of the individual/group of individuals/family. The Gram Sabha has the power to regulate collection rights and responsibilities as per norms laid down by it for sustainable use, and the individual rights are nested within such ‘ownership’ of the Gram Sabha.

Accordingly, there will be only one set of ‘rules’ for the purpose of exercise of the right of ownership over MFP, which rules are framed by the Gram Sabha in exercise of its powers under Section 5 and Rule 4(1)(e)).

Conversion of Forest Villages and Unsurveyed Villages

- **How are old habitations, unrecorded or unsurveyed settlements and other villages on the forest land which are not part of any Revenue or Forest record to be converted into revenue villages?**

As provided under Rule 2-A of the FR Rules (as amended on 6.9.2012), in order to ensure that the FRA is implemented in letter and spirit, it is necessary that the District administration under the leadership of the Collector, and in collaboration with the Panchayati Raj institutions, take pro-active steps to ensure that all forest villages and other such villages are identified, as a preliminary to conversion to revenue village.

The process for identification of hamlets or habitations, unrecorded or unsurveyed settlements or forest villages or taungya villages, and their inclusion as villages for the purposes of the FRA is laid down in Rule 2A of the FR Rules. Rule 2A(c) further provides that on finalisation of the lists of hamlets and habitations “the process of recognition and vesting of rights in these hamlets and habitations is undertaken without disturbing any rights already recognised. The forest villages referred to under the FRA includes not only the forest villages recorded as such in the Forest Department records, but also any other old habitations, unsurveyed villages, and other villages in forests whether recorded, notified or not. Therefore, inclusion in Government records is not a necessary precondition for the recognition of this important forest right under Section 3(1)(h).

- **What happens when conversion of forest villages and other such villages is required in lands which are not classified as forest lands?**

The Supreme Court in a landmark judgment dated 12.12.19976 in the Godavarman case, held as under:

“The term “forest land” occurring in Section 2 (of the Forest Conservation Act, 1980) will not only include “forest” as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership.”

Since then the term ‘forest land’ is to be understood in its wider definition, that is, including not only forest land classified as such, but also all other forests, which would include revenue forests, private forests, community forests, and any other kind of forest lands.

The FRA, in conformity with the law laid down by the Hon’ble Supreme Court, also adopts a wider definition of forest lands. Since the rights conferred under the FRA apply to all forest lands, if there are villages inside any forest which is not necessarily classified as forest land, these villages are also required to be converted into revenue villages under the FRA.

- **Is there any conflict between the provisions of the Forest Rights Act, the provisions of Forest (Conservation) Act, 1980 and the order dated 13.11.2000 passed by the Hon’ble Supreme Court?**

An interim order dated 13.11.20007 was passed by the Hon’ble Supreme Court in a pending public interest litigation, as follows:

“Pending further orders, no dereservation of forests/sanctuaries/national parks shall be effected.”

This order was passed in the context of the widespread violation of the provisions of the Forest (Conservation) Act, 1980. As a result of this order, special permission of the Supreme Court was required in the event there was a need to change the classification of any forest land to non-forest land.

Section 4(1) of FRA, which recognises and vests forest rights in the forest dwelling STs and OTFDs, begins with a non-obstante clause. It states that such forest rights are recognised and vested “notwithstanding anything contained in any other law for the time being in force”, meaning thereby that the forest rights are recognised and vested regardless of whether such forest rights might be contrary to other laws. After FRA came into force on 31.12.2007, the interim order dated 13.11.2000 of the Hon’ble Supreme Court would be guided by the provisions of the FRA.

Section 4(7) of FRA provides that the Act confers forest rights free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the ‘net present value’ and ‘compensatory afforestation’ for diversion of forest land. Even otherwise, recognition of forest rights under the FRA does not require “de-reservation of forest” or change in the classification of the forest land as non-forest land. Therefore, recognition and vesting of all forest rights, including the settlement and conversion of forest villages and other such villages into revenue villages under Section 3(1)(h), are not in violation of or contradictory to the Supreme Court’s order of 13.11.2000.

