



जनजातीय कार्य मंत्रालय
MINISTRY OF TRIBAL AFFAIRS
GOVERNMENT OF INDIA

75
Azadi Ka
Amrit Mahotsav



SCSRTI
ST & SC DEVELOPMENT
MINORITIES & BACKWARD CLASSES
WELFARE DEPARTMENT

National Consultation on
Potential of Forest Rights Act
in the context of Tribal Development:
Implementation Gaps and Way Forward

7th – 8th July, 2022

PROCEEDINGS







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Jointly organised by

SCSTRTI (TRI Odisha)

**ST & SC Development Department, Govt. of Odisha
& United Nations Development Programme (UNDP)**

With support from

Ministry of Tribal Affairs, Govt. of India





Background

Forest Rights Act, 2006 (FRA) is a landmark legislation to address the historical injustice done to the forest dwelling communities and an attempt to recognise and record their existing rights on the forest land. The legislative intent of the Act, is “to recognize 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” and thus to undo a serious historical injustice.

The Act also has immense potential to democratise the forest governance and provide livelihood security by recognising Community rights and Community Forest Resource Rights (CFR) in particular. Further, the Act has the ability to conserve forests and biodiversity, improve local livelihoods and help meet India’s international commitments to sustainable development and climate change mitigation.

Towards this, the two days National Consultation on ‘Potential of Forest Rights Act in the context of Tribal Development: Implementation Gaps and Way Forward’ was organised by SCSTRTI (TRI Odisha), ST & SC Development Department, Govt. of Odisha with support from

Ministry of Tribal Affairs, Govt. of India and in partnership with United Nations Development Programme (UNDP) on 7th - 8th July 2022 at SCSTRTI Campus, Bhubaneswar, Odisha

The key objectives of the consultation were to understand the challenges and bottlenecks impeding the development of tribal communities and finding ways to strengthen the existing policy and programme to empower the tribal people of the country.

The two days national consultation had 5 technical sessions and had dialogue and deliberations on the different aspects and dimensions of FRA, significance and implementation challenges, key initiatives of different States, good practices adopted by States and suggestive roadmap for effective implementation of the Act.

The consultation had participation of Govt. officials, TRIs, CoEs, academicians, policy makers, practitioners as well as civil society organisations from 10 states (Jammu & Kashmir, Himachal Pradesh, Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Telangana, Andhra Pradesh, Tamil Nadu, Odisha) who made their valuable presentations and shared their expert opinion. More than 200 experts, practitioners, implementing officials across the country participated in the consultation either in person or through virtual mode.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in short, Forest Rights Act, 2006 (FRA) is a landmark legislation to address the historical injustice done to the forest dwelling communities and an attempt to recognise and record their existing rights on the forest land. The legislative intent which underlies the FRA, is stated clearly in its Preamble, “to recognize 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” and thus to undo a serious historical injustice. Forest Rights Act, 2006 provides such a framework by mandating first that all rights must be recognised and secondly Gram Sabha will play a significant decision-making role. The consent requirement is both needed in law and also ensures that consultation is genuine. This ensures protection of rights and reduces chances of conflict.

The Act also has immense potential to democratise the forest governance and provide livelihood security by recognising Community rights and Community Forest Resource Rights (CFR) in particular. Further, the Act has the ability to conserve forests and biodiversity, improve local livelihoods and help meet India’s international commitments to sustainable development and climate change mitigation. The Act, if implemented in its spirit will go a long way in ensuring livelihood security and poverty alleviation through sustainable and community-based management of forests contributing to Sustainable development goals. IPCC has also acknowledged that tenurial security over community resources and land can play a significant role towards achieving climate justice.

Rationale of the National Consultation

The Government of India has accorded high priority to the implementation of the Forest Rights Act, 2006 and have issued several guidelines, clarifications and letters to the States to strengthen the implementation of the law. Despite a progressive law, its implementation has been weak for various reasons from lack of knowledge and capacity of communities and line department officials to lack of political will. While community rights and CFR rights are being recognized in many States, it is observed that the frontline functionaries and the institutional bodies such as SDLC and DLC often lack information and capacity to interpret the provisions and implementation, specifically with respect to recognition of community rights and the post rights recognition issues. The recognized CFR area is less than 10% of the potential area. While there is an increase in recognition of CFR rights, the implementation is uneven across the States and also within the different regions of the States.

