

Working Paper No. 117  
RULNR Working Paper No. 18  
August, 2012

# Implementation of Forest Rights Act: Undoing the Historical Injustices?

**Madhusudan Bandi**



RESEARCH UNIT FOR LIVELIHOODS AND NATURAL RESOURCES

*(Supported by Jamsetji Tata Trust)*



CENTRE FOR ECONOMIC AND SOCIAL STUDIES

Begumpet, Hyderabad-500016

## Acknowledgements

This working paper is the first part of a larger research study on "*Critical Assessment of the Forest Rights Act, 2006 and its Impact on Livelihoods of the Forest Dependent Communities: A Comparative Study of Chhattisgarh and Gujarat*" being carried out at Gujarat Institute of Development Research (GIDR), Ahmedabad. The study is sponsored by Research Unit for Livelihoods and Natural Resources (RULNR) (Supported by Jamsetji Tata Trust - Mumbai) at Centre for Economic and social Studies (CESS) Hyderabad, Andhra Pradesh (INDIA). I acknowledge RULNR for this. My special thanks are also due to Prof. M. Gopinath Reddy, RULNR and Prof. Amita Shah, Director, GIDR for the encouragement and whole hearted support to conduct this study. Comments from Dr. Rohit Desai, Representative of TATA Trust and Prof. Kailash Sarap, Sambalpur University, Odisha were extremely useful in giving the paper its present shape. I express utmost regards to them.

Author

# Implementation of Forest Rights Act: Undoing the Historical Injustices?

Madhusudan Bandi \*

In the history of mankind, there have been always exploiters and exploited classes. Exploiter class always exploited the weaker class. Exploiters have changed, means of exploitation changed but exploitation has never ceased

- Karl Marx

## ABSTRACT

This paper is based on a critical literature review and looks into the implementation of the Forest Rights Act (FRA) in India, with particular reference to the two states of Chhattisgarh and Gujarat. The paper examines the provisions, whatever little the forest-dependent people had since the colonial regime, when modern forest governance began. Under the forest policy the forest was reserved, barring the locals from entering their own lands, and it has been continuing into the present times. The paper explores how after a long struggle the FRA finally came into being with an acknowledgement by the government about the historical injustices meted out to the poor forest-dependent people. The paper further discusses the status of FRA implementation in the context of the two states, and presents an overview of its implementation at the national level. Finally, it analyses the possible implications on the livelihoods of the forest-dependent people in the backdrop of this Act and the impending challenges ahead.

---

\* Assistant Professor, Gujarat Institute of Development Research, Ahmedabad.

## ABBREVIATIONS

CFM	:	Community Forest Management
DFO	:	Divisional Forest Officer
DISHA	:	Developing Initiatives for Social and Human Action
DLC	:	District Level Committee
EDC	:	Eco-Development Committee
FCA	:	Forest Conservation Act
FD	:	Forest Department
FDA	:	Forest Development Agency
FDP	:	Forest-Dependent People
FDST	:	Forest Dependent Scheduled Tribes
FPC	:	Forest Protection Committee
FRA	:	Forest Rights Act
FRC	:	Forest Rights Committee
GoC	:	Government of Chhattisgarh
GoG	:	Government of Gujarat
GoI	:	Government of India
GoMP	:	Government of Madhya Pradesh
GR	:	Government Resolution
GS	:	Gram Sabha
ha	:	Hectare
HDI	:	Human Development Index
IFS	:	Indian Forest Service
JFM	:	Joint Forest Management
JIBC	:	Japan Bank International Cooperation
JICA	:	Japan International Cooperation Agency
JPC	:	Joint Parliamentary Committee
km	:	Kilometres
MFP	:	Minor Forest Produce
MoEF	:	Ministry of Environment and Forests
MoTA	:	Ministry of Tribal Affairs
MP	:	Madhya Pradesh
NFP	:	National Forest Policy
NGO	:	Non-Government Organisation
NTFP	:	Non-Timber Forest Produce
OTFD	:	Other Traditional Forest Dwellers
PESA	:	Panchayat Extension to Scheduled Areas
PF	:	Protected Forest

PFM	:	Participatory Forest Management
PRI	:	Panchayati Raj Institutions
PTG	:	Primitive Tribal Group
PVTG	:	Particularly Vulnerable Tribal Group
RD	:	Rural Development
RF	:	Reserved Forest
Rs.	:	Rupees (Indian Currency)
SA	:	Scheduled Areas
SC	:	Scheduled Caste
SDLC	:	Sub-Divisional Committee
SLMC	:	State Level Monitoring Committee
sq	:	Square
ST	:	Scheduled Tribe
TDD	:	Tribal Development Department
WPA	:	Wildlife Protection Act

## GLOSSARY

### Glossary of Local Terms

Adhiniyam	: Act
Adivasi Mahasabha	: Name of an NGO meaning general assembly of Tribals
Anganwadi	: Government-sponsored child care and mother care centre
Chintal	: A kind of deer species found in Gujarat
Chipko Andolan	: Tree-hugging movement started in Uttaranchal to save trees
Crore	: 10 million? (1 crore = 10 million)
Gram Sabha	: Lowest unit of panchayat
Lakh	: One hundred thousand? (1 lakh = 100,000)
Myna	: A bird of the starling family ( <i>Sturnidae</i> )
Naxal/Naxalism/Naxalites	: Extremist and outlawed outfit in Andhra Pradesh
Nistar	: The concessions granted for removal from forest coupes on payment at stipulated rates, specified forest produce for bonafide domestic use, but not for barter or sale. The nistar rates are fixed by the FD for the special forest produce in consultation with the District Collector
Niyam	: Rule
Panchanama	: A Sanskrit word. ' <i>Panch</i> ' means a respectable person; ' <i>nama</i> ' means a written thing. A written account of some transaction, which has taken place in the presence of respectable persons (two or more than two)
Panchayat	: Assembly ( <i>ayat</i> ) of five ( <i>panch</i> ) wise and respected elders chosen and accepted by the local community
Panchayati Raj	: Decentralised governance at village level
Pattas	: Landholding document
Sal	: <i>Shorea robusta</i> , a species of tree found in southern Asia
Sambhar	: A large deer ( <i>Cervus Unicolor</i> ) found in southern Asia, having three-tined antlers and a reddish-brown coat
Sarpanch	: Village headman
Taluka	: Intermediary administrative block
Tendu	: <i>Abnus</i> (leaves used for rolling local cigars ( <i>beedi</i> ))
Van Upaj	: Forest produce
Viniyaman	: Regulation
Vyapar	: Business

## Glossary of Forestry-related Technical Terms

Afforestation	: The establishment of a tree crop in an area where it has always been or for very long been absent.
Biodiversity	: A biological diversity, which includes diversity of species, genes and ecosystems, and the evolutionary and functional processes which link them.
Community Forestry (or Community Forest Management)	: A term used as an all-encompassing operational term. The common denominator in community forestry is the focus on the role of local communities (usually forest-dependent) in managing neighbouring forests and sharing the benefits from those forests. An important role is to foster productive relationships between communities, government agencies, and NGOs.
Deciduous Forest	: A forest exhibiting discontinuous, often seasoned, tree leaf cover (opposite of evergreen).
Deforestation	: Clearing an area of forest for another long-term use. Technically, a semi-permanent depletion of tree crown cover to less than 10 percent.
Degradation	: Forest degradation is a reduction in the biomass, productivity of forests, and alterations in ecological functions such as habitat, climate regulation, and soil and water protection. Sometimes this is also referred to as the lowering in the quality or integrity of the forest ecosystem. One example is a change in forest class, say from closed to open forest, which negatively affects the stand or site, or lowers the production capacity.
Designated Forest	: A forest area legally set aside for protection, production, or some other specified use.
Ecosystem	: A dynamic and inter-related community of biological organisms and the surrounding environment, linked through nutrient cycling and energy flows.
Forest	: An area characterised by predominance of woody vegetation growing more or less closely together; whether 'closed' or 'open' in canopy, and whether fully intact ecologically or modified, fragmented or planted by humankind. Technically, forests are usually defined as ecosystems with a minimum of 10 percent tree canopy cover.

Forest Sector	:	The group comprising all direct stakeholders in the forest resources.
Forestry	:	The science and vocation of forest management. Traditionally regarded as technical endeavour, forestry is now broadening to include more political elements.
Joint Forest Management	:	JFM is a variant of community forestry widely adopted in India for managing government-owned forests in which both responsibility and benefits are shared between local user groups and the forest department.
Landscape	:	The geographical and ecological integrity and resilience of a particular land area, not merely its aesthetic qualities. Landscape is not just a geographical concept, but includes human, cultural and traditional values that are associated with land.
Non-Timber Forest Produce	:	NTFP are medicinal plants, resins, mushrooms, rattans, wildlife, and other non-wood goods obtained from forests.
Participatory Forest Management	:	A forest management system in which decision making follows from a process of broad public involvement.
Plantation	:	Tree crop of one or a few species, usually planted and managed intensively for industrial wood production, whether timber or fibre. Sometimes, plantations are also managed to produce fuel wood.
Policy	:	A rule or norm usually prescribed by governments to help direct behaviour or decision making.
Protected Forest	:	Any forest land, waste-land, or any other land, which is not included in a reserved forest, but which is the property of the government, or over which the government has proprietary rights, or to the whole or any part of the forest produce of which the government is entitled, and which is notified in the government gazette as 'protected forest' under a relevant sections of the Indian Forest Act. Explanation: In such forest, most of the activities are allowed unless prohibited.

- Reserved Forest : Any forest land or waste land or any other land, not being land for the time being comprised in any holding or in any village *abadi* (population), which is the property of government, or over which the government has proprietary rights, or to the whole or any part of the forest produce of which the government is entitled, and which is notified in the government gazette as 'reserve forest' under a relevant section of the Indian forest Act. In such forest, most of the activities are prohibited unless allowed.
- Scheduled Areas : Scheduled areas and the tribal areas are, in fact, the metamorphosed transplantation of the concept of the 'partially excluded areas' and the 'excluded areas' as contained in the Government of India Act, 1935 which were regarded as culturally backward areas. Articles 15(4), 46, 244(1), and 339 provide for special concessions to uplift the tribal population for their welfare and protection in the SAs. Although Article 244(1) does not provide for a clear definition of Scheduled Areas, but, it denotes to those areas where the tribal population is predominant.
- Shifting Cultivation : Farming system in which land is periodically cleared, burned, farmed, and then returned to fallow.
- Silviculture : Silviculture is the science and practice of cultivating forest crops.
- Social Forestry : Social forestry is defined as forestry outside the conventional forests, which primarily aim at producing forest goods. In other words, it is growing the forests of choice, such as for fuel and fodder, in order to meet the needs of the local community, particularly the underprivileged section of the local population.
- Tenure : Ownership or use rights.
- Usufruct : Usufruct is the legal right to use and derive profit or benefit from property that belongs to another person, as long as the property is not damaged. In tribal cultures, usufruct means that the land is owned in common by the tribe, but families and individuals have the right to use certain plots of land. Most

Indian tribes owned assets such as land as a group and not as individuals. The family never owned the land, they just farmed it. This is called usufruct land ownership. A person must make (more or less) continuous use of the item or else he loses ownership rights. This is usually referred to as "possession property" or "usufruct". Thus, in this usufruct system, absentee ownership is illegitimate.

*Source:* (WCFSD, 1999: P. 168-175).

## 1. Introduction

The Scheduled 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 (MoTA) to correct the 'historic injustice done to forest-dwelling communities'. The act (interchangeably used for FRA henceforth in the text) gives individual property rights to the tribals and other forest dwellers on the forest lands under their occupation for cultivation and dwelling rights to manage them, and the total ownership rights on Non-Timber Forest Produce (NTFP) / Minor Forest Produce (MFP), alongside community rights. The significance of this act is that all these rights would also be applicable in protected areas (sanctuaries and national parks).