- **Is the approval under Section 2 of the Forest (Conservation) Act, 1980 required for conversion of forest villages and other such villages into revenue villages?**

In view of Section 4(7) of FRA and the legal position described above, approval under Section 2 of the Forest Conservation Act, 1980 is not required for conversion of forest villages, old habitations, unsurveyed villages and other villages in forests, whether recorded, notified or not, into revenue villages.

As per the provisions of the FRA, the District Level Committee is the final authority for approving the record of forest rights specified in Section 3(1) of the Act, including the right relating to conversion of forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act.

- **What impact would the conversion of forest villages have on the other communities apart from the Scheduled Tribes residing in the same villages?**

The conversion of the forest villages into revenue villages shall in no way affect any of the communities residing in the village, even though they may not be belonging to Scheduled Tribe or qualifying as OTFD. The FRA does not abrogate rights or privileges recognised under any other Act, Rule or Government Order. In fact, the conversion of forest villages into revenue villages would enable the Government to extend all the development facilities to these villages and the residents of this village would be entitled to get the benefits of the development programmes and schemes of the Government. Conversion of forest villages into revenue villages needs to take place as per the MoTA guidelines dated 8.11.2013.

- **Does FRA require that forest villages and other such villages located inside Wildlife Sanctuaries and National Parks are also converted into revenue villages under Section 3(1)(h)?**

The FRA envisages recognition and vesting of the forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, including Wildlife Sanctuaries and National Parks. The forest villages and other such villages located inside Wildlife Sanctuaries and National Parks are also, therefore, required to be converted into revenue villages under Section 3(1)(h) of the Act.

- **Can the process of recognition and vesting of forest rights in the FDSTs and OTFDs be taken up/continued, pending conversion of forest villages and other such villages into revenue villages?**

Under the FRA, conversion of forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act is not a pre-condition for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers who comprise such villages. Therefore, the process of recognition and vesting of forest rights in the FDSTs and OTFDs can be taken up/continued without waiting for conversion of forest villages and other such villages into revenue villages.

Title and Record of Rights

- **What is the category of title given under FRA?**

The title given under the FRA is a legal title and is a formal recognition of the forest right which is recognised and vested in the right holders in the form of a signed document by the competent authority under the Act. It shall be registered jointly in the name of both the spouses, or a single head of the household in case only one head is alive, as the case may be. It has the force of law and is nontransferable, inalienable but heritable as per Section 4(4) of FRA. Therefore, the final title document which is given to the forest rights holder should have a clear description of the forest right conferred, the demarcation of boundaries, and other relevant information. For individual forest rights, the document should also specify the survey number/Khata number of the land.

In a recent Circular dt. 10.4.2015, the MoTA reiterated that the FRA process will only be completed when the RoR (record of rights) has been created. The purpose of rights recognition is realised only when permanent record of rights are entered into Government books of records.

- **Where are the records of rights going to be maintained? Whether in the revenue records or forest records?**

As regards maintenance of records of rights, Rule 12 A of the FR Rules (as amended on 6.9.2012) provides that on completion of the process of recognition of rights and issue of titles, the Revenue and the Forest Departments are required to prepare a final map of forest land so vested and the concerned authorities are required to incorporate the forest rights so

vested in the revenue and the forest records within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier. This position has been reiterated in the Ministry of Tribal Affairs Circular dt. 3.3.2014.

It is suggested that if the forest land is under the administrative control of the Revenue Department, the Revenue Department shall maintain record of rights. If the forest land is under the administrative control of the Forest Department, the forest department should maintain the records and the records of the titles for individual land rights and conversion of villages, also need to be recorded in the Revenue records. States may take appropriate steps to enter the record of rights in the relevant State records.

It may be noted that the Record of Rights issued under the FRA must also mention the caste/tribe to which the right holder belongs, to facilitate future processes, if any.

