

Recognition of Forest Rights Act, 2006



FORESTERS' GUIDE



The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

FORESTERS' GUIDE



Image of parcels in Gadchiroli District, Maharashtra reflecting the ground situation of claims being made by the people. Source: Jha (2021)

DISCLAIMER

This E-guide on FRA 2006 has been developed by a group of retired IFS officers from different states. All efforts have been made to correctly produce and interpret different provisions under FRA and Rules made thereunder. In case of any doubt or contradiction, please refer to the Act and Rules. Suggestions and analysis given here are as per the views and understanding of retired officers with the sole objective to prevent misuse of FRA during its implementation in the field. Foresters are, however, free to take an independent view in any matter related to the subject. This E-Guide is for internal circulation only and meant for educating the forest officers to ensure proper implementation of FRA.

ABBREVIATIONS

CFR	Community Forest Right
CFRe	Community Forest Resource
CWH	Critical Wildlife Habitat
DLC	District Level Committee
FCA	Forest (Conservation) Act 1980
FRA	The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.
FRA Rules	Schedule Tribes and other traditional forest dwellers (Recognition of Forest Rights) Rules 2007
FDST	Forest Dwelling Scheduled Tribe
FRC	Forest Rights Committee
GoI	Government of India
MoEF&CC	Ministry of Environment, Forest & Climate Change
MoTA	Ministry of Tribal Affairs
NP	National Park
OTFD	Other Traditional Forest Dweller
PF	Protected Forests
RF	Reserve Forests
SDLC	Sub-Divisional Level Committee
SLMC	State Level Monitoring Committee
U/r	Under Rule of FRA Rules
U/s	Under section of FRA
WLPA	Wild Life (Protection) Act, 1972

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Preface

This document is intended to provide guidance to the field foresters for implementation of the Forest Rights Act 2006 (FRA) in its true letter and spirit. The need for developing it was felt when the objectives behind the FRA were not adhered to in many instances leading to recognition of forest rights in ineligible cases during its actual implementation and consequent implications in various parts of the country.

The implementation of FRA, despite its Section 3(1) showing 13 types of Forest Rights, has had primary focus from the very beginning on just two types. The Forest Rights of self-cultivation and habitation gaining priority and predominance for obvious reasons, were followed by Community Forest Rights, specially under Section 3(1)(c), and then by Community Forest Resource Rights (CFRRs) at Section 3(1)(i) that gained currency post 2012.

While the Act was under implementation since 1st January 2008, the Ministry of Tribal Affairs (MoTA), nodal agency for the country, Government of India issued various guidelines and went on in 2012 to amend the FR Rules 2008 quite substantially. The major tasks carried out through the amendment done in 2012 were changing the definition of 'bona fide livelihood needs' thereby expanding the domain of claimants to include even those who were above the 'sustenance' level. It also expanded the definition of 'disposal of minor forest produce' to blur the erstwhile focus on the target population which were truly dependent on forests and forest lands for their bona fide livelihood needs. It reduced the quorum of Gram Sabha from two third to half. It waived off the statutory condition for eligibility of claimant communities by inserting the clause in the Form C (Annexure-I) of FR Rules 2012 indicating that presence of few Forest Dwelling Scheduled Tribes/Other Traditional forest Dwellers is sufficient to make the claim for the right mentioned in section 3(1)(i) of the Act. This, in effect, allowed ineligibles under the Act to join as

claimants the bandwagon and also non-eligible Gram Sabhas claiming the benefit of FRA. The amendment to the Rule introduced annexure-IV allowing the Gram Sabha in general to have the 'Title' to Community Forest Resources, introducing thereby a new type of forest right other than those mentioned in the Act. In the process the eligible communities comprised of the genuine FDSTs and OTFDs started getting sidelined. The amendment also created an undue pressure on the DLC as it mandated under Rule 12B (4) for its member secretary that in case where no community forest resource rights are recognized in a village, the reasons for the same shall be recorded by him.

At the broader level, the 2012 amendment of Rules effectively equated the Gram Sabha comprised of heterogeneous people with 'community' for the purposes of this Act despite the fact that a 'community' must be identifiable as a homogeneous group from the perspective of the specific type (related to stated set of activities) of forest right that is being claimed for recognition and that too on the basis that the right has traditionally been exercised by its members. The *de facto* recognition of Gram Sabha as community coupled with the implication of inserting the clause in the Form C (Annexure-I) of FR Rules 2012 opened up the possibility of capturing of the FRs of such eligible communities by other ineligible rural elite and powerful people within Gram Sabhas wherein an exploitative inter-relationship dominated by elite and powerful is not uncommon. The amendment also introduced the presumption that just a delineation of Community Forest Resource amounted to recognition of experience of community in conservation and sustainable use thereby ignoring the crucial preconditions stipulated under Sec.3(1)(i) of the Act. There is confusion also due to the fact that the Rule 4(1)(f) is not shown as specifically related to only those cases which are recognized with forest rights vested under sec.3(1)(i). Further, despite the growing importance of 'third eye' everywhere in the world, it modified the evidentiary value of the satellite imagery and other uses of technology by indicating in Rule 12A(11) that they

may supplement other form of evidence and shall not be treated as a replacement. As an inevitable effect, ineligible claimants' encroachments started getting recognized as a forest right due to difficulty imposed in verification of land use and occupation as on 13.12.2005 and also on 01.01.2008, as required by the sections 4(3) and 4(6) of the Act. A number of guidelines have been issued by MoTA from time to time for considering the rejected cases again and again. To quote some of them, MoTA's letters dated 12.09.2014, 10.04.2015, 15.06.2015, 27.07.2015, 05.02.2016, 16.06.2017, 29.06.2018, 20.02.2019 asked the States to re-view/ re-look/ verify/ re-examine/ *suo motu* review/ re-consider the rejected cases. No instructions have ever been issued for auditing the allowed ones even on a sample basis. This happened despite the report of the National Committee on Forest Rights Act headed by Shri N C Saxena in 2010 pointing out in its para 2.3.7 "post-2005 encroachments are, nevertheless, a serious problem in several parts of India that have not been dealt with seriously". This, in a way, did spread a sense of immunity amongst the authorities and encouraged ineligible people to continue attempting encroachments and get them recognized as forest right under FRA. This trend has clearly been upward in many states as exemplified by the lakhs of recognitions done in 2023 in Telangana state primarily relying on statement of elders as clinching evidence as widely reported in press. Similar trend is reflected in the monthly progress reports published by MoTA wherein Maharashtra (<https://tribal.nic.in>) is shown as having recognized and distributed 33,154 titles in just one month, viz., March 2023. A quantum jump is noticed in Andhra Pradesh also in the month of January 2022 when the number of claims and are found to have increased from 96675 to 210828 and the corresponding forest area from 239554 acres to 436606 acres, respectively (monthly progress report on <https://tribal.nic.in>). The figures have almost doubled in one month's time. In recent times in Madhya Pradesh, the propensity to go for new encroachments has been noticed in a different

form where encroachers from other villages/districts have started breaking forest lands for claiming Forest Rights in future as widely reported in print media. This has led to violent attacks on the foresters as well as local inhabitants. It is worth noting that these issues pertain to a period which is 15 years after the Act came into operation. In fact, the normal period mandated for submission of claims was just three months extendable in specific cases by Gram Sabha considering justifiable reasons for delay. Non-specificity of 'extent' (mentioning in the place of extent as 'whatever is available, whatever is used, grazing for all cattle that exist etc'.) in claims as well as title documents pertaining to Community Forest Rights is prevalent all over which jeopardizes the very basis of sustainability of resource for sustained enjoyment of the forest rights recognized and vested under FRA in eligible persons/communities. Again, there are, apart from huge number of cases in reserved forests, examples of large areas of sanctuaries and national parks including Tiger reserve areas where management rights have been recognized in favour of Gram Sabhas in violation of the eligibility conditions mentioned under sections 3(1)(i) and 4(3) of the FRA.

Despite all above, a strong sense of immunity and a bias in favour of 'better allow the claim' prevails all over since only rejected cases are instructed to be scrutinized in any case. Foresters who try to be objective are considered as opposed to FRA; threatened with persecution and hence, more often than not, are allegedly pressurized or compelled to sign on dotted lines. The fact remains that the potential damage due to misuse of the Act has enormous consequences for availability of the eco-services for the citizens of our country. Needless to say, the hapless Forest Dwelling Schedule Tribes and Other Forest Dwellers are going to be the first and the most affected victims even in the long run. These fundamental concerns led to the genesis of this document.

Multiple online and informal consultations amongst foresters, both working as well as retired, from different states were held for over two months to bring up the critical issues and responses thereto in the interest of proper implementation of FRA.

The readers are requested to appreciate the fact that the points raised herein, and also the field conditions mentioned above call for an extremely high level of due diligence on the part of the authorities, of which foresters are an important part. It is hoped that this e-Guide will support a better implementation of the FRA in the interest of one and all. Although sincere attempts have been made to ensure that the document becomes useful in serving the purpose to the full extent, suggestions to improve it further are most welcome with thanks in anticipation. However, the editorial team expresses sincere thanks to every one supporting directly or indirectly in this endeavor. Valuable contributions made by Shri B. K. Singh IFS (Retd), Shri A. K. Bansal IFS (Retd), Shri Sanjay Shrivastava IFS (Retd), Shri Vinay Sinha IFS (Retd), Shri Subhash Ashutosh IFS (Retd), Shri P. C. Tyagi IFS (Retd) and Shri Sandeep Tripathi IFS (Retd) are highly appreciated.

Editorial Team
August 15, 2023

1. INTRODUCTION

The Parliament had passed "The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, which got assent of the Hon'ble President of India on 29.12.2006. The Act was notified in the gazette and came into effect from 02.01.2007. Thereafter, the Rules had been framed under this Act: "Schedule Tribes and other traditional forest dwellers (Recognition of Forest Rights) Rules 2008" which got notified on 01.01.2008, and subsequently certain amendments were also incorporated in the year 2012 under "Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules 2012 notified on 06.09.2012.

FOREST RIGHTS

The Act recognizes and vests certain forest rights listed under Sec. 3 of the Act, which includes:

"Individual Forest Rights" over forest land under Sec 3(1)(a),

"Community Forest Rights" under Sec. 3 (1)(b), (c), (d), (e), (h), (i) & (j) which includes *Nistar*, MFP, fishing, conversion of forest village to revenue village etc.

and certain right to "Community Forest Resource" under Sec. 3(i) viz. right to protect, conserve, manage, or regenerate community forest resources being managed traditionally by the Community for sustainable use.

Diversion of forest lands up to one hectare and not involving felling of more than 75 trees is permissible for specific public facilities to be created by Government like school, *anganwadi*, dispensary, roads etc. listed under Sec. 3(2).

LIMITATIONS /RESPONSIBILITY

Forest rights in respect of forest land and their habitat shall be subject to the condition that such FDST and OTFD or their community have occupied forest land before 13.12.2005 (U/s 4(3)). For recognizing forest right over forest land for FDST, he has to be dependent on forests or forest land for bona fide livelihood and has to prove that he was in occupation of said forest land as on 13.12.2005 and also on 1-1-2008. In the case of OTFD, he has to prove that he has been dependent on forest or forest land for bona fide livelihood for three generations i.e. 75 years as on 13.12.2005 and has been in occupation of the forest land as on 13.12.2005 and also on 1.1.2008. Forest Rights recognized are heritable but not alienable or transferable (U/s 4(4)). Individual forest right over forestland is restricted to extent under occupation as on 13.12.2005 subject to ceiling of four hectare (U/s 4(6)). Claimant includes individual, family or community making a claim (U/r 2(1)(c)). State has to modify transit regime for transport of MFP and transit permits shall be issued by the Committee or person authorized by Gram Sabha. The Ministry of Tribal Welfare, Govt of India is Nodal Agency under the Act (U/s 11). The Act also casts responsibility on the individual beneficiary and their community, and on Gram Sabha also of protecting forest and wildlife, biodiversity, and catchment area etc. (U/S 5).

ROLE & RESPONSIBILTY OF GRAM SABHA

Gram Sabha is the authority to initiate process for determining the nature and extent of individual or community rights (U/S 6(1)). Gram Sabha in its first meeting is supposed to elect Forest Rights Committee (FRC) with minimum 10 and maximum 15 members (U/R 3(1). The quorum of the Gram Sabha meetings shall be not be less than half of Gram Sabha members (U/R 4(2)). Gram Sabha shall call for claims and authorize the FRC to accept claims for Individual Forest Rights over forest land in the Form-A prescribed under

Annexure-1 and such claims shall be made within three months (U/R 11(1)(a)). The claimant seeking issue of title over forest right on forest land under occupation as on 13.12.2005 is supposed to furnish, inter alia, at least two of the evidences listed under Rule 13(1). The Gram Sabha can extend the period for submission of claims beyond three months after recording the reasons (U/R 11(1)(a)). The FRC is supposed to verify claims for Individual Forest Rights over forest land under Form-A as provided under Annexure-1. The FRC is also supposed to prepare claims for "Community Forest Rights" in Form-B on behalf of Gram Sabha and for "Community Forest Resources" in Form-C as provided under Annexure-1 in consultation with village elders and present their findings on the nature and extent of claims before the Gram Sabha (U/R 11(2)). The officials of the Forest and Revenue departments shall remain present during the verification of the claims and the verification of evidences on the site and shall sign the proceedings with their designation, date and **comments**, if any (U/R 12 A (1)).

ADMISSIBLE EVIDENCES

Elaborate list of admissible evidences for title to forest rights over forest land is given under Rule 13(1) and for Community Forest Resources under Rule 13(2). The FRC is supposed to delineate and prepare maps for both individual forest rights and community forests resource area which may include RF, PF, National Park or Sanctuary with claimed right to access, conservation and sustainable use of such Community Forest Resources (U/R 12). On completion of field visit and verification of evidences, FRC submits its recommendations to the Gram Sabha. The Gram Sabha discusses FRC recommendations and passes resolutions accepting or rejecting claims after giving reasonable opportunity to interested persons and authorities concerned and sends its resolutions to the Sub-Divisional Level Committee (U/R 4). Gram Sabha shall constitute Committee for protection of wildlife, forest and bio-

diversity etc. as mentioned in section 5, and such Committee shall prepare a conservation and management plan for Community Forest Resources right recognized under Sec.3(i), (U/r 4(1)(e)(f)).

SDLC/DLC shall consider evidences specified under Rule 13 and shall not insist upon any particular form of documentary evidence. Fine receipt, Preliminary Offence Report, Forest Settlement report, encroacher list shall not be sole basis for rejection of claims and satellite imagery and other use of technology may supplement other form of evidences and shall not be treated as replacement (U/r 12 A (11)).

ROLE AND RESPONSIBILITY OF SDLC

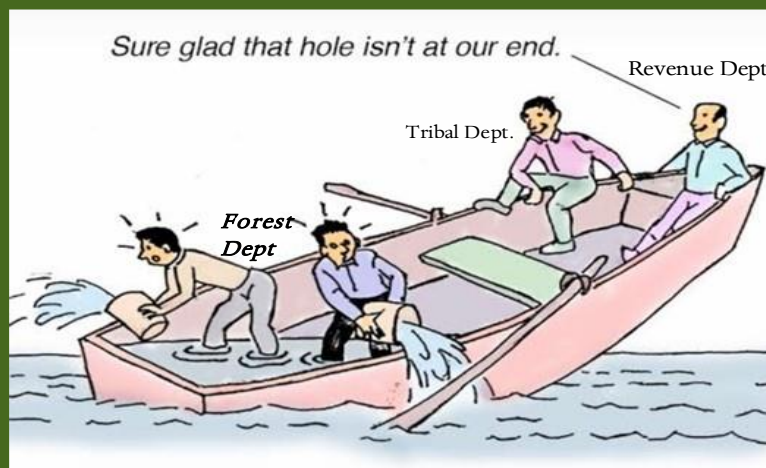
The Sub-Divisional Level Committee (SDLC) is chaired by Sub-Divisional Officer with members from Forest and Tribal Welfare Department and three members from Block level Panchayats (U/R 5). Any person aggrieved by the resolution of Gram Sabha can file petition to SDLC within sixty days of resolutions (U/R 14(1)). The SDLC shall fix date for hearing under intimation to the petitioner and Gram Sabha in writing as well as through a notice in concerned Gram Sabha and SDLC may either allow or reject or refer petition to Gram Sabha. SDLC shall pass appropriate orders after examining and collating records of rights and submit to District Level Committee through Sub-Divisional Officer (U/R 14).

A very important responsibility of the SDLC is mentioned in Rule 6(a) wherein it is mandated to provide information regarding duties of holders of forest rights and others towards protection of wildlife, forest, biodiversity etc. as stipulated under section 5 of FRA. Further, the committee constituted by the Gram Sabha under Rule 4(e) for protection of wildlife, forest and biodiversity shall carry out the provisions of section 5.