The struggle for tribal rights began since the colonial regime, because during the pre-British or pre-modern forest administration, the forests were in the domain of the kings and their kingdoms. The local people used to inhabit, cultivate, graze their cattle, and make livelihoods out of forest resources without any restrictions or impositions (Guha, 1983). However, with the advent of the British, the tribals were looked upon as 'encroachers' on their own land, not by any formal law of land but by their historical custom. They became illegal in the eyes of those who in actuality had usurped control over the forests illegitimately, using force and power (Bijoy, 2008). Saxena (2006) terms this trend as a virtual war against the tribals since colonial times to the present regime. The 29th report submitted by the commissioner for Scheduled Castes (SCs) and Scheduled Tribes (STs) brought forth the excesses committed against the tribals. The report precisely quoted that 'the criminalisation of the entire communities in the tribal areas is the darkest blot on the liberal traditions of our country'. The report further reiterated the continuous harassment evictions and atrocities being faced by the tribals (GoI, 1992).

Box No. 1: Who are Tribals in India?

*Tribals, who are a continuously neglected lot, are the forest-dependent people in India. According to the Anthropologists (Jha, 1998), the tribes are classified into seven types based on their: (1) geographical location; (2) language; (3) race; (4) level of integration; (5) economy; (6) culture; and (7) education. Since this study on FRA is more relevant to the livelihoods of the tribals, it would be appropriate to understand the following eight typologies proposed by Vidyarthi (1977) on economic consideration: (1) the forest hunting tribe; (2) the hill cultivators; (3) the plain agriculturists; (4) the simple artisans; (5) the pastoralists and cattle herders; (6) the folk artists; (7) the agricultural and non-agricultural type (tribes working in manufacturing industries); and (8) the skilled white collar job workers and traders type.*

*The framers of the Indian Constitution identified tribals for special treatment through constitutional preference. For this purpose, Article 366(25) of the Indian Constitution defined 'Scheduled Tribes' as "such tribes or tribal communities or part of or groups within such tribes or tribal communities as are deemed under Article 342". The tribals are declared as such by the president through public notification. Though Article 342 does not contain any criterion for specification of any community as a Scheduled Tribe, the often-used criteria are geographical isolation, backwardness, distinctive culture, language, and religion, as well as shyness of contact. There are over 700 tribes recognised by the Constitution of India (MoTA, 2006-07).*

*Those among the tribes who are identified as Primitive Tribal Groups (PTGs) are thus recognized by the Government of India in 1975: "They are distinguished by nomadic nature, smaller numerical strength, inaccessible living areas, high infant and maternal mortality, extreme poverty, and complete dependence on forest for their livelihoods. All these characteristics make them fall below any Human Development Index (HDI)". In order to protect and safeguard them, special provisions are made through the tribal development authority, in addition to financial allocations by the GoI. There are 75 recognised PTGs in 17 of the Indian states and union territories. Following the revised national tribal policy, the terminology of 'particularly vulnerable tribal groups' is now being used for the PTGs (The Indian Express, 2006). Coincidentally, Indian tribals are also the largest tribal population in the world.*

*Source: As Referred.*

Hence, introduction of FRA is seen as a radical departure from the earlier state monopolistic forest acts in the country (Ghosh, 2006), even while the 1990s showed some development and opened up to recognise forest dwellers' rights over collection of

MFP through Eco-Development Committees (EDCs) and Joint Forest Management (JFM) Committees.

On the other hand, while the act was passed in December 2006 and came into force in January 2008 with the notification of the rules to be made by the respective states under the act, many apprehensions were expressed by conservationists and environmentalists because they believed that the act is a welfare measure wherein, rights would be magnanimously granted to the tribals. Nevertheless, scholars such as Springate et al. (2009), and Bhatia (2005), tried to set things straight by reminding the FRA critics of the 'historical injustice' meted out towards the tribals over the years, which needs to be understood in its liberal meaning, and looked upon as a restoration of pre-existing rights rather than as state appropriation.

## **2. Forest Acts in India and Forest-Dependent People**

By early 19th century, the colonial regime was controlling vast tracts of forestland (Gadgil and Guha, 1992). This development was the beginning of the suffering for the tribals in every way, especially their right to livelihoods, besides disturbing the traditional forms of conservation and management of system of forests (*ibid.*). This was also the time when centralised forest administration or planned forest management started taking its roots in India. Between 1864 and 1865, the first attempt to legislate the forest act was made. The enactment of the 1878 act gave the colonial government immense powers to declare any forest land as 'government land', resulting in reservation of forests (Springate et al., 2007). During this process, the tribals agitated, protested and rebelled, only to be suppressed mercilessly (Sinha, 2007).

However, there was also a sort of reprieve during this phase in the form of the Madras Presidency Act of 1882 that appeared to be concerned for the people and settling their rights. However, the 1894 National Forest Policy (NFP) further reiterated the regulation of the forest users' rights and privileges in forest areas. In the same year, the Land Acquisition Act of 1894 came into force, whereby land could be compulsorily acquired for 'public purpose'. This act proved to be draconian for the forest dwellers because ever since, they are being displaced on the pretext of one or the other developmental project in one or the other part of the country (Springate *et al.*, 2007).

The Forest Act of 1927 is a comprehensive legislation, which had provisions for 'village forests', but did not implement it. This act, however, only continued the British legacy, even after India's independence-power remained centralised in a bureaucratic Forest Department (FD) (*ibid.*). The NFP of 1952 focussed on protecting forest resources with centralised control, while exploiting its resources commercially by subsidising

community rights (MFPs) and depriving the livelihoods of the forest-dependent people (GoI, 1952). By the 1970s, unrest in forest areas started growing, after the *chipko* (hugging the tree) *andolan* (movement) and protests in Bastar. Creation of national parks and wildlife sanctuaries, following the 1972 Wildlife Protection Act (WPA), the highhandedness of forest bureaucracy through the 1980 Forest Conservation Act (FCA), and the 1991 amendment to the 1972 WPA, further contributed to restricting the movements of the Forest-Dependent People (FDP) (Springate *et al.*, 2007).

The land marking 1988 forest policy was a slight shift from the earlier legislations because it focussed on conservation, subsistence needs, and protection of rights, creating hope among the FDP (GoI, 1988). In consolidation with this policy, in September 18, 1990, GoI guidelines were issued for regularising encroachments, and settling disputed claims over forest lands (Prasad, 2003).

In 1987-88, the commissioner of the SCs and STs, in his report to the GoI, formulated guidelines to address the conflicts between the FDP and the FD. The report recommended conversion of all forest villages<sup>1</sup> to revenue villages, if they are not violating the Forest Act of 1927. It also identified the importance of people's participation in improving the forest economy (GoI, 1992); however, the recommendations could not materialise. Despite the SC and ST Commissioner's report, as well as a favourable 1988 policy, the problems of the tribals could not be solved due to the FD's bureaucratic mindset.

### 3. Evolution of FRA

The immediate reasons that paved way for considering an act such as the FRA by the GoI were the unprecedented excesses heaped upon the tribals in various states, namely, Assam, Madhya Pradesh (MP), and Maharashtra. Attempts were made to forcibly evict them from their houses, farming lands, and inhabitations following the May 3, 2002 eviction orders issued by the Ministry of Environment and Forests (MoEF). This created quite a stir across the nation leading to 'political liability'. The justification to protect forests and remove the encroachers (in some instances those who were cultivating land much before 1980) also came under severe criticism from all quarters. Hence, in October 2002, the MoEF had to issue a clarification order, wherein it acknowledged that not all occupation of forest lands was illegal or an encroachment, and so they cannot be evicted until their rights were verified (Springate *et al.*, 2009).

---

<sup>1</sup> Though they are not illegal villages, no revenue benefits were accrued to those villages as they are not situated on revenue lands.

The drafting of the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005, was entrusted to the MoTA. The ministry followed up by constituting technical resources groups consisting of other ministries, legal experts, and civil society members, to render their expertise in shaping the bill for legislation. It is important to mention here that the bill had to go through several hurdles created by the MoEF, wildlife conservationists, as well as the Non-Government Organisations (NGOs) working for the environment. They were apprehensive that this bill would cause severe damage to the forest cover and wildlife, and environment as whole (Bhullar, 2008).

To settle these differences between the pro and anti-lobbies, the bill was referred to the Joint Parliamentary Committee (JPC) in December 2005. Subsequently, when the JPC's recommendations were presented on 23 May 2006, it was again debated intensively by the conservationists. So JPC suggested certain changes, viz., shifting the cut-off date to 1980; inclusion of non-STs; land ownership ceiling from 2.5 ha to 4 ha per family; and removal of penal provisions for forest dwellers (Ramnath, 2008).

In order to study the suggestions of the JPC, a group of ministers were asked to reach a consensus and resolve the crisis. However, when the group of ministers finally came up with a consensus bill, it had already taken a revised shape. The new draft now became the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Not surprisingly, it attracted criticism for not addressing the conservation and livelihood issues. More than that, it underwent severe condemnation for diluting the JPC's recommendations. Nevertheless, the bill was approved and passed by the parliament on December 18, 2006 (*The Hindu*, 2006). The MoTA, which was to be the implementing agency, constituted a technical committee to frame the rules (MoTA, 2007). Two committee members, namely Valmik Thapar, a tiger conservationist, and Mahendra Vyas, the Secretary of the Central Empowered Committee, undertook the task of finalising the rules (Venkatesan, 2008). In a nutshell, as perceived by Bose (2010), the FRA was the result of an intensively-contended drafting process

### *Understanding FRA<sup>2</sup>*

The FRA provides for forest rights to those who are primarily residing in the forest or forestland, or those who depend on forest or forestland for livelihoods (bonafide livelihood needs). For other forest dwellers, they have to be residents of the area of their claim for 75 years. The law recognises three types of rights: (1) land rights; (2) right to use and collect; and (3) right to protect and conserve.

---

<sup>2</sup> The Gazette of India Extraordinary (2007 and 2008).

As far as land is concerned, the claimant has to produce all evidence of cultivating such land prior to December 13, 2005, according to Section 4(37) of the FRA. Those people will also benefit, who have been cultivating other's land but have no documentary evidence. Besides, such lands will also be recognised, that have *patta* or government lease and have been illegally taken away by the FD. Lands in disputed state with the FD or the Rural Development (RD) will also be considered for granting rights as per Section 3(1)(f) and (g). However, all the above lands stand for rightful claim only if their size is not more than 4 ha and have been under cultivation by the claimants themselves for their livelihood (Section 3(1)(a) and 4(6)). Usufruct rights or collection rights include NTFPs such as *tendu* (abnus) leaves, herbs, and medicinal plants that are being traditionally collected (Section 3(1) (c)). The right to use gives one the access to grazing grounds, water bodies (Section 3), and traditional areas of use by nomadic or pastoralist communities that move with their herds, as apposed to practising settled agriculture. The right to protect and conserve means that the FDP will have a right to protect and conserve under Section 3(1). Similarly, Section 5 also gives the general power to the community to protect wildlife in the forest.

The above rights are recognised under three procedural steps according to Section 6. The Gram Sabha (GS) or full village assembly (all available adult members) makes a recommendation as a first step; here the claims of cultivation on a particular land with the number of years are made. Then, the Forest Rights Committees<sup>3</sup> (FRC) that is constituted from the GS identifies the claimants and their cases. This is followed by ascertaining the validity of the claims, and thereafter, the GS forwards the recommendations to the screening committee at *taluka* and district levels. The *taluka* and District Level Committees (DLCs) are constituted by six members, each with three government and another three elected members (Section 6 (6)). There is also a provision for any citizen to appeal to the committee against false claim. If the appeal is upheld on being proved, such right is denied to the claimant. The right over the land recognised cannot be sold or transferred. There is a special clause by which the forest land that is diverted for community purpose other than cultivation under community rights cannot exceed 1 ha of land (for a single purpose use), and felling of trees should not exceed 75 trees per ha.

