

Forest Right Act 2006 - Status of Implementation and its potential in Livelihoods Improvement of Forest Dwelling Communities in Central Region¹

Background

Madhya Pradesh and Chhattisgarh, together cover around 14% of the geographical area of the country and 20.57% of forest cover. The forestry operations alone create employment opportunities to the tune of 1000 lakh person days per year and revenue to both the States together come to around 700 crores per year. Both the States put together maintain 1 biosphere reserve, 12 National Parks and 36 sanctuaries. These forests are the backbone of major river systems like Narmada, Son, and Chambal etc. on which the agriculture of these two States and other States survives. Apart from providing temporary services to the migratory animals of neighboring States, these forests provide the major fodder source for around 4.43 crore domestic animal population of the State. According to the forest statistics of 2004, around 22,000 villages (out of 52000) are in or within 5 kms proximity to the forest in MP alone. The livelihoods of these villages are highly dependent on forest. In a way, the livelihood of around 43% of the villages within the State is directly derived from forest. The scenario of Chhattisgarh is no different and more than half of the villages are dependent on forest resources for their livelihoods.

There are two broad categories of forest viz. reserved and protected forests other than non-classified forests. The non-classified forests have almost disappeared. Taking recourse to various acts, the forest boundaries were drawn and some of the commons were also considered under forest. Similar stories were repeated in declaration of the 'reserve' and 'protected' forest.

The forest access and rights to livelihood within the state were contentious issues since time immemorial. Forest Right Act 2006, is one of the important landmark that brought up to eradicate the injustice done to the tribal communities during the past. Considering the overall policy arena and conflicting areas of different policies, implementation of FRA seems to be a big challenge. An attempt is being made to review the status of policy regime and implementation of FRA in that scenario.

The overall discussions would broadly divide into five categories to understand various dimensions of forest dependent livelihoods in Central region in the context of forest right act. First three sections provide historical introduction to the subject forest and livelihood while other deals with current status of implementation of the act and challenges within Forest based livelihoods.

1. Land Right in relation to the declaration of forest
2. Access to the Forest Produce
3. Participatory Forest Management- Joint Forest Management
4. Implementation of Forest Right Recognition Act 2006
5. Forest Based Livelihood in Central Region

1. Land Right in relation to the declaration of forest

Strong traditions of community forest management existed all over this region as evident from the richness of the forest and availability of bio-diversity. The British were the first to see the commercial potential of these forests and promoted commercial exploitation through contractor system. In 1858 the Gond of Chattisgarh rose up against the British on their decision to allow contractors to fell Sal trees. Shifting cultivation was very common within the region to meet foodgrain requirements. Traditional shifting cultivation used 32 kinds of seeds to meet the entire nutritional needs including pulses, oilseeds, cereals, vegetables, roots and herbal products. Colonial policy encouraged settled agriculture by forcibly stopping

¹ Ajay Bhan Singh, Programme Director, Society for Promotion of Wastelands Development (SPWD), B-143, Alkapuri, Bhopal 462024 (MP) E-mail: ajaybhan@yahoo.com

shifting cultivation and initiated large-scale reservation of forests in 1905. Very large areas of forest were reserved to meet the timber requirements of the state. This involved complete displacement of some villages, either because they were involved in shifting cultivation or they were within the good forest regions demarcated by the state. In response to a major rebellion against reservation in 1910, the area to be reserved was reduced. In villages near the boundaries of the reserves, the state left additional land for future extension of cultivation. More lands were also left aside for 'Nistar'² purposes. These were forested lands from which villagers could collect forest products for non-commercial household use. At the same time, minor forest produce was redefined as state property and Nistar and grazing dues were imposed in 1898.

In 1949, all the nistari forests were also declared Government Protected Forests with the condition that the nistari rights of the people would not be affected. The better blocks were surveyed and demarcated as Protected Forests under Forest Department control during the 1960s while others were left unsurveyed and termed as 'orange' areas.

The regularization of the land for livelihood was a regular phenomenon, until the Forest Conservation Act (FCA) 1980. FCA made it compulsory to take prior approval from the Central Government. A very large population of the region was termed as 'encroachers' after the settlement. Although not all 'encroachers' are necessarily landless or poor, the issue of encroachments is closely intertwined with the question of basic land rights that are needed for survival of the resident communities.

The land right due to declaration of government owned forest is one of the major controversial decisions within this landmass as elsewhere in India. These anomalies further deepen with the declaration of reserve forest, national park and sanctuaries; here the agreed rights in the earlier acts were further deprived. The moment a notification declaring a piece of land as reserved forest is passed, no rights can be acquired in or over such land, except those agreed in writing by the government. Even agreed rights are left to the mercy of the forest official responsible for management of that forest and are in general being denied across the region.

The cases of forest villages is no different. At the time of demarcation of reserved forests, all villages that were surrounded by reserved forests were specified as forest villages. That meant such villages should have certain customary rights over the forest. In MP, over 1 lakh tribal families living in about 902 forest villages possess no rights to the lands they cultivate, as these are forest lands, according to government records (Forest Statistics 2004, MP). The forest department records of MP indicate 70141 encroachments occupying an area of 90560 ha till 1980. All efforts related to the attainment of rights for forest villages were indecisive until the forest right recognition act, as the department frequently refers to the Supreme Court ruling on such matters. The Madhya Pradesh Government had passed a law to give them security of tenure. However the Forest Conservation Act, 1980 prevented its ruling.

Several mass movements emerged within the region to take up the issues. Ekta Parishad, Bharat Jan Andolan, Chhattisgarh Mukti Morcha, Adivasi Mukti Sangthan, Kishan Adivasi Sangathan and Narmada Bachao Andolan are among a few of those in the forefront of leading such movements. Among them the movements led by Ekta Parishad and Bharat Jan Andolan cover a larger part of the region. Broadly the major focus of all these movements are:

- Creation and promotion of local leadership
- Ensuring the livelihoods rights of the forest dwellers and empowerment to fight exploitation
- Protecting forest from exploitation of state and industries
- Protecting tribal culture and its way of life
- Ensuring self rule of the tribal communities as envisaged in Panchayat Extension to Schedule Areas (PESA)

² Nistar refers to the necessities in carrying on of the business of living. Land set apart for exercising nistar right may be for timber or fuel reserve, pasture grass, bir or fodder reserve; burial ground and cremation ground, godhan or village site, encamping ground, threshing floor, market, skinning ground, manure pit, public purposes such as schools, playgrounds, parks, lanes, drains and any other purpose required for village habitation.