Community Forest Resource Rights

- **How are CFR rights different from community rights?**

The community forest rights are the various rights under Section 3(1) which are vested and recognised in a village community, and exercised together as a community. This would include nistari rights [Section 3(1)(b)], the right to MFP [Section 3(1)(c)], fishing and grazing rights [Section 3(1)(d)], right to conversion of forest villages into revenue villages [Section 3(1)(h)], right to access biodiversity and intellectual property rights [Section 3(1)(k)] and so on.

The Community Forest Resource (CFR), however, is defined under Section 2(a) as under:

“(a) “community forest resource” means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access”.

The CFR is therefore the customary common forest which harks back to the traditional or customary boundaries of the village, and includes seasonal use of pastoralists. For the removal of doubts, if any, the definition makes it clear that even where such traditional or customary forests have been declared as protected areas, they are still included within the definition of CFR. Therefore, the CFR right under the FRA would not be restricted by any pre-determined statutory right or access.

The CFR right, therefore, is much wider than the various community rights delineated under Section 3(1) in that it extends over a geographical area where the community traditionally and customarily had access, and also vests important responsibilities and powers in the Gram Sabha to ensure the CFR area, and the wildlife, water sources, forests, and biodiversity it comprises, is protected from harm.

- **In case of community forest resource, who will be the claimant to file the community claim? In whose name(s) will the community rights be vested?**

Rule 11(1)(a) and (4) read with Form-C of the FR Rules (as amended on 6.9.2012) lays down the procedure for filing, determination and verification of community forest resource (CFR) claims by the Gram Sabha. What is necessary is a resolution of the Gram Sabha in support of the said claim for CFR

The title is issued in the name of the Gram Sabha which has registered the claim, which is also clear from Annexure IV, the format for title to CFRs.

- **What are the documentary evidences required in case of CFR rights?**

CFR rights are related to usufruct right of the community and there are a number of forest documents like working plans, gazetteers, forest settlement reports and other documents that show that the forest is right burdened and is being used by people of those habitats. These documents are sufficient proof of usage of forests by the forest dwellers, in addition to oral evidence. Moreover, other practices such as Joint Forest Management, traditional use, community protection, etc. are also admissible as evidence.

Physical and oral evidence, among a host of other categories, is also admissible under Rule 13 of the FR Rules (as amended on 6.9.2012). In fact, Rule 13(2) lists certain additional types of evidence which can be relied upon for determination of CFR rights, such as previous classification of current reserve forest as protected forest or as gochar or other village common lands, nistari forests, as well as previous or current practice of traditional agriculture. Rule 12A(11) specifies that the SDLCD/DLC cannot insist on a particular evidence in support of the claim.

It has been clarified by the Ministry of Tribal Affairs, Government of India vide Circular dt. 28.4.2015, that State Governments should prepare a geo-referenced database of maps, and make such maps available to forest dwellers claiming CFR rights, so that genuine claimants are not left out. Further detailed suggestions on the use of GIS based technology, particularly with regard to CFR rights, have been made vide Circular dt. 27.7.2015.

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

As per the FR Rules (as amended on 6.9.2012) the Committee constituted by the Gram Sabha under Rule 4 (1)(e) for carrying out the provisions of Section 5 of the Act is required to prepare the conservation and management plan for CFRs in order to sustainably and equitably manage such CFRs for the benefit of FDSTs and OTFDs. Such conservation and management plans are to be integrated with the micro plans or working plans or management plans of the Forest Department with such modification as may be considered necessary by the Committee.

This plan and the functioning of the Committee is monitored and controlled by the Gram Sabha. The Gram Sabha can further modify the conservation and management plan and impose restrictions if it considers that these are necessary for the conservation and management of the community forest resources. As clarified in the Circular dt. 23.4.2015 issued by the MoTA, each Gram Sabha is free to develop its own simple format for conservation and management plan of the CFR. Such plan should be easily understandable by the members, and may also comprise of the rules and regulations governing forest access, use and conservation.

Any other committee mentioned in any other law cannot qualify to usurp this power which is vested with the Committee under Rule 4 (1) (e), nor can Gram Sabha through any resolution decide to absolve itself of its responsibilities.