There is also a provision for recognising community tenure on 'community forest resources', which are defined as common forest land within the traditional or customary boundaries of the village, or seasonal use of landscape in case of pastoral communities.

---

<sup>3</sup> Each village is to elect a committee of 10 to 15 people from its own residents; they verify the claims and place them before the GS.

These lands can fall under Reserved Forests (RFs), Protected Forests (PFs), and protected areas, such as sanctuaries and national parks, to which the community had traditional access.

From the administrative point of view, the act cannot be implemented in isolation from the villages where the forest rights are allotted, because it requires coordination from other departments in the same jurisdiction; hence, the FRA has specific mention about the roles that are earmarked for such concerned departments. The main department, other than the MoTA, implementing this act is the FD; this is because the land claimed and allotted to the people is under the jurisdiction of this department. The RD<sup>4</sup> has a role because it is the custodian of all land records in the country. Finally the *panchayat* has a role cut out in the form of recognising the claims at the GS level and forwarding the same for the settlement to the Sub-Divisional Committee (SDLC), and the DLC headed by District Collector is the final authority to settle the claims (see Figure No. 1 for details).

#### *Clarifications and Amendments*<sup>5</sup>

Since the implementation of the FRA began in 2008, there has been ambiguity on several clauses/issues. Hence, from time to time the state governments have been asking for clarifications from the MoTA. Following up with such queries, the ministry has been sending clarifications to the respective state and union territory authorities, and circulars to all other states.

In the following sections, a few most important issues are discussed: one was on the phrase, 'primarily reside in forests' and are dependent on forests and forest land for their bonafide livelihoods under (Section 2(c) and 2(o) of the act). The doubt was that, on interpreting this section verbatim, it would exclude many forest-dependent communities from the benefits under the FRA. The clarification was that the 'primarily reside in forests' included those members of Forest-Dependent Scheduled Tribes (FDST) and Other Traditional Forest Dwellers (OTFD) who either live inside the forests by building a house/residence, or live outside the forest but cultivate forest land for their livelihood.

With reference to Section 4(c) of the act, the question was raised regarding what is taken into consideration of the revenue land under the occupation of the FDST and OTFD for determining the limit of extending rights over 4 ha of land in forest areas. Responding to this, the ministry drew a point to the basic objective of the act, which

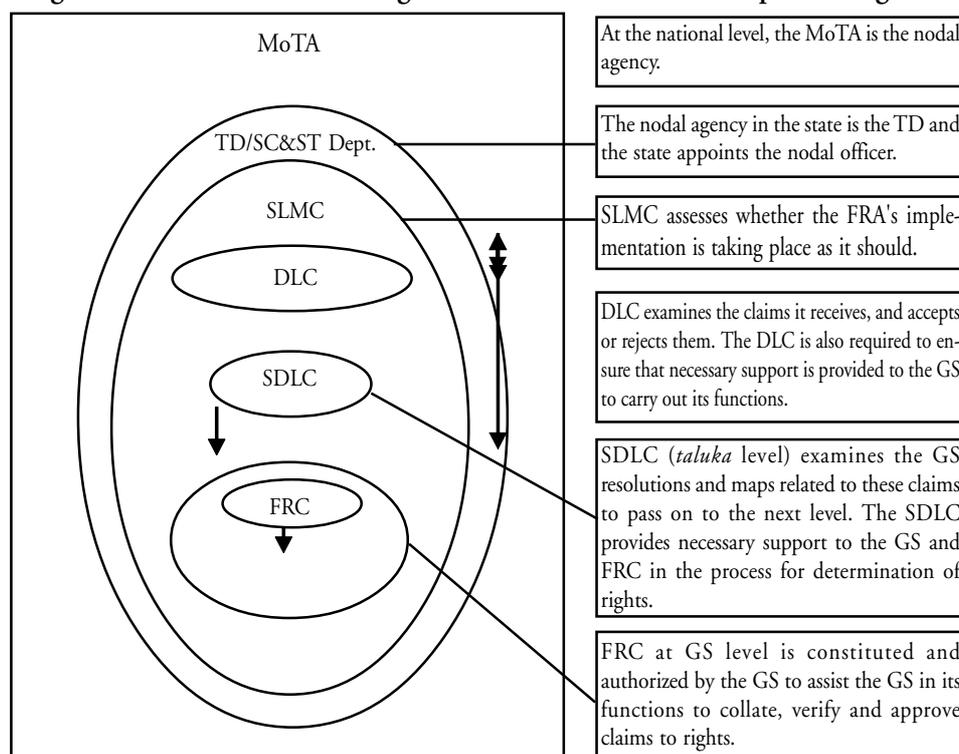
---

<sup>4</sup> Interestingly, the respective FDs and RDs are the disputing parties on several hectares of land in different parts of the country.

<sup>5</sup> MoTA (between June 9, 2008 and May 5, 2011).

mentions about providing livelihood means to the FDST and OTFD. Therefore, if the claimants primarily do not reside on the forest land in their occupation, and depend on the revenue land or on one of the regularised encroachments of forest land for their bonafide livelihood needs, they should not get title to the forest land in occupation. On the tribals' wanting to hold land in common, the ministry clarified that under Section 3(1), they are entitled for such rights, provided the limit does not exceed 4 ha under Section 4(6). In case of inter-caste couple claiming the rights, the applicant has to fulfil all the eligibility criteria of the FRA in order to avail the benefits of the act, and to register the rights conferred on them jointly as per Section 4(4). However, tribes from one state claiming these rights under Sections 2(c), 4(1)(a), 4(3), and 4(6), in another state stand no chance of recognition to their rights because the GS of that particular village has to recommend such recognition, and that is not possible as the GS writ runs only in that particular panchayat within that state's jurisdiction.

**Figure No. 1: Process and Linkages between the Institutions Implementing FRA**



Source: The Gazette of India Extraordinary (2007 and 2008).

Keys: FRC = Forest Rights Committee; GS = Gram Sabha; SDLC = Sub-Divisional Committee; DLC = District Level Committee; SLMC = State Level Monitoring Committee; TD = Tribal Department; MoTA = Ministry of Tribal Affairs; SC = Scheduled Caste; ST = Scheduled Tribe.

Ambiguity over the final date for receiving claims and their disposal for forest rights under the act remained for a long time and caused immense confusion. However, with clarification from MoTA, it is now clear that the act does not prescribe any time limit for the recognition and vesting the forest rights for the eligible claimants under the act. As per Section 11(a) of the rules notified by this ministry on 1 January 2008, the GS may, if it considers necessary, extend such period for three months after recording the reasons thereof in writing.

In connection with the community claims and doubts over who will be the claimant; and, in whose name the customary rights would be vested, and how the disputes among the community members and the community rights be settled, the MoTA clarified that the community rights would be vested in the name of all its members according to Rule 11(1)(a) and (4) of the FRA, and the disputes between the members would be settled in accordance with the prevailing state laws in this regard.

Claims rejected by the DLC would not be reinvestigated; but, if the rejections at the earlier levels are unduly large, then the state can investigate the reasons. On finding the inadequacies in the readings of the provisions of the act and the rules, efforts would be made to correct it. However, the cases finalised by the DLCs cannot be reopened under any circumstances.

#### **4. The Context of the Study**

Chhattisgarh and Gujarat are the two states selected for this study. The wisdom behind the selection of these two states is that Chhattisgarh is a developing state compared to Gujarat, which is generally considered as a developed state in India. Chhattisgarh, on the other hand, is plagued by governance challenges due to insurgency in the very areas where the act is implemented. On the Human Development Index (HDI), Chhattisgarh, with an HDI value of 0.358, has the dubious distinction of being an Indian state with the lowest HDI value, while Gujarat at 0.621, is considered as medium-the national average HDI value is 0.47 (GoI, 2011). Besides, Chhattisgarh has 7.7 percent of the country's forest cover, while Gujarat has only 0.46 percent. When the proportion between forest cover and geographical area of the respective states is compared, Chhattisgarh has a whopping 41.42 percent, while Gujarat has only 7.62 percent. The population of tribals in Chhattisgarh is 32.5 percent (Census of India, 2001) while tribals in Gujarat account for 14.9 percent (Census of India, 2001)<sup>6</sup>. Coming to Scheduled Areas (SA),

---

<sup>6</sup> The total forest and tree cover of the country is 23.84 percent of its total geographic area. About 51.6 percent of this is RF, while 30.8 percent is PF, and the remaining 17.6 percent is unclassified forest. This includes 21.02 percent forest cover and 2.82 tree cover.

there are 20 districts (between Chhattisgarh and Gujarat) that attract the FRA, out of the 74 districts (in eight states) in India-21 are fully under Schedule V Areas, and the remaining 53 in the non-Schedule V Areas<sup>7</sup> (Article 244; Constitution of India). The natural differences in terms of forest, population, and human contributed factors, viz., economic infrastructure, governance, etc., are expected to make the study interesting to understand how the two states that are contrast in so many ways deal with a sensitive act such as the FRA.

With specific regard to the forest resources in the two study states, Chhattisgarh easily stands apart with its rich biological diversity-tropical moist deciduous forest is its major forest component. The state is further endowed with 22 varied forest sub-types. The RF of Chhattisgarh stretches along 25782.167 sq km, followed by 24036.100 sq km of PF, while the remaining 9954.122 sq km is un-demarcated PF. It has major tree species in teak, *sal* and bamboo. The state is also home to rare fauna species such as the wild buffalo, *myna*, tiger, leopard, gaur, sambhar and chintal (GoC, 2012).

Coming to Gujarat forest, it presents a unique formation of various types of forests due to its variant geographical and eco-climatic conditions ranging from hot saline deserts to humid hilly tracts, and from coast to high hills. The forests of Gujarat are classified mainly as tropical moist deciduous forest, dry deciduous forest, northern tropical thorn forest, and littoral and swampy forest (Gujarat Forest Statistics, 2007). It has 14131.15 sq km of RF, followed by 476.73 sq km of PF, and 4319.40 sq km of unclassified forests. The flora and fauna in Gujarat present a diversified species growth. Wild ass, different species of reptiles, fishes, and other mammals are the notable fauna. The state takes pride in being home to the Asiatic lions (GoG, 2012).

The tribals of Chhattisgarh mainly inhabit the dense forests of 'Bastar'. Incidentally, 70 percent of Bastar's population is composed of tribals, accounting for 26.76 percent of Chhattisgarh's total tribal population. Gonds are the prominent tribe in the state, followed by Abhuj Maria, Bison, Horn Maria, Muria, Halboa, Bhatra, and Dhurvaa (Indianetzone, 2010) - Abhuj Maria, Baiga, Birhor, Hill Korwa, and Kamar are the five Particularly Vulnerable Tribal Groups (PVTGs) found in Chhattisgarh (GoI, 2007).

---

<sup>7</sup> The districts fully under SA in Chhattisgarh are Surguja, Koriya, Jashpur, Kanker, Bastar, Dantewada and Korba, whereas partially covered districts are Raigarh, Bilaspur, Durg, Rajnandgaon, Raipur and Dhantari; in the same way the only district that is fully under SA in Gujarat is Dangs, while those partially covered as SA are Surat, Bharuch, Valsad, Panchmahal, Vadodara and Sabarkanta.

The eastern tribal region of Gujarat state holds 60 percent of the total forest area of the state. Similarly, 60 percent of the state's tribal population also lives in this region. The hilly areas of Saurashtra and Dangs in southern part of the state are the other forest concentrated areas in Gujarat. The prominent tribes in Gujarat are Gamit, Chodhra, Vasava, Kotwalia, and Dublan (Kumar, 2009; Indianetzone, 2011). The five PVTGs that inhabit Gujarat are Siddhi, Padhar, Kotwalia, Kathodi, and Kolga (GoI, 2007). There are 43 *talukas* and clusters predominantly populated by tribes among the 26 districts of the state (Cowlagi, 2006).