These movements are successful in creating a large local leadership base and have been successful in giving shape to major acts like PESA and Forest Right Recognition act. However, the ground implementation of any of these acts has not taken place as envisaged under the mandate of the act and constitutional provisions. For instance PESA was passed way back in 1996, the State government passed its act in 1997. Most of the provisions of PESA act are available only on paper, all the government programmes are being implemented through different committees formulated under that programme. The provisions of the act were systematically diluted so as to be redundant. The fate of the forest right act passed after a long struggle will be discussed in the latter part of this paper.

2. Access to Forest Produce

The major part of the livelihoods comes from non-timber forest produce. Saxena N.C. (2003) report that the policy environment relating to (Non Timber Forest Produces (NTFPs) in India is characterised by the underlying belief that forests are state property and thus all products growing in forests are owned by the state. The state's control even extends to designated forest products growing on private lands and non-forest common lands. Thus bamboo or Tendu leaves on private lands are subject to the same control as if growing on forest lands. Even mango kernel is a controlled item, although most mango trees grow on private lands. So is 'Mahua' flower, although 80% of 'Mahua' trees are on lands that are not under the control of Forest Department.

In central region Tendu leaves, Sal leaves, Mahua flower and seed, Amla, Harra, bahera and gum constitutes the major NTFP. Bamboo is considered a separate category. Out of the total revenue from all sources Tendu leaves contributes the maximum. The State Government had enacted an Act in 1964 to establish State control over tendu leaf trade. In 1989 the government adjusted its regulations and established a co-operative structure for the collection and trade of tendu leaves.

The State Minor Forest Produce (Trading & Development) Co-operative Federation Limited was formed to extend maximum benefit of tendu leaf trade to the forest dwellers involved in the collection and trade of tendu leaves. For this purpose, a three tier Co-operative structure was introduced with the State Minor Forest Produce Federation acting as the apex federation. At the primary level, the primary forest producers' cooperative societies are supported by the District Forest Produce Co-operative Unions. The State government had also come up with a scheme to insure the 'plucking community' without premium. The major challenge in Tendu Patta collection is its declining production. In MP itself the production has dropped from 61 lakh bags in 1990 to 18.25 lakh bags in 2008. There is a need to further probe this decline. Also, the plucking days has been reduced from 45 to 6-10 days. This has serious implications on livelihoods of tribal families and the number of pluckers have reduced from 21.31 lakh in 1989 to 10.62 lakh in 2006.

Tendu Patta constitutes one of the major revenue sources; its estimated trade value was around Rs 2,000-crore (in 1998-1999) in MP alone. It involves 37 per cent of the State's Scheduled Tribe/Scheduled Caste population, 35 of its 45 districts, a direct vote bank of 20 lakh tribal families. In every election in Madhya Pradesh, whether to the Lok Sabha or the Assembly, tendu patta has been a serious issue. It can decide the fate of parties in nine Lok Sabha and 75 Vidhan Sabha seats, where the tribals are in a majority. Major traders have affiliation with major political parties and make all efforts to mould them in their favor. In combination with Bidi rolling, the coverage is larger as these include urban/semi urban populations as well. The communities involved in Bidi rolling used to be traditional constituencies of some political parties.

This potential of Tendu Patta was first realized in late eighties and produce was nationalized and separated from NTFP keeping away the role of forest department in its collection and distribution. Tendu leaves collectors were organized and provisions were made to provide share certificate and bonus system. This system was alleged to be beneficial for leaders related to that party. Later, another political party withdrew these arrangements and the control was resumed by the forest department. In a way the Tendu Patta policy is part of the political manifesto of every political party. Even though the plucking rates have increased from Rs. 8.5 to 35 it has not been able to generate the daily wage rate prescribed by the government of MP.

This is partially due to increased pressure on the forest and partially due to poor rates provisioning. The major benefits of this trade are still going to the cooperators and Bidi manufacturers.

Bamboo is another produce that can contribute largely to livelihoods of the rural communities. The average annual production of Bamboo is estimated to be 1.09 lakh tons. However, it is mostly supplied to industries while the community involved in protection of forest face many hardships in getting assured supply. The new Nistar policy 17/10/96 provisions that all Bansod (artisan traditionally involved in making bamboo articles) living within 5 kms of the forest boundary will get 1500 pieces of bamboo at a subsidized rate. As per the forest statistics of 2004, a total of 24058 families are registered with the department. However, 70% of them do not qualify for the 5 kms criteria. A provision is made where the outside Bansod is also getting the Bamboo at a higher rate. (Rs. 2 and 3 for rural artisan and 4 for urban).

Other NTFP collected during 1998-99 are:

S.No.	Name of the NTFP			Quantity (in Qntls)
	Local	English	Botanical	
1	Achar-guthli	Chironji	<i>Buchanania lanzan</i>	466.00
2	Aonla	Indian Gooseberry	<i>Phyllanthus emblica</i>	5,692.00
3	Aonla(Dry)	Indian Goosebery	<i>Phyllanthus emblica</i>	15.00
4	Baheda	Bellirie Myrobalaon	<i>Terminalia bellerica</i>	264.00
5	Chirota Seed		<i>Cassia tora</i>	404.00
6	Honey	Honey		6.00
7	Imli	Tamarind	<i>Tamarindus indica</i>	150.00
8	Mahua flower		<i>Madhuca indica</i>	1,555.00
9	Mahua Gulli	Mahua	<i>Madhuca indica</i>	20.00
7	Mahul Patta	Mahul Patta	<i>Bauhinia vahlii</i>	2,675.00
10	Safed Musli	Safed Musli	<i>Chlorophytum tuberosum</i>	4.00
11	Nagarmotha Roots	Motha	<i>Cyperus rotundus</i>	51.00
12	Satawar	Wild Shatawar	<i>Asparagus racemosus</i>	28.60
13	Others			858.00
Total				12,188.60

Data from MP State Minor Forest Produce (Trading and Development) Cooperative Federation Limited.