- **Do the title holders also have rights over the trees standing on the forest land for which their rights have been recognised and vested under FRA?**

Yes, the title holders have right over trees on the forest land for which forest rights have been recognised under FRA under Section 3(1)(a)). Section 3(1)(a) of the FRA recognises the right of the FDSTs and OTFDs to hold and live in the forest land for habitation or for self-cultivation for livelihood. In view of the above, the titleholders have the right over the trees standing on the said forest land. However, felling and disposal of the trees shall be treated in the same manner as trees on private land under the relevant State laws. As such, the felling and disposal of such trees shall be subject to conditions, requirements for permission from the competent authority, etc. as specified in those laws, if any.

There would be no restriction on collecting and using the minor forest produce from such trees. Also, where timber rights are already vested as 'nistar' or any other statutory or traditional/customary right, it is a different matter and there is no impediment under FRA to the continuation of such right.

Status of JFM Committees

- **Does the FRA permit conversion of the pre-existing JFM Committees, which have been in existence for last 15-20 years in some States, into Committees under Rule 4(1) (e) of the FR Rules?**

First, it needs to be understood that JFM Committees are not statutory bodies, but rather have been constituted under a Government of India resolution of June 1990. In most States, these Committees are functioning under a JFM Scheme, with the purpose of involving people in the management of forests. On the other hand, where the conferment of a CFR right is concerned, it is a substantive statutory right under a Central legislation, the FRA.

It is the prerogative of the Gram Sabha to decide whether to nominate the members of the JFM Committees in the new Committee under Rule 4(1)(e) or constitute it with new members. It is further clarified that only the members of the Gram Sabha are eligible to become members of the Committee under Rule 4(1)(e). Since many JFM Committees have been established at the Gram Panchayat level, there would be a technical difficulty in converting these into a Committee under Rule 4(1)(e) since they would have members from several Gram Sabhas. Moreover, in most States the Forest Guard is the ex-officio Member Secretary of the JFM Committee; such Forest Guard naturally cannot be a member of the 4(1)(e) Committee under FRA except in a village that he himself belongs to.

Automatic conversion of JFM Committees into Committee under Rule 4(1)(e) is neither mandated nor desirable under the FRA as the objectives, structure and mandate of JFM is different from that of the Committee under Rule 4(1)(e). The practice of equating JFM Committees with community rights under FRA has been deprecated in clear terms (see D.O. No.MTA&PR/VIP/18/88/2013 dated 4.4.2013)

- **Should JFM areas be directly converted to Community Forest Resource Titles?**

As per the provisions of FRA and FR Rules, automatic conversion of JFM areas into CFR areas is neither mandated nor desirable as the objectives, structure and mandate of JFM is different from that of the forest right under community forest resource under FRA.

Development and FRA

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

The FR Rules (as amended on 6.9.2012) provide for post claim support to the forest rights holders, and require the State Government to ensure that all Government schemes, including those for land improvement, land productivity, basic amenities and other livelihood measures, are provided to forest dwellers and communities whose rights have been recognised and vested under FRA (see Rule 16). Specifically, the FR Rules require that this will be the responsibility of the State departments of tribal and social welfare, environment and forest, revenue, rural development, Panchayat raj and other departments.

It is important to note that even prior or during the process of recognition and vesting of rights, developmental rights under Section 3(2) of FRA can be exercised by the forest dwelling communities.

- **Can the States get separate budget allocations for the demarcation of CFR areas and smooth implementation of FRA?**

Article 275(1) of the Constitution of India provides an opportunity to each State Government to apply for grants for implementation of FRA. Grants under Special Central Assistance (SCA) to Tribal Sub Plans (TSP) can also be allocated for the development of land over which rights have been recognised.