Chhattisgarh and Gujarat tribals are poor and mainly landless. They are into small time farming, pastoralism, and nomadic herding. The tribals, especially in Chhattisgarh, live mostly in the forest villages (Kumar, 2009). These villages are set up by the FD, and some are as old as 80-90 years. Chhattisgarh has 425 such villages, while Gujarat has only 199 (GoI, 2012a).

## **Provisions for Forest-Dependent People in Forest Acts Legislated by States Prior to FRA**

### *Chhattisgarh*

When the NFP of 1952 received severe criticism for diluting the rights of the community and extending the same to the private sectors as gifts, the then government of MP (Chhattisgarh was part of it before it got bifurcated in 2001) tried to recognise forest dwellers as owners of the MFPs. This initiative was lauded as pro-forest-dwelling communities. However, this effort went in vain with the passing of the FCA 1980, since the forest jurisdiction was taken over by the Union Government in order to contain the fast-depleting forest resources (Samarthan, 2010).

The MP forest village rules, 1977, had a distinguished feature related to the distribution of *pattas* to the forest village residents. Each of the families living in forest villages were to be allotted 2.5 ha of land and an additional 2.5 ha, if there were more than one adult member in a joint family. Tribals were given preference over other communities. The *pattas* were valid for 15 years subject to renewal. Specific forest produce laws such as MP *tendu patta (Vyapar Viniyaman) Adhinyam* 1964; MP *Van Upaj (Vyapar Viniyaman) Adhinyam* 1969; MP *Van Upaj* for other than timber (Vyapar Viniyaman) Niyam, 1969, had in its legislation, provided some relief for the forest dwellers through enhancing their livelihood prospects by extending rights to them to procure these forest produce, and by removing the unnecessary restrictions (ELDF, 2005).

It is interesting to note that the GoC in its forest policy recognised the 'traditional rights and concessions of entry into forest and use of the produce thereof' by the people

living in and around the forest areas. Such rights and concessions, popularly called 'nistar', also talk strangely of ceasing these rights once the 'standard of living of the majority of people in the state improves'. This clearly shows the dubious intentions of the state towards the tribals. This forces one to think as to how an average standard of living of the entire state could be compared to that of tribals, who are acknowledged of being comparatively the poorest of poor sections among all the communities in the state as well as the country (GoC, 2001) (for details see last section on livelihoods).

### *Gujarat*

The tribals in Gujarat received sympathetic attention in 1972 from the State Government, when it decided to carry out a massive regulation of forest. This act of generosity resulted in 10,900 ha of forestland being distributed among the 11,166 beneficiaries, which was followed by the distribution of another 21,082 ha of land to 34,441 tribals. Such settlements continued until 1980 when the FCA was passed, which put a cap on such regulations. Yet, the odd settlements continued in Gujarat until 2001 under the permissible provisions of the clauses in the FCA 1980 (Kumar, 2009).

In 2004, the GoI, through the MoEF, released the figures of encroachments by the tribals in Gujarat. According to this, about 36,556.400 ha of forestland was under encroachment; however, 14,416.860 ha of this land was cleared of the encroachment by the authorities between May 2002 and March 2004. Yet, a big chunk of land was under the occupancy of the people, projecting their dire dependency on it for their sustenance (*ibid.*).

It is remarkable to note that on one hand, the GoG was showing generosity towards the tribals by regularising the so-called encroached land since the state was separated from Maharashtra in 1960, while on the other hand, it declared the tribal land as RF and tried to afforest them in the later years. Further, the tribals also had to suffer due to the developmental and irrigational projects that usurped almost 15 percent of their land. This prompted the tribes to cultivate lands in the 'now' RFs, thus being labelled as encroachers upon their own lands (DISHA, 2012).

To summarise the condition of the tribals' rights, Gujarat has been no different from any other state in the country. They were also victims of the one-sided demarcation process of forests - a continuing the legacy since colonial times. The attitude of different regimes in the state could be termed as inconsistent, for their indifferent approach towards the plight of the tribals as their rights were never respected. Instead, they were treated inhumanely by subjecting them to physical beatings, indiscriminate and illegal arrests, foisting false cases against them, and treating them as encroachers, offenders and culprits, when all they were doing was leading livelihoods to what was their justified right (Writ Petition, 2011).

Furthermore, even the attempts to regularise forestland through the 1992 Government Resolution (GR) had many drawbacks in the form of conditions laid for their claims. Such requirements were: cultivation had to be before 1980; documentary proofs of receiving benefits from government schemes; and most of the land marked for regularisation had to not more than 8 acres and this too was to be adjusted with the claimant's revenue land if they had any. It was an uphill task for those who had no evidence at all to furnish and claim their rights on the lands they were cultivating (TFRA, 2012).

### **Implementation of FRA**

Following the FRA, the respective states framed suitable rules to implement the act; the implementing agency was the Department of Tribal Affairs, Government of India (GoI). At the state level, this responsibility was vested with the SC and ST Development Department. In some states, there are other agencies responsible for carrying out this activity (for example, in Andhra Pradesh, it is the Tribal Development Department (TDD) (Sathyapalan and Reddy, 2010).

### **Status in Chhattisgarh**

In Chhattisgarh, the FRCs are said to have been formed in a hurry, by the end of February 2008 without informing the people. These FRCs were constituted at the *panchayat* level with a few exceptions in SAs, where they were formed at the hamlet level. Chhattisgarh is found to be wanting on many counts: There are allegations of FRCs being converted from JFM committees, when they should have been constituted through GS meetings. Since the awareness level of the common people and the FRC members was inadequate, they were ignorant of their tasks; so the FD by-passed them, and the State Level Monitoring Committee (SLMC) was as good as non-functional (CSD, 2010). Initially, GS meetings were called by the *panchayat* secretary, who was also functioning as secretary to FRC-when actually an elected member from the village or hamlet should have been its secretary, instead of the *sarpanch*-this meant that the *panchayat* office collected the claims instead of the FRCs (Bhan, 2010; CSD, 2010). The Review Committee (GoI, 2010b) also mentioned in its report that the implementation process in the state is under the control of the FD and RD officials, where the people have no participation (Sharma, 2010).

The issues that have prominently emerged in the implementation process in Chhattisgarh were 'wrongful rejections and blatant irregularities' at the GS level, which were not verified at higher levels (*ibid.*). Moreover, it is increasingly observed that the villagers were coerced into agreeing to claim only that land which the FD wants them to, which in other words also means completely overriding the authority of the FRCs (Sinha,

2010); in other instances, the claimants were not even informed about the status of their claims. Further, the villagers, whose claims are rejected, had to eventually lose their right to appeal. In continuing with its denial mode, the FD asked the FRCs in Chhattisgarh not to receive new applications after December 2009. This hampered the prospects of the probable and deserving claimants (Saxena, 2010). Misappropriations in terms of land allotment were committed when only 1 ha to 2.5 ha of land was given to many of the claimants; this by their traditional landholding standards was far smaller (Sinha, 2010). The other issue that has put many of the claimants to inconvenience is leaving out the names of the wives in the allotment order. Another issue is that of overlooking the underprivileged such as the PVTG and nomadic tribes who are to be given priority over the others in settling their claims; this was also not practiced on the ground (Saxena, 2010). This forces one to think that the role of TDD is restricted only to forwarding statistical information, when it is required to take some lead and perform (Sharma, 2010).

From the livelihoods perspective, community rights are very important for the FDP. However, in the initial stage of the implementation, the Chhattisgarh FD made the FRCs sign statements that they were not interested in claiming community forest rights and were interested in only individual rights (Bhan, 2010). They were forced to retreat only through protests from the various quarters in 2009, after which the community rights were also recognized (CSD, 2010). Yet, the FD officials continued to encourage infrastructural approvals such as school buildings, community halls, health centres, etc., under community claims because according to the act, the land allotment for these kinds of claims is comparatively lesser than for that of the forest community rights, and this could be allotted on an unproductive land demarcated by the officials. The sad part of this story is that the administration as well as the community concentrates more on claiming individual rights than community rights for direct reasons (Saxena, 2006). Hence, by July 2010, the status of the community claims in Chhattisgarh was: 287 approved in only five districts while the number of claims registered was more than 7000; and districts such as Bastar, Dantewada, Bijapur and Jeshpur, which are tribal-dominated, were completely overlooked. A lucky few, whose claims were approved, are still awaiting the formal 'certificates' (Bhan, 2010).

Chhattisgarh is alleged of gross violation of FRA. Some of them, as mentioned above, speak volumes of such acts. Despite repeated clarifications from the MoTA, the FD in Chhattisgarh is seen to be following the pre-1980 encroachment laws for considering the claims. Besides, the number of areas for claiming the rights is also being limited by the FD (Sethi, 2008). Such violations in other words mean blatant denial of the rightful claims of the people, as well as disrespect to the constitution of the country for not honouring the act enacted by the duly elected parliament. Going a step further, the FD

has forcibly undertaken plantation and afforestation programmes on the lands claimed by the community (Kothari, 2011).

Regarding the relocation of communities from their habitation in the wildlife areas, the one that hogged headlines was the forceful movement of the Baiga adivasis from the Achana Kumar Tiger Reserve to another place in Chhattisgarh. This is in complete disregard to the amended WPA 2006 (Section 4(2) of the FRA also has a similar clause) because it laid down a requirement for a specific process in consultation and with the consent of the people in question to ascertain such needs for relocation, and to recognise the critical tiger habitat's need to be free from human presence (Saxena, 2010). Since the threat to the wildlife such as tigers is serious and everybody's concern, this issue needs to be dealt with in a bit more sensitive manner - by convincing the people to move to other places; and moreover, these people need to be rewarded liberally for this kind of sacrifice.

While implementing a welfare programme or legislation, especially in the rural areas in India, the biggest concern has always been the awareness level (or lack of it) of the beneficiaries. Time and again it was proved that the outcome is proportional to the awareness level. The awareness could be either self-attained or gained through the government or non-government agencies working with them. Given the poor literacy levels among the tribals—the main beneficiaries, this act requires a great deal of awareness creation among them, which has not happened. Instead, according to the Review Committee (GoI, 2010b), no extra effort was made by the authorities to reach out to the illiterate tribes and explain to them the benefits through the FRA. Hence, the awareness level is found to be a major lacuna, which is further compounded by the 'language barrier'. Moreover, even the professional organizations in the state did not involve themselves to actively create an awakening (Sharma, 2010). However, according to the MoTA's 'Status Report as on November 30, 2010', the FRA and follow-up rules were translated into the regional language and distributed to the GS and other stakeholders (GoI, 2010a). On other hand, the members of the NGOs working in these parts of the state expressed fears of being victimised through the repressive laws of the government that discourage them from speaking about people's rights which would be taken as speech against the government.

When it comes to evaluation, the state government claims that it has settled individual claims to the tune of 100 percent. However, the evidences presented above (and in Table No. 1) suggest otherwise, because the overall impression of the implementation of the FRA in Chhattisgarh according to CSD (2010) is of a highly undemocratic nature. Nevertheless, the Chhattisgarh Government can be granted some amount of

reprieve for confining the implementation of the FRA to fewer districts, because the state is facing a major problem due to naxalism, and there is police action in 40 of its total 85 blocks (GoI, 2010a). Interestingly, critiques have grilled the government for allowing the mining mafias to benefit even out of this insurgency—they allege the government of handing over vast stretches of land to corporate houses after freeing such areas in the conflict zones (Majumdar, 2010).