In a way the forest of Central region is rich enough to provide the other forest produce that can effectively contribute to livelihood of tribal people.

3. Participatory Forest Management- JFM to FDA

The policy 1988 for the first time accepted, that forests in India are depleting and the forest management systems cannot sustain without participation of the local communities. This policy is centered on environmental concerns, preservation of forests for natural resources management with the involvement of local communities. The GoMP (undivided) passed a JFM resolution in 1991. The focus of the resolution was to facilitate community participation in forest management to prevent illicit felling in sensitive forest areas and to rehabilitate degraded forests. The department record indicates that around 35% forest area is under Joint Forest Management (JFM) within MP and 7820 committees are protecting around 32760 sqkm (55%) of forest in Chhattisgarh.

The major forest income provider's viz. Tendu Leaves, Gums, Harra, sal Seed and bamboo was dissociated from NTFP categories while these were major income sources for the forest dwelling communities. Even the other NTFP's were never able to provide the proper price, as the state monopoly in purchases hampered realization of market price. With the result these were sold to the un-authorized agents who on the pretext

that such exchanges were illegal, offered less price to the collectors. The efforts for collective purchases and cooperative models were limited to small scale and failed to provide any successful model within the state.

JFM of Harda division was considered one of the best participatory models of forest management. With the result large-scale replication was taken up through the World Bank grant. The inherent weaknesses within Harda model itself later showed up. The public hearing conducted by a group of civil society organizations reported a contrary view, where the participating communities faced all kind of oppression and exploitation. If this experience was the basis for the participatory policy of the region, then the situations in other areas can easily be imagined. The protected areas were also facilitated to involve communities forming Eco-development committees. The process involved supporting village development – say resources, cattle, veterinary inputs, Schools, health, water, roads, etc. through forests to elicit more effective community involvement.

The World Bank evaluation report quotes that there is large level of overlapping usufructry rights regime in forestland and JFM protected lands. Proper dissolution of these overlapping claims is a necessary step for successful forest management. The chances are high that the matter though settled may surface at any other stage and jeopardize the protection process.

There is a need to track the course of action within the protected areas under JFM. The forest management communities will now be more focused towards their private rights while the community rights that were agreed under the JFM legislation may be forgotten. Also, since PESA is now an operational act in terms of all decision making at the Gram Sabha level, the issues related to share within the protected patch would have to be seen in that light. Even after PESA and JFM major NTFPs are department controlled.

The major focus of forest department within this region has been diverted to promoting the Forest Development Agency (FDA) within JFM areas. FDA is another example where forest department controls entire process in the name of participation. This is mainly due to the fact that FDA is the vehicle to mobilize resources that are needed by the department. Within the transition from JFM to FDA, the participating village communities did not have any choice, but to accept.

4. Recognition of Forest Rights, Act 2006

The act recognizes the forest rights of the communities who have been residing in and are dependant on such forests for generations. This is to rectify a historical injustice where such rights have not been properly or inadequately defined. The act recognizes rights of the forest dwelling communities giving the responsibility and authority for sustainable use, conservation of biodiversity and maintaining ecological balance through conservation regime while ensuring livelihood and food security. This act also recognizes that these communities are integral to the eco-systems.

The act is being implemented in all States except in Jammu and Kashmir particularly Madhya Pradesh, Rajasthan, Gujarat, Chhattisgarh, Orissa, Maharashtra, Dadra and Nagar Haveli, Jharkhand, Tamil Nadu, Andhra Pradesh, West Bengal, Kerala, Karnataka, Himachal Pradesh, Uttarakhand and Goa.

The act provides for three kinds of Rights:

4.1 Forest Land Rights

The land that the tribal and other forest dwellers have been cultivating prior to December 13, 2005 is eligible for land right. Those who have a 'patta' or a government lease, but whose land has been illegally taken by the Forest Department or whose land is the subject of a dispute between Forest and Revenue Departments, can claim those lands. The rights will be conferred to family and man and women both will be the right holders. The maximum limit for land allotment is 4 ha per hh.

The land cannot be sold or transferred to anyone except by inheritance.

4.2 Use Rights

The law secondly provides for rights to use and/or collect the following:

- Minor forests produce like 'tendu patta', herbs, medicinal plants etc that has been traditionally collected. This does not include timber.
- Grazing grounds and water bodies
- Traditional areas of use by nomadic or pastorals communities i.e communities that move with their herds, as opposed to practicing settled agriculture.

4.3 Right to Protect and Conserve

For the first time, this law also gives the community the right to protect and manage the forest. It provides right and power to conserve community forest resources, while section 5 gives the community a general power to protect wildlife, forests, etc. This is vital for the thousands of village communities who are protecting their forests and wildlife against threats from forest mafias, industries and land grabbers, most of whom operate in connivance with the Forest Department.

4.4 Status of Implementation of FRA

Madhya Pradesh- Overview of Forest

In MP the Recorded Forest Area constitutes around 95,221 sq km which is around 30.9% of Geographical area of the State. While the Actual Forest Cover is around 77,265 sq km (24.79% of GA). Out of this around 12,374 sq km i.e. 13% of recorded Forest Area is disputed between the Forest Department & the Revenue Department. This indicates the status of land records maintenance within the State. In addition to this, in 1956 around 78 Lakh ha of village common lands have been declared as Protected Forests. Therefore the claims for right recognition will be very high both within the Schedule-V areas as well as in the non tribal area. A current state of forest within the state is compared with 2004.