- **Does diversion of forest land for development facilities under Section 3(2) require a forest clearance under the Forest (Conservation) Act, 1980?**

No permission is needed under the Forest (Conservation) Act, 1980, since the FRA frees the forest rights of all encumbrances and procedural requirement of the 1980 Act in terms of Section 4(7). However such development facilities must fulfill the conditions under Section 3(2) of the FRA, namely:

- ✦ The facilities are managed by a Government body;
- ✦ Diversion of less than one hectare of forest land is involved;
- ✦ Cutting of not more than seventy five trees;
- ✦ Recommendation of the Gram Sabha; and
- ✦ Limited to the thirteen items listed under Section 3(2) of the FRA.

- **What are the minimum requirements necessary to demonstrate compliance with the FRA prior to diversion of forest land under the Forest (Conservation) Act, 1980 or any other development activity in forest areas?**

At a minimum, compliance with the FRA requires that:

- ✦ The concerned Gram Sabha certifies that the rights recognition process under the FRA is complete in the area being proposed for diversion, and
- ✦ The decision of Gram Sabha in support of diversion of forest land for the stated non-forest purposes, by way of a resolution. This should be at a meeting convened for the purpose, and having a quorum of 50%.

- **Can exemptions be granted from the process of recognition of rights under the FRA requirements for certain kinds of projects?**

No. Compliance with FRA is a mandatory requirement before forest land can be diverted. The Act does not provide any exemption to any category of projects. Forest land is widely defined under Section 2(d) of the FRA in accordance with the Supreme Court judgment. The provisions of FRA need to be strictly construed keeping in view the legislative intent of the said Act and primacy of the Gram Sabha in democratic governance.

The centrality of the Gram Sabha's role has also received affirmation from the Supreme Court in a recent (2013) decision in Orissa Mining Corporation case¹, wherein the Supreme Court has fore-grounded the central role of Gram Sabha (known as Palli Sabha in Odisha) in determining community or individual forest rights claim, and decision-making regarding development activities in their forest areas.

- **Is there any kind of 'FRA clearance' or 'NOC' under FRA required for diversion of forest land?**

Clearances of different kinds and under different statutory laws are required for development projects, such as "forest clearance" under the Forest Conservation Act, 1980, environmental clearance under the Environment (Protection) Act, 1985 and its various Rules and guidelines, and other clearances. These laws are, accordingly, regulatory in nature.

The FRA, however, recognises and vests substantive rights, and therefore stands on a completely different footing. Just like any other vested and substantive right, the forest rights under FRA also cannot be altered to the detriment of the rights holders without due process of law. This is made doubly clear by Section 4(5) which requires that all recognition and verification processes under FRA must be completed before forest dwelling STs and OTFDs can be removed.

The Gram Sabha is vested with the power and responsibility to protect, preserve, conserve and manage its forests and CFRs. Therefore, before forests in its area can be diverted for any other development purpose, the Gram Sabha has to consider this at a specially convened meeting, and after carefully considering all factors, take a decision on the proposed diversion, after certifying that the rights recognition process is complete.

This process is not comparable with the grant of a forest clearance or a 'No Objection Certificate' (NOC) by an administrative or regulatory authority. Instead, this process requires thoughtful and informed application of mind by the Gram Sabha so that it takes a careful and considered decision on the matter.

- **What is the competent authority which can certify that a development project has the go-ahead of the concerned Gram Sabha?**

The Gram Sabha is the statutory authority which has to initiate the process of determination and verification of claims under Section 6 of FRA. It is also the statutory authority in which the forest right under Section 3(1)(i) is vested, as well as the power and responsibility under Section 5 to protect, preserve, manage and conserve the community forest resources. In addition, the FRA and FR Rules vest a plethora of responsibilities, functions and powers in

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the Gram Sabha. Therefore, it is the Gram Sabha which is the competent authority to certify that any particular development project has the go-ahead of the village community, through a resolution of a properly convened meeting of the Gram Sabha, with a minimum quorum of 50% (as required in the FR Rules).

It is only logical that the certification of the Gram Sabha must apply to all eligible forest dwelling STs and OTFDs, whether they have filed claims or these claims are under process or even where the claims have not been filed.

- **What is the competent authority for certifying that the rights recognition process under FRA is complete?**

The competent authority for certifying that the rights recognition process under FRA is complete in a particular forest area is the concerned Gram Sabha. Further, no other authority can either invite claims or extend the date for filing them, and hence no other authority can make this determination.