ROLE AND RESPONSIBILITY OF DLC

District Level Committee (DLC) is chaired by District Collector/Deputy Commissioner with Divisional Forest Officer/Deputy Conservator of Forest (DFO/DCF), District Tribal Welfare Officer and three members of District Panchayat as members (U/R 7). Any person aggrieved by decision of SDLC may file petition to DLC within sixty days and DLC shall fix a date of hearing after informing the petitioner and concerned SDLC in writing as well as place notice in the concerned Gram Sabha and DLC may allow or reject or refer the appeal to SLDC for reconsideration. District Level Committee shall send record of forest rights after its approval to District Collector for necessary correction in the records of the Government (U/R 15). The decision of DLC on record of forest rights shall be final and binding (U/S 6(6)). No petition can be directly filed to DLC against resolution of Gram Sabha (U/s 6(4)). The DLC has to issue certified copy of forest rights over forest land in format under Annexure II and title for Community Forest Right in format under Annexure -III and title for Community Forest Rights in form prescribed in Annexure-IV with joint signatures of District Collector, DFO/DCF and District Tribal Officer (U/r 8(h)(i)).

Dominant
mind-set
during
implementation



Source: AK Jha IFS (Retd), Modified from pixelpp, reddit.com

MONITORING BY SLMC

At the state level there shall be a State Level Monitoring Committee (SLMC) chaired by the Chief Secretary, and having Secretary, Revenue, Tribal/Social welfare, Forests and Panchayat Raj, PCCF, Commissioner, Tribal welfare and three members of Tribal Advisory Council as members (U/r 9). The SLMC is supposed to monitor implementation of recognition of forest rights under FRA and send monthly reports to Nodal Agency, Ministry of Tribal Affairs, Govt of India (U/r 10).

POST RECOGNITION ACTIVITY

On completion of process of recognition of forest rights and issue of titles in Annexure-II (Individual Forest Right over forest land), Annexure-III (Titles to Community Forest Rights) and Annexure-IV (Title to Community Forest Resources), the Revenue and Forest Departments shall prepare maps of forest land so vested and concerned authorities shall enter such forest rights

into Revenue and Forest records within three months or as specified under relevant state laws, whichever earlier (U/r 12A(9)).

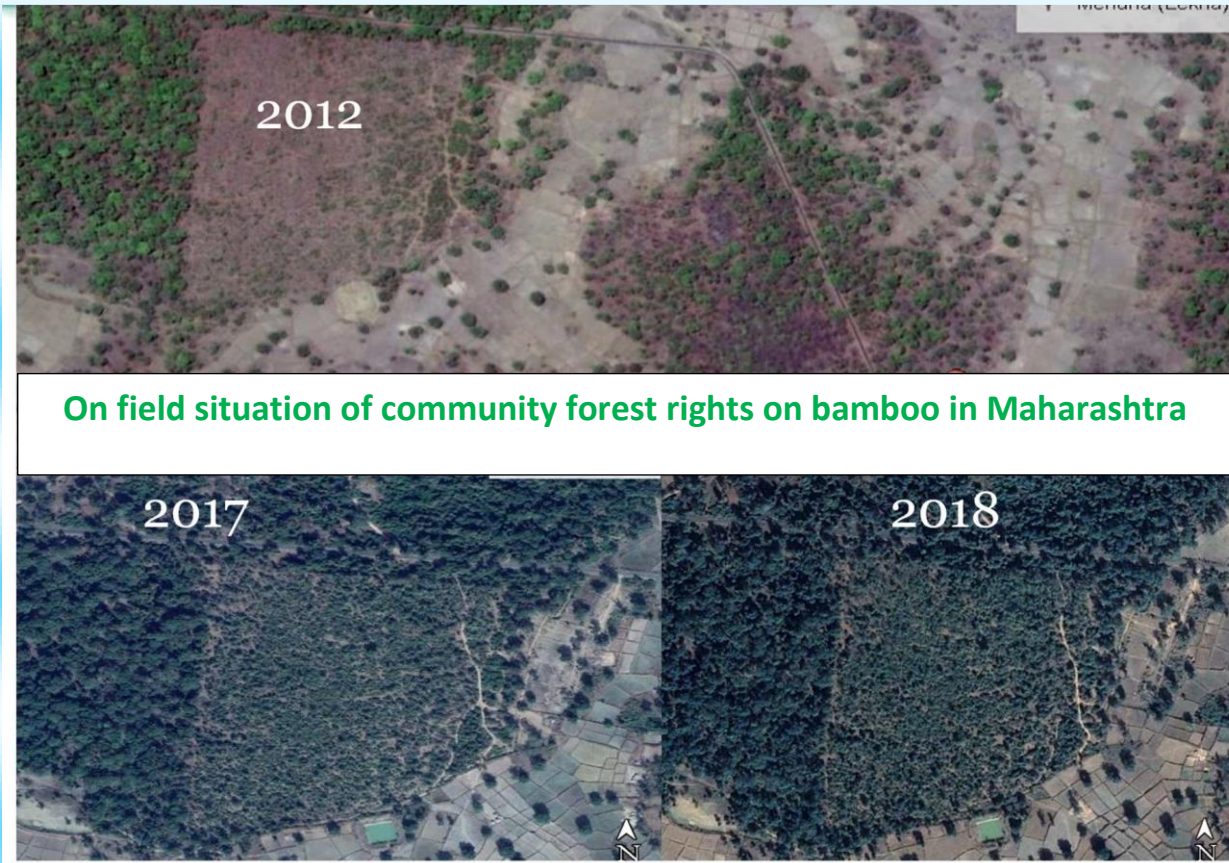
State Govt shall extend all development schemes including land improvement, land productivity, basic amenities and other livelihood measures to forest right holders and their community through different government departments (U/r 16).

CONTRAVENTION OF FRA

Contravention of any provision of FRA and Rules made therein shall be punishable with fine up to rupees one thousand against any authority or committee or member of such authority/Committee and no action will lie against such authority or Committee or head of the department if he proves that offence was committed without his knowledge or that he had exercised all due diligence to prevent commission of such offence (U/s 7). In case of violations of FRA, any Forest Dwelling Scheduled Tribe (FDST) against resolution of Gram Sabha or any Gram Sabha against any higher authority, can give notice to SLMC and SLMC shall take appropriate action against the concerned authority under the Act (U/r 10(d)). Court will take cognizance of such offence only if SLMC has been requested by the complainant / Gram Sabha, as the case may be, and SLMC has not acted on such request (U/s 8).

It is a fact that the forests may be laden with rights and concessions granted to people other than FDSTs and OTFDs in the past under various other statutory instruments. *Nistar* rights in the erstwhile central provinces are an example in this regard. The authorities under FRA must document, address and explicitly decide how the rights recognized prior to the FRA would be enjoyed by those right holders in the event of the rights claimed under FRA after recognition of forest rights. The revenue and forest authorities as well

as the Gram Sabha are duty bound to identify and be sensitive towards continuance of pre-existing rights of the concerned.



Community Forest Rights recognized in 2009 on Bamboo forests in Gadchiroli District. The satellite image of subsequent years reveals the ground reality. In 2012 bamboo CFR area was clear-felled. After 5-6 years (2017 and 2018) the same area shows grassy growth. It is important to note that it was over-exploited and clear felled in violation of working plan prescriptions and sustainability. Source: A. K. Jha IFS (Retd)

2. EVIDENTIARY VALUE AND RELEVANCE OF SATELLITE IMAGERIES AND ORAL STATEMENT OF VILLAGE ELDERS RECORDED IN WRITING

To establish claim of forest rights over forest land, claimant has to, *inter alia*, produce minimum two evidences out of the evidences listed under Rule 13(1). About 42 evidences are listed under Rule 13(1) sub-rule (a) to (i). Out of minimum two evidences, claimant has to produce first evidence in support of his residential status in the Gram Sabha where his claim is considered and for this he can produce any government authorized documents listed under Rule 13(1)(b) namely voter identity card, ration card, passport, house tax receipts, and domicile certificate. For establishing claim of holding forest land under possession as on 13.12.2005, he can produce any evidence out of evidences listed under Rule 13(1)(a),(c),(d),(e),(f),(g) including statement of village elders reduced in writing under Rule 13(1)(i).

Satellite imagery is one of the admissible public documents in addition to maps, working plan, micro-plans, forest enquiry report, other forest records under custody of Forest Department listed U/r 13(1)(a), which reads as follows:

Rule. 13. Evidence for determination of forest rights.

(1) The evidence for recognition and vesting of forest rights shall, inter alia, include -

(a) public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, pattas or leases, reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;

Initially, all 42 evidences listed under Rule 13(1) were of equal importance. Subsequently, attempt was made to downgrade evidentiary value of public documents under custody of the Forest Departments by the amendments in Rules in 2012 by inserting new clause under Rule 12 A(11) which reads as follows:-

Rule 12 A (11) The Sub-Divisional Level Committee or the District Level Committee shall consider the evidence specified in rule 13 while deciding the claims and shall not insist upon any particular form of documentary evidence for consideration of a claim.

Explanation: 1. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation by whatever name called, arisen during prior official exercise, or the lack thereof, shall not be the sole basis for rejection of any claim.

2. The satellite imagery and other uses of technology may supplement other form of evidence and shall not be treated as a replacement.

By incorporating new provision under Rule 12 A(11), evidentiary relevance of all six public documents maintained by the of Forest Department listed under Rule 13(1)(a) as well as satellite imagery have been selectively modified without changing importance of any of the remaining 36 public documents available with other govt departments admissible under Rule 13(1)(a) to (i).

In addition, the Ministry of Tribal Affairs, Government of India has further downplayed its evidentiary value by issuing clarification vide Lr. No. 23011/18/2015-FRA Dt.27.7.2015 in following manner:

“----- Satellite Imagery should be used to supplement evidences tendered by a claimant for consideration of the claim and not to replace other evidences submitted by him in support of his claim as the only form of evidence.”

The net outcome of above changes in the Rules created an impression that six public documents with the Forest Department and most objective and scientific evidence available in satellite imagery is treated differently than all other public documents available with other Govt departments and single public document produced by Forest Department is not admissible unless it supports/supplements another evidence by the claimant unlike other public documents with other departments which can be admitted singularly too.

Interestingly, MoTA, GoI issued detailed guidelines on the use of satellite imagery vide Lr. No. 23011/18/2015-FRA Dt.27.7.2015. In the said letter, MoTA has clearly admitted that satellite imagery is the most efficient and fast

to identify and finalise claims. It suggests to use high resolution satellite imagery and also to use open source applications such as google earth or obtain satellite imageries from National Remote Sensing Agency. Further, it suggests that based on the encroachment existing as on 13.12.2005 on satellite imagery, forest land potentially eligible for forest rights under FRA should be marked on the ground. Once the forest land with Forest Rights under FRA is marked on the ground, areas under forest right in respect of each Forest Right holder shall be surveyed with the help of handheld GPS machine and extent earmarked for permanent record. Forest right holders should be given such geo- referenced digital maps of areas claimed as being under their forest right as per approval from the District Level Committee. Potential areas also should be geo referenced strictly and only with due reference to the criteria based on which forest rights could be recognized.

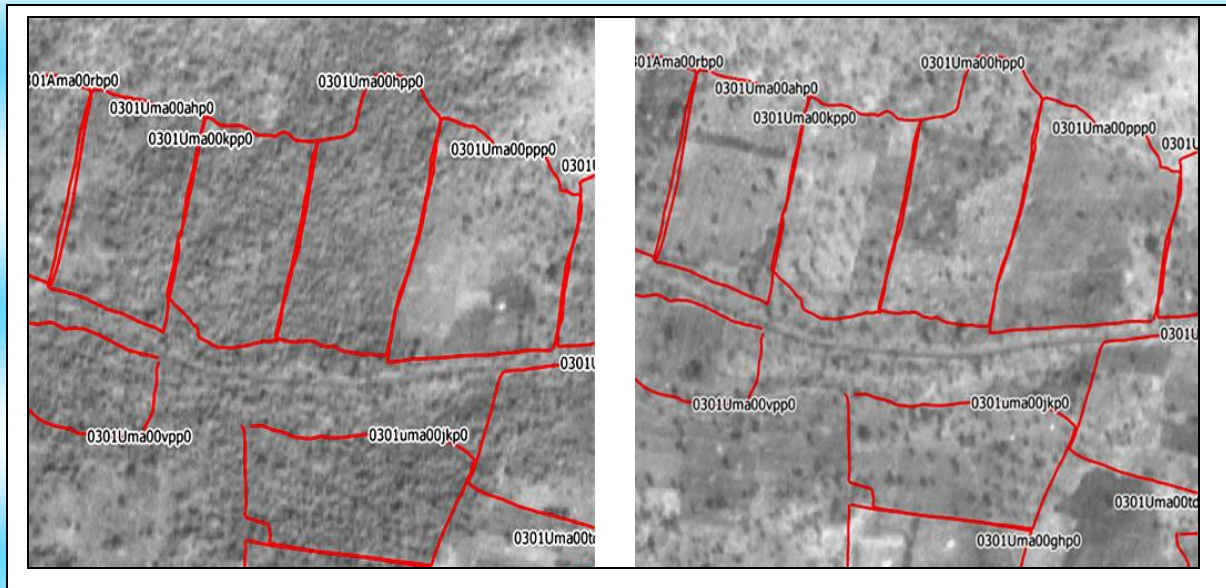
Forest officials are involved in the process of recognition of forest rights starting from FRC to Gram Sabha, SDLC and finally in DLC. The concerned Forest Officer is supposed to accompany FRC for field visit and participate in the process of verification of records and evidences produced by the claimant or any witness during field visit and he is supposed to put his signature on the verification report/field visit report of FRC and give his comments under Rule 12A(1). He is supposed to produce public documents under his custody listed under Rule 13(1)(a) which can include satellite imagery either in support or against the claim put by the claimant.

Proceedings under FRA for recognition of forest rights is quasi-judicial as clarified by the MoTA, GoI vide their D.O. Lr. no. 23011/24/2009-FRA Dt.28.4.2010 (at para e) and D.O. No. 23011/24/2009-FRA Dt.15.7.2010 (at para 1). As such if there is any inconsistency between evidences produced by the Claimant and evidences listed under Rule 13(1)(a) including satellite imagery produced by Forest Department at any forum starting from FRC,

Gram Sabha to DLC, in such cases the concerned Gram Sabha/SDLC/DLC has to pass speaking order while accepting or rejecting the claim as a quasi-judicial authority.

Of late in many states, in most of the claims, Gram Sabhas are considering one claimant's identification evidence like voter card, adhaar, or ration card listed under Rule 13(1)(b) and for the second evidence in support of occupation of forest land as on 13.12.2005, mostly reliance is made on oral statement of village elders. If there is contradiction between the elders' statement and satellite imagery on the date of encroachment, Forest Department should insist in Gram Sabha/Sub-Division/District level Committee meetings to incorporate their comments based on satellite imagery in the Gram Sabha resolution, and other committees' proceedings and also insist that concerned committee should pass speaking order while accepting such claims.

Forest Officers should be aware of the fact that if any title over forest right is given on a forest land encroached after 13.12.2005, it is in violations of FRA, Forest Conservation Act, 1980 and Indian Forest Act, 1927 is also violated (Section 13 of FRA), and concerned forest officer also becomes responsible for such illegal action as they are the custodian of the forests under their jurisdiction.