Forest Cover Change Matrix of Madhya Pradesh

2005 Assessment (Data of Oct-Dec 2004)	2007 (Data of Oct-Dec 2006)					Total of 2005
	VDF	MDF	OF	Scrub	NF	
Very Dense Forest	6,647	0	0	0	1	6,648
Moderately Dense Forest	0	35,007	16	1	11	35,035
Open Forest	0	0	36,014	0	42	36,056
Scrub	0	0	1	6,389	1	6,391
Non-Forest	0	0	15	11	224,089	224,115
Total of 2007	6,647	35,007	36,046	6,401	224,144	308,245
Net Change	-1	-28	-10	10	29	

Source: SFR 2009

Around 1 sq. km of very dense forest, 28 sq. km of moderate dense forest and 10 sq. km of other forest have been lost during the period. The satellite image indicates that most of these losses (29 sq. km or 2900 ha) associated with the submergence of forest within the reservoir of dams. An area of 10 sq. km forest has also been converted into scrub during the period.

A. Status of Forest Right Act Implementation in Madhya Pradesh

The implementation of the forest right act began in the first week of February 2008 through a government notification that issued on January 1st 2008. By the end of February, most Forest Rights Committees (FRC) had been formed. Tribal Welfare Department is the nodal agency for implementation of this act. The masters' trainers were trained in September 2007. The SDLC members or block level officials were trained by master trainer in September 2007. The training was also focusing, so that no fresh encroachments be

made within their jurisdictions. By 15th January 2008, the schedule of various activities related to implementation of FRA implementations were taken up. A second round of training for masters' trainers was organized between 7-21st January 2008.

A Gram Sabha organized on January 26th 2008. Here the information of such act was given and almost all Forest Rights Committees were constituted. One can imagine the kind of processes that might have been followed in constitution of such committees. Also, it was accepted by the tribal ministry that ensuring 10% attendance is not possible within Panchayat meeting, while the FRA necessitated 2/3 attendance as quorum. It is very difficult to believe, then how entire 55000 FRC can be constituted organizing a Gram Sabha on single day. In Schedule V (PESA) areas the Committees have been formed at the revenue village level, while in other areas, the Committees were formed at the panchayat level. State's PR Act provisions hamlet level gram sabha in scheduled areas, and May 27, 2008 order on the forest right Act required that such gram sabhas should take place where people demand them (provided that very recent settlements cannot have their own gram sabhas).

The FRA act and its rules and regulations were printed in Hindi and English. Around 100,000 copies of were also printed into Gondi, Korku and Bhili language. These booklets were distributed within the villages.

The Sub Division Level Committee (SDLC) was constituted on 24th April. These committee members got second round of trainings in July 2008.

Unsurveyed villages are faced difficulties in being included in gram sabhas or in forming Forest Rights Committees of their own, especially in Burhanpur, Khandwa and Khargone, but this has been partially remedied after the May 27 orders. The government has also often ignored the requirement for one third women's representation on the Forest Rights Committees. There have been problems getting ST certificates, which have partially been resolved by orders to the SDM to issue the certificates in a time bound manner (people were earlier being directed to their sarpanches). In some unsurveyed and forest villages, people are being required to get signatures from local forest guards for being issued ST certificates, who are refusing and claiming that the residents are "encroachers."

Claims for community rights are being treated as low priority and there is little awareness on community rights among the government officials. Directions have also been issued requiring that the status of lands disputed between the Revenue and Forest Departments - particularly the "orange areas", which total more than 1.2 million hectares - should also be sorted out immediately. How this settlement can affect the implementation process needs to be studied.

Status of Forest Right Claims in Madhya Pradesh

Number of claims filed at Gram Sabha Level	4,08,602 - 4,00,351 Individual - 8251 Community
No. of claims recommended by Gram Sabha to SDLC	3,96,076
No. of claims recommended by SDLC and sending to DLC	3,89,269
No. of claims approved by DLC for Title	1,23,246
Number of Titles Distribute	98,621 distributed and 24,625 are ready for distribution.
No. of claims rejected	2,57,603

Source: www.forestrights.in Website, Ministry of Tribal Affairs, GoI as on 31/08/2010

The Forest Right Act 2006, and its rules and regulation suggest that DLC (District Level Committee) is the final authority that has power for approval and rejection. In case of any dispute, this would also be the final appellate authority.

The information furnished gives shocking evidence; it indicates that the rejection on DLC level is almost 70%.

However, the Tribal Welfare Department, Commissioner Tribal Welfare, the nodal agency for implementation of this associating such rejections with the following:

1. In the case of other forest dwellers the compulsion to prove that they are cultivating these lands since last 75 years (3 generations)
2. In the case of tribal the major cause associated with the claims for non-forest land. Since the act only deals with the claims of forest land they have been rejected.
3. More than one member of the family made claims for forest right.

The point number 1 may be true, but upto an extent as percent of other forest dwellers are not so high within MP. On point number 2, the records of the forest department itself indicates that around ownership of 12 lakh ha land in the name of orange areas is disputed between FD and RD. Also, it involves substantial amount from the common land categories. Do the FD is leaving its claims with the revenue department, so that these land could not be qualifies under FRA? There is also a need to understand the kind of family is considered as a unit, is it that was existed before two generations. It is noteworthy within each and every tribal community, as the son/daughter gets married, they have to separate themselves and prepare their own house.

The database also indicates that title of 3, 59, 502 acres land were given to 89,035 families. It means on average size of title was 1.59 ha or around 4 acres. With this average, a total of 1, 94,728 ha or 4,94,610 acres land is being considered for FRA allocation.

S. No	Date of Settlement	Number of Encroachment	Land Under Encroachment (ha)
1	Till 31-12-1976	41530	53342.58
2	Till 22-10-1980	70141	90560.77
	Total	1,11,671	1,43,903.35

Table above is taken from the Forest Statistics, 2004 of Government of MP, Forest Department Website (<http://mpforest.org/figures.html>). This points the entire storey behind FRA implementation in MP. The FD is trying its best to keep claim list till 1,11,671 i.e. encroachment till 22/10/1980. However, the act recognizes a cutoff date of 13/12/2005. This is another place where the provisions of an act are being violated by a government department.