The perpetuation of socio-economic backwardness among the Scheduled Tribes, despite the efforts made so far by the Government of India for their protection and upliftment makes it necessary to - critically examine the existing strategies for tribal development, assess the extent to which these strategies successfully address the needs of Scheduled Tribes, identify gaps and make recommendations on how to address these gaps to bring them on par with rest of the population.

Towards this, the two days National Consultation on ‘Potential of Forest Rights Act in the context of Tribal Development: Implementation Gaps and Way Forward’ was organised by SCSTRTI (TRI Odisha), ST

& SC Development Department, Govt. of Odisha with support from Ministry of Tribal Affairs, Govt. of India and in partnership with United Nations Development Programme (UNDP) on 7th - 8th July 2022 at SCSTRTI Campus, Bhubaneswar, Odisha.

This consultation is part of the series of consultations to understand the challenges and bottlenecks impeding the development of tribal communities and finding ways to strengthen the existing policy and programme to empower the tribal people of the country.

Key Objectives

The key objectives of the consultation were to understand the challenges and bottlenecks impeding the development of tribal communities and finding ways to strengthen the existing policy and programme to empower the tribal people of the country.

The two days national consultation had discussions and discourse on the following themes:

- ▶ Status of implementation of Forest Rights Act (IFR, community rights, community forest resource rights and habitat rights of PVTGs) in different states
- ▶ Good Practices and proactive initiatives taken by different states for effective implementation of FRA
- ▶ Key issues and gaps in the process of implementation of FRA
- ▶ Ways and means as well as strategies to be taken for strengthening the process of implementation and for resolving the implementation issues

Technical Sessions

The two days national consultation had 5 technical sessions and had dialogue and deliberations on the different aspects and dimensions of FRA, significance and implementation challenges, key initiatives of different States, good practices adopted by States and suggestive roadmap for effective implementation of the Act.

The five technical Sessions were:

- ▶ **Technical Session 1:** Setting the context of Tribal development in India
- ▶ **Technical Session 2:** Status of FRA implementation, Key Initiatives undertaken, Issues and Challenges & Way Forward
- ▶ **Technical Session 3:** Securing Community Rights to strengthen forest governance and ensuring ecological security
- ▶ **Technical Session 4:** Potential of FRA in improving the livelihood of forest dependent communities
- ▶ **Technical Session 5:** Potential of FRA in empowering vulnerable Groups PVTG and Nomadic communities

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ST & SC Development Department, Govt. of Odisha
National Tribal Areas Development Program (UNDP)

With Support From
Ministry of Tribal Affairs, Govt. of India

7th - 8th July 2022 | Venue: Conference Hall, SCSTRTI, Odisha



Day 1: 7th July 2022 Inaugural Session

The Inaugural session of the national consultation was graced by Dr. Muni Raju, Deputy Adviser, NITI AYOJ, Govt. of India, Madam Ranjana Chopra, Principal Secretary ST & SC Development, Govt. of Odisha, Shri Manoj Bapna, Director (FRA Division), Ministry of Tribal Affairs, Govt. of India, Dr. N. C Saxena, Former Member, Planning Commission, Shri Dennis Curry, Deputy Resident Representative, UNDP, India.

Prof. (Dr) A.B Ota, Advisor cum Director & Special Secretary, SCSTRTI welcomed the delegates and participants from across the



country and shared that the consultation aims to initiate a dialogue on the different aspects and dimensions of FRA, significance and implementation challenges and come up with recommendations for strengthening the process of implementation and for resolving the implementation issues.

Madam Ranjana Chopra, Principal Secretary, ST & SC Development Department, Govt. of Odisha, highlighted that the entitlement over land and forest resources is fundamental to tribal development and Forest Rights Act provides the framework for recognition of the rights of the tribal and well as forest dependent communities over forestland on which they have been residing and depending upon for generations. While she highlighted that tenurial security and entitlements over land is important for addressing livelihood and food security, she cautioned that land entitlement cannot be looked at in isolation for addressing poverty and livelihood

security. Along with recognition of rights over forestland, demarcation of the land and correction of record of rights is equally important so that the title holder can be covered under various land development interventions as well as other development, livelihood and social security programmes of the government.