### *Status in Gujarat*

The constitution of the FRCs in Gujarat began in May 2008 mostly at the village level. Due to misinterpretation of rules, in the beginning, some of the claimants were not included as members of the FRA. Similarly, non-SA regions were also overlooked for implementing the FRA. However, the situation has now improved in both aspects after the government made efforts to correct the mistakes (GoI, 2010b). A remorse that has continued to remain is accounted by the Review Committee (*ibid.*), according to which, the FRC members at the village level have government officials as its members; besides, it has pointed out that the main stakeholders including women were not represented adequately. The Gujarat FRA is reported to have been run down deliberately by undertaking a task to massively create new JFM in villages with generous funding<sup>8</sup> to villages, where they had not extended this programme earlier; this seems to be a clear effort to divide the community. In some instances, the FRC members were appointed as JFM presidents, in order to lure them away from the FRCs (CSD, 2010; Meena *et al.*, 2010).

When the Government of Gujarat (GoG) claimed that 'Vadodara District' has become the first district in the state to fully implement the FRA, the opposition in the state vehemently refuted the government's claim (DNA, 2010); and the Review Committee (GoI, 2010b) also came up with similar conclusions - that the FRA in the state is mostly unfulfilled. In fact, numerous issues have emerged since the act started rolling. One important issue is that of the FD's role: If reports coming from the field are looked into, the FD's role appears to be dubious as it is found to be actively interfering in the field process. Moreover, they have been found to be deliberately blocking the claims (CSD, 2010). The examples of Sabarkantha and Banaskanta are ample evidence to prove the highhandedness of the FD. Here, even the claims of ex-servicemen receiving pensions or of those in other services, were rejected, disregarding the clauses in the act. In some cases, similar attestations of evidences in the same village have been rejected: for example, in Panchmahal, the claims were rejected on grounds of claimants not attesting their caste certificate. In another instance, the FD rejected claims even where

---

<sup>8</sup> JFM in Gujarat is also funded by Japan International Cooperation Agency (JICA), formerly Japan Bank of International Cooperation (JBIC).

more than two evidences (Kothari and Meena, 2010) (oral testimonies, *panchanamas*, physical evidence, earlier application/claim, court orders, etc.) that were mentioned as sufficient according to the act, were enclosed with the applications (Writ Petition, 2011). The standard rejection pretext by the FD is that the land lies in an Eco-Fragile zone located in a critical habitat, or that it is a plantation. In some places, the claims have been rejected just in advance (Kothari and Meena, 2010).

The other bodies involved in the implementation of the act, such as the SLMC, DLC and SDLC, have also annoyed the claimants in their own way. The SDLC in certain cases, insisted that the claimants should present a 'forest offence document' for making their claims, and if not complying with them, they threatened to reject the applications; when in truth this document is not really required as per the act (Kothari and Meena, 2010). Similarly, the SDLC and DLC rejected the claims that were approved long ago in 1992 (Meena *et al.*, 2010). Furthermore, the Gujarat Government had agreed in 2004 to extend land rights to 60,000 farmers on 45,000 ha of land. However, after the FRA, the same forest dwellers were asked to present the claims afresh (DISHA, 2012)-approval of claims prior to the FRA means going through a tougher procedure than the present one under the FRA to prove their claims, and if the government had agreed on that earlier, it means they may have already gone through the gruelling procedure once before, and asking them to redo everything again appears to be nothing short of deliberate harassment to discourage the new prospective claimants. The overall impression acquired by the SLMCs, DLCs and SDLCs in Gujarat is that the bodies liberally reject the claims sent to them by the GS/FRC for verification (GoI, 2010b). More serious allegation against them is that of allowing the FD to play a dominant role (Kothari and Meena, 2010).

Presenting its version, the FD feels that 'satellite imagery' is the only scientific solution to treat as 'evidence all' because this will verify the truth over the false claims made after fresh encroachments on the forest lands (Kothari and Meena, 2010). On other hand, those fighting for the rights of the people claim that the Gujarat Government's decision to verify the claims with satellite imagery has many loopholes because the claimants' arguments cannot be recorded accurately if the plots are very small, or if the land is cultivated in tree-covered lands because these lands show up as forest (Writ Petition, 2011).

The FRA implementation in Gujarat is also marked by physical excesses against the tribals. The case of Hanuvat Pada in Dangs is one such incidence where the tribes cultivating their land for the past eight years were beaten up and asked to vacate the land even without giving them a mandatory notice under the FRA Section 80 CA (Shrivastava, 2010). The extent of harassment is recorded in Dangs where the FD digs

the pits in people's fields, and indulges in eviction, besides threatening to frame them under naxal activities (CSD, 2010).

In what appears to be a gross violation of the act, the Gujarat Government imposed additional conditions to recognize rights over cultivated forest land: those already owning revenue lands, or who have already received *pattas* to some forest land under the earlier 1992 GR were eligible to rights over a maximum of only 10 acres, including the land already in their name (*ibid.*). This means they are denied of the 4 ha of land, which is the maximum ceiling for a household under FRA. The justification given was that, 10 acres is sufficient for livelihood. Job holders are also exempted; however, those with 'very small time jobs' were spared of this clause. Another blow came in the form of the announcement made by the state government in January 2009 that no title to individual lands would be given, and instead, the land would remain as forest land while the rights holders would be handed just a 'certificate of their rights' (CSD, 2010).

According to the livelihoods experts, 'community rights' would have had comparatively better benefits through forest resources (collection and sale), pastoral lands for rearing cattle, other community claims, etc., for the FDP, but the people in Gujarat, like elsewhere, have fallen prey to the attractions such as infrastructural benefits including community buildings, *anganwadis* and schools (GoI, 2010b). The scholars working for the tribals rights see a conspiracy in this by the FD - they alleged the FD of confusing the people into equating development rights under Section 3(2) of the act (CSD, 2010). Initially, the community rights were claimed in Gujarat in only such areas where the *adivasi mahasabha* had presence; however, the government is now accepting claims elsewhere also after pressure mounted on it from the tribal rights activists (*ibid.*).

Following the negative developments in the implementation of the FRA in Gujarat, the civil society fighting for the cause of the FDP in the state filed a writ petition in the High Court of Gujarat against the State of Gujarat in 2011 on the broader grounds of illegal rejection of claims in a massive scale, allegations of tribals possessing only minimum evidence, treating 1980 as cut-off date for deciding the claims, and not taking the elder's statements as evidence for verifying the claims.

In the midst of the unfavourable review coming against the government officials, Kothari (2011) gives an account of a benevolent Divisional Forest Officer (DFO) posted at Dediapada and praises him for going out of his way to help the people in whatever way he could, legally-in procuring the documents necessary for claiming their rights. The FDP in Gujarat can only wish to have the services of such officers in their areas for curtailing their centuries-old miseries, and to lead a respectable and secure life as the other citizens in the mainstream society do.

**Table No. 1: Status of FRA Implementation in Chhattisgarh and Gujarat as on February 29, 2012**

		Chhattisgarh	Gujarat
<i>Passage of Bill</i>		December 29, 2006	
Enactment of the Act		Dec 31, 2007	
ST and OTFD Rules, 2007 Framed		January 1-2, 2008	
Formation of DLCs / SDLCs and FRCs		February 25 to 29, 2008	February 28, 2008 Onwards
Applications Invited for Claims		March 1, 2008	March 2008 Onwards
Verification of Claims		March 7 to June 20, 2008	April 2008 Onwards
No. of Claims Received	Individual	4,87,332	1,82,869
	Community	4,736	8,723
No. of Titles Distributed	Individual	2,14,668	38,421
	Community	775	1,608
No. of Claims Rejected	Individual	2,72,664	14,573
	Community	-	5,040
Extent of Forest Land for which Titles were Distributed (in acres)	Individual	5,36,303.69	43,097.79
	Community	1,772.69	37,923

*Source:* (GoI, 2012b).

Keys: FRC = Forest Rights Committee; GS = Gram Sabha; SDLC = Sub-Divisional Committee; DLC = District Level Committee; SLMC = State level Monitoring Committee.

Awareness about the FRA among the main stakeholders, that is the FDP, is still far from satisfactory in Gujarat. This is mostly because, the people who could actively participate in creating awareness about the FRA dread to work freely for fear of being branded as anti-national, anti-development, or even as Maoists, in such areas as Dangs, by the government where such outlawed groups have no presence at all (Tracking the FRA, 2008). According to the government's claims, by November 30, 2010, the contents of FRA and its Rules were translated into regional languages and distributed to the GS and FRCs. Training for *Panchayati Raj* Institutions (PRI) officials and the SDLC and DLC members is also now being imparted (GoI, 2010a).

#### *Summing up the Status of FRA in Chhattisgarh and Gujarat*

The comparative figures of approval and rejection of the individual claims and community claims alike in Chhattisgarh and Gujarat in itself present the state of the implementation of the FRA in the the respective states. If 44.04 percent of individual

claims were approved in Chhattisgarh, only about half were approved in Gujarat, i.e., about 21.01 percent. There is not much difference between the two states when it comes to approving the community claims because they stand more or less the same, at 16.36 percent and 18.43 percent, respectively in Chhattisgarh and Gujarat. On working out per individual claim for distribution of land, Chhattisgarh accounted for an average of 2.49 acres, while Gujarat recorded an average of 1.12 acres (evaluated from the respective figures in Table No. 1; GoI, 2012b). Overall, the distribution of community claims in both the states can be termed as poor. Strangely, in both the states, community claims have come to be identified more for claiming infrastructure-related benefits than the proper and real means of livelihoods - the blame for this has to be owned up by the respective FDs for discouraging people from claiming the same for their own fears of losing authority over the forest land.

When it comes to other issues, both the states have a long way to go, be it in the areas of creating awareness among the tribals living in the interiors of forest, or keeping the *panchayat* secretary or the FD officials at a distance from their overindulgence in the verification of evidences.

A deliberate attempt to present the cut-off date for claim to 1980 was observed in both the states, while 2006 is the real cut-off date as per the act. In addition to this, the amount of maximum land claimable is also being decided by the local FDs in the respective states. All this has seriously hampered the progress of FRA implementation and led to a lot of confusion, especially in such places where the role of NGOs is almost negligible. In complete disregard to the act, the Gujarat FD has gone a step ahead and declared that the land given to the claimants under the FRA will always remain as forest land, meaning that the certificate of rights has nothing but a mere ornamental value. Instances of large-scale rejection in violation of the act are observed in Gujarat. This has led to a writ petition filed in the Gujarat High Court against the implementing agencies by the civil society members. Besides, physical harassment against the tribals has been recorded while evicting them illegally in Dangs, the only SA district in Gujarat. Hence, in order to arrive at a proper conclusion on the assessment of the livelihoods after the FRA, one has to wait a little more time, given the snail-paced process of allocating the rights to the claimants in the two states of Chhattisgarh and Gujarat .

## **5. An Overview of the Implementation of FRA at National Level**

The process of implementation of this act begins right from the assemblage of the GS. As per the act, the GS in the SAs must be convened at the hamlet level, while in the traditional villages it has to be at the village level. However, in many instances, this was done at the *panchayat* level, which is altogether illegal. In the same way, the village-level

officials were found to be not exercising their powers properly, thus diluting the purpose of the act. The SLMC should devise criteria and indicators for monitoring the rights recognition after which the tribal department of the respective states develops qualitative indicators, and then the RDs and FDs do justice to the claimants. In many places, however, this process is being ignored, resulting in the denial of many claims by the poor people at the initial stage itself.

On the gender front, women appear to have been ignored and overlooked in most of the states, the usual story being inadequate or complete absence of women in the FRCs; moreover, the GSs are also being convened without their attendance (GoI, 2010b). All this is happening when the fact is now well-established that women (about 60 to 70 percent (Gera, 2002)) are the main contributors to the tribal economy through MFP collection and sale (Venkateswaran, 1994; Ghosh, 2008; Khare, 1987; Malik, 1994; Saigal, 1998), and the main forest-based livelihood activity is MFP collection and its sale.