S. No.	Purpose of Forest Land Diversion	Number of Cases	Land Diverted in ha
1	Irrigation	149	67442.06
2	Major Mineral	106	9793.13
3	Minor Minerals	48	701.53
4	MPEB/NTPC/DTPL	179	3268.10
5	Miscellaneous	79	40105.93
		561	1,21,310.77

The Forest Statistics of MP also provides the information w.r.t. diversion of land for other purposes. Since 1980 to 2004, 1,21,310 ha land had been diverted for various purposes. This indicates that, in spite of Forest Conservation Act, FD allows to divert 1, 21,310 ha land without any effort, while a small patch of land that meant for livelihood of poorest of poor and involves a million of population cannot be diverted in spite of mechanism like FRA. That too when the honorable Supreme Court itself accepted that the poor tribal were forced to leave their rights on their ancestral lands due to various notifications.

B. Some Observations from Field

It was observed during the visit to the different villages that the claims for community rights are negligible, though the individual rights have been made in substantial numbers. A lower percentage of community rights are associated with many factors like the forms not being made available, limited awareness of the

act etc. In the JFM protected areas these issues are more intense, as a very large size of area is under the protection and a sharing arrangement exists between the FD and protection committee. What arrangement will be the final one, that done under JFM or under FRA? Experiences from various places indicate that the forest Department is trying to pass of JFM as FRA and hence discouraging communities from applying under FRA.

A common observation across the villages visited was that each and every piece of land under cultivation was without the trees. This is a deliberate attempt, so that it can be separated from the forest at first sight. When asked about the bund plantation and plantation of other horticulture varieties it was informed that such a plantation is very important and every farmer would like to do, provided he/she has ensured right over the land. In the absence of the FRA, such practices indicate that farmers defacto resorted to trying to establish land rights as distinct from forest dwellers rights.

B.1 Status in Dhar District

Dhar is one of the tribal populated districts within the State having tribal population of around 53% as per 1991 census. A visit was taken up where TAAL an NGO is working with the rural communities. The forest area is 15% of the geographical area of the district. The villages visited are part of the Gandhwani block. Dhamakhedi and Sironj, two forest villages were visited by the team of TAAL and SPWD professionals. Bhila and Bhilala tribe inhabit these villages since centuries. It was surprising to know that nobody within the village is aware of the “Vanadhikar Kanoon” or Forest Right Act 2006. People know that they have given their name at the Gram Sabha sometime back where they learned to know that “those who have old cultivation within the forest land will get a *patta*”. Neither the cutoff date of cultivation nor area was known. Since all these process completed within a single gram sabha, everybody from the village was not present. It was also informed that the forest guard measured the land from a machine (Navigator- wheel based instrument) based on the list provided by their higher officials. Who has given this list tells the story of FRA implementation. This story is different in different locations. He also informed that whoevers names are on the list will be eligible for patta, others will have to wait for five years. He also informed that the pattas will be distributed within 2-3 months. Nobody knows about the Forest Right Committees.

It was noteworthy that out of all 90 families involved in cultivation only 42 are considered for survey while all 90 families made their claims within the Gram Sabha. During the discussion it was evident that the remaining families are cultivating that land for almost the same period. The village discussion also pointed that, only those persons would be getting the patta whose names are within the list of the forest department.



Photo 1-Dhamakhedi, A Bhilala Village in Dhar District, MP. The picture showing the nature of land under FRA.



Photo 2: Dhamakhedi Village: A tribal farmer with his land that has been surveyed by the FD. A boundary between cultivation and forest is shown. The steep slopes and lower soil depth indicates need for interventions.



Photo 3: Sironj Village in Dhar district- The land under FRA claim has been displayed

B.2 Burhanpur District

Burhanpur is a highly forested district of MP and covers around 49% of its geographical area under forest land. This is also one of the districts where 59 forest villages exist with 213 villages having forest land. Based on detailed discussions within the villages of Dahinala, Pura and Amba it is evident that the implementation of FRA is very poor in this district. The records till March 31st 2009 suggest that only 14 persons got the forest right certificate while the number of forest villages itself is 59 as per the records of the forest department. The forest villages were settled way back around 80 years back. These forest dwellers used to do the 'Begar' (wage labour without any payment). Initially they have been given rights on 10 acres of land and have been living on these lands for 3 generations but their rights are yet to be settled. In Pura village 8 families are still waiting for their rights certificate even though they have been settled by forest department during the same period. The stories of non forest villages are more complicated. In Amba village, 859 claims have been made while department is saying that only 20 claims are eligible.

Burhanpur is also one of the important districts where Joint Forest Management programme was taken up in larger areas. Most of the JFM committees are constituted by the forest department. Being a scheduled area and JFM dominance most of the JFM committees were also constituted as Forest Right Committees. Here the committee members are aware of the process of the right settlement and provisions of act in general. However, cutoff date and ceiling of claims are still not known within the villages visited. In one of the villages it was mentioned that only those rights will be cleared which are recognized under 'forest village scheme'. It was also mentioned that only 2.5 acres land per family will be recognized as rights. It was found that the processes of right settlement was going well till the level of sub-division level committee; however they are stuck at the district level committee stage. The DLC is the decision making body for this act. The processes of DLC are entirely dominated by the forest department. There is a need to understand what is happening better.



Photo 4: Dahinala Village of Burhanpur district in MP. Meeting with JFM committee members who form the FRC.

B.3 Jabalpur- Dindori District

This field area is covered by an NGO called SRIDA and its staff was present during the visit. Jabalpur and Dindori are other districts where a large number of FRA claims are to be settled. Dindori is a tribal populated district. In one of the forest village “Garh Gorakhpur” it was informed by the forest department that only those families will get the right certificate whose name is within the list of ‘village forest’ and the ceiling of such claims should be 2.5 ha. Communities informed that now their overall land cultivation increases many times as the 3rd or fourth generation is among the working population. The communities in general are protecting the forest to the tune of 100 ha however the restrictions posed due to protection have forced them to reduce their animal population. This village used to sell a huge amount of milk cake is now not producing enough milk for their children. Being a forest village the opportunities for employment is also limited as NREGA etc are not available due to forest act restrictions.