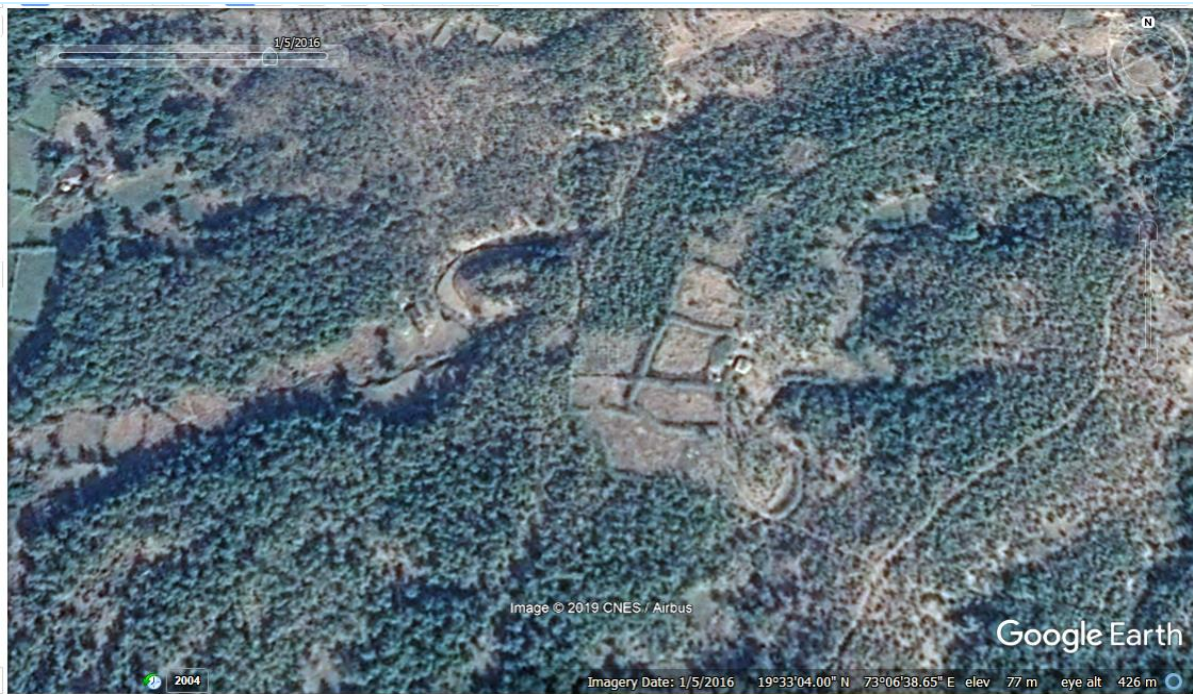
Land use change (Forest/tree cover to agriculture): Software output shows that area with vegetation cover in November 2005 were claimed (left). December 2008 imagery shows cultivation after tree cutting (right). Please note the alpha numeric codes associated with each polygon. (Source: Study report by Maharashtra forest department using geoinformatics, covering 40428 finally recognised cases, 2013)



The claimed area, white polygon, in two CARTOSAT pictures bearing different signatures: (a) forest area in contiguity outside it in November, 2005 (left) and (b) tree cleared area with agriculture practices in December, 2008. The claim was ineligible on qualifying criteria. (Source: Jha and Chaudhary 2018)



Satellite imagery Dt. 21-6-2005: Please note that as per GPS polygon of the claimed area for IFR (GPS Code: - 0701Shi00GGC0}, the majority of claimed area is inside forest and is unbroken land (above); Satellite imagery Dt. 20-10-2009: Please note that after June 2005, the area inside forest and is broken even beyond that measured by GPS (below). Source: AK Jha IFS (Retd)

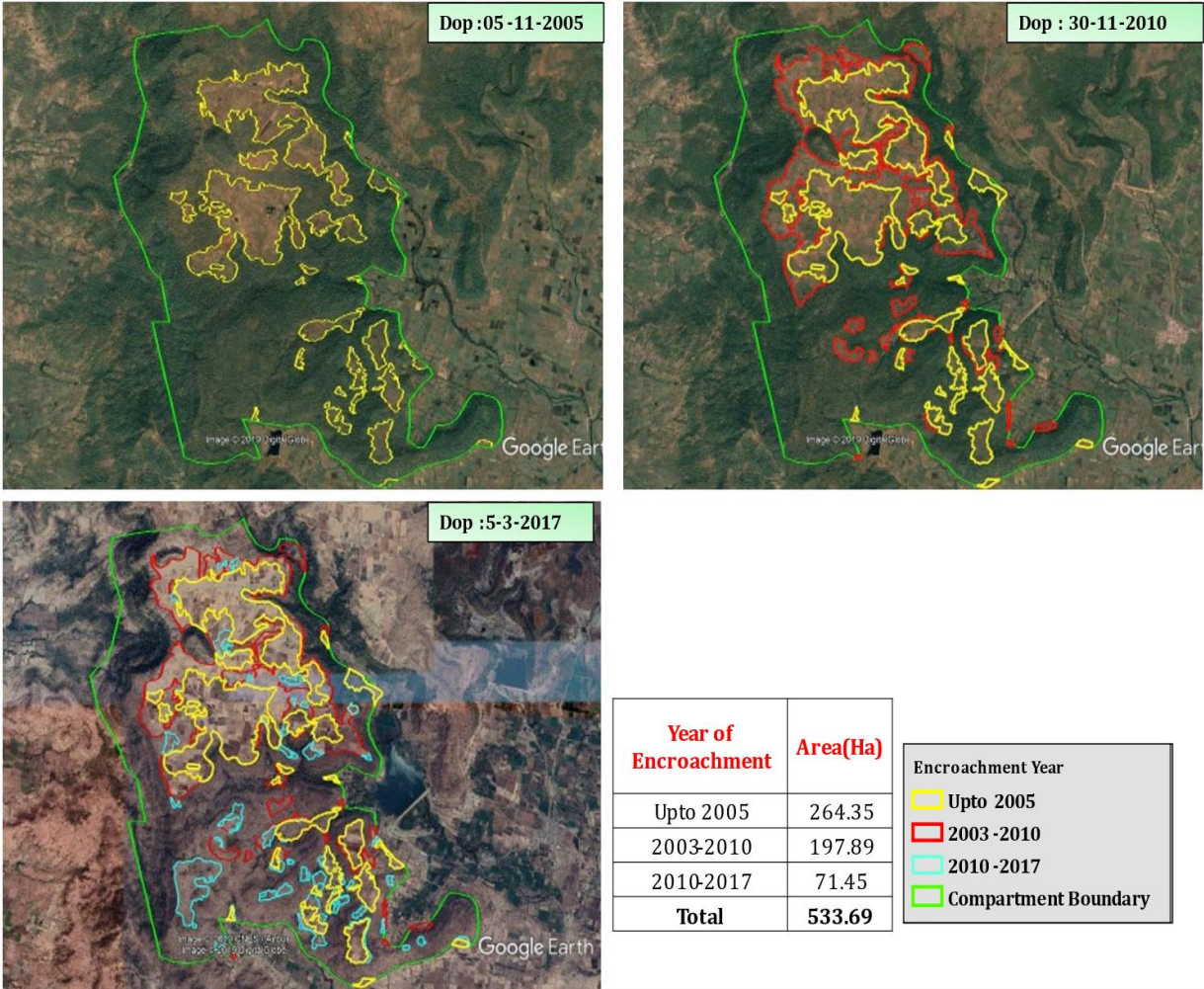


Village Kudus, Maharashtra: Position as on 10th October 2005 (above), as on 5th January 2016 (below). This shows unmistakable land use change after 2005. Source: AK Jha IFS (Retd)



Another contrasting temporo-spatial changes in land use signatures. Unmistakable plantation efforts of 2009 on forest land by the government converted to private agriculture and allied activities in 2020. Source: AK Jha IFS (Retd)

Pre and Post 2005 Encroachment Area in Kothaguda Beat, Adilabad District, Telangana



Accelerated encroachments after FRA implementation evident from above mentioned facts and figures. Source: Anonymous



Very common *modus operandi* resulting in land use changes: Forest area clearing, bush and tree burning, tree girdling and land breaking are evident in above pictures. Source: Anonymous

3. RESPONSIBILITIES OF FOREST OFFICERS TO PLACE APPROPRIATE EVIDENCE AND RAISE OBJECTIONS AGAINST MISUSE OF FRA

1. The Act restricts forest rights in respect of forest land and their habitat only to those who have occupied forest land prior to 13.12.2005 and all forest encroachers after 13.12.2005 are liable for eviction and other legal consequences under the Indian Forest Act/State Forest Act and as directed recently by the Hon'ble Kerala High Court in the common order in PIL No. WP(C) 9611 & 14386 of 2021 dated 3.4.2023 which reads as follows (entire text of judgement can be downloaded from the website of Hon'ble Court) :-

“we are of the view that these writ petitions can be disposed of with direction to the respondents to strictly comply with the directions in the judgment dated 14.07.2015 in W.P.(C) No.35501 of 2009 and to ensure that no land shall be assigned otherwise than in accordance with the provisions of the Forest Rights Act and the Forest Rights Rules. The District Level Committee shall not grant Record of Forest Right to the scheduled tribes and other traditional forest dwellers without surveying and demarcating the boundaries of land in their actual possession as on 13th day of December, 2005 and without joint verification as per procedure prescribed under Rule 12A of the Forest Rights Rules. The District Level Committee shall also ensure that recognition of rights and issuance of record of rights shall be done only in respect of eligible persons based on the actual extent of land held by the claimant under the Forest Rights Act as on the relevant date, i.e. 13.12.2005.”

2. Sec.4(5) gives protection to claimants against any eviction till recognition and verification process is complete. Once claims are rejected by District Level Committee, such rejection becomes final and binding on all under Sec.6(6) and no further appeal lies against them and such encroachments must be evicted. Further, such temporary protection against eviction is available only to those claimants who have applied under FRA and their claims are pending. All forest encroachers, who have occupied forest land after 13.12.2005 and if their applications

are not pending for consideration under FRA, must be evicted as per applicable forest acts and such claimants cannot claim any protection against eviction under Sec.4(5) of the Act. Further, MoTA has clarified that process of recognition of forest rights ends only when titled/forest rights are entered in the records of Revenue and Forest Depts and respective maps are revised. But in case of rejected claims, foresters need not wait any further after decision of District Level Committee. Sec 4(5) reads as follows: -

“Sec 4(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.”

3. Proceedings at Gram Panchayat, Sub-Divisional/District level Committees are quasi-judicial proceedings as clarified by MoTA vide D.O. Ir.no. 23011/24/2009-FRA Dt.28.4.2010 (at para e) and D.O. No. 23011/24/2009-FRA Dt.15.7.2010 (at para 1). Under Rule 4 (1)(a), Gram Sabha has to HEAR claims. Under Rule 4(1)(c), Gram Sabha has to give reasonable opportunity to interested persons and authorities which includes Forest Dept., being custodian of forest land, and only after examining records produced by Forest Dept., Gram Sabha can pass any resolution. In case of disagreement with the Forest Department, Gram Sabha has to give speaking findings. Rule 4(1)(a) &(c) reads as follows:

“Rule. 4. Functions of the Gram Sabha.

(1) The Gram Sabha shall -

*(a) initiate the process of determining the nature and extent of forest rights, receive and **hear** the claims relating thereto;*

(c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;”

4. As per Rule.12(1)(a), it is responsibility of Forest Rights Committee (FRC) to intimate date of inspection in the field to verify nature and

extent of forest rights and to also receive evidence from Forester as witness under Rule 12(1)(b). Rule 12(1)(a) &(b) reads as follows:

“Rule.12. Process of verifying claims by Forest Rights Committee:

(1) The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department:

(a) visit the site and physically verify the nature and extent of the claim and evidence on the site;

(b) receive any further evidence or record from the claimant and witnesses;”

5. As per Rule 12 A (1)(a), Forester is supposed to be present in the meeting of FRC during verification of claims and verification of evidences on the site and forester is supposed to give his COMMENTS of either supporting or more specifically rejecting the claim duly producing documentary evidences admissible under Rule 13(1)(a) and available with him including satellite imagery. Rule 12 A(1) reads as follows:-

“Rule 12 A. Process of recognition of rights.

*(1) On receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue departments shall remain present during the verification of the claims and the verification of evidences on the site and **shall sign the proceedings with their designation, date and comments**, if any.*

6. As per Rule 4(2), quorum of the Gram Sabha meeting shall be not less than one half of members of such Gram Sabha. In practice, in several cases, Gram Sabha meetings are allegedly held without quorum and signature of members are taken on records subsequently. Forest Officers must raise objection in case of non-fulfilment or lack of quorum.
7. Foresters should identify claimants/applicants among members of Forest Rights Committee. Rule 3(3) prohibits voting by the member of FRC only when his name is being considered, but he can vote for other FRC members even if all or majority of FRC members are claimants/applicants/encroachers occupying forest land. If majority of FRC members are also claimants/applicants/encroachers, Forester can question impartiality of such FRC where majority members are having

vested interest. Forester shall raise his objection in the Gram Sabha and at Sub-Divisional/District level also if his objection is rejected without giving any written justified reason in the resolution. Rule 3(3) reads as follows:

“Rule 3(3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.”

8. Under Rule 13(1)(i), oral statement of village elders to the effect of occupying forest land prior to 13.12.2005 is admissible evidence. In most of the cases, this evidence is being misused to admit forest encroachers after 13.12.2005 by showing them as occupants prior to 13.12.2005. In all such cases where reliance is placed on village elders' statement, Forester must verify the background of such village elders and if such village elders are themselves encroachers and claimants/applicants, objection should be raised on the credential and level of impartiality of such elders. Objection can be also raised when number of village elders signing for the whole village's claimants is as low as only 2 to 3. The genuineness of their reported age, which is sometimes inflated, be verified with reference to Adhaar Card or Voter List.
9. If objections raised by the Forester in the Gram Sabha is not taken into consideration or is rejected without giving written reasons in the recording of Forest Right Committee or in the resolution of Gram Sabha, Forest Beat officer or his superior officers including Section Officer, Range Officer, Sub-Divisional Forest Officer or District/Divisional Forest officer can file written complaint/petition with Sub-Divisional Level Committee within 60 days of passing of Gram Sabha resolution U/s.6(2)

of the Act and Sub-Divisional Committee has to hear such petition U/r 6(g) and pass speaking order. Sec.6(2) and Rule 6(g) read as follows:

“Sec.6(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition. Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.”

“Sec.6. Functions of the Sub-Divisional Level Committee- (g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram Sabhas;”

10. If Forester is not satisfied with the disposal/rejection of his petition by the Sub-divisional Level Committee, he can file appeal/petition to the District Level Committee under Sec.6(4) of the Act read with Rule 8(d) within 60 days. Sec.6(4) and Rule 8(d) are reproduced below:

Sec.6(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

“Rule 8(d) 8. Functions of District Level Committee. - The District Level Committee shall – (d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;”

11. There is no provision in the Act or Rule to file appeal against order of the District Level Committee and under Sec.6(6), decision of District Level Committee in either accepting or rejecting claims is final and binding on all. In such case, Forest Dept can file Review Petition in the Hon'ble High Court against the orders of District Level Committee. Normally, Courts refer inter-departmental disputes to the State Govt for resolution. But in case of FRA, forester have to convince the High Court that State Govt does not have any review power under FRA and only forum available for remedy is Hon'ble High Court. Simultaneously, if

large scale irregularities are being committed at District Level Committees in the state, Principal Chief Conservator of Forests (Head of Forest Force) may be requested to raise the issue with the Chief Secretary to govt who also heads State Level Monitoring Committee, which is vested with the responsibility of monitoring process of recognising and vesting Forests Rights U/s 6(6) read with Rule 10(b). Sec. 6(6) reads as follows:

“Sec.6(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.”

4. JOINT FOREST MANAGEMENT WHERE FOREST RIGHTS TO COMMUNITY FOREST RESOURCES ARE RECOGNIZED UNDER FRA

Based on the suggestion given by one state govt to treat Van Samrakshan /JFM Committees constituted under JFM to be treated as Committees under FRA 2006, the Ministry of Tribal Welfare, GoI have clarified that JFM Committees cannot be treated as committee under FRA. Vide their Lr. D.O. No. 23011/18/2015-FRA Dt.20.8.2015. Right to protect, regenerate, or conserve or manage community forest resources can be recognized in favour of Community which they have been traditionally protecting and conserving for sustainable use as per section 3(1)(i) of the Act. This is done by the DLC in the form prescribed under Schedule IV based on the recommendation of Gram Sabha/SDLC.

Under section 5, holders of forest right, Gram Sabha are empowered to protect forest, wildlife and bio-diversity and also to protect catchment area, ecologically sensitive areas; protect culture and natural habitat from destructive practices and control access to the forest. U/r 12(g), Forest Right Committee is supposed to delineate and prepare Community Forest Resource Map on behalf of Gram Sabha. This area may include RF, PF, National Park Sanctuary etc.

Committees constituted by Gram Sabha can get the authority to prepare the community forest resource plan as per FRA. But for Joint Forest Management existing in the same area, in case the community already doing management etc. under JFM is only of FDST and/or OTFD, and they fulfil the criteria of 3(1)(i) and 4(3), the JFM area can have management etc. done by the community under FRA after due recognition of forest right by the DLC on that area and the committee formed under FRA Rules can prepare the plan for that. In such a situation, in case of any conflict on the ground, FRA provisions

will prevail Otherwise, the JFM works will go on as per the ongoing existing programme, though both can function independently.

Post Implementation Scenario



Source: A. K. Jha IFS (Retd), Modified from @DePenha, twitter.com

5. DIVERSION OF FOREST LAND UNDER SEC 3(2) OF FRA FOR SPECIFIED PUBLIC FACILITIES

Under Sec.3(2) of FRA 2006, there is provision to divert forest land to the extent of one hectare and not involving felling of trees more than 75 per ha. in relaxation of Forest (Conservation) Act 1980. This is for creation of certain facilities to be managed by the Government. They are Schools; Dispensary or hospital; *Anganwadis*; fair price shops; electric and telecommunication lines; tanks and other minor water bodies drinking water supply and water pipeline; water or rain water harvesting structures; minor irrigation canals; non-conventional source of energy; skill upgradation or vocational training centres; roads; and community centers on the recommendation of Gram Sabha. It should be noted that the list having been fixed by the Act cannot be changed by any agency or authority.

Every Govt. Agency, that wants to use any forest land for the above works as specified in Section 3(2) of the Act, shall make a proposal in the appropriate Form, i.e. Form 'A', and place it before the general assembly of the concerned Gram Sabha for adopting a resolution to that effect along with a DGPS survey map and submit to Forest Range Officer (FRO \equiv RFO) with resolution of the Gram Sabha. A quorum of at least half the members of the Gram Sabha should be present for adopting a resolution recommending diversion of forest land. After field inspection, FRO shall submit proposal to the DFO along with his recommendation. The DFO concerned will examine the proposal, and if he agrees, he will accord his approval and communicate his decision to the RFO concerned with a copy to the Chairperson of the District Level Committee (DLC), within four weeks from the date of receipt of the proposal from the RFO. After receipt of the approval from the concerned DFO, the RFO will demarcate the area of the forest land approved for diversion and earmark the same in favour of the user agency under the supervision of the

Gram Sabha. If the DFO concerned does not approve the proposal, he shall forward the proposal to the District Level Committee (DLC) with his remarks of rejection for a final decision. DLC will meet and take a final decision, with at least 1/3rd quorum, and convey the decision to the DFO for implementation and correction of records and map if the proposal is accepted.