As per the act, the FD has only a negligent role in the implementation process of the FRA. They are required to be merely present with the FRCs during the verification stage. Even this presence is not mandatory according to the rules, and will not imply on the decision of the FRC. However, in complete disregard to the act, the FD is seen to be functioning as 'veto' in denying rights to the people, and by rejecting their claims at the screening stage itself (CSD, 2010; GoI, 2010b; Writ Petition, 2011). Hence, it could be said that though ostensibly this act appears to be people-oriented, the final shots are called by committees of bureaucrats, elected representatives, and the FD, which incidentally was never in favour of this act. Some observers of the working of the GS on ground are apprehensive that vesting the GS with powers to decide rights and to grant *pattas* on land could lead to corruption and abuse of power (EPW Editorial, 2007). It may be that the FD and other government departments also think in the same way in order to justify their actions and with the intention of not let-going their authority. On other hand, the pro-FRA lobbyists go a step further to recommend empowerment of the GS and a complementary role for the PESA to enhance the implementation process for a hassle-free process (Singh et al., 2010) (for details see Box No. 2).

Among the many issues plaguing the FRA, rejection of the claims for various reasons, most of the time on flimsy grounds, has hampered the recognition of rights to the claimants in a big way. This is seen to be happening because of the hasty enquires made (or not made at all?) by the officials. The agony of the rejected claimants compounded in such cases where they are not given an opportunity to appeal (Saxena, 2010). The misuse of Section 4(5) of the act is another much talked about issue; this deals with eviction, and many times, this is put against the claimants without proper investigation.

Then there are allegations against the FD for taking over non-forest land, where there is some tree cover, which is also leading to confusion about what actually is forest area (EPW Editorial, 2007). As per the estimation, around 50 districts in the country have a dense forest cover, that incidentally are also thickly populated by tribals (*ibid.*). On applying such kind of logic to take over the land, the main stakeholders for whose purpose this act is legislated, stands defeated.

**Box No. 2: Panchayats Extension to the Scheduled Areas (PESA)**

*The PESA Act, 1996 is an extension of the provisions of Part IX of the Constitution relating to the panchayats to the SA. PESA, as this act is popularly known, is all about providing far-reaching governance powers to the tribal community, viz., recognising the tribals as a traditional community, accepting the validity of their traditional rights, customary law, social and religious practices, and their traditional management of natural resources (Mukul, 1997). The extension of this act in total would have been a determinant to the outcome of the FRA because the members in the GS are expected to be more assertive than in other general areas, because they are entrusted with the responsibility of identifying beneficiaries under poverty-alleviation programmes.*

*The Government of Chhattisgarh claims to be ahead among other states in the country in implementing the PESA; but, none of the states including Chhattisgarh and Gujarat appears to have made any significant legislation that could claim to be complementing fully with the legislation made by the centre.*

*Source: As Referred.*

Community rights were expected to be equally in demand as that of individual rights because these rights would provide secure livelihood avenues to the FDP through the forest resources (Kothari, 2011). However, the ground reports suggest otherwise because people failed to take advantage of this provision to the fullest, besides, the people's own fallacy of seeing 'land first' before other rights (Tracking FRA, 2008). According to Kothari (2011), from the estimates of a decade-old forest survey report, there should have been about 1,70,000 community claims since forests were within the boundaries of so many villages. However, only 50,000 claims were recorded with the MoTA. The reasons for the poor implementation were: the FD threatened the communities about losing out on JFM funds if they claimed rights on forest resources; the FD's indifferent approach in facilitating community claims, which could also be a result of community empowerment, or the fear that the community may not protect forests (*ibid.*). However, many studies have proved that the JFMs that already had resources under the community are being managed sustainably. Curiously, these very community initiatives are now

being misused by the state governments through compensatory afforestation schemes on those lands, only to obstruct the smooth implementation of the FRA, as there are numerous cases of people having claims over the present JFM lands (Ramdas, 2009). Moreover, the civil society also focussed more on individual rights rather than on community rights, because the former hogged all political attention. More glaringly, the 'community' also appeared to not own the responsibility for the community rights because, in many cases, they have open access to it; moreover, they saw management of community resources as the government's responsibility and not theirs (GoI, 2010b).

Although, the FRA is an act in itself, yet, there is scope for other already existing laws to prevail upon the act. This happens especially with the overlapping laws on conservation and sustainability of wildlife and forest. The example is the functioning of DLC, a prime decision-making body in the implementation of the FRA. It faces a challenging task in regularising the rights given by the FCA 1980 provisions, wherein giving away rights post-1980 becomes a tough process. It is a different matter that Gupta (2006) does not see FCA 1980 having made any substantial inroads to protecting the forests; he gives an account of how in actuality 40,000 ha of land has been diverted annually for non-forestry purposes since the 1980s. In fact, *People's Democracy* (2012) furnishes the figures: as much as 1,82,389 ha of land was diverted for non-forestry projects during 2008-11 alone in different states without even bothering to take the consent of the concerned GS. The laws that most often overlap with the objectives of the FRA are when the state and the national government use their authority to issue lands for the development projects overlooking the possible claims on such lands (Kothari 2011). Such overriding authority gains strength because the act remains subject to the state's eminent domain in the acquisition of lands in the name of development projects (Bose, 2010).

Lack of awareness among the main stakeholders of the FRA is now a well-acknowledged fact, especially in the wildlife protection areas where the extremely poor implementation was obvious because of the vulnerability and poor awareness levels among the PVTG and pastoralists (Kothari, 2011). The SLDC officers, who are required to create awareness among the GS members to claim their individual and community rights, are found to be themselves thoroughly ignorant about the act (Tracking FRA, 2008). If this is the ground situation and efficiency of the officers, then how are they to be expected to provide the FRCs and the GSs with maps, documents, and other evidences as mentioned in the FRA?

When it comes to the drawbacks in the act itself, the first one that requires mention is that of title granted to the claimants; because it contains no absolute and alienable rights over the property (Bose, 2010). There is also no mention whatsoever regarding

the writing-off (charges/prosecution) of the criminal offences against the tribals, who were booked for acquiring forest land and collecting MFPs before 2005 (AITPN, 2006). More importantly, the act has done little to safeguard forests from mining corporate houses, timber mafias, and the like (Krishnan, 2007). In case of OTFD, having to prove their residency since three generations, or for using the forest for 75 years, appears to discourage them from their rights through this pungent criterion. Raising apprehensions about gender equity, Reddy *et al.* (2011) points to the inheritance clause in the act, because in the absence of a direct heir, the act passes the right to the next of kin, but is not clear about the successor, especially if it is a female child.

Finally, the policy may be defined as a set of stated intentions and resultant practices in the name of the public good (Springate and Blaikie, 2007). In contrast to the definition, the policy of emancipating the forest-dependent people through the FRA seems to be far from realising its objectives in yielding public good so far. Hence, forest governance policy and associated policy changes in the management of forest are a must. The Review Committee (GoI, 2010b) in its report identified failure of institutional bodies that were set up at various levels to implement the act effectively. They were found to be lacking in information and awareness themselves. Hence the Review Committee (*ibid.*), made recommendations for the NGOs' role at all institutional levels to improve the implementation prospects, besides asking for inclusion of *panchayat* members in it. Despite these implementation problems, the Review Committee (*ibid.*) believes that the basic act is robust in its recommendations; so it suggests no amendments to the act as such. However, a few amendments are recommended to improve upon some of the rules of implementation, although these recommendations are in the nature of directions/guidelines to the states to be issued under Section 12 of the act by the MoTA. The suggestions include: reducing the quorum size from two-thirds to one half when the GS meets to decide on forest rights; proposal to increase tribal representation in the FRCs from one-thirds to two-thirds; and a proposal to lend wider meaning for transportation, head-load, bicycle, and hand cart. Besides these institutional changes, what matters most is suggested by Krishnadas *et al.* (2011), who wishes the FD to adopt a humane approach while dealing with the community, and consult them because they are the affected local communities. This is amply proven in states such as MP where, according to Sampath (2010), relatively speedier implementation of the FRA is observed because the state government promoted 'participatory governance polices'.

## **6. Forest-Dependent People and their Livelihood Challenges**

Experts are yet to reach consensus on the continued poverty of the natural resource users. However, it appears that the social systems from which they arise are structured so unequally that it justifies the Marxist view of environmental problems reflecting

'unequal distribution of resources' eluding a lasting solution (Sachs, 1993). Even a most developed state like Gujarat could not extend the spoils of growth to this section of population, indicating their exclusion from the mainstream society and development. Such continuous deprivations push the community towards a pathetic state of poverty, more importantly, a vicious one if the state turns a blind eye towards its own citizens.

Poverty is not merely characterised by low income, but also involves exclusion from the finer elements of life (Narayan *et al.*, 2000). About 30 crore people live below poverty line in India, and among them, two-thirds depend either completely or partially on forest for their livelihoods (Khare *et al.*, 2000). According to the World Bank (2006) estimation, 27 percent of the Indian population depends on forest in one way or the other for livelihood. The importance of NTFPs for self consumption and cash income for the forest-depending communities is well established (Prasad and Bhatnagar, 1990; Shiva, 1993; Saxena 1999; Vedeld *et al.*, 2004; Bhattacharya and Hayat, 2004). About 70 percent of the forest revenue in India is earned through NTFPs (Shekhar *et al.*, 1993) and 23 lakh people are engaged in NTFP-related employment (Shiva and Mathur, 1996). Ironically, these FDPs are only primary collectors of NTFP and due to poor market accessibility and exploitation at the hands of middlemen, they get a very low price for the produce they collect from the forest. Such exploitation is a primary reason why the poorest of poor in India live in the rich forests (Narain, 2009), facing food insufficiency for two to three months (71.61 percent of them are tribals)-5 percent of them face food insufficiency for up to six months (Radhakrishna and Ray, 2006).

Anyhow, to curb the menace of tribal exploitation by middlemen, the NTFPs were nationalised during the 1960s and 1970s, through legislation. However, with the exception of a few states, the others such as Chhattisgarh and Gujarat have declared NTFPs as state property. This in all practicality allowed the forest dwellers to collect these items from the forest, but they cannot sell it to anyone. They have to sell it only to the state authority. Not expectedly, some of the states have sub-let the procurement of the forest produce to industries and private traders (Singh, 1986), who in lust of maximising their revenue started exploiting the primary collectors again by paying only 5-20 percent of the total retail price (GoI, 2010b). Further, in recent times, there have been serious representations carried out by the civil society members to denationalise all the items in the MFPs in the interest of the livelihoods of the FDP. The Review Committee (GoI, 2010b) also recommended denationalisation of all MFPs because of their significant implication on the livelihoods of the people, who have been deprived of their rightful earnings.

In this backdrop, the FRA becomes an important platform for improving the livelihoods of the FDPs, by decreasing their vulnerability through secure land rights<sup>9</sup>. Following the secure land rights<sup>9</sup>, the food security would be taken care of, and simultaneously, animal husbandry also can be enhanced with the expected access to fodder on the community lands (Singh *et al.*, 2010) because the FRA also provides for right to pasture and right over water bodies, as already discussed in the earlier sections of this paper.

Nevertheless, on ground, the restrictions imposed by some of the states over collection of MFPs and deliberately manipulating committee rights by limiting them only to non-forest benefits such as infrastructure do not tell the story in positive light (Mahapatra *et al.*, 2011). Similarly, evidences coming from the above-discussed states or elsewhere in India suggest that they are yet to reach the envisaged objectives, basically because of the FD's and revenue official's attitude of continuing with the colonial legacy of dominance over the people living in the proximity of forests. Holding an optimistic view, however, Reddy *et al.* (2011) think it is too early to draw a definitive conclusion about the FRA helping in reducing the poverty because they expect positive results and hope that the insecure and marginalised people receiving recognition to their lands in a challenging process of the FRA implementation will be followed by overall progress over a period of time.