Another visited forest village Tuniya-Saliwada is no different. Here around 20 families were settled around 30 years back when the Bargi Dam (Rani Avanti Bai Bargi Irrigation Project) was built. The dam submerged their entire forest, commons and private lands. In the name of compensation only few thousands Rupees were provided by the government. With the result these families started cultivating degraded forest land in the upper reaches. As far as the duration of cultivation goes, it is not less than 30 years but still their claims are not being considered as fair by the forest department. The forest department is pressuring them to leave their land as they were monetarily compensated by the department at the time of displacement.



Photo 5: Garh Gorakhpur village in Jabalpur district. The land that has been claimed under FRA.

B.4 Seoni District

Vikas Samvad, a publication of Media for Rights gives the picture of implementation of FRA in Seoni district. In Nanhi Kanhar village of Amagarh Panchyat it was mentioned by the FD that the claim should be restricted to 2.5 acres and to those persons only whose name is within the list of FD as encroachment prior to 1980. In this way additional 11 families were prevented even to make their claims. It was also mentioned that a large number of encroachments are not noted by the department officials in order to keep their jobs intact, while the people were forced to pay the money at regular intervals.

C. Status of Forest Right Act Implementation in Chhattisgarh

The forests of Chhattisgarh fall under two major types- Tropical Moist Deciduous and Tropical Dry Deciduous forest. The state of Chhattisgarh is endowed with about 22 varied forest sub-types with Sal forest accounts for 40.56%, teak 9.42% while remaining 50% comes under mix forest. A total of 59772.38 square km forest exists that has been further classified as Reserve Forest (25782.17 s. km) Protected forest (24036.10 s. km) and Unclass forest (9954.12 s. km).

The State of Forest Report (2009) for Chhattisgarh indicates that between 2004 and 2007, the state lost 4 sq. km Very Dense Forest, 108 sq. kms. Moderately Dense Forest. This loss added 53 sq. kms into Other Forest category and 6 sq. kms added into Scrub forest category. In this way a net 53 sq. kms, forest land is lost that cannot be brought under crop. Most of this loss is associated with the mining industries.

Forest Cover Change Matrix of Chhattisgarh

2005 Assessment (Data of Oct-Dec 2004)	2007 (Data of Oct-Dec 2006)					Total of 2005
	VDF	MDF	OF	Scrub	NF	
Very Dense Forest	4,162	3	1	0	0	4,166
Moderately Dense Forest	0	34,990	133	0	23	35,146
Open Forest	0	45	16,494	1	77	16,617
Scrub	0	0	2	98	1	101
Non-Forest	0	0	40	8	79,113	79,161
Total of 2007	4,162	35,038	16,670	107	79,214	135,191
Net Change	-4	-108	53	6	53	

Source: SFR 2009

Status of Forest Right Act Implementation in Chhattisgarh

In Chhattisgarh the forest rights committees were formed in February/March 2008 after the Gram Sabha meeting of February 25th 2008. These meetings were called up by Panchayat secretary. The communities were not aware of anything w.r.t. implementation of such act. Except few areas, where the committees were constituted on hamlet level, entire FRC were constituted on village level. The Panchayat secretary was made the secretary of FRC. The Panchayat secretary is to be the secretary of every FRC despite the rules providing that a villager is to be elected secretary. Since, Forest and its department is present in most of the villages the entire committee formation process was influenced by forest department. In many areas existing JFM committees were converted to Forest Rights Committees. In many villages the JFM committee is in serious conflicts with the Gram Sabha, as this is somewhat extended hand of the forest department. The FRC's were never given any information on their roles and responsibilities. The sub-divisional level committee is almost non-existent within the state. Despite the Tribal Department being the nodal agency, FRA implementation have been largely controlled by the Forest Department. Initially, only those living on forest land were considered eligible, and forms were only provided for those recorded under previous Forest Department surveys as living on forest land (only numbered official forms were being accepted for claims). After June 2008, this was changed, but the FD continued to dominate the process at the local levels. The gram sabhas were also expected to pass resolutions on relocation packages from critical wildlife habitats of sanctuaries and national parks even before these had been identified. Claimants are asked to deposit their claims in the Panchayat office instead of to the FRC.

It was observed that, initially only the individual claim format were distributed and accepted. However, in places where members of mass movements were present and they were following the process, the community rights forms were also distributed. The community rights certificates are still awaited in entire state. There are reports that FRCs had been made to sign on statements that they were not interested in claiming community forest rights without being aware of the law's provisions. Although claims for community forest rights are to be prepared by the Forest Rights Committees, the order asks the panchayat secretary to seek the assistance of forest and revenue officials, effectively making it a process controlled and managed by government officials instead of the gram sabha.

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Status of Claims

Number of claims filed at Gram Sabha Level	4,91,374 (4,87,332 individual and 4042 community)
No. of claims recommended by Gram Sabha to SDLC	-
No. of claims recommended by SDLC and sending to DLC	-
No. of claims approved by DLC for Title	Not given
Number of Titles Distribute	2,14,918 (2,14,668 individual and 250 community)
No. of claims rejected	2,71,469

Source: www.forestrights.in Website, Ministry of Tribal Affairs, GoI 100% implementation achieved on 31/12/2009

One can see a total of 4,91,374 claims were made. All these claims falls under individual category except 4042 that made for community forest rights. The tables make it very that each and every process listed within the FRA rules and regulations were violated. Probably no claims were sent to SDLC by the Gram Sabha, rather these claims were directly handed over to DLC. DLC handed over them to FD for verification. Based on the surveyed list of 1994, forest department accepted 2,14,918 claims. There were an office order issued by FD, that were mentioning to consider claims prior to 1980. This order was withdrawn due to pressure of activist groups, further the final order were administered based on verbal orders. Around 56% claims were rejected in Chhattisgarh. However, it is not clear at what stage these claims were rejected. Are these rejected by village level? Or at SDLC level?

Rejection of forest rights claims on such a large level is an irony in itself. On the other hand, database of Ministry of Environment and Forest accepts that around 11.33 lacs ha lands were diverted between 1980 to 2004 for various other purposes. It is more difficult to understand that an act that been made to do justice to the 20% of population be implemented in such a casual manner.