Foresters shall take following measures to prevent misuse of the provision:

1. As it has been observed that Section 3(2) of FRA 2006 has been misinterpreted by various user agencies by splitting the extent of single work into multiple proposals of 1 ha each, mostly in case of roads, it should be pointed out and objected to by concerned foresters.
2. As the public utilities listed under Rule 3(2) are exempted from FCA 1980, no prior permission is required for such works under FCA. But there is no explicit exemption under Wild Life (Protection) Act 1972, and user agency has to take wildlife clearance as prescribed in case of national parks and sanctuaries. MoEF&CC has issued guidelines vide MoEF&CC, GoI, New Delhi, F.No.8-6/2020-WL, Dt, 28.10.2020 on applicability of Section 3(2) of FRA, 2006, after seeking clarification from MoTA stating that the said section is applicable in Wildlife Sanctuary & National Parks also but permission is required under Wildlife (Protection) Act, 1972 according to the Section 13 of FRA, 2006. However, same is not implemented by some District Administration stating that the Ministry of Tribal Affairs (MoTA), Government of India, is the nodal ministry for implementation of the FRA, 2006 and the said letter is only inter-ministerial clarification between MoEF&CC and MoTA communicated by MoEF&CC, but not by MoTA. The most often overlooked fact is that section 13 provides that FRA is not to be applied in derogation of other Acts unless specifically indicated in the FRA 2006 and The Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA

1996). It should be noted that exemption from only the provisions of FCA 1980 are mentioned in the Act. Necessary action must be taken for violation of other forest and wildlife related Acts while provisions of Section 3(2) are implemented.

3. User agency has to use the forest land only for the purpose for which permission has been accorded and it cannot be used for any other purpose. Foresters should monitor misuse, if any, and take action in case of any violation.
4. If the work under 3(2) is not started within one year of its permission, the forest land is to be reverted back. Foresters should take timely action in this regard.

6. FOREST RIGHTS UNDER FRA IN PROTECTED AREAS

Individual Forest Rights over forest land under occupation, Community Forest Rights over MFP, fishing, *nistar* etc. as well as community forest rights over Community Forest Resources as listed exhaustively under Sec.3 (1) of FRA is applicable in all forest lands including protected areas (National Parks and Sanctuaries). States can notify any part of such protected areas as Critical Wildlife Habitat (as defined u/s 2(b) of FRA) for which states can resettle inhabitants of any protected areas outside or modify their forest rights recognised under Sec. 3 of FRA but that can be done after complying with all provisos u/s 4(2)(a) to (f) listed below:

- a) recognition and vesting of rights as per Sec 6 is completed;
- b) it is established that FR shall cause irreversible damage and threaten the existence of species and their habitat
- c) other reasonable option such as co-existence is not available
- d) settlement or alternative package has been prepared and communicated
- e) free informed consent of Gram Sabha is obtained in writing
- f) facilities and land allocation at rehabilitation site is complete as per promised package.

On the other hand, any continuation of forest rights in the National Park has to be examined as per Sec 35(3) & 24(2)(c) of WLPA, 1972. The criterion and indicators of Critical Wildlife Habitat (CWH) would vary in context of standalone Protected Areas or when part of Tiger Reserves/ Elephant Reserves/Biosphere Reserves.

Unlike Critical Tiger Habitat (CTH) where focus is only on tiger; CWH in respect of Wildlife would also include aquatic & land vegetation, besides wild animals. The CWH has to be determined on case-to-case basis on the basis of

scientific and objective criteria and therefore should be limited to Forest Right (FR) holders' area for keeping the areas inviolate for the purposes of wildlife conservation. MoEF&CC has issued detailed guidelines for declaration of Critical Wildlife Habitat in *MoEF&CC No. 1-23/2014WL dt 4-1-2018*.

As per information available, till now, critical wildlife habitat has not been notified by any state govt. in any National Park or Sanctuary as the procedure and guidelines prescribed apparently appear to be cumbersome and time consuming; however, the open process of consultation needs to be structured based on the scientific & objective assessment for keeping the area inviolate.

Besides, Section 5 of the FRA empowers FR holders, Gram Sabha and village level institutions towards biodiversity and wildlife protection. The Rule 6(a) specifically assigns function in this regard to the Sub Divisional Committee which reads as "provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected".

As regards the claim cases submitted for the forest right mentioned under section 3(1)(i), it is to be noted that they can be recognised only if a) the eligibility criteria mentioned under this section pertaining to "...community forest resource which they have been traditionally protecting and conserving for sustainable use" is met and b) the condition mentioned in section 4(3), that the forest land should be under occupation of the claimant/s is also satisfied apart from other eligibility conditions required for claimant under the FRA. The provision of Rule 4(f) of FR Rules brought in 2012 for the preparation of the conservation and management plan for community forest resources by the Committee constituted under Rule 4(e) may be used only when the forest right under 3(1)(i) is legally recognized. One should be careful in this regard

in view of the fact that there are instances of forest rights recognized under 3(1)(i) without fulfilment of the mandatory conditions mentioned under sections 3(1)(i) and 4(3) of FRA.



Above satellite images show the tendency of claimants to expand their agriculture area into forest. Unmistakable signature of agriculture (clean area at the bottom of white or red polygon) and forest growth in the top portion of the polygons could be noted. Reference: Claimant ID 1211Ahe00NSM0 (Gadchiroli, Maharashtra). Source: A. K. Jha IFS (Retd)

7. COMMUNITY FOREST RIGHTS AND RIGHT OVER COMMUNITY FOREST RESOURCES

The term community is not defined in the FRA. Community always has a meaning with reference to 'context'. In FRA, it is provided by the 'nature' of forest right being claimed. It must be **applied when examining** a claimant's eligibility. In case there is a proposal to recognize Right to CFR in favour of Gram Sabha, one must ensure that the members belong to these two categories only and also that they have, as a community, traditionally been engaged in the activity pertaining to the specific community forest right being claimed by them.

FRA, in the preamble itself, talks of essentiality of sustainability of resource base on which the CFR is recognized. This resource base is available within the 'community forest resource area' [see definition 2(a)]. This area is fixed by the Gram Sabha right at the beginning of implementation of FRA in the village [See Rule 11(1)(b)].

As regards the domain in which these forest rights are recognized, the following points must be noted:

- It is on forest land: Section:2(d)
- Within forest land, it is within Community Forest Resource (CFRe): Section: 2(a)
- The Gram Sabha earmarks the area of CFRe: Rule:11(1)(b)
- FRC delineates and prepares map of CFRe: Rule:12(1)(f), (g)
- If CFRe falls in adjoining village's boundary, Joint Gram Sabha done: Rule: 6(f)

- If not resolved by the Gram Sabha, the SDLC finalizes the CFR: Rule: 12(1)(3)
- In case of dispute between Gram Sabhas on nature and extent of FRs, SDLC decides: Rule 6(f)

Further, the most important point to note here is that every community forest right has, attached to the concerned resource base, an eligibility condition that must be satisfied for determination of 'nature' and/or 'extent' of CFR so that recognition of that particular community forest right is done with accuracy. The idea is to avoid infringement of rights of other villagers/stakeholders who might have rights on that area under some other Act/Rule. This eligibility condition for the resource base as also the condition of eligibility of claimants under the Act (viz. being FDST and/or OTFD community) must be satisfied for CFR's recognition. The conditions associated with resource base for recognition of CFRs is shown below in a tabular form:

Section	Forest Right	Eligibility condition	Justification
3(1)(b)	... such as <i>nistar</i> , by whatever name called.	Existed in erstwhile Princely States, Zamindari or such intermediary regimes	Because the Act is for 'recognition' and not for granting new rights. It fixes the nature as well as extent of CFR.
3(1)(c)	...of ownership, access to collect, use, and dispose of minor forest produce	which has been traditionally collected within or outside village boundaries	To delimit the 'extent' which the right holder can take or claim each year as a matter of right. This is to ensure

			sustainability of resource which is essential for the 'forest right' to be enjoyed perpetually.
3(1)(d)	.. of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities.	Restricted to the indicated communities only	For allowing the beneficiaries under the FRA only
3(1)(e)	Rights including 'community tenures' of habitat and habitation.	Communities must be primitive tribal groups, pre-agricultural communities, other FDSTs.	Communities to be eligible as per FRA
3(1)(h)	Rights of settlement and conversion into revenue villages	They should be forest villages, old habitation, un-surveyed villages etc.	Restricting the benefits only duly specified areas
3(1)(i)	Rights to protect, regenerate, conserve or manage any community forest resource (Area under traditional access)	Which they have been traditionally protecting and conserving for sustainable use	The community rights are restricted on land on which they have the narrated experience and is within

			community resource area identified by the Gram Sabha.
3(1)(j)	Old Rights converted to Forest Rights	... recognised under any State law/ laws of any Autonomous District/ Regional Council or which are accepted as rights of tribal under any traditional or customary law of the concerned tribes of any State	To get the previously recognized rights under the banner of Forest Rights so that they can also be a part of group of FR holders and perform duties mentioned under section 5.
3(1)(k)	... access to biodiversity & community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity	They must be existing in the Community (Target group under FRA)	Restrict to the eligible under the FRA
3(1)(l)	Any other traditional right customarily enjoyed but not mentioned in 3(1)	Excludes hunting, trapping, extracting body part of any species of wild animal.	To keep it in line with the requirements of WLPA 1972

8. FOREST RIGHTS OVER COMMUNITY FOREST RESOURCES (RCFR)

This terminology is introduced through the amendment to the FR Rules in 2012. This logically is only restricted to the kind of activities mentioned under Sectionn3(1)(i) because the Rules cannot transcend the provisions of an Act.

For recognizing RCFR, the eligibility of claimant community regarding its members being from FDST and/or OTFD are of course mandatory. In this regard if there is a proposal to recognize RCFR in favour of Gram Sabha, one must ensure that the members belong to these two categories only and also that the claimant Gram Sabha fulfils the condition contained in 3(1)(i) as mentioned in the table above.

In short, two conditions contained in the Act itself also must be satisfied in each case. They are contained a) in 3(1)(i) itself regarding past experience and b) in 4(3) regarding occupation of the concerned area as on 13-12-2005.

9. ISSUES GENERALLY RAISED/ FREQUENTLY ASKED

1	<p>Q. There is quite often an impression created that the FRA is for distribution of 'patta' or 'land ownership' on the forest land.</p> <p>A. The FRA is for recognition and vesting of forest rights (FRs) in favour of eligible claimants (FDSTs and OTFDs) only. The FRs are also clearly specified in the FRA. The 'title' document given under FRA is for 'FRs' and does not, in any way, indicate ownership of forest land per se.</p>
2	<p>Q. Community is not defined in the FRA.</p> <p>A. The term 'Community' has to be always defined with reference to its context or purpose. Here community must be of FDSTs and/or OTFDs only and such community should be identifiable as a group from the perspective of the specific type of 'community forest right' that has traditionally been exercised by the members of the group and which is being claimed for recognition.</p>
3	<p>Q. What is the significance of the two dates mentioned in the Act?</p> <p>A. These dates are for assessing whether the claims are admissible under FRA or not.</p> <ol style="list-style-type: none">1. The date of 13-12-2005 is relevant for all FRs under claim. Section 4(3) says 'The recognition and vesting of forest rights will be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005'.2. The second relevant date is the date of commencement of FRA and that has also to be considered when the claim is for 'habitation' and/or 'self-cultivation'. The forest land on which these FRs [under section-3(1)(a)] are claimed must be under the occupation of claimant on the date of commencement of FRA in the UT of J&K.
4	<p>Q. Pastoralists come seasonally to different village areas whereas local graziers also graze the village cattle in the village area. They also may have traditional structures which they use while halting in various villages. How to settle this point?</p> <p>A. The points to be considered are as under:</p>

	<ol style="list-style-type: none"> 1. The section 2(c) includes the Scheduled Tribe pastoralist communities within the definition of FDST. Their FR is covered under section 3(1)(d). 2. They have to make claim application in each village they have traditionally been visiting. The application can be made either through their individual members, community or traditional community institution. 3. The District Level Committee (DLC) has to facilitate the filing of claims by them (See Rule 12B-2). The reason is that they may have to file claims in various districts and even in another state/UT 4. The Forest Rights Committee (FRC) of each village where such pastoralist communities visit during fixed periods every year have to receive their application. The claim has to be verified at a time when such individuals, communities or their representatives are present. 5. Gram Sabha of each village has to consider the recommendation made by the concerned FRC. The Gram Sabha should consider the carrying capacity and sustainability of resource base while passing the resolution on the claims made on the same land by visiting communities and the graziers that locally exist in the village. This is a crucial decision which should go as a recommendation to the Sub Divisional Level Committee (SDLC). 6. The recommendation of Gram Sabha must give details of the 'nature' and 'extent' (viz. area and time period in that village) of the Forest Right. The Gram Sabha resolution should also include the details (number and location etc.) of existing <i>kotha</i> being traditionally used by the pastoralists which the Gram Sabha recommends within the ambit of this FR. This will take care of the issues, if any, related to annual maintenance of the <i>kothas</i>. <p>The DLCs have to, as per Rule 8(b), specifically ensure that the claims pastoralists and nomadic tribes have been addressed keeping in mind the objectives of the Act.</p>
5	<p>Q. There are people who are living in towns, are in business or jobs but have encroached forest lands. Can their encroachment be regularized under FRA? Also, how to examine the eligibility criteria for such claim cases?</p> <p>A.</p>

	<ol style="list-style-type: none"> 1. It must first be clearly understood that FRA is not meant to regularize encroachments of people. It is for recognition and vesting of Forest Rights. 2. One must consider whether applicant falls in the category of FDST/OTFD or not. Those not falling within the definition are not eligible to get benefit of this Act. 3. One should note that their definitions [See Section 2(C) and 2(O) of FRA] include a condition as: 'Those who primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.' 4. The authority scrutinizing the claim has to consider the clarification given by Ministry of Tribal Affairs (MoTA), GOI in regard to 'primarily resides in' which prima facie establishes that such people living in towns and in business or jobs get disqualified as a claimant. 5. Secondly, the Section 3(1)(a) speaks of 'self-cultivation' to be recognized and vested as FR which obviously means that those who are below a certain level of economic status are intended to be the true beneficiaries of FRA. 6. The definition of "bona fide livelihood needs" has been modified by amendment to the FR Rule in 2012 to means fulfilment of livelihood needs of self and family through exercise of any of the rights specified in sub-section (1) of Section 3 of the Act. This aspect also has to be duly considered within the overall objective of the Act which focuses on 'forest dwelling' character of claimant and is intended to help those who, as also highlighted in the preamble of the Act itself 'have been residing in such forests for generations but whose rights could not be recorded'. 7. In short, the DLCs have to ensure that the benefit of FRA is not taken by ineligible claimants since 'benefit to ineligibles and beyond law is injustice not only to the genuine claimants but to the whole village per se.' <p>It must be kept in mind that the FRA is addressing the issue of just two categories of villagers and their communities (FDST and OTFD) whereas other villagers also depend on the natural resources including forests for various kinds of goods and services.</p>
6	<p>Q. There is a person in Government job who has encroached a forest land. Can he get FR?</p> <p>A. This is truly a serious matter. The concerned department should take cognizance of this illegality by a Government Servant.</p>

7	<p>Q. The <i>Kotha of Bakarwals</i> in J&K as also by nomad graziers in some other states is for habitation only during their period of stay in any particular village, should this be dealt with separately as an individual FR under 3(1)(a)?</p> <p>A. Please note that the Section 3(1)(a) talks of FR which is 'right to hold and live in the forest land under the individual or common occupation for habitation'. The FR for <i>kotha/ temporary structures</i> is possible to be considered under this. But considering the fact that utilization of <i>Kotha</i> is seasonal and inextricably related to the activity of transhumant grazing, it is suggested that for ease of processing and future record keeping, it may be better to consider it as a component within their overall grazing rights under 3(1)(d).</p>
8	<p>Q. There are villages where the FRC is formed by nominating selected people who are close to the rural elite and powerful. What can be done about it?</p> <p>A. Specific cases, if any, need to be reported to the Department of Rural Development and Panchayati Raj (PR) for necessary action in case of election of FRC is held in violation of Rule 3(1). The effectiveness of processing at the village level is of paramount importance and it can be improved by strengthening the PR system. It is necessary to ensure that FRC's structure and composition is maintained strictly as prescribed by the Rules and the quorum requirement of Gram Sabha is fulfilled when the claims are being considered.</p> <p>There are no government representatives included in the processing authorities at the village level, and hence maximization of participation of Gram Sabha members becomes very important in the implementation.</p> <p>Gram Sabha needs to be sensitized to consider the fact that whole village depends and will continue to depend on the same resource for water, minor forest produce, safety of village's agricultural land, as also ecological-services.</p>
9	<p>Q. How should the Rule 16 be implemented?</p> <p>A. Rule 16 provides for post-claim support and handholding of FR holders. The intent behind this is not just to help improve the economic status of FR holders by converging government schemes of various departments but to also ensure that the FR holders do not choose encroachment of new forest land as an option of increasing</p>