She presented that Odisha is one of the leading States in the implementation of Forest Rights Act. More than 4.57 lakh Individual Forest Rights claims have been approved in Odisha. Around 3.51 lakh title holders have been covered under various government programs and schemes which in itself shows the commitment of Odisha in overall tribal development and as a successful case of convergence. The State government has set a target to convert 487 forest villages into revenue villages within a stipulated time frame.



has developed various resource materials including e-resources on FRA which has been communicated to all the States for smooth implementation of the Act. He highlighted that as part of the Azadi ki Amrit Mahotsav, a series of training sessions of Govt officials and PRI members have been undertaken by the Ministry of Tribal Affairs. He said that Government of India has accorded high priority to the implementation of the Forest Rights Act, and accordingly the Ministry of Tribal Affairs have issued several guidelines, clarifications and letters to the States to strengthen the implementation of the law. One of the major monitoring mechanisms established by the Ministry has been the submission of monthly progress report (MPR) on FRA by each state which is then compiled and uploaded on the Ministry's website for public access. He shared that the Honourable Minister, Tribal Affairs monitors the data and advises on gaps emerging from it as well. He shared that the landmark Amendment of Forest Rights Rules was notified in September 2012 but it is unfortunate that its salient features such as the Gram Sabha's capacity to issue Transit Pass for sale of MFPs has not been converted into action at ground level by many states.

“ Ms. Ranjana Chopra, Principal Secretary said that Odisha is all set to launch Mission Forest Rights Act - 2024, where the State is committed to saturate FRA by giving all the tribal populations and other traditional forest dwellers their rightful due as per the intent of Forest Rights Act. ”

Shri Manoj Bapna, Director, Ministry of Tribal Affairs, Govt. of India highlighted the status of implementation across different States and indicated that Ministry of Tribal Affairs in partnership with UNDP



“ He also indicated that as part of the vision 2030, it is envisaged that the Ministry and States will work together to recognise all the eligible claims of forest dwelling scheduled tribes and OTFDs. ”

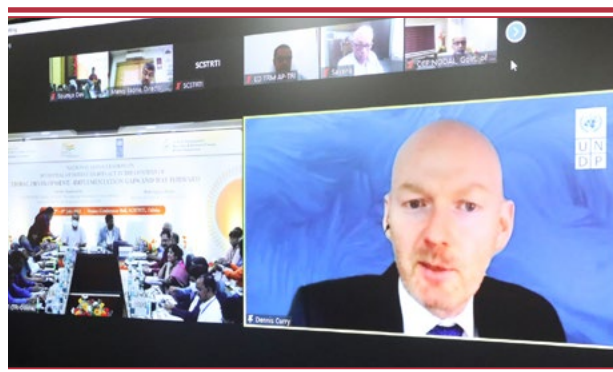
He highlighted that to address one of the biggest challenges of coordination at ground level- between Forest Department and Tribal Department, a joint letter has been issued by both the Union Ministers (Forest Department and Tribal Department) regarding coordination between both departments at the field level for smooth implementation of the Act.

Dr. Muni Raju, Deputy Adviser, NITI AYOJ highlighted that due to tenurial insecurity, over the years there has been large scale displacement and dispossession of tribal communities due to various developmental projects. He quoted figures from studies conducted by famous researchers like Walter Fernandes and further reiterated that of those displaced only 20% get rehabilitated while others are given some sort of piecemeal arrangement or sometimes nothing at all. He stressed that this can be corrected by securing land rights and the states should take more responsibility to make certain that tribal populations are rehabilitated as per law. Further, he stressed that FRA if implemented in the right spirit has the potential to improve the tribal development indices lifting them out of poverty and deprivation. He stressed the need to conduct empirical studies to assess the impact of the rights recognition process on the livelihoods of FRA right holders especially in States where substantial land



has been recognized under FRA. He shared that it is important that the positive changes Forest Rights recognition and entitlements have brought in the lives of the tribal and forest dwelling communities needs to be documented and widely shared.

Shri Denny Curry, Deputy Resident Representative, UNDP India highlighted the importance of the Community Forest Rights Act in mitigation and climate change adaptation of vulnerable communities. He referred to a number of international reports such as those of OECD and IPCC to reinforce this importance. **FRA should be seen as a global model for reconciling conservation and livelihood and the Sustainable Development Goals.**



He was happy to share with everyone present that UNDP has been able to partner with a number of states to scale up FRA implementation. He felt that in this Consultation, special focus should be given on how more robust and efficient institutions can be built to deliver on the potential on FRA; and that FRA implementation should now be taken up in a mission mode.