Some Observations during the Field Visits of Chhattisgarh

C.1 Bilaspur District

Chhitij Samaj Sevi Sanstha(CSSS), Bilaspur-one of the network members of Ekta Prishad was visited. CSSS work is centered near Ratanpur-Kota blocks of Bilaspur district. 45 villages and 20 habitations of this region made 2400 claims for forest rights out of that only 551 were considered for regularization. These 551 are linked with the claims that are recognized by the department prior to 1980 .

Belgahana range (Marvahi Mandal in Pendra Road) was visited. Baheramuda village inhabitants are from Baiga (PTG) population. In Baheramuda village, the JFM committee is creating major obstacle in the implementation of Forest Right Act. The JFM committee was formed by Forest Department involving those, who are influential and involved in deforestation activities. Majority of the village community members are facing cases of tree felling registered by the JFM committees. Entire land that is being cultivated is termed as new encroachment. The CSSS challenged these decisions and asked for soil testing, so that it can be identify the age of cultivation. However, the rift created within the village by the forest officials is taking a heavy toll on the people. Majority of the villagers have to attend the court of and on and pay the fine imposed by such cases.

FRA implementation is forest department dominated while; it should be free from their influence. Some mechanism to hold the control within the village is provided below. The discussions within the villages revealed following 5 Steps of Exploitation by the Forest Officials:

Step 1: The Forest officials himself asks local people to identify forest land and make it clear from tree, bushes and grass. Once the land is prepared, it is brought under the agriculture. In exchange one have to pay cash to the concerned officials that is generally saved out of wage earnings from migration. Once the land is prepared and investment is made, a regular illegal outflow of money starts. The forest officials never record this land under cultivation during their annual report submission.

Step 2: Now an investment has already been made, one has to save his/her land. At this point of time, forest officials threatened to lodge a POR (Preliminary Offence Report). Generally this is only a threat, and done only whenever the pressure from upper level is high or person is not ready to pay in cash or kind, as the foresters has to show that there area is encroachment free. A copy of receipt was given only to those who are considered eligible candidates for regularization of land rights. Every year the person involved in agriculture on forest land has to pay some fee, be with POR or with threat of a POR.

Step 3: Cattle prevention trench (CPT) is constructed for saving the newly made plantation from cattle. But within the forest villages CPT is a big threat. Once its construction started, it can lead in any direction and can cover anything be it revenue land, home, or anything. People are left to the mercy of the forest officials who decide the fate of the land within that village/forest be it one who owns legal land or otherwise. The forest department threatens village communities that the land under his possession needs to be covered through CPT, if he/she would like to avoid it, he needs to give money. Avoidance of CPT from residence, agriculture land or cattle yard can ensure cash or kind benefits.

Step 4: The land under possession is considered for plantation. Every year one has to give his dues otherwise the plantation would cover one's land. Though plantation is a regular activity within the forest, but simple threats of pit digging within ones land ensures hefty monetary returns. Once the money is deposited, the laborer can go and dig the pit for plants in actual places.

Step 5: Tree Felling Offence- this is one of the commonest offences that is being used for money making taking advantage of the fact that the everyone has to meet their meager needs from the forest namely fuelwood, domestic and timber demands. Even taking small branches that are used for fence making, brushing the teeth or for guiding ones animal can attract this offence.

It was also informed that a very systemic approach is being followed while organizing labour works within a village where it can attract some opposition. In such a situation the labour from other villages are being called. These labourers not only do the labour work, but also provide extended security to the field

officials. Entire operation is planned and implemented in a manner, so that a majority of the labourers (other village people) is created. This helps to suppress any opposition within that village.

In remote villages the lives of village communities are so much dependent, often one cannot think of coming into conflicting position. However, when the situation goes out of control their results are sour.

In Daiharipara (Sodha) village of Upka Panchayat only 18 families got the certificate, claims of other six families were rejected. It was informed that these 6 families cannot provide the documentary evidences? One wonders when 18 families of same clan can provide the documentary evidence, how the rest of the families cannot provide the documentary evidence. The 18 families got only less than an acre each while their claims was around 10 acre in majority of the cases. In two cases the plantation were made even on standing crops that was under the claims. It was also informed that the villagers of Daiharipara works as agricultural labourer in the nearby villages where holders are big in size and higher socio-economically. These big land lords influence the process of the rights settlement, so that these families will be available for labour in future also.

Rigwar village in Kota block of Bilaspur district were visited. Here the claims were restricted to 5 acres only. While some of the families received rights for 5 acres other received it 0.5 acres. Entire process was not considering the provisions of FRA. Irrespective of the provisions the rights were settled inadequately. The other forest dwellers (SC and others) are more sufferers as the proof of residence from 3 generations or 75 years is difficult to arrange.

Umaria (Dadar) village of Kota block falls on border of Bilaspur and Korba district. The land under cultivation is disputed between administrations of these two districts, with the result entire process of right recognition is pending. Entire village (24 families) is waiting for their rights to be recognised. These families belong to Kanwar tribe, who are economically backward compare to their counterparts like Gond.

The land belongs to majority of the villages are rainfed. There is a need for bunding, selected leveling and irrigation to bring it under higher production. The crop failure is very common especially due to dry spell or un-timely rain. At present paddy, Kodo and Kutki are being grown on land without any irrigation while the low lying land or land with small irrigation facilities can grow gram or wheat.