	<p>their income. All departments should prioritize appropriately oriented schemes for benefitting the FR holders.</p>
10	<p>Q. Section 3(2) talks of facilities. Is it necessary for FR holders to be there in that village for operationalization of this section?</p> <p>A. Yes, it is. It should be noted that the facilities allowed have to be from within the list indicated in this section. For any other structures/facilities not fulfilling the criteria mentioned in 3(2), processing of proposals under relevant Acts have to be done and any tendency to circumvent other Acts must be avoided.</p>
11	<p>Q. Can non-ST graziers in a village get benefit under the FRA?</p> <p>A. They should fulfil the criteria of OTFD for being considered for FR under section 3(1)(d).</p>
12	<p>Q. Powerful people already having large lands may also try to get FR under section 3(1)(a). How to stop them?</p> <p>A. The strength of Gram Sabha (members of which are aware of everything that happens in the village) should be used to stall such tendency. Strict use of provisions of FRA and Rules made there under by FRC and Gram Sabha can effectively do it.</p>
13	<p>Q. What happens if member of FRC himself is a claimant?</p> <p>A. The Rules 3(3) provide that such person shall inform the Committee and shall not participate in the process when his claim is being scrutinized.</p>
14	<p>Q. Does the FRA have special provisions for women's involvement?</p> <p>A. Yes. Apart from the fact that women are involved in the processing and decision making process as members (panchayat representative) at SDLC and DLC levels, the Gram Sabha is mandated to have full and unrestricted participation of women attending in numbers that has to be at least one-third of members present. Further, the title of FR has to be jointly in the name of both the spouse.</p>
15	<p>Q. FRs and other existing Rights of other people on the forest land may compete. What should be done regarding this?</p>

	<p>A. There is a possibility that there are existing rights of people (other than FDST and OTFD) on the area that comprises Community forest resources of the village. Claim scrutiny related role of FRC and Gram Sabha becomes very crucial in this regard. Unrestricted and open discussion on claims in Gram Sabha must be ensured before recommending the claim for further processing.</p>
16	<p>Q. In old times population was very small. Must we allow FRs to the current population?</p> <p>A. The Act has specified the date of 13-12-2005 and date of commencement of the Act in the UT as relevant dates for checking the occupation of the forest land by the claimants for freezing 'nature' and 'extent' of claimed FRs. This has to be followed.</p>
17	<p>Q. A claimant had occupied forest land before 2005. The area was vacated by him after 2005 but before the date of commencement of FRA, for example in J&K UT. The land today is in closed area and is under plantation. Can his claim application be allowed for 'self-cultivation'?</p> <p>A. Prima facie, it is not allowable. For all claims under 3(1)(a), occupation of the forest lands on two dates viz. 13.12.2005 and 1.1.2008 are mandatory. Here the person is not in occupation or use of the land for self-cultivation as on the date of commencement of the Act.</p>
18	<p>Q. The evidence regarding three generations (of having primarily resided in and dependence on forests and forest land for bona fide livelihood needs) for FDST is difficult to get.</p> <p>A. Old village documents related to land and forests are often helpful. Here also the role of Gram Sabha becomes very important in ensuring that only genuine claimants get the benefit of FRA.</p>
19	<p>Q. An elderly person's statement is generally considered as non-refutable. Can it be contested? Who can contest?</p> <p>A. Detailed note has been already given on relevance of oral evidence of village elders and public documents including satellite imageries produced by Forest Department before quasi-judicial forum of Gram Sabha/SLDP/DLP. Please refer page 18.</p>

20	<p>Q. Can claim under FRA be made on Forest lands in possession of other Departments.</p> <p>A. The FRA is applicable on all forest lands duly defined under Section 2(d) irrespective of who owns the same.</p>
21	<p>Q. Will the forest land on which FR of 'self-cultivation' is vested be divided when the Forest holder dies and the same is inherited by, say, his two sons?</p> <p>A. The fundamental thing to be understood here is that it is not the forest land's ownership that is being given to the FR holder. He has the title of FR on that land. Accordingly, the FR will pass down to the heirs as per the existing laws of inheritance in the UT/State as the case may be.</p>
22	<p>Q. Who takes cognizance of say damage due to overgrazing, or exercise of a right beyond what is permitted under the Act.</p> <p>A. The FRA provides for an opportunity of empowering and giving duty to the FR holders, Gram Sabha and local level institutions to protect wildlife, forests, catchment areas, biodiversity, community forest resource area etc. by appropriately utilizing section 5 of the Act. However, section 13 of the Act clearly indicates that all other relevant Acts are simultaneously operative in areas where FRA is being implemented.</p>
23	<p>Q. The Community of FDST and OTFD can get FR of management of community forest resources under 3(1)(i)?</p> <p>A. Yes, provided they fulfil the conditions related to experience stipulated in section 3(1)(i) and that of occupation of forest land before 13-12-2005 as per section 4(3). It should be understood here that the FR under section 3(1)(i) is basically a 'responsibility' to protect, regenerate, or conserve or manage the forest resources (public property) on sustainable basis. It is also worth noting that FRA does not give ownership of the outturn that is obtained through exercise of FR under section 3(1)(i).</p>
24	<p>Q. Ownership of Minor Forest Produce is a Forest Right?</p> <p>A. Yes, ownership of MFP is a FR under section 3(1)(c). The quantum, however, is to the 'extent' which has been traditionally collected</p>

	by the FDST and/or OTFD communities within or outside village boundaries.
25	<p>Q. There are cases where '<i>patta</i>' or lease is already given on forest land by some authority in the past... why is it to be processed under section 3(1)(g) of FRA now?</p> <p>A. This is to induct them into the community of FR holders. Accordingly, they can be empowered and made responsible towards conservation and protection practices by invoking section 5 of the Act. Once a FR holder, they get special benefits under Rule 16.</p>
26	<p>Q. Certificate of ST is not readily available with many claimants and the process of getting the same takes time.</p> <p>A. The local office responsible for issuance of ST certificate may be expedited in this behalf by the SDLC and DLC as the case may be.</p>
27	<p>Q. People say that Satellite image cannot be used as an evidence. Is there an alternative to find out the position of land use as on/ or prior to 13-12-2005?</p> <p>A. Detailed note has been already given on relevance of oral evidence of village elders and public documents including satellite imageries produced by Forest Department before quasi-judicial forum of Gram Sabha/SLDP/DLP and instructions issued by MoTA on use of modern technology vide Lr. No. 23011/18/2015-FRA Dt.27.7.2015. Please refer page 18.</p>
28	<p>Q. How can sustainability of forest resources be ensured so that the FRs also can be exercised in perpetuity?</p> <p>A. The management plan/ micro-plan should factor in the FRs while calculating sustainability of forests and prescribing management systems for forest areas.</p>
29	<p>Q. After issuance of title of FR, what is to be done to ensure smooth exercise of FRs?</p> <p>A. As is mentioned in Rule 15(6), the District Level Committee sends the record of forest rights under FRA to the District Collector or District Commissioner for necessary correction in the records of the Government. After it is entered in the existing records of Rights maintained in Revenue/Forest Department, as the case may be, it's</p>

	exercise needs to be carried out as per existing rules/code/system in the State/UT.
30	<p>Q. Local Forest field staff is not aware of the final orders of vesting of FR. What should be done?</p> <p>A. This is a problem in many states. Since the domain of FRA covers forest land, the Forest Department should arrange to keep a copy of the FRA implementation related documents for record and pass on relevant details to the field staff for their knowledge and necessary action. As per Rule 15(6), forest rights have to be entered in the records of Forest Department and Revenue Department.</p>
31	<p>Q. The Forest officer as a part of SDLC/DLC may find that his submission is not acceptable to other members. What should be done in that case?</p> <p>A. The Committees consist of 6 members. The forest officer or any other member for that matter must record and get included his/her submission, in the proceedings. The Committee is free to overrule such submission and decide the case. That should not discourage the members from putting forward their submission on the claim case.</p>
32	<p>Q. Rule 11(4) mention that Gram Sabha can also have a claim and FRC will prepare the claims on behalf of Gram Sabha. It is observed that the Gram Sabha under Panchayati Raj system is a heterogeneous body and cannot always be considered as a community for the purpose of a particular 'Forest Right' that is claimed. Isn't that contradictory?</p> <p>A. For understanding the true purport of this Rule, one has to understand the definitions of 'village' and 'Gram Sabha' as provided under the section 2 of FRA. Village as defined under Section 2(p) has a very wide scope and, for the purposes of FRA, as understood by simultaneous reading of Section 2(g) also; even a 'hamlet', a <i>tola</i>, <i>pada</i>, settlement etc. including those under PESA is a village. The Gram Sabha defined under FRA is just a village assembly of 'all adult members', which is in clear contrast to the normally defined Gram Sabha in the Panchayati Raj system which is comprised of the total electorate duly registered as voters. Gram Sabha is so defined to a) take care of the situations where the interior village people may not have been recorded as voters and b) such small Gram Sabhas truly qualify as communities. Thus, the Rule 11(4) is simply intended to cater to the claims of Gram Sabhas of the villages that are in the</p>

	<p>form of hamlets, <i>tolas</i>, <i>padas</i> and the like which, being small units, are homogeneous and are easily falling under the concept of community for the purpose of the claimed FR. The Rule 4(1)(f) also, which is being blindly applied for all villages and Gram Sabhas, is fundamentally applicable for cater to these small villages and Gram Sabhas and the specifically experience FDST and/or OTFD communities within larger villages which fulfil the criteria mandated under Section 3(1)(i) and 4(3). In fact, giving benefit to Gram Sabhas of larger villages with heterogeneous population by considering them as community is against the basic intent of serving the communities of FDSTs and/or OTFDs through this Act. Such misdirected benevolence allows the rural elite and powerful a scope to corner all benefits in their favour to the disadvantage of the eligible FDSTs and OTFDs and their community.</p>
33	<p>Q. What are the most common problems and mistakes noticed in implementation of FRA?</p> <p>A. Apart from what has been mentioned earlier in the document, some important ones observed in different states include:</p> <ol style="list-style-type: none"> 1. Inadequate sensitization of FR holders and Gram Sabha regarding the broader objective of the Act. 2. Not specifying 'nature' and 'extent' of FR in the processing and finalization of claims. (This will have disastrous impact first on the sustainability of forest resources and then on that of FR itself). 3. Ignoring the conditions attached to various types of FRs mentioned in section 3(1). 4. Loose handling of cases/ recognitions in favour of ineligible claimants lead to new encroachments/ ineligible claims in anticipation of getting benefit of the Act. (This leads to wastage of time and public money) 5. The tendency to view FRA as the provider of solutions to all forest land/ livelihood related issues in the village and thus avoiding to use the other available instruments. 6. Not taking cognizance of the essentials of 'community' while vesting of FRs. This leads to garnering of benefits of FRA by rural elite and powerful people. 7. Portraying Forest Department as a hurdle and contender if an evidence or field position that may lead to rejection of claim is submitted by it's officers. 8. Not following a robust, transparent, and verifiable system of implementation and (quantitative and qualitative) monitoring.


**LINKS TO WEBSITES AND IMPORTANT
GUIDELINES/CLARIFICATIONS ISSUED BY GOVERNMENT OF INDIA**

Subject	Reference/ Website link
Use of satellite imagery, geo-referencing of claimants holding, evidentiary value of satellite imagery	Ministry of Tribal Welfare (MoTA), Lr.No. 23011/18/2015-FRA Dt.27.7.2015
Vesting Community Forest Rights in JFM Committees	MoTA, Lr No. 23011/11/2013-FRA(Pt) Dt. 6.8.2013
Facsimile signature of Collector on Titles	MoTA Lr. No. 23011/28/2008-SG-II Dt.3-12-2018
Proceeding under FRA at Gram Sabha/SLDC/DLC as quasi-judicial proceeding	MoTA Lr. No. D.O. 23011/24/2009-FRA Dt.15.7.2010; MoTA Lr. No. 23011/24/2009-FRA Dt.28.4.2010
Encroachment of forest during implementation of FRA	MoTA Lr. No. 17014/02/2007-PC&V (Vol. VII) Pt. Dt.4.3.2010
Review of Rejected/admitted Claims by DLC	MoTA Lr.No.17014/02/2007-PC&V(Vol. VII)-Pt. Dt.4.3.2010
Procedure to declare critical habitat under FRA	MoEF&CC No. 1-23/2014WL dt 4-1-2018
Access to FRA Website/MoTA website	https://tribal.nic.in – Divisions-FRA
FRA in N-E states	MoTA Rc. No. 23011/07/2015-FRA Dt.24.2.2015
CFR on Tendu Leaves in Orissa	MoTA D.O. MTA/VIP/BBS/41/2017 Dt.3.7.2017
Procedure for permission for public facilities U/s 3(2)	MoTA Rc. No. 23011/15/2008-SG-II Dt.18.5.2009
No Title to encroachers after 13.12.2005	MoTA Rc. No. 17014/02/2007-PC &V (Vol VII) (Pt)Dt.3.4.2010
No reopening of settled claims	MoTA D.O. No. 49/TA/Secy(TA)/2010 Dt.5.4.2010
Guidelines issued by MoTA on FRA	https://tribal.nic.in – Divisions-FRA-Resources- Guidelines and Executive Directions issued on FRA
FRA Act and Rules by MoTA	https://tribal.nic.in – Divisions-FRA-Resources- FRA Literature (Act, Rules, Guidelines & FAQ)
Monthly progress report on implementation of FRA by MoTA after January 2017 in New Format	https://tribal.nic.in – Divisions-FRA-Resources- Monthly Progress Report.
Monthly progress report on implementation of FRA by MoTA before January 2017 in Old Format	www.fra.org.in – Information and Updates- FRA status report- (2008-2016)

Appendices

Annexure I: Forest Rights Act, 2006

रजिस्ट्रेशन सं. डी. एल.—(एन)04/0007/2006—08 REGISTERED NO. DL—(N)04/0007/2006—08


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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 2nd January, 2007/Pausa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 29th December, 2006, and is hereby published for general information:—

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

No. 2 of 2007 [29th December, 2006]

An Act to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

CHAPTER 1

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

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

(b) "critical wildlife habitat" means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;

(c) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs and includes the Scheduled Tribe pastoralist communities;

(d) "forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(e) "forest rights" means the forest rights referred to in section 3;

(f) "forest villages" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of *taungya* settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;

(g) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

(h) "habitat" includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;

(i) "minor forest produce" includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

(j) "nodal agency" means the nodal agency specified in section 11;

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "Scheduled Areas" means the Scheduled Areas referred to in clause (f) of article 244 of the Constitution;

18 of 2003. (n) "sustainable use" shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002;

(o) "other traditional forest dweller" means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs.

Explanation.—For the purpose of this clause, "generation" means a period comprising of twenty-five years;

(p) "village" means—

40 of 1996.

(i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or

(ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

53 of 1972.

(q) "wild animal" means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

CHAPTER II

FOREST RIGHTS

3. (1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:—

Forest rights of
Forest dwelling
Scheduled
Tribes and
other traditional
forest dwellers.

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;

(b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;

(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

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

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:—

69 of 1980.

- (a) schools;
- (b) dispensary or hospital;
- (c) *anganwadis*;
- (d) fair price shops;
- (e) electric and telecommunication lines;
- (f) tanks and other minor water bodies;
- (g) drinking water supply and water pipelines;
- (h) water or rain water harvesting structures;
- (i) minor irrigation canals;
- (j) non-conventional source of energy;
- (k) skill upgradation or vocational training centres;
- (l) roads; and
- (m) community centres.

Provided that such diversion of forest land shall be allowed only if,—

(i) the forest land to be diverted for the purposes mentioned in this subsection is less than one hectare in each case; and

(ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in—

(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:—

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package;

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.

Recognition of and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers.

(6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

69 of 1980.

(8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

Duties of holders of forest rights.

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof.

6. (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition:

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

(8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Offences by members or officers of authorities and Committees under this Act.

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

Cognizance of offences.

CHAPTER VI

MISCELLANEOUS

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members of authorities, etc., to be public servants.

Protection of action taken in good faith.

10. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal agency.

11. The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorised by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

Power of Central Government to issue directions.

12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

Act not in derogation of any other law.

13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power to make rules.

14. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;

(d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive

sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K. N. CHATURVEDI,
Secy. to the Govt. of India.