Despite the FRA, if the livelihoods of the people living in the forest do not improve, what will it mean? Should it be understood that the time has come for them to leave the forest environment altogether, as Levang *et al.* (2003) surmised, and surrender to the whims of the state to allow the never-ending displacements, loss of livelihoods, cultural extinction, disintegration of their society, becoming victims of all kinds of atrocities, etc., for the development of others (non-tribals) in the name of industrialisation and nation building (Saxena 2006; Ramnath 2008; Krishnadas *et al.*, 2011)? The approach to be adopted should be that of maintaining patience because no state gives rights to its citizens in a silver platter; thus, it requires effort to keep the FD and its coercive bureaucratic approach, timber mafias, and big conservationist NGOs at bay (Ghosh, 2006), until an ultimate purpose is achieved.

---

<sup>9</sup> There were 40 lakh tribals not possessing legal status to their lands before this act (Jain, 2006).

## References

- Asian Indigenous and Tribal Peoples Network (AITPN) (2006): "India's Forest Rights Act of 2006 - Illusion or Solutions", *The Occasional Briefing Papers*, New Delhi, December 15.
- Bela Bhatia (2005), "Competing Concerns", *Economic & Political Weekly*, Vol. 40, No. 47, pp. 4890-93.
- Bhattacharya, P. and Sayed F. Hayat (2004): "Sustainable NTFP Management for Rural Development: A Case from Madhya Pradesh, India", *International Forestry Review*, Vol. 6, No. 2, pp. 161-168.
- Bhullar, Lovleen (2008): "The Indian Forest Rights Act 2006: A Critical Appraisal", 4/1, *Law, Environment and Development Journal*, pp.20-34.
- Bijoy, C. R. (2008): "Forests Rights Struggle: The Adivasis Now Await a Settlement", *American Behavioural Scientist*, Vol. 51, p.1775.
- Bose, Indranil (2010): "How Did the Indian Forest Rights Act, 2006, Emerge?", *IPPG Discussion Paper*, No. 39, University of Manchester.
- Census of India (2001): Office of the Registrar General of India, New Delhi.
- Council for Social Development (CSD) (2010): "Summary Report on the Implementation of the Forest Rights Act", National / Current Situation, September.
- Cowlagi, V.R.S. (2006): "Identification of Backward Talukas", Report Submitted to the Government of Gujarat.
- Daily News and Analysis* (DNA) (2010): "Gujarat Government Leads in Implementation of Forest Rights Act: Modi", January 22, Vadodara, webpage accessed on April 14, 2012, [http://www.dnaindia.com/india/report\\_gujarat-govt-leads-in-implementation-of-forest-rights-act-modi\\_1338044](http://www.dnaindia.com/india/report_gujarat-govt-leads-in-implementation-of-forest-rights-act-modi_1338044)
- Developing Initiatives for Social and Human Action (DISHA) (2012): "Land Right Struggle, Gujarat, India", webpage accessed on April 14, 2012, [http://www.disha-india.org/land\\_right.html](http://www.disha-india.org/land_right.html)
- Enviro-Legal Defense Firm (ELDF) (2005): "Incorporating Stakeholder Perceptions on Participatory Forest Management - The Law and Policy Context", UK Department for International Development, Project No. R8280.

- EPW Editorial (2007): "Forests and Tribals: Restoring Rights", *Economic and Political Weekly*, January 6, Vol. 42, No. 1, pp. 4-5.
- Forest Survey of India (2011): 'Gujarat', Forest and Tree Resources in States and Union Territories, India State of Forest Report.
- Gadgil, M. and R, Guha (1992): "This Fissured Land - An Ecological History of India", Oxford University Press, Delhi.
- Gera, P. (2002): "Sub-Group on Sex Disaggregated Data of the IAWG on Gender and Development: Women's Role and Contribution to Forest-Based Livelihoods", Human Resource Development Centre, UNDP, New Delhi.
- Ghosh, Nilabja (2008): "In Search of a Canopy: Tribal Women's Livelihood in Forest-Based Industries in Rural India", Paper Presented at "Governing Shared Resources: Connecting Local Experience to Global Challenges", 12th Biennial Conference of the International Association for the Study of Commons, Cheltenham, England, July 14-18.
- Ghosh, Soumitra (2006): "India: The Forest Rights Act, A Weapon of Struggle", World Rainforest Movement, accessed on November 14, 2008, <http://www.org.uy/bulletin/115/india.html>
- Government of Chhattisgarh (GoC) (2012): "Forest Resources", Forest Department, webpage accessed on April 14, 2012, [http://www.raipurforestdivision.in/index.php?option=com\\_content&view=article&id=7&Itemid=7](http://www.raipurforestdivision.in/index.php?option=com_content&view=article&id=7&Itemid=7)
- Government of Chhattisgarh (GoC, 2001): "Chhattisgarh State Forest Policy", Forest and Culture Department, Mantralaya, Raipur, October 22.
- Government of Gujarat (GoG) (2012): "Introduction", Forest Department, webpage accessed on April 14, 2012, <http://www.gujaratforest.org/aboutus-intro.htm>
- Government of India (2011): "India Human Development Report 2011", Planning Commission, New Delhi.
- Government of India (GoI) (1952): "National Forest Policy", Ministry of Environment and Forests, Department of Environment, Forests and Wildlife, New Delhi.
- Government of India (GoI) (1988): "National Forest Policy", Ministry of Environment and Forests, Department of Environment, Forests and Wildlife, New Delhi.
- Government of India (GoI) (1992): "Report of the Commission for Scheduled Castes and Scheduled Tribes", Commission for Scheduled Castes and Scheduled Tribes, Controller of Publication, New Delhi.

- Government of India (GoI) (2007): "Scheme of Development of Primitive Tribal Groups (PTGs) (with effect from April 1, 2008)", Ministry of Tribal Affairs, New Delhi.
- Government of India (GoI) (2010a): "Status Report", Ministry of Tribal Affairs, Government of India, November 30.
- Government of India (GoI) (2010b): "Manthan", Report by National Committee on Forest Rights Act (A Joint Committee of Ministry of Environment and Forests and Ministry of Tribal Affairs), December.
- Government of India (GoI) (2012a): "Development of Forest Villages", Ministry of Tribal Affairs, webpage accessed on April 14, 2012, <http://tribal.gov.in/index2.asp?sublinkid=456&langid=1>
- Government of India (GoI) (2012b): "Status Report on Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (for the period ending 29<sup>th</sup> February, 2012)", Ministry of Tribal Affairs (MoTA), webpage accessed on April 15, 2012, <http://tribal.nic.in/writereaddata/mainlinkFile/File1375.pdf>
- Guha, Ramchandra (1983): "Forestry in British and Post-British India: A Historical Analysis", *Economic and Political Weekly*, Vol. 18, No. 44, pp. 1882-1896.
- Gupta, Smitha (2006): "Limited Rights", *Frontline*, Vol. 23, No. 7, webpage accessed on April 15, 2012, <http://www.frontlineonnet.com/fl2307/stories/20060421002809500.htm>
- Indianetzone (2010): "Indian Tribals", September 29, webpage accessed on April 14, 2012, [http://www.indianetzone.com/50/tribes\\_chhattisgarh.htm](http://www.indianetzone.com/50/tribes_chhattisgarh.htm)
- Indianetzone (2011): "Tribes of Gujarat", July, 23, webpage accessed on April 14, 2012, [http://www.indianetzone.com/27/tribes\\_gujarat\\_sudras.htm](http://www.indianetzone.com/27/tribes_gujarat_sudras.htm)
- Jain, Sonu (2006): "Green Light for Tribal Bill Changes will be in House this Session", *Indian Express*, December 8, New Delhi, p.1.
- Jha, Makhan (1998): "India and Nepal: Sacred Centres and Anthropological Researches", M. D. Publications, New Delhi.
- Khare, A., Madhu Sarin., N.C. Saxena., S. Palit., S. Bathla., F. Vania and M. Satyanarayana (2000): "India - Joint Forest Management: Policy, Practice and Prospects", IIED: London.
- Khare, Arvind (1987): "Small Scale Forest Enterprises in India with Special Reference to the Roles of Women", National Review Paper, ISST, New Delhi.

- Kothari Ashish and R. L. Meena (2010): "Status of Implementation", MoEF/MoTA, Committee on Forest Rights Act, website accessed on April 17, 2012, [http://fracommittee.icfre.org/TripReports/Gujarat/Gujarat%20report%20\(Revised-FINAL\).pdf](http://fracommittee.icfre.org/TripReports/Gujarat/Gujarat%20report%20(Revised-FINAL).pdf)
- Kothari, Ashish (2011): "Livelihood Issues: Not Out of the Woods Yet", *Frontline*, Vol. 28, No. 5, pp. 64-73.
- Krishnadas, Meghna., Umesh Srinivasan., Nandini Velho., and Sachin Sridhara (2011): "Turning the Page in Forest Governance", *Science and Bureaucracy*, Vol. XLVI, No. 50, pp. 10-13.
- Krishnan, Radhika (2007): "Forest Rights Act 2006 - Misplaced Euphoria", webpage accessed on November 14, 2008, [http://www.cpiml.org/liberation/year\\_2007/January/forest\\_right\\_act.html](http://www.cpiml.org/liberation/year_2007/January/forest_right_act.html)
- Kumar Shashikant (2009): "Forest Legislation, Tribal Population and Planning in Eastern Tribal Belts of Gujarat", Paper presented in the Conference on "Population and Environment: Local and Regional Planning Challenges" at XXVI IUSSP, International Population Conference, Marrakech, September 27 - October 2.
- Levang, P., E. Dounias., and S. Sitorus (2003): "Out of the Forest, Out of Poverty?" Paper Presented at the International Conference on "Rural Livelihoods, Forests, and Biodiversity", in Bonn, Germany, May 19 -23.
- Mahapatra, Richard., Kumar Sambhav., S, Sumana Narayanan, and Aparna Pallavi (2010): "How Government is Subverting Forest Rights Act", *Down to Earth*, November 1-15, pp. 28-37.
- Majumdar, Sarajit (2010): "Forest Communities Right to Livelihood", express buzz, January 6, webpage accessed on January 6, 2010, <http://www.expressbuzz.com/edition/print.aspx?artid=YiprxAgio=>
- Malik, R. (1994): "Study of Some Minor Forest Produce in Orissa: An Empirical Investigation", Nabakrushna Choudhury Centre for Development Studies, Bhubaneshwar.:
- Meena, R.L., Ravi Chellam, Ashish Kothari and Rakesh Dogra (2010): "Consultations and Field Visits in Gujarat", MoEF / MoTA Committee on Forest Rights Act, November 27-29.
- Ministry of Tribal Affairs (MoTA) (2006-07): "Annual Report", Government of India, New Delhi.