C.1.1 Some Salient Observations from Bilaspur Region

- There is a law that restricts land transfer from ST to other caste, but this has been bypassed. The bypassing mechanism involves using only name leaving blank the caste column.
- There are castes whose pronunciations or text matched with the tribals of Chhattisgarh. These matching castes can easily purchase land from tribal community and there are reports that these castes are also making claims under FRA and their claims are being recognized too.
- It is surprising to note that everywhere along the roadside (up to 1 km inside) one can find private land holdings in the name of rich and powerful. It is difficult to understand how and when were these land gets transferred from forest to the name of these persons (there is FRA now and last settlement were in 1980). There is a need to study this process using satellite imagery data. Entire land is barbed wire fenced, restricting the entry of poor farmers.
- There is a strong nexus between government officials, rich, powerful and political leaders. These sections can interpret at any policy for their favour. These sections operate in a very organized manner where roles and responsibility of each and every actor is clear.
- The educated and rich tribal too are not behind in exploitation of other tribal.
- Another surprising factor is cost of the land, it is whopping 3- 8 lacs per acre, surprisingly majority of such lands are under single crop agriculture (paddy) that cannot ensure the returns to the level of initial investment, still the cost of the land is escalating and buyers are available for such land.
- One can find a pair of bullock with every family and couple of cows, goats and chickens. The milk production is not significant.
- The education level, enrollment in school and service within organised sector is very low.

C.2 Durg-Rajnandgaon

Lokshakti Samajsevi Sanstha (LSS) is working in Durg, Rajanadgaon and Kanker districts. LSS is member of Bharat Jan Andolan and active on right based issues as well as in implementation of the development programmes. The other issues and status of implementation of FRA is almost same as Bilaspur district. The other significant observation shared by this organization pertains to the databases that are being used in implementation of FRA in Chhattisgarh. In 2004, then NDA government brought in a tribal policy that involved forest right settlement too. The government was hurriedly tried to implement then tribal policy considering the election. As part of election preparedness a fast track survey of pending forest right holders were undertaken and a district wise list was prepared by the CG forest department. This list is being considered as part of basic list within this state. In a way the current cut-off date, provisions of FRA 2006 and rules and regulation are being ignored within the state. Each and every aspects of FRA implementation is being controlled by the FD officials and Tribal Welfare Department has no role to play within CG.

C.3 Kanker (North Bastar)

Parivartan Sanstha, Kanker is one of the old organization raising the issues of exploitation since last 30 years. In Kanker, the forest land right are being considered for settlement based on the list that prepared in 1994. It is believed that this list was prepared by the forest department showing the cultivars of period 1980-1994. Any claim after 1994 is considered as new encroachment and rejected. Here too the entire process of FRA implementation is being controlled by the forest department. Entire processes including the formation of forest right committee, filing the claims, scrutiny of the claims were fully guided by FD. Since the last Lok Sabha Election was due in next within 3-4 months of the initiation of the FRA claim, the every political party were in forefront in saying that they would implement the FRA appropriately. However after the election results entire process is being controlled by the forest department.

Parivartan had to organize a rally to arrange the claim format, some of the families especially who are not part of any civil society organization are still waiting for claim form. The Panchayat secretary was made FRC secretary, since PS is already busy in many activities it delayed the claim process. Also, there is no mechanism is in place where one can know what happen to its claim. The condition is like- either one would get a right certificate or didn't get anything. Suppose one got the certificate there is no mechanism that can guide a person to remove any error on his certificate. The community right formats were not distributed in any Panchayat. That's why community level claims were not made. The other forest dwellers are in real fix, as it is difficult to arrange the proof of 75 years of control on the claimed land. In some of the Panchayats the filled formats are still lying, as they don't know what to do with the format.

In Chana Bhari village where Pardhi (a migrant tribe) made claims, these were rejected considering the fact that these are non resident of this area. In villages like Dokranala and Ghotiya, where Ekta Parishad has active presence, the claim of each and every person was considered. However in these villages the community right was not provided in spite of submission of the claims.

5 Forest Based Livelihood in Central Region

The forest based livelihood in Central region or within India is still under the regime of in-appropriate implementation of policies. The efforts is somewhat not moving in a direction where it can address the livelihood issues of poor tribal population and address that injustice that was accepted by the State within the Supreme Court of India. It is noteworthy that FRA 2006, is going in the same direction of PESA. The Panchayat Extension to Schedule Area (PESA) act that was essential constituents of the constitution of India with few exceptions, was never operationalised anywhere. The Gram Sabha that was described within PESA were never be given the power that are vested with them with the decision making power related to natural resources of an area. The traditional Panchayat based or revenue village based Gram Sabha were recognized and given the inadequate powers these too are dependent on government officials.

Following are the major highlight of implementation of FRA in Central region:

- The act has not been implemented in the spirit it was passed. Either there was hurry for an election or there was no action due to model code of conduct within these states during the implementation of the act. Entire FRA in MP (55000) constituted within a single Gram Sabha seems to be a tall claim by Tribal Welfare Department. It also reflects the process of formation of such committees, as either executive committee of JFM was made members of FRC or it was made out of exiting executive committee of Panchayats.
- There is no mechanism set up within these states that can inform the status of claim to the claimant. Also, there is no mechanism in place where one can know the why he/she received so little land.
- The entire region has around 1 million tribal families living within remotest part of the region and away from traditional communication systems with among the lowest literacy rates. For such population the government of both the states considered only one or two gram sabha meetings to be sufficient to spread the awareness about such an important act. This also in the context of poor attendance at the Gram Sabha meetings.
- The awareness regarding the act was very poor at all levels of its implementation, be it village, block or district. In CG, the activities of sub division level committee cannot be seen even on paper.
- In CG, the Tribal Welfare Department does not seem to be aware of FRA.
- The claim formats were always in short supply, particularly the format for community level claims. There seems to be a deliberate attempt to avoid distribution of community level formats and wherever they were distributed and claims made, decisions are still pending.
- Entire process of the implementation has been forest department centric while this was deliberately avoided within the act by making MoTA (TWD) its nodal agency. However on ground entire process was managed by FD in both the states.
- In Madhya Pradesh, the FD apparently settled only those claims that were on their list pre-1980 this is also apparent from the MoTA website.
- In Chhattisgarh a list of 2004 that was prepared by the FD as part of the survey of encroachment were made the basis of claim settlement.
- In MP, DLCs recommendations have not been accepted in violation of the FRA.
- In CG, the SDLC and DLC seem to have no roles, as entire decision was made by FD in terms of accepting the claims.
- In both the states the amount of land recognized under FRA is not disclosed.