Annexure II: FRA Rules

(TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART II, SECTION 3, SUB-SECTION (i) OF DATED 1st JANUARY,
2008)

With Amendments on 6th September 2012

GOVERNMENT OF INDIA
MINISTRY OF TRIBAL AFFAIRS

New Delhi, the 1st January, 2008

NOTIFICATION¹

G.S.R. No. 1(E) WHEREAS the draft of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 were published, as required by sub-section (1) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the notification of the Government of India in the Ministry of Tribal Affairs number G.S.R. 437 (E), dated the 19th June 2007 in the Gazette of India, Part II, Section 3, sub-section (i) of the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of thirty days from the date on which the copies of the Gazette containing the said notification are made available to the public;

AND WHEREAS the copies of the said Gazette were made available to the public as on 25.06.2007.

AND WHEREAS the objections and suggestions received from the public in respect of the said draft rules have been duly considered by the Central Government;

¹ Note: The symbol '#' represents the original formulation of Rules issued in 2007 and notified on January 1, 2008; and has also been reproduced for easy reference.

NOW, THEREFORE, in exercise of the powers conferred by sub-sections (1) and (2) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the Central Government hereby makes the following rules for recognizing and vesting the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers residing in such forests, namely:- :-

1. **Short title, extent and commencement.** - (1) These rules may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007².

(2) They shall extend to the whole of India except the State of Jammu and Kashmir.

(3) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions:** - (1) In these rules, unless the context otherwise requires, -

a) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);

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

c) "claimant" means an individual, group of individuals, family or community making a claim for recognition and vesting of rights listed in the Act;

(ca) "community rights" means the rights listed in clauses (b), (c), (d), (e), (h), (i), (j), (k) and (l) of sub-section (1) of section 3⁴

d) disposal of minor forest produce" under clause (c) of sub-section (1) of section 3 shall include right to sell as well as individual or collective processing, storage, value addition, transportation within

² Note that these Rules have been substantially amended by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012)

³ Substituted by Rule 2(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E) dated 6th September, 2012)

Rule 2(1) (b) *bonafide livelihood needs* means fulfilment of sustenance needs of self and family through

production or sale of produce resulting from self-cultivation of forest land as provided under clauses (a), (c) and (d) of sub-section (1) of section 3 of the Act;

⁴ Inserted by Rule 2 (ii) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E) dated 6th September,2012)

and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihood;

Explanation: The transit permit regime in relation to transportation of minor forest produce shall be modified and given by the Committee constituted under clause (e) of sub-rule (1) of rule 4 or the person authorized by the Gram Sabha,

(1) This procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of minor forest produce,

(3) The collection of minor forest produce shall be free of all royalties or fees or any other charges,⁵

e) "Forest Rights Committee" means a committee constituted by the Gram Sabha under rule 3;

f) "section" means the section of the Act

(2) The words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

2A. Identification of hamlets or settlements and process of their consolidation - The State Government shall ensure that, -

(a) every panchayat, within its boundaries, prepares a list of group of hamlets or habitations, unrecorded or unsurveyed settlements or forest villages or *taungya* villages, formally not part of any Revenue or Forest village record and have this list passed by convening Gram Sabha of each such habitation, hamlets or habitations included as villages for the purpose of the Act through a resolution in the Panchayat and submit such list to Sub Division Level Committee.

(b) the Sub-Divisional Officers of the Sub Division Level Committee consolidate the lists of hamlets and habitations which at present are not part of any village but have been included as villages within the Panchayat through a resolution, and are formalised as a village either by adding to the existing village or otherwise after following the process as provided in the relevant State laws and that the lists are finalised by the District Level Committee after considering public comments, if any.

⁵ Substituted by Rule 2(iii) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September,2012)

Rule 2(1)(d) disposal of minor forest produce under clause (c) of sub-section (1) of section 3 of the Act shall

include local level processing, value addition, transportation in forest area through head-loads, bicycle and handcarts for use of such produce or sale by the gatherer or the community for livelihood;

- (c) on finalisation of the lists of hamlets and habitations, the process of recognition and vesting of rights in these hamlets and habitations is undertaken without disturbing any rights, already recognized.⁶

3. Gram Sabha. -

(1) The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein at least two-third members shall be the Scheduled Tribes.⁷

Provided that not less than one-third of such members shall be women:

Provided further that where there are no Scheduled Tribes, at least one-third of such members shall be women.

(2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.

(3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.

(4) The Forest Rights Committee shall not reopen the forest rights recognized or the process of verification of the claims already initiated before the date of coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendments Rules, 2012.⁸

4. Functions of the Gram Sabha. -

(1) The Gram Sabha shall -

- (a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;

⁶ Inserted by Rule 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012)

⁷ Substituted by the words of Rule 4(a) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012

Rule 3 (1) "wherein at least one-third members shall be the Scheduled Tribes"

⁸ Inserted by Rule 4 (b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012)

- (b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;
- (c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;
- (d) consider resettlement packages under clause (e) of sub section (2) of section 4 of the Act and pass appropriate resolutions; and
- (e) Constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act.
- (f) monitor and control the committee constituted under clause (e) which shall prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling Scheduled Tribes and other Traditional Forest Dwellers and integrate such conservation and management plan with the micro plans or working plans or management plans of the forest department with such modifications as may be considered necessary by the committee
- (g) Approve all decisions of the committee pertaining to issue of transit permits, use of income from sale of produce, or modification of management plans⁹.

- (2) The quorum of the Gram Sabha meeting shall not be less than one-half of all members of such Gram Sabha: Provided that at least one-third of the members present shall be women:
 Provided further that where any resolutions in respect of claims to forest rights are to be passed, at least fifty per cent of the claimants to forest rights or their representatives shall be present:
 Provided also that such resolutions shall be passed by a simple majority of those present and voting".¹⁰

- (3) The Gram Sabha shall be provided with the necessary assistance by the authorities in the State.

⁹ Inserted by Rule 5(i) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September, 2012)

¹⁰ Substituted by Rule 5(ii) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012

Rule 4 (2) *The quorum of the Gram Sabha meeting shall be not less than two thirds of all*

members of such Gram Sabha:

Provided that where there is a heterogeneous population of Scheduled Tribes and non Scheduled Tribes in any village, the members of the Scheduled Tribe, primitive tribal groups (PTGs) and pre-agricultural communities shall be adequately represented.

5. **Sub-Divisional Level Committee:** - The State Government shall constitute Sub-Divisional Level Committee with the following members, namely: -
- (a) Sub-Divisional Officer or equivalent officer - Chairperson;
 - (b) Forest Officer in charge of a Sub-division or equivalent officer - member;
 - (c) three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member; and
 - (d) an officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

6. **Functions of the Sub-Divisional Level Committee.** - The Sub-Divisional Level Committee (SDLC) shall -

- (a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected;
- (b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- (c) collate all the resolutions of the concerned Gram Sabhas;
- (d) consolidate maps and details provided by the Gram Sabhas;
- (e) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
- (f) hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- (g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram Sabhas;
- (h) co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims;
- (i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records;
- (j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;

- (k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules;
- (l) ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A, B and C) of these rules.”¹¹
- (m) ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.

7. **District Level Committee.** - The State Government shall constitute District Level Committee (DLC) with the following members, namely: -

- (a) District Collector or Deputy Commissioner - Chairperson;
- (b) concerned Divisional Forest Officer or concerned Deputy Conservator of Forest - member;
- (c) three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member; and
- (d) an officer of the Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in charge of the tribal affairs.

8. **Functions of District Level Committee.** - The District Level Committee shall

- (a) ensure that the requisite information under clause (b) of rule 6 has been provided to Gram Sabha or Forest Rights Committee;
- (b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;
- (c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;
- (d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;
- (e) co-ordinate with other districts regarding inter-district claims;

¹¹ Substituted by Rule 6 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012

Rule 6 (l) “ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A & B) of these rules”.

- (f) issue directions for incorporation of the forest rights in the relevant government records including record of rights;
- (g) ensure publication of the record of forest rights as may be finalized (**)¹²
- (h) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexures II & III to these rules, is provided to the concerned claimant and the Gram Sabha respectively and¹³
- (i) ensure that a certified copy of the record of the right to community forest resource and title under the Act, as specified in Annexure IV to these rules, is provided to the concerned Gram Sabha or the community whose rights over community forest resource have been recognized under clause (i) of sub-section (1) of Section 3.¹⁴

9. **State Level Monitoring Committee.** - The State Government shall constitute a State Level Monitoring Committee with the following members, namely: -

- (a) Chief Secretary - Chairperson;
- (b) Secretary, Revenue Department - member;
- (c) Secretary, Tribal or Social Welfare Department - member;
- (d) Secretary, Forest Department - member;
- (e) Secretary, Panchayati Raj - member;
- (f) Principal Chief Conservator of Forests - member;
- (g) three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
- (h) Commissioner, Tribal Welfare or equivalent who shall be the Member-Secretary.

10. **Functions of the State Level Monitoring Committee.** - **The State Level Monitoring Committee shall -**

- (a) devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;

¹² The word "and" omitted by Rule 7(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012

¹³The word "and" inserted by Rule 7 (ii) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012

¹⁴ Inserted by Rule 7(iii) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September, 2012).

- (b) monitor the process of recognition, verification and vesting of forest rights in the State;
- (c) meet at least once in three months to monitor the process of recognition, verification and vesting of forest rights, consider and address the field level problems, and furnish a quarterly report in the format appended as Annexure V to these rules, to the Central Government on their assessment regarding the status of claims, the compliance with the steps required under the Act, details of claims approved, reasons for rejection, if any and the status of pending claims.¹⁵
- (d) on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;
- (e) monitor resettlement under sub-section (2) of section 4 of the Act.
- (f) Specifically monitor compliance of the provisions contained in clause (m) of sub-section (1) of section 3 and sub-section (8) of section 4.¹⁶

11. Procedure for filing, determination and verification of claims by the Gram Sabha. -

- (1) The Gram Sabhas shall: -
 - (a) call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of these rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, shall be made within a period of three months: Provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.
 - (b) fix a date for initiating the process of determination of its community forest resource and intimate the same to the adjoining Gram Sabhas where there are substantial overlaps, and the Sub-Divisional Level Committee.
- (2) The Forest Rights Committee shall assist the Gram Sabha in its functions to
 - (i) receive, acknowledge and retain the claims in the specified form and evidence in support of such claims;
 - (ii) prepare the record of claims and evidence including maps;
 - (iii) prepare a list of claimants on forest rights;

¹⁵ Substituted by Rule 8 (i) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012 **# Rule 10 (c).**"furnish a six monthly report on the process of recognition, verification and vesting of forest rights and submit to the nodal agency such returns and reports as may be called for by the nodal agency".

¹⁶ Inserted by Rule 8(ii) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September, 2012)

- (iv) verify claims as provided in these rules;
 - (v) present their findings on the nature and extent of the claim before the Gram Sabha for its consideration.
- (3) Every claim received shall be duly acknowledged in writing by the Forest Rights Committee.
- (4) The Forest Rights Committee shall also prepare the claims on behalf of Gram Sabha for community forest rights in Form B and the right over community forest resource under clause (i) of sub-section (1) of Section 3 in Form C.¹⁷
- (5) The Gram Sabha shall on receipt of the findings under clause (v) of sub-rule (2), meet with prior notice, to consider the findings of the Forest Rights Committee, pass appropriate resolutions, and shall forward the same to the Sub-Divisional Level Committee.
- (6) The Secretary of Gram Panchayat will also act as Secretary to the Gram Sabhas in discharge of its functions.

12. Process of verifying claims by Forest Rights Committee:

- (1) The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department: -
- (a) visit the site and physically verify the nature and extent of the claim and evidence on the site;
 - (b) receive any further evidence or record from the claimant and witnesses;
 - (c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individuals, communities or their representatives are present;
 - (d) ensure that the claim from member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified when such communities or their representatives are present; and

¹⁷ The word "community forest rights in Form B" substituted by Rule 9 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012)

Rule 11(4) "community forest rights in Form B"

- (e) prepare a map delineating the area of each claim indicating recognizable landmarks.
- (f) delineate the customary boundaries of the community forest resource with other members of the Gram Sabha including elders who are well versed with such boundaries and customary access
- (g) prepare a community forest resource map with recognizable land marks and through substantial evidence as enumerated in sub-rule (2) of rule 13 and thereafter, such community forest resource claim shall be approved by a resolution of the Gram Sabha passed by a simple majority.

Explanation: The delineation of community forest resource may include existing legal boundaries such as reserve forest, protected forest, National Parks and Sanctuaries and such delineation shall formalize and recognize the powers of the community in access, conservation and sustainable use of such community forest resources.¹⁸

(2) The Forest Rights Committee' shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.

(3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing: Provided that if the Gram Sabhas are not able to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub-Divisional Level Committee for its resolution.

(4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorized officer.

12 A. Process of recognition of rights. -

(1) On receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue departments shall remain present during the verification of the claims and the verification of evidences on the site and shall sign the proceedings with their designation, date and comments, if any.

¹⁸ Inserted by Rule 10 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September, 2012)

(2) If any objections are made by the Forest or Revenue departments at a later date to a claim approved by the Gram Sabha, for the reason that their representatives were absent during field verification, the claim shall be remanded to the Gram Sabha for re-verification by the committee where objection has been raised and if the representatives again fail to attend the verification process the Gram Sabha's decision on the field verification shall be final.

(3) In the event of modification or rejection of a claim by the Gram Sabha or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee to the District Level Committee, such decision or recommendation on the claim shall be communicated in person to the claimant to enable him to prefer a petition to the Sub-Divisional Level Committee or District Level Committee as the case may be, within a period of sixty days which shall be extendable to a period of thirty days at the discretion of the above said committees.

(4) If any other state agency desires to object to a decision of the Gram Sabha or the Sub-Divisional Level Committee, it shall file an appeal before the Sub-Divisional Level Committee or the District Level Committee, as the case may be, which shall be decided by the Committee (in the absence of the representative of the concerned agency, if any) after hearing the claimant.

(5) No petition of the aggrieved person shall be disposed of, unless he has been given a reasonable opportunity to present anything in support of his claim.

(6) The Sub-Divisional Level Committee or the District Level Committee shall remand the claim to the Gram Sabha for re-consideration instead of modifying or rejecting the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.

(7) In cases where the resolution passed by the Gram Sabha, recommending a claim, with supporting documents and evidence, is upheld by the Sub-Divisional Level Committee with or without modifications, but the same is not approved by the District Level Committee, the District Level Committee shall record detailed reasons for not accepting the recommendations of the Gram Sabha or the Sub-Divisional Level Committee as the case may be, in writing, and a copy of the order of the District Level Committee along with the reasons shall be made available to the claimant or the Gram Sabha or the Community as the case may be.

(8) The land rights for self-cultivation recognised under clause (a) of sub-section (1) of section 3 shall be, within the specified limit, including the forest lands used for allied activities ancillary to cultivation,

such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce.

(9) On completion of the process of settlement of rights and issue of titles as specified in Annexure II, III and IV of these rules, the Revenue and the Forest departments shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier.

(10) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution or recommendation of the Sub Divisional Level Committee shall give detailed reasons for such modification or rejection, as the case may be:

Provided that no recommendation or rejection of claims shall be merely on any technical or procedural grounds:

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

(11) The Sub-Divisional Level Committee or the District Level Committee shall consider the evidence specified in rule 13 while deciding the claims and shall not insist upon any particular form of documentary evidence for consideration of a claim.

Explanation: 1. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation by whatever name called, arisen during prior official exercise, or the lack thereof, shall not be the sole basis for rejection of any claim.

2. The satellite imagery and other uses of technology may supplement other form of evidence and shall not be treated as a replacement.¹⁹

12 B. Process of Recognition of Community Rights: -

(1) The District Level Committee shall, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups as described in clause (e) of sub-section (i) of section 3 amongst the forest dwellers, ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and their claims for habitat rights are filed

¹⁹ Inserted by Rule 11 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012)

before the concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas.

(2) The District Level Committee shall facilitate the filing of claims by pastoralists, transhumant and nomadic communities as described in clause (d) of sub-section (i) of section 3 before the concerned Gram Sabhas.

(3) The District Level Committee shall ensure that the forest rights under clause (i) of sub-section (1) of section 3 relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognized in all villages with forest dwellers and the titles are issued.

(4) In case where no community forest resource rights are recognized in a village, the reasons for the same shall be recorded by the Secretary of the District Level Committee.

(5) The conversion of forest villages, unrecorded settlement under clause (h) of section 3 shall include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities and public spaces.²⁰

13. Evidence for determination of forest rights. -

(1) The evidence for recognition and vesting of forest rights shall, inter alia, include -

- (a) public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, *pattas* or leases, reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;
- (b) Government authorised documents such as voter identity card, ration card, passport, house tax receipts, domicile certificates;
- (c) physical attributes such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;
- (d) quasi-judicial and judicial records including court orders and judgments;

²⁰ Inserted by Rule 11 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September,2012)

- (e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;
- (f) any record including maps, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;
- (g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;
- (h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;
- (i) Statement of elders other than claimants, reduced in writing.

(2) An evidence for "Community Forest Resource"²¹ inter alia, include "

- (a) community rights such as nistar by whatever name called;
- (b) traditional grazing grounds; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems; sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;
- (c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;
- (d) Government records or earlier classification of current reserve forest as protected forest or as *gochar* or other village common lands, *nistari* forests
- (e) Earlier or current practice of traditional agriculture."²²

(3) The Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee shall consider more than one of the above-mentioned evidences in determining the forest rights.