- **Where settlements are already complete under the Indian Forest Act, 1927 and the Wild Life (Protection) Act, 1972, is it necessary to re-settle rights under the FRA?**

The FRA is based upon the premise that forest dwelling communities are “integral to the very survival and sustainability of the forest ecosystems”. Therefore, the FRA focuses on the recognition and vesting of forest rights, which are substantive in nature, and is not concerned with the “settlement” of rights, which involves their compensation and extinguishment. It is important to note that the requirement of ensuring compliance with the FRA, far from being a hurdle in the implementation of development projects, will in fact ensure that forest dwelling communities fully participate in decision-making regarding such development projects, thus advancing the constitutional and statutory imperative of democratic decision-making.

Miscellaneous

- **Can the State Government frame Rules and Guidelines for the implementation of the FRA in a uniform manner across the State?**

Only the Central Government is permitted to enact and notify legislative Rules (under Section 14 of FRA) and issue general or special directions (under Section 12 of FRA).

However, there is no bar against the State Government issuing executive instructions for the purpose of implementation of FRA, as long as such instructions are intra vires the FRA, FR Rules, and directions under Section 12. In addition, Governor of the State can issue Regulations under paragraph 5 of the Fifth Schedule of the Constitution of India for the Scheduled Areas

- **Tribals in some settlements are demanding that land under cultivation should be assigned in their common name. Is this permissible under FRA?**

Section 3(1)(a) of the FRA permits the recognition and vesting of the right over the forest land under common occupation for cultivation in the name of a community of tribals. However, in view of the provisions of Section 4(6) of the Act, such forest land under the occupation of the community of tribals shall be restricted to the area under actual occupation.

- **How are titles for forest rights under FRA to be conferred, and in whose name?**

Section 4(4) of the FRA, among other things, provides that a forest right conferred under the Act shall be heritable but not alienable or transferable, and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person. In the absence of a direct heir, the heritable right shall pass on to the next-of-kin. There is no bar in the Act to the registration of the forest right conferred under the Act jointly in the name of both the spouses who are married inter-caste, provided the applicant is either an FDST or fulfils the criteria for an OTFD.

- **Can claims under Section 3(1)(a) be rejected on the ground that land under actual cultivation is less than the area under occupation of the claimant ?**

Rule 12(A)(8) of the FR Rules states that the land rights for self-cultivation recognised (under Section 3(1)(a)) shall be, within the specified limit of 4 hectares, include the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce. Therefore it is incorrect to reject a claim on the ground that the entire area claimed is not under cultivation, when such land is under occupation.

- **How does FRA affect legally recognised pre-existing rights?**

According to Section 3(1)(j) of FRA provides for recognition of all pre-existing rights under any State laws, or under any traditional or customary law recognised in a State. States which have areas under the Sixth Schedule of the Constitution have special laws enacted by the Autonomous District Councils which recognise community rights in forest land. These rights are included in the definition of forest rights under FRA.

- **Many of the forest rights recognised under the FRA have been treated as illegal activities under previous legislations, such as collection of MFPs in protected areas. In some cases these are also criminal offences punishable with fine and/or imprisonment. How is this contradiction to be resolved?**

The substantive rights vesting provision in the FRA is Section 4(1), under which the forest rights defined under Section 3(1) are recognised and vested in forest dwelling STs and OTFDs. This provision, which is at the heart of the statute, begins with a non-obstante clause- **“notwithstanding anything contained in any other law for the time being in force”**. This means that the forest rights recognised and vested under the FRA override previous legislations, rules, guidelines, and even judicial orders to the contrary, and will have effect in supersession of these other laws. For example, under the Indian Forest Act, 1927 if a person is found in possession of a Minor Forest

Produce in a reserve forest or protected forest, there is a legal presumption that such MFP is Government property. Since extraction of MFP is itself a forest offence, such a situation would invite severe penal consequences, including arrest, search and seizure, prosecution and, if convicted, a possible prison term. If such person is transporting the MFP, further penalties under a variety of State MFP transit legislations are also attracted.