- Ministry of Tribal Affairs (MoTA) (2007): "Order - Constitution of a Technical Support Group for Framing Rules under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006", February 12.
- Ministry of Tribal Affairs (MoTA) (between June 9, 2008 and May 5, 2011): Government of India, New Delhi.
- Mukul (1997): "Tribal Areas: Transition to Self-Governance", *Economic and Political Weekly*, Vol. 32, No. 18, pp. 928-929.
- Narain, Sunita (2009): "Time a Resource Curse got Lifted", Centre for Science and Environment, website accessed on April 17, 2012, <http://base.d-p-h.info/fr/fiches/dph/fiche-dph-8100.html>
- Narayan, D., Chambers, R., Shah, M.K., Petesch, P. (2000): "Voices of the Poor Crying Out for Change", Oxford University Press, New York.
- People's Democracy* (2012): "Adivasi Adhikar Rashtriya Manch Organises All India Sangharsh Sabha", A Resolution (Condemns Forcible Land Acquisition and Consequent Displacement), March 25, New Delhi, Vol. XXXVI, No. 13.
- Prasad, Archana (2003): "Forest Encroachments: Guidelines and Implications of Recent Orders", *People's Democracy*, Vol. XXVII, No. 1, January 5.
- Prasad, P. and P. Bhatnagar (1990): "Socio-economic Potential of Minor Forest Produce in Madhya Pradesh", SFRI Bulletin, No. 26, State Forest Research Institute (Jabalpur), Madhya Pradesh, India.
- Radhakrishna, R. and Shovan Ray (2006): *Handbook of Poverty in India: Perspectives, Policies and Programmes*, New Delhi: Oxford University Press.
- Ramdas, S. R. (2009): "Women, Forest Spaces and the Law: Transgressing the Boundaries", *Economic and Political Weekly*, Vol. 44, No. 44, pp. 65-73.
- Ramnath, Madhu (2008): "Surviving the Forest Rights Act: Between Scylla and Charybdis", Vol. 43, No. 9, pp. 37-42.
- Reddy, M. Gopinath, K. Anil Kumar, P. Trinadha Rao and Oliver Springate-Baginski (2011): "Issues Related to Implementation of the Forest Rights Act in Andhra Pradesh", *Economic and Political Weekly*, Vol. XLVI, No. 18, April 30. pp. 73-81.
- Sachs, W. (Eds.) (1993): "*Global Ecology*", Zed Books, London.
- Saigal, S (1998): "Participatory Forestry in India: Analysis and Lessons", M.Sc. Thesis, Oxford Forestry Institute, Oxford.

- Samarthan - Centre for Development Support (2010): "Recognition of Community Rights under Forest Right Act in Madhya Pradesh and Chhattisgarh" - Challenges and Ways Forward", Final Report Submitted to UNDP - Bhopal, December.
- Sampath, S. K. (2010): "An Inquiry into Perceptions, Adaptations and Resilience in Madhya Pradesh", MS Thesis, Faculty of Agriculture University of Padua, Padua, Veneto, Italy.
- Sathyapalan, Jyotis and M., Gopinath Reddy (2010): "Recognition of Forest Rights and Livelihoods of the Tribal Communities - A Study of Western Ghats Region, Kerala State", *CESS Monograph - RULNR Monograph*, Centre for Economic and Social Studies, Hyderabad, Andhra Pradesh (India), November.
- Saxena, K. B. (2006): "Alternative Economic Survey, India 2005-06: Disempowering Masses, Development as Destitution", pp. 263-274, webpage accessed on April 13, 2012, [http://www.daanishbooks.com/product\\_downloads/caes2005\\_06\\_20\\_kb\\_saxena\\_\\_35543.pdf](http://www.daanishbooks.com/product_downloads/caes2005_06_20_kb_saxena__35543.pdf)
- Saxena, N. C. (1999): "World Bank and Forestry in India", India Country Study Background Paper, Operations Evaluation Department (OED)., Washington, DC: World Bank.
- Saxena, N. C. (2010): "Implementation of Forest Rights Act in Chhattisgarh: Report of Field Visit", MoEF / MoTA Committee on Forest Rights Act, May 24-27.
- Sethi, Nitin (2008): "Government Data on Forest Land Encroachment Rattles Pro-FRA Lobby", *Times of India*, New Delhi, December 10, webpage accessed on April 14, 2012, <http://timesofindia.indiatimes.com/india/Govt-data-on-forest-land-encroachment-rattles-pro-FRA-lobby/articleshow/3814776.cms?>
- Sharma, Supriya (2010): "Chhattisgarh's 100 % Settlement Claim Hollow", *Times of India*, Raipur, June 18, webpage accessed on April 14, 2012, <http://timesofindia.indiatimes.com/india/Chhattisgarhs-100-settlement-claim-hollow/articleshow/6061263.cms?>
- Shekhar, C., R. S. V. Rai., and Surendra, C. (1993): "Price Regime Analysis, Marketing and Trade of Minor Forest Produce", Dehradun, CMFP.
- Shiva, M. P. (1993): "Technology Scenario in Asia-Pacific Forestry Sector", *APFSOS Working Paper*, No 25. FAO, Rome.
- Shiva, M. P. and Mathur, R.B. (1996): "*Management of Minor Forest Produce for Sustainability*", Oxford and IBH Publishing Co. Pvt. Ltd., New Delhi.

- Shrivastava, Sambhav Kumar (2010): "Tribals Beaten Out of Forestland", *Down to Earth*, September 16-30, pp.15.
- Singh, Ajay Bhan (2010): "Forest Rights Act 2006 - Status of Implantation and its Potential in Livelihoods Improvement of Forest Dwelling Communities in Central Region", Workshop on "Forest Rights Act 2006", December 21 - 22, Indian Institute of Forest Management, Bhopal.
- Singh, Ajay Bhan, K. N. Krishna Kumar, Pramod Tyagi and Ganesh Yadav (2010): "Status of Implementation and its Potential in Livelihoods Improvement of Forest Dwelling Communities", Background Note, Workshop on "Forest Rights Act 2006", December 21 - 22, Indian Institute of Forest Management, Bhopal.
- Singh, Chhatrapati (1986): "*Common Property, Common Poverty: India's Forests, Forest Dwellers and the Law*", OUP, New Delhi.
- Sinha, Ashok Kumar (2007): "Implementation of Forest Law: A Case Study in East Singhbhum of Jharkhand" in Paty, Chittaranjan Kumar (Ed.) "*Forest Government and Tribe*", Concept Publishing Company, New Delhi.
- Sinha, Rajesh (2010): "No Welfare, No State", *Tehelka Magazine*, Vol. 7, No. 26, July 3, webpage accessed on April 14, 2012, [http://www.tehelka.com/story\\_main45.asp?filename=Cr030710welfarestate.asp](http://www.tehelka.com/story_main45.asp?filename=Cr030710welfarestate.asp)
- Springate-Baginski, Oliver and Piers Blaike (Eds.) (2007): "*Forests, People and Power: The Political Ecology of Reform in South Asia*", Earthscan, London.
- Springate-Baginski, Oliver., M. Sarin., S. Ghosh., P. Dasgupta., I. Bose., A. Banerjee., K. Sarap., P. Misra., S. Behera., M. G. Reddy and P. T. Rao (2009): "Redressing 'Historical Injustice' Through the Indian Forest Rights Act 2006 - A Historical Institutional Analysis of Contemporary Forest Rights Reform", *Discussion Paper Series*, IPPG, School of Environment and Development, University of Manchester, Manchester.
- Springate-Baginski, Oliver., Piers Blaike., Ajit Banerjee, Binod Bhatta, Om Prakash Dev, V. Ratna Reddy, M. Gopinath Reddy, Sushil Saigal, Kailas Sarap and Madhu Sarin (2007): "Annexation, Struggle and Response: Forests, People and Power in India and Nepal" in Springate-Baginski, Oliver and Piers Blaike (Eds.) (2007): "*Forests, People and Power: The Political Ecology of Reform in South Asia*", Earthscan, London.
- The Forest Rights Act (TFRA) (2012): "Current Situation - Gujarat", webpage accessed on April 14, 2012, <http://www.forestrightsact.com/current-situation>.

- The Gazette of India Extraordinary* (2007): "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006", Part II, Section 1, January 2007, Ministry of Law and Justice (Legislative Department), New Delhi.
- The Gazette of India Extraordinary* (2008): "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007", Part II, Section 3, Sub-Section (1), January 1, 2008, Ministry of Tribal Affairs, Government of India, New Delhi.
- The Hindu* (2006): "Rajya Sabha Passes Forest Bill by Voice Vote", New Delhi, December 19, p.1.
- Tracking the FRA (2008): "Stories aBout the Impact and Implementation of the Act from Across India", Kalpavriksh, July 29, No. 3. pp. 1-11.
- Vedeld, P., Angelsen, A., Sjaastad, E. and G. K. Berg (2004): "Counting on the Environment: Forest Incomes and the Rural Poor", *Environmental Economic Series*, Paper No. 8, World Bank, Washington DC.
- Venkatesan, V. (2008): 'On the Fringes', *Frontline*, Vol. 25, No. 4, p.15.
- Venkateshwaran, V. (1994): "Managing Waste: Ecological, Economic and Social Dimensions", *Economic and Political Weekly*, Vol. 29, No. 45, pp. 2907-11.
- Vidyarthi, Lalita Prasad (1977): cited on p. 62 in "Kumar, Rajeev. K., V. C. Channa and A. K. Kapoor (2005): "Economy of a Primitive Tribes in Jharkhand" in Chaudhuri, Sarit Kumar and Sucheta Sen Chaudhuri (2005) (Eds.) "*Primitive Tribes in Contemporary India*", Mittal Publications, New Delhi.
- World Bank (2006): "India: Unlocking Opportunities for Forest Dependent People", World Bank, New Delhi.
- World Commission on Forests and Sustainable Development (WCFSD) (1999): "Our Forests Our Future", Report of the World Commission on Forests and Sustainable Development, Cambridge University Press, Cambridge.
- Writ Petition (2011): "Case Filed in the High Court of Gujarat at Ahmedabad by the Voluntary Organisations Working in the Tribal Areas of Gujarat in the Interest of the Families Belonging to ST or OTFDC Living in the Tribal Areas of Gujarat".

## Current CESS Working Papers

Working Paper	Paper No.
<p>Livelihood Pattern and Coping Mechanisms during Drought: A Study of Two Villages in Orissa  <i>Itishree Pattnaik</i>                      <i>August, 2012 (RULNR Working Paper No. 17)</i></p>	.... 116
<p>Livestock Development in Andhra Pradesh: Status and Potential  <i>R. Mallikarjuna Reddy, R. Nageswar Rao and M. Gopinath Reddy</i>  <i>August, 2012 (RULNR Working Paper No. 16)</i></p>	.... 115
<p>Institutionalising Groundwater Management: A Tale of Three Participatory Models in Andhra Pradesh  <i>M. Srinivasa Reddy, V. Ratna Reddy and R.V. Rama Mohan</i>  <i>May, 2012 (RULNR Working Paper No. 15)</i></p>	.... 114
<p>Qualitative Challenges in Improving Performance of Water Points...                      Insights from Community Based Performance Assessment of Water Points in Andhra Pradesh  <i>M.V. Rama Chandrudu, R. Subramanyam Naidu, Safa Fanaian and Radha Shree</i>                      <i>February, 2012 (WASHCost Working Paper No. 19)</i></p>	.... 113
<p>Costs and Service per Technology in Rural Water Supply How Efficient are Multi Village Schemes?  <i>V. Ratna Reddy, M. Snehalatha, M. Venkataswamy</i>  <i>February, 2012 (WASHCost Working Paper No. 18)</i></p>	.... 112
<p>Looking Beyond Capital Costs - Life Cycle Costing for Sustainable Service Delivery - A Study from Andhra Pradesh, India  <i>Snehalatha.M, Venkataswamy.M, Sirisha.D, Anitha.V, Busenna.P</i>  <i>February, 2012 (WASHCost Working Paper No. 17)</i></p>	.... 111
<p>Urban Water Supply and Sanitation in Andhra Pradesh  <i>M. Mohan Rao, M. Venkataswamy, C. Ramachandraiah and G. alivelu</i>  <i>January, 2012 (WASHCost Working Paper No. 16)</i></p>	.... 110
<p>Gender Mainstreaming in Mining: Experience across Countries  <i>Prajna Paramita Mishra, M. Gopinath Reddy</i>  <i>January, 2012 (RULNR Working Paper No. 14)</i></p>	.... 109