14. Petitions to Sub-Divisional Level Committee. -

²¹ Substituted by Rule 12(i) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September,2012)
Rule 13 "community forest rights"

²² Inserted by Rule 12 (2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September,2012)

(1) Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.

(2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.

(4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.

(5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.

(6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.

(7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.

15. Petitions to District Level Committee: -

(1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.

(2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public

place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.

(4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.

(5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.

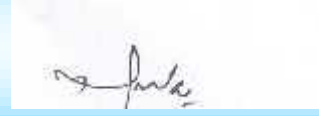
(6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.

(7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-Divisional Level Committees and pass appropriate orders

16. Post Claim support and handholding to holders of forest rights:

The State Government shall ensure through its departments especially tribal and social welfare, environment and forest, revenue, rural development, *panchayati raj* and other departments relevant to upliftment of forest dwelling scheduled tribes and other traditional forest dwellers, that all government schemes including those relating to land improvement, land productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act.²³

²³ Inserted by Rule 13 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E).dated 6th September,2012)



Dr. Bachittar Singh, Joint Secretary

[F. No.17014/ 02/ 2007,,PC&V (Vol.VII)]

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)
Rules, 2007

Government of India Ministry of Tribal Affairs

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[F.No. 23011/32/2010-(Vol. II)]

Dr. Sadhana Rout, Joint Secretary

The Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Amendment Rules, 2012

ANNEXURE - I

[See rule 6(I)]

FORM A

**CLAIM FORM FOR RIGHTS TO FOREST LAND [See rule
11(1)(a)]**

1. Name of the claimant (s):
2. Name of the spouse
3. Name of father/ mother
4. Address:
5. Village:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. (a) Scheduled Tribe: Yes/ No (Attach authenticated copy of Certificate)
(b) Other Traditional Forest Dweller: Yes/ No
(If a spouse is a Scheduled Tribe (attach authenticated copy of certificate))
10. Name of other members in the family with age:
(including children and adult dependents)

Nature of claim on land:

1. Extent of forest land occupied
 - a. for habitation
 - b. for self-cultivation, if any:
(See Section 3 (1) (a) of the Act)
1. disputed lands if any:
(See Section 3(1)(f) of the Act)
2. Pattas/ leases/ grants, if any:
(See Section 3(1)(g) of the Act)

3. Land for in situ rehabilitation or alternative land, if any:

(See Section 3(1)(m) of the Act)

4. Land from where displaced without land compensation:

(See Section 4(8) of the Act)

5. Extent of land in forest villages, if any:

(See Section 3(1)(h) of the Act)

6. Any other traditional right, if any:

(See Section 3(1)(l) of the Act)

7. Evidence in support:

(See Rule 13)

8. Any other information:

Signature/ Thumb Impression of the Claimant(s):

The Scheduled Tribes and Other Traditional Forest Dwellers

(Recognition of Forest Rights) Rules, 2007

Government of India

Ministry of Tribal Affairs

FORM B

**CLAIM FORM FOR COMMUNITY RIGHTS [See rule
11(1)(a) and (4)]**

1. Name of the claimant(s):

a. FDST community: Yes/ No

b. OTFD community: Yes/ No

2. Village:

3. Gram Panchayat:

4. Tehsil/ Taluka:

5. District:

Nature of community rights enjoyed:

1. Community rights such as nistar, if any:

(See Section 3(1)(b) of the Act)

2. Rights over minor forest produce, if any:

(See Section 3(1)(c) of the Act)

3. Community rights

a. Uses or entitlements (fish, water bodies), if any:

b. Grazing, if any

c. traditional resource access for nomadic and pastoralist, if any:

(See Section 3(1)(g) of the Act)

4. Community tenures of habitat and habitation for PTGs and pre-agricultural communities, if any:

(See Section 3 (1)(e) of the Act)

5. Right to access biodiversity, intellectual property and traditional knowledge, if any:

(See Section 3 (1)(k) of the Act)

6. Other traditional right, if any:
(See Section 3(1)(l) of the Act)

7. Evidence in support:
(See Rule 13)

8. Any other information

Signature / Thumb Impression
of the Claimant (s):

The Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Rules, 2007

Government of India
Ministry of Tribal Affairs

"FORM" C²⁴

CLAIM FORM FOR RIGHTS TO COMMUNITY FOREST RESOURCE

[See section 3(1)(i) of the Act and rule 11(1) and 4(a)]

1. Village/Gram Sabha:

2. Gram Panchayat:

3. Tehsil/ Taluka:

4. District:

5. Name(s) of members of the gram sabha [Attach as separate sheet, with status of Scheduled Tribes/Other Traditional Forest Dwellers indicated next to each member].

Presence of few Scheduled Tribes/ Other Traditional forest Dwellers is sufficient to make the claim.

We, the undersigned residents of this Gram Sabha hereby resolve that the area detailed below and in the attached map comprises our Community Forest Resource over which we are claiming recognition of our forest rights under section 3(1)(i).

[Attach a map of the community forest resource, showing location, landmarks within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities to which the community had traditional access and which they have been traditionally protecting, regenerating, conserving and managing for sustainable use. Please note that this need not correspond to existing legal boundaries.]

6. *Khasra* / Compartment No.(s), if any and if known:

7. Bordering Villages:

(i)

(ii)

(iii)

(This may also include information regarding sharing of resources and responsibilities with any other villages.)

8. List of Evidence in Support (Please see Rule 13)

Signature / Thumb impression of the Claimant(s):

The Scheduled Tribes and Other Traditional Forest Dwellers

(Recognition of Forest Rights) Amendment Rules, 2012

Government of India

Ministry of Tribal Affairs

²⁴ *Inserted by Rule 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September,2012)*

ANNEXURE II**[See rule 8(h)]****TITLE FOR FOREST LAND UNDER OCCUPATION**

1. Name(s) of holder (s) of forest rights (including spouse):
2. Name of the father/ mother:
3. Name of dependents:
4. Address:
5. Village/gram sabha:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. Whether Scheduled Tribe or Other Traditional Forest Dweller
10. Area:
11. Description of boundaries by prominent landmarks including khasra/ compartment No: This title is heritable, but not alienable or transferable under sub section (4) of section 4 of the Act.

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State)affix our signatures to confirm the above forest right.

**Divisional Forest Officer/
Conservator of Forests**

District Tribal Welfare Officer Deputy

District Collector/ Deputy Commissioner

Annexure III**[See rule 8(h)]****TITLE TO COMMUNITY FOREST RIGHTS**

1. Name(s) of the holder (s) of community forest right:
2. Village/ Gram Sabha:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:
6. Scheduled Tribe/ Other Traditional Forest Dweller:
7. Nature of community rights:
8. Conditions if any:
9. Description of boundaries including customary boundary and/or by prominent landmarks including khasra/ compartment No:

Name(s) of the holder (s) of community forest right:

1.

2

3.

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State)affix our signatures to confirm the forest right as mentioned in the Title to the above mentioned holders of community forest rights.

**Divisional Forest Officer/
Deputy Conservator of Forests**

District Tribal Welfare Officer

District Collector/ Deputy Commissioner

Annex IV²⁵
TITLE TO COMMUNITY FOREST RESOURCES
 [See rule 8(i)]

1. Village/Gram Sabha:
2. Gram Panchayat:
3. Tehsil/ Taluka:
4. District:
5. Scheduled Tribe / Other Traditional Forest Dweller: Scheduled Tribes community / Other Traditional Forest Dwellers community / Both
6. Description of boundaries including customary boundary, by prominent landmarks, and by khasra / compartment No:

Within the said area, this community has the right to protect, regenerate or conserve or manage, and this (to be named) community forest resources which they have been traditionally protecting and conserving for sustainable used as per section 3(1)(i) of the Act. No conditions are being imposed on this right other than those in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act and the Rules framed thereunder.

We, the undersigned, hereby, for and on behalf of the Government affix our signatures to confirm the community forest resource (to be named and specified in extent, quantum, area, whichever is applicable) as mentioned in the Title to the above mentioned gram sabha/community(ies).

(Divisional Forest Officer/ (District Tribal Welfare Officer) Deputy
 Conservator of Forests)

(District Collector/ Deputy Commissioner)

²⁵ *Inserted by Rule 15 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E),dated 6th September,2012)*

Annexure III: Directions and Guidelines

No.-23011/11/2013-FRA (pt.)

Government of India

Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

Dated: 6.08.2013

To,

Shri B.Somasekhara Reddy,
Principal Chief Conservator of Forests,
Government of Andhra Pradesh,
Aranya Bhawan, Saifabad,
Hyderabad-500004

Subject: Forest Department – Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Act, 2006- clarification regarding the CFR titles given to JFM/ (VSS) Committees in Andhra Pradesh State.

Sir,

I am directed to refer to your D.O. letter No. 40971/2012/LR.1, dated 17.06.2013 on the above subject and to say that the JFM (VSS) Committees formed in the State of Andhra Pradesh pursuant to the Joint Forest Management (JFM) programme of the Ministry of Environment & Forests and the Government of Andhra Pradesh are not covered by the definition of the terms "forest dwelling Scheduled Tribes" and "other traditional forest dweller", as given in Sections 2(c) and 2(o) of the Forest Rights Act, 2006. Hence, these Committees can also not be considered as "claimant" for purposes of recognition and vesting of forest rights under the Act as per the definition of "claimant" given in Rule 2(c) of the Forest Rights Rules, 2008. These Committees are, therefore, not eligible for recognition and vesting of forest rights under the said Act, including the forest right specified in Section 3(1)(i) of the Act.

2. As regards the decision taken by the State Government on 21.07.2009 in the meeting held under the Chairmanship of then Chief Minister of Andhra Pradesh to give Community Rights to JFM(VSS) Committees, it may be stated that the Forest Rights Act, 2006 had already been notified for operation with effect from 31st December, 2007. The decision taken by the State Government on 21.07.2009 to give Community Rights to these Committees subsequent to operationalization of the Act was, therefore, not in accordance with the law.

3. In view of the above, the CFR titles given to JFM (VSS) Committees may be withdrawn. The rejection of the individual claims on the ground that such claims were filed within the JFM areas was also, therefore, incorrect.

4. The Ministry may kindly be apprised of the action taken on this matter.

Yours faithfully,

(Gopal Sadhwani)

Deputy Secretary to the Government of India

Tel: 23383965

Annexure to letter No 23011/15/2008-SG.
II dated May 18, 2009

Government of India
Ministry of Tribal Affairs

Procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the Government, as specified in that Section, which involve felling of trees not exceeding seventy-five trees per hectare, provided that such diversion of forest land shall be allowed only if, -

2. the forest land to be diverted for the purposes mentioned in the said sub-section is less than one hectare in each case; and
3. the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

2. For implementation of the provisions of sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Central Government hereby lays down the following procedure: -

3. Definitions. - In the procedure, unless the context otherwise requires: -

- d) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- e) "District Level Committee" shall mean the Committee constituted under Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Rules, 2008;
- f) "Forest Land" shall have the same meaning as defined in Section 2(d) of the Act;
- g) "Gram Sabha" shall have the same meaning as defined in Section 2(g) of the Act;
- e) "Nodal Officer" means any officer not below the rank of Conservator of Forests, authorized by the State Government to deal with matters relating to diversion of forest land under the Act;

- f) "Section" means a section of the Act;
- g) "User Agency" means a Department of the Central or State Government or a District Panchayat making a request for diversion of forest land for developmental projects managed by the Government as specified in sub-section g.1. of Section 3 of the Act;
- h) "Village" shall have the same meaning as defined in Section 2(p) of the Act.

(2) Submission of the proposals seeking approval for diversion of the forest land under sub-section (2) of Section 3 of the Act. -

- (4) Every User Agency, that wants to use any forest land for any developmental project, specified in Section 3(2) of the Act, shall make a proposal in the appropriate Form appended, i.e. Form 'A', and place it before the general assembly of the concerned Gram Sabha for adopting a resolution to that effect.
- (5) A quorum of at least half the members of the Gram Sabha should be present for adopting a resolution recommending the diversion of forest land.
- (6) On receipt of a recommendation of the proposal by the Gram Sabha, the User Agency will submit the proposal to the concerned Range Forest Officer (RFO) of the area, along with the resolution adopted by the Gram Sabha.
- (7) The Range Forest Officer (RFO) concerned will carry out site inspection of the proposed area to opine on the acceptance of the proposal.
- (8) The Range Forest Officer (RFO) concerned will submit the proposal and his recommendation to the concerned Divisional Forest Officer (DFO) in Form 'B' appended, along with his site inspection report and his opinion within three weeks from the date of receipt of complete proposal from the User Agency.
- (9) The Divisional Forest Officer (DFO) concerned will consider the proposal, and if he agrees, he will accord his approval and communicate his decision to the Range Forest Officer (RFO) concerned with a copy to the Chairperson of the District Level Committee, within four weeks from the date of receipt of the proposal from the RFO.
 - g) After receipt of the approval from the concerned DFO, the RFO will demarcate the area of the forest land approved for diversion and hand over the same to the User Agency under the supervision of the Gram Sabha. (viii) If the

Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through the Range Forest Officer (RFO), he shall forward the proposal to the District Level Committee for a final decision.

- (d) The District Level Committee will meet and take a final decision, with at least 1/3 quorum, and convey the decision to the DFO for implementation and correction of records and map if the proposal is accepted.
- (e) The approval for diversion of the forest land by the Divisional Forest Officer (DFO) or by the District Level Committee, as the case may be, shall be accorded subject to the condition that the land diverted for a specific purpose shall not be allowed to be used for any other purpose and the diverted land would be appropriated by the Forest Department if the activity for which the land was diverted is not started within one year of handing over the land to the User Agency.
- (f) The DFO concerned will submit a quarterly report of the approvals accorded for diversion of forest land under Section 3(2) of the Act to the Nodal Officer of the State who, in turn, will furnish the consolidated information quarterly to the Secretary, Tribal Welfare Department who will, in turn send the consolidated report to the Ministries of Tribal Affairs and Environment & Forests.
- (g) The Nodal Officer will also monitor the progress.

APPENDIX

Form for seeking prior approval for diversion of forest land for non-forest purposes for the facilities managed by the Government under sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

FORM-A

[See para 2.2(i)]

(To be filled up by the User Agency)

- 4. Project details:
 - (2) Short narrative of the proposed project / scheme for which the forest land is required.
 - (3) Details of the forest land required (two options to be indicated)
 - 3.1. Location – Survey No./ Compartment No.

3.2. Extent of the area (in hectare)

3.3. Forest Division

3.4. Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.

- (4) Justification for locating the project in proposed forest land(s)
- (5) Number of trees to be felled (per hectare) and number that will be kept standing
- (5) Detailed, purpose-wise break-up of the total forest land required with proposed building/activity area map.
- (6) Confirmation that User Agency will plant at least twice the number of trees to be felled, in the project or adjacent area and the amount to be provided annually for protection and maintenance of these plants for at least five years (Details to be enclosed).
- (7) Recommendation of the Gram Sabha – Accepted/Rejected
[Please tick (✓), as the case may be]. [Copy of the Gram Sabha resolution to be attached.]

Signature of the authorized person for the User Agency

(Name in Block letters)

Address _____

Date: _____

Place: _____

Serial No. of proposal _____ (To be filled up
by the Range Forest Officer with date of receipt)

FORM-B

[See para 2.2(iv)]

(To be filled by the concerned Range Forest Officer)

Serial No. of proposal _____

5. Location of the project / Scheme:

- (2) State / Union Territory
- (3) District.
- (4) Forest Division
- (5) Proposed forest land(s) (two options to be indicated)

5.1. Location – Survey No./ Compartment No.

5.2. Extent of the area (in hectare)

(6) Whether part of biosphere reserve, tiger reserve, elephant corridor, etc.

(e) Site inspection report (to be attached), containing the date of visit, and justified opinion on the acceptability of the proposal (separately for the two options).

(f) Specific recommendation of the Range Forest Officer for acceptance or otherwise of the proposal and the better option.

Signature of the RFO

Name _____

Official Seal

Date: _____

Place: _____

Accepted / Not accepted with reasons to
be recorded

Signature of the DFO

Name _____

Official Seal

Date: _____

Place: _____

.....

No. 17014/02/2007-PC&V (Vol. VII) (Pt.)
 Government of India
 Ministry of Tribal Affairs.

Shastri Bhawan, New Delhi

March 4, 2010

To

The Secretary,
 Social Welfare & Tribal Welfare Department,
 Government of Rajasthan,
 Jaipur - 302 008

Subject: Large scale encroachment on Forest land during implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

I am directed to refer to the letter dated 7.8.2009 of the PCCF, Rajasthan, Jaipur, addressed to the Director General of Forests, Ministry of Environment & Forests, and copy endorsed to this Ministry, on the above subject (copy enclosed) and to say that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not prescribe any time limit for recognition and vesting of forest rights of the eligible claimants under the Act. As per Rule 11(a) of the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Act, the Gram Sabhas shall call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure - I of the rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.