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However, the FRA grants ownership rights over MFP to forest dwelling STs and OTFDs, and also invests the Gram Sabha with the power to manage the extraction, collection and transportation of MFP. This is the exact opposite of a crime.

Since the right to ownership of MFP is a substantive right vested under Section 4(1) of FRA, the provisions of the central as well as state laws which make extraction of MFP from reserve forests a criminal offence are overridden and rendered meaningless with respect to forest dwelling STs and OTFDs. Such laws would, however, continue to operate against persons who are not right holders under FRA, in addition to the provisions of FRA which permit the Gram Sabha itself to take necessary action against such persons.

- **The implementation of FRA is sometimes seen as being contrary to court orders and therefore possible contempt of court. How are such situations to be addressed?**

It is a well accepted principle of statutory interpretation that an Act of Parliament overrides preceding judgments and orders of the Hon'ble Courts, and this is also specifically articulated in Section 4(1) of the FRA which begins with an unambiguous non-obstante clause, as follows:

“(1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognizes and vests forest rights in-xxx”

Where orders have been passed by a court which are **per incuriam**, or have not taken the provisions of the FRA into consideration, the same should be brought to the attention of the Hon'ble Court by the concerned executive authorities by following due process of law.

- **Why has no provision been kept for the transfer of recognised land under the FRA?**

Assessments have shown that the tribals have been losing land at a fast pace due to various reasons, despite constitutional and statutory safeguards. Under FRA, land has been kept inalienable to ensure that the land is not lost and also to ensure that only eligible claimants stake a claim.

- **What are the activities included within the meaning of “self-cultivation for livelihood” in Section 3(1)(a) of FRA?**

The term “self cultivation” is described in Rules 12A (8) of the FR Rules as follows:

“12 A. xxx (8) The land rights for self-cultivation recognised under clause (a) of sub-section (1) of section 3 shall be, within the specified limit, including the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce.”

Thus, the FRA and FR Rules acknowledge the fact that agriculture includes not just cultivation, but also a host of other allied and ancillary activities. Note also that under Rule 2(1)(b), the term ‘bonafide livelihood needs’ has been defined to mean fulfillment of livelihood needs of self and family, including the sale of surplus produce arising out of exercise of such rights.

- **Can the person in whom the forest rights are vested, or the person who has inherited such rights, be permitted to change the land use of such land?**

Under Section 3(1)(a) of FRA, the forest right includes the right to hold and live for habitation and selfcultivation. As stated under Rule 12A(8) of the FR Rules, self-cultivation includes a plethora of activities allied or ancillary to cultivation, such as for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce. A person may utilise the land for any of such usages. However, it would not be lawful to use the land for any other purpose, since the forest right is vested for a specific purpose.

- **Can any occupant of forest land be evicted under FRA on the ground of encroachment without completion of rights recognition process?**

The state cannot evict any forest dweller if a claim on the concerned forest land under FRA is under process. If the claim gets rejected by the DLC, and assuming that the claimant has not exercised any other remedies available under the law, then the claimant can be evicted after following the due process as provided under the Indian Forest Act, 1927 and the relevant State law. The FRA does not contain any provision or procedure for removal of encroachments, either automatically on rejection of a claim or otherwise, since this is not the subject matter of the FRA.

- **Once the process of recognition and vesting of rights, including CFR rights, is completed, what are the remedies available if after a few years it is observed that the forests are getting degraded?**

Section 5 of the FRA, while giving the authority and power, also places a responsibility on the Gram Sabha of forest dwellers to ensure that the ecological resources are protected and principles of sustainable development are adopted while managing the CFR. In the event the Gram Sabha is found to be engaging in practices which are harmful to the forests, biodiversity, wildlife or other natural resources within its CFR, there are a plethora of environmental protection laws which can be activated in order to remedy the situation.

PHOTO GALLERY

Forest Rights Act in Tripura An Assesment