2. As regards his apprehension regarding the misuse of the Act by the anti-social elements and fresh encroachments of large forest areas, it may be stated that the forest rights under the Act are to be recognized only in respect of the forest land under occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers before the 13th day of December, 2005. The fresh encroachments of forest lands after 13th December, 2005 would not qualify for recognition of rights under the Act. Further, misuse of the Act are to be checked by the prescribed bodies / authorities. The Act cannot be amended to accommodate any lapses on the part of such bodies / authorities.

Yours faithfully,
 Sd/-

[A.K. Srivastava]
 Director
 Tel. 23387444

Copy for information to Director General of Forests, Ministry of Environment & Forests,
 Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi - 110 003

Sd/-
 [A.K. Srivastava]
 Director
 Tel. 23387444

सचिव, भारत सरकार
 Secretary to the Government of India
 जनजातीय कार्य मंत्रालय
 Ministry of Tribal Affairs
 शास्त्री भवन, नई दिल्ली-110 001
 Shastri Bhawan, New Delhi-110 001
 E-mail : secy-tribal@nic.in
 Website : www.tribal.gov.in

D.O. No.49/TP/Secy(TA)/2010

5th April, 2010.

Dear

I would like to thank you, and through you your colleagues, especially Shri Ananath Deb Burman, Joint Director (TW), for making my tour to North Tripura so educative. In this letter, I would like to mention a number of issues that I feel should be paid attention to, including one where we would request specific enquiry. I think that procedural irregularities might have taken place in the implementation of the Forest Rights Act.

2. Forest Rights Act:

2.1 Recently you had sought a clarification from the undersigned as to whether claims under the Act can continue to be received beyond 31st December, 2009, as there is no such deadline prescribed. We have confirmed your interpretation, but it appears that instructions might have been incorrectly communicated to field offices that even those whose applications have already been received and processed are to be again given a chance to apply for additional forest land that they are occupying. This is the impression I got both in Jampui area as well as in Manu. I would like to reiterate that there is no question of applicants, whose rights have once been decided by the district level committee and titles given accordingly, being given a second opportunity.

2.2 It also appears that in many cases the claims to the Gram Sabhas have been made for a particular extent of area in a particular village, but titles have been given in another village, often for smaller areas. This, if true, is also incorrect. The law is very specific. The claimants have to make claims for areas that they can justify under the provisions of the Act and the Rules subject to a maximum of 4 hectares. There can be no occasion to give less now and more later. Right holders have to prove their rights, and this Act is not the consequence of a land distribution policy. Allotment of land in another village is also un-understandable. It would appear that even when these problems have been pointed by the Secretary of the Village Rights Committee, to the Sub Divisional Committee and the District level Committee, the irregularity has not been rectified. Please see photocopy of the document at Annexure.I in support of what I have said.

2.3 It would also appear that Kuchcha titles have been given when there is no provision for such under the law. The format of the title is specified in the Rules and any other format is legally unacceptable. Annexure.II is the photocopy of two titles deeds that are not as per the Forest Rights Act. Indeed, the Forest Rights Act is not an act of the Government of Tripura.

2.4 Annexure.III is a copy of another petition which shows a list titles settled in areas not claimed.

2.5 The above documents were given to me in Jampui hills. The Lusal community elders were very disturbed by the way the titles have been distributed. The complaint raised by community members including those from village council were not apparently entertained by officials who were entrusted with the work including the Sub Divisional level and District level Committees.

2.6 The Act does not permit any reopening of mistakes once title deeds have been given. If large scale procedural irregularities have actually taken place then the State Government may take legal opinion and approach the High Court for rectification. If, on the other hand, irregularities have been detected before the distribution of titles in the form prescribed under the Act, there is scope for the Divisional and Sub Divisional Committees to send the applications back to the Gram Sabhas or where the irregularities have taken place for rectification. As I have said, legal opinion for my suggestion may be taken as to be totally sure of the conformity to the provisions of the Act. Indirectly, it would appear that while Tripura has taken a lead in distributing a large number of title deeds, one is not sure whether the procedure has been correctly followed. You may like to specifically check up that the procedural formalities have all been sincerely followed in the whole exercise. We would be awaiting your report in this matter.

3. Water scarcity:

3.1 In most of the places that I travelled to, water scarcity was apparent. Many tribals, it was found, were drinking water from traditional sources (holes along the rivers or seepages from hill sides) leaving aside water from government constructed ring/sanitary wells. I have suggested some ways to motivate the Scheduled Tribes to maintain their sanitary wells, but I understand that this will need innovative communication methodology/techniques. School children might be better addressed rather than community elders in this regard. Some States like West Bengal are utilizing the services of organisations that are experts in communicating social themes through plays. One such organisation that you may like to contact is banglanatak.com.

3.2 Some States like Gujarat, Rajasthan and Orissa have a system of constructing low check dams on streams, with sand filled bags, just before the dry season. These dams are constructed at many places along the stream

where water can form pools to be used by humans (for bathing or washing clothes) and animals for drinking, and for growing vegetables along the side. During monsoons, water will easily flow over the small dams not causing any great damage. The following year only minor gap filling with sand filled bags will be sufficient. **You may like to consider the feasibility of this suggestion in the particular vulnerable water scarcity villages of your State.**

4. **Forest villages:**

4.1 I could see only one forest village (Mritingacherra in Kanchanpur forest range) and saw the programme details of S.Unokoti and Sonainuri villages in Kailashahar range. The context for visiting these villages was to ascertain why the State has not claimed the balance amount under this programme since 2008-09. As per the records available in this Ministry, in that year an amount of Rs.5.58 crore was released to Tripura for 62 villages, but there was an unspent balance of Rs.4.36 crore resulting in withholding of similar grant under the second phase of funding. I have found that in Mritingacherra a number of items have been identified for expenditure through the forest development agencies for the year 2009-10, but no money has been spent. I also found that the Government of India money is being taken for distribution for various items of work ranging from purchase of musical instruments, making of sign boards, supply of sport goods etc. The utilization in Kailashahar was more logical. **If I am not mistaken, the scheme was aimed to assess critical needs of forest villages, covering infrastructure and income generation and meet these needs in a manner that would provide full (not distributed) satisfaction.** I hope that you will take it up with your counter part in the Forest Department to ensure that for the balance amount, at least, optimal utilization of funds is planned and made possible. Funds under this scheme are not meant to supplement the coffers of FDAs. Annexure-IV refers to what I have seen.

Yours sincerely,

sd//

(G.B. Mukherji)

Shri S.K. Das,
Commissioner and Secretary,
Tribal Welfare Department,
Government of Tripura,
Agartala.

No/23011/18/2015- FRA
Government of India
Ministry of Tribal Affairs

August Kranti Bhawan
New Delhi
Dated: 27.07.2015

To,
The Chief Secretaries of all State Governments

Sub: Guidelines with regard to use of Geo referencing for assessment of potential areas and re-examination of rejected claims under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA),

1. As you may be aware, Ministry of Tribal Affairs has taken up implementation of FRA on a campaign mode. As part of PRAGATI, Hon'ble Prime Minister had reviewed the implementation of FRA. Hon'ble Prime Minister has desired that Ministry of Tribal Affairs must take a lead in technological support to the States. It was also stated that States need to proactively pursue progress in vesting of rights in time bound manner. Geo referenced database of vesting of rights may be created. Further to this, Ministry of Tribal Affairs had issued a letter on 28th April 2015 (D.O No. 23011/18/2015-FRA) to all the States requesting them create geo- referenced data base.
2. Meanwhile, Ministry of Tribal Affairs have consulted technical resource agencies such as National Remote Sensing Centre, Bhaskaracharya Institute For Space Applications and Geo-Informatics (BISAG), Dept of Science and Technology, Govt. of Gujarat, State Governments and Tribal Research Institutes, for inputs on geo referencing on FRA.
3. This Ministry has received reports which suggest that large number of claims have been rejected due to lack of evidence or incomplete evidence. It may be noted that as per Rule 6 (b) of Forest Right Rules, district administration in general and the SDLC in particular are expected to assist the Gram Sabhas and the FRCs by providing forest and revenue maps. In this context geo-referenced maps may be generated and be provided to Gram Sabhas and

FRCs. Accordingly claims rejected on the grounds of insufficient evidences or which prima-facie requires additional examination may be re-examined.

4. It is being reiterated that use of any technology, such as, satellite imagery, should be used to supplement evidences tendered by a claimant for consideration of the claim and not to replace other evidences submitted by him in support of his claim as the only form of evidence. If rights have already been recognised in favour of a claimant, the same may not be reopened.
5. Through **Geographical information System (GIS)**, maps can be prepared for implementing agencies, regarding the eligible areas for the implementation of FRA where maps can be drawn at different administrative levels like nation, state, district, block and village. With the use of GIS, final maps can also be prepared for the village as mentioned under Rule 12 A (9) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (as amended up to date) ('FR Rules') with spatial information of physiographic features of that village, area of the forest land in numerical value recognized under the FRA.
6. Based on the inputs, the broad parameters for use of geo referencing data for identification of potential areas for both individual and Community Forest Resource Rights (CFR) are listed. The following guidelines may be applied for use of technology and geo referencing to expedite the process of FRA implementation:
 - a. Geo referenced Satellite image of highest resolution (preferably with 1M or higher resolution) of any satellite may be used for period around December, 2005. Google earth images, especially, the historical images of around the year 2005, or any other reliable open-source images can also be used for this purpose. Images can also be procured from National Remote Sensing Agency, Hyderabad if required.
 - b. The geo-referenced imageries on the Latitude/Longitude grid of the GIS program and digitized and geo-referenced village and forest boundaries can be overlaid on the same if available;
 - c. Identification of cultivated areas through the Satellite imagery needs to be verified through ground-truthing using GPS/ Android Phone etc.
 - d. GPS surveys of all plots of lands of the wrongly rejected (including partially rejected) / pending claims, may be done with active participation of the village FRCs and Gram Sabhas.
 - e. Since the GPS survey is a simple tool and can be handled after simple training and demonstration, the States should involve FRCs (or teams of local youth) in the survey work after providing necessary training and also providing GPS/android devices;
 - f. After processing of the GPS data overlay plots of claimed lands (with unique plot numbers) on the imageries and prepare maps (with

- imagery) and lists with area of each plot and provide them to the FRCs and Gram Sabhas;
- g. The FRCs and Gram Sabhas can then consider the evidence from these maps and lists, together with other evidences, while deciding these claims, including determining the area to be approved.
 - h. For identification of CFR areas, State Government of Odisha has piloted a process in the Mayurbhanj District by using GIS based technology with the help of the following information:
 - Villages having Forest Land within its revenue boundary
 - Villages having no Forest Land within its revenue boundary
 - Villages located in fringe of Reserved Forests land coming under control of State Forest Department
 - Un-surveyed habitations may also be included
 - i. Similar method may be adopted by other states based on various Government Records such as Census, 2011 Data, the State level Economic and Statistical surveys, Forest Survey of India, etc
 - j. The State Governments can seek support from BISAG, Dept. of Science and Technology, Government of Gujarat and National Resource Centre, Tribal Research Institute, Bhubaneswar for training of officials, FRCs and community volunteers with respect to use of technology. States can also seek support from the State Remote Sensing Centres for this process.
 - k. Since maps or geo referenced images can be procured easily and freely/ or at nominal cost, the State Governments need to proactively take up this activity and complete the process of assessment and review of rejected claims in light of the use of technology within a period of two months.
7. These issues with the approval of competent authority.

Yours faithfully

(Roopak Chaudhuri)

Deputy Secretary to the Government of India

Tel No: 01126182428

जुएल ओराम
JUAL ORAM



सत्यमेव जयते



मंत्री
जनजातीय कार्य मंत्रालय
भारत सरकार
शास्त्री भवन, नई दिल्ली-110001
MINISTER OF TRIBAL AFFAIRS
GOVERNMENT OF INDIA
SHASTRI BHAWAN, NEW DELHI-110001

D.D.No. : MTA/VIP/BBS/41/2017
Dated: 03/07/2017

Dear Shri Naveen Pattnaik ji,

I am writing to you to highlight the plight of villagers/ Kendu leaf gatherers of Golamunda block of Kalahandi district. This matter was brought to my notice last month and a report in this regard was sought from Government of Odisha vide letter dated 23.06.17. Several newspapers of Odisha also reported this issue.

2. I am made to understand that there is a conflict between the provisions of Forest Rights Act'2006 and Odisha Kendu Leaves (Control of Trade) Act' 1961. Since Govt. of Odisha has not taken any steps to amend the provisions of Odisha Kendu Leaves Act'1961 in line with those of FRA' 2006, these poor villagers are deprived of their rights, thereby losing livelihood and facing unspeakable difficulties. Though they had knocked the doors of District Administration, Collector, Kalahandi has found it very difficult to resolve the issues as the provisions of both these Acts are not in conformity with each other and therefore, poor villagers are caught in between the legal provisions of aforementioned two Acts.

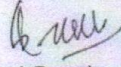
3. You are well aware that FRA has overriding effect over other Acts as far as implementation related to rights of tribals and other forest dwellers is concerned. Owing to the apathy as well as lackadaisical attitude of the State Government towards the whole issue, poor people are suffering badly and running from pillar to post to address their grievances. I am told that State Government has issued an office Order only in respect of Nabarangpur district for sale of Kendu leaves through Gram Sabha. By doing so, all other districts have been deprived of this facility.

4. The State government instead of implementing the Provisions of FRA' 2006 in letter and spirit, has approached my Ministry to amend the existing provisions so as to benefit the other forest dwellers. I am to remind you that the implementation of FRA is the sole responsibility of State Govt. for which the District and Sub-divisional level officers should be sensitized as rejection cases are higher at these levels, even though Gram Sabha level committees are clearing the cases. It's also a fact that even after distribution of titles/pattas, lower level officials are not allowing the title holders to take possession of the land. This shows lack of seriousness on part of State Administrative towards the rights of Tribals.

5. Therefore, I would request your urgent intervention in the matter so as to remove the existing discrepancies in procurement of Kendu leaves, which will facilitate the sale of these products and provide relief to thousands of villagers depending upon the Kendu leaves.

With regards,

Yours sincerely,


(Jual Oram)

Shri Naveen Pattnaik,
Hon'ble Chief Minister,
Government of Odisha,
Secretariat,
Bhubaneswar, Odisha.

D.O. NO.23011/24/2009-FRA

15th July, 2010.

Dear

This Ministry has been noticing that **most States have been showing a higher percentage of rejection over acceptance of claims under the Forest Rights Act.** This fact has also been pointed out by various civil society organisations. Admittedly, while processing of claims is a quasi-judicial exercise, it becomes an item of worry when the rejections are of such high order.

2. When the Ministry of Tribal Affairs are asked the reasons for such high rejection by States, only generalized replies are possibly, based on the inputs received during conferences, workshops or from personal interactions. A time has, therefore, come when not only should we attempt to find out the categories/reasons for rejection by the Gram Sabha and at the Sub Divisional level, but therefrom also find out the ways of improving the quality of our otherwise considered excellent performance in the distribution of rights across the country.

3. Kindly, therefore, initiate an action immediately, on a statistically acceptable sampling basis, at the level of Gram Sabha and Sub Divisional level Committees for categorizing all rejections, with their numbers. We can suggest the following categories:

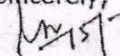
- a) Non-availability of written records;
- b) Non-availability of other criteria specified in Rule 13;
- c) Non-possession of forest land;
- d) Non-occupation on the date relevant to the Act;
- e) Multiple claimants;
- f) Doubtful tribal status.

You may like to add other criteria relevant to your State.

4. Kindly also include figures for other traditional forest dwellers (OTFD) separately from Scheduled Tribes in the above assessment.

5. The expenses for the survey can be met out of the grants under Article 275(1) proviso, as communicated to all States in early 2009. We hope that this exercise will be completed in three months and, thereafter, included in each monthly progress report.

Yours sincerely,



(G.B. Mukherji)

Chief Secretaries of Andhra Pradesh, Assam, Gujarat, Jharkhand,
Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tripura,
Uttar Pradesh and West Bengal.

Copy to Cabinet Secretary, Rashtrapati Bhawan, New Delhi for information.

Literature cited

Jha AK (2021). Technology in good governance: A case of FRA and geoinformatics. In: Critical Research Techniques in Animal and Habitat Ecology: Examples from India, KK Jha and MO Campbell (eds), Nova Science Publishers Inc. New York.

Jha KK and Chaudhry P (2018). Unravelling the complexity of Protected Area management in two developing countries: Issues of human displacement and wildlife conflict. In: Geomatics and Conservation Biology, MO Campbell (ed.), Nova Science Publishers Inc. New York.

Cover page photo description

Top photo: Forest area under encroachment attempt showing girdling of tress, Eturunagaram, Mulugu district of Telangana. Source: Anonymous. Bottom photo: Red polygon representing claimed area at two timeframes: February 15, 2006 (left) and May 3, 2010 (right). Situation on the field could be noted contrastingly in the two polygons. Left showing signature of forestry activity (contour trenches for plantation) and right showing signature of agriculture activity after the cutoff date. Photo sourced from A. K. Jha IFS (Retd).

Editorial Team

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Kaushalendra Kumar Jha (IFS Retd)