The Keynote address was delivered by Dr. N.C Saxena, Former Member, Planning Commission. He delivered on the Significance of Forest Rights Act in the context of tribal development. He shared that the Act, if implemented in its spirit will go a long way in ensuring livelihood security and poverty alleviation thereby contributing

to Sustainable Development Goals. He highlighted that implementation of the Act is still weak as even after more than 15 years only approximately 6% of the forests have come under FRA.

“ He Suggested a shift from implementation mode to advocacy mode for expeditious implementation of the Act. ”

MFP issues continue to remain the same even after enactment of FRA which gives ownership rights, rights to access and disposal of the MFPs to the Gram Sabhas. In spite of the provisions, Kendu leaf still continues to be a nationalized product and controlled by the State Governments. The importance of strengthening the Minor Forest Produce (MFP) system was discussed with reference to issuance of Transit Permit, which in most cases of the country, still is in the hands of the Forest Department. He suggested that the sale of MFP should not be monopolized rather Government should put in place both systems – Minimum Support Price for Minor Forest Produces



should be fixed by the Government as well as communities should be allowed to sale the MFPs to the private entities.

Shri Saxena suggested that a system similar to the agricultural produce Minimum Support Price (MSP) and *mandi* system should be adopted for the forest produce as well.

The production of different Minor Forest Produce through silviculture practices which will improve both biodiversity and livelihood, should be paid attention to. The need to produce more empirical studies into the gaps of implementation of FRA, as well as into the tribal situation in high-performance states' (Gujarat and Chhattisgarh) was stressed by Saxena.

“ He suggested that the sale of MFP should not be monopolized rather Government should put in place both systems – Minimum Support Price for Minor Forest Produces should be fixed by the Government as well as communities should be allowed to sale the MFPs to the private entities. ”



Vote of Thanks was delivered by Guha Poonam Tapas Kumar, Director, ST, SC & ST Development Department, Government of Odisha



Technical Session 1

Setting the Context of Tribal Development in India Chair: Dr Muni Raju, Deputy Advisor, Niti Ayog

The First Technical Session focussed on setting the context of tribal development in India with focus on tribal land rights and the legal and constitutional frameworks within which these exist and intersect with each other. The session also brought in a global perspective on securing livelihood and ecological security through recognition of rights and tenurial security of indigenous communities.

Presentation by the Panelists and Key Discussion Points

Dr S. B Roy, Founder Chairman IBRAD, presented on the issues and challenges as well as the way ahead with regards to Tenurial Security and Tribal development in India. He stressed on the need to measure how tenurial security is leading to tribal development. This measurement must be such that it is scientific and universally understood and accepted by all.

The following key points were raised by Dr Roy during his presentation:

- ▶ India is lagging behind in the Human Development Index (HDI) and tribals are lagging behind even more in these global standards. Forest Rights Act undoubtedly has the potential to transform the lives of the tribals and improve their HDI, but recognition of rights alone cannot lead to tribal development. To achieve the parameters of Sustainable Development Goals convergence of all sectors is important and all sectors need to work in tandem to achieve the common goal.
- ▶ There is a need to redefine the concept of 'sustainable use' as it differs from the perspective of the 'users', 'conservators', ecologists, policy makers etc. The criteria for sustainable use need to be framed wherein the foresters, policy

makers, Gram Sabhas have the common understanding and collectively work towards conservation and sustainable use of resources.

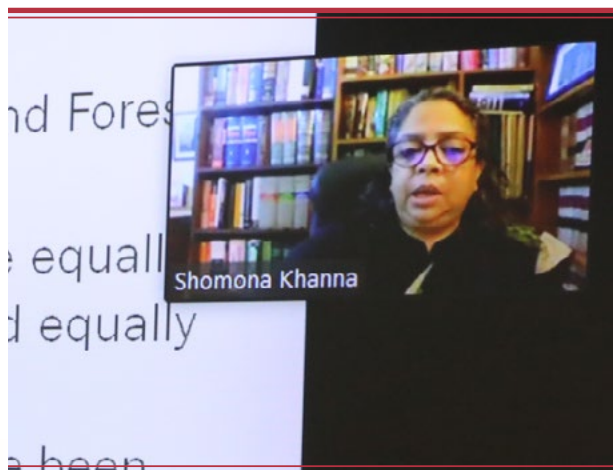
- ▶ He expressed that there is a need for intersectoral convergence and it is important to involve the tribals as partners in the Participatory Tribal Landscape Development Plan.

“ He strongly stressed that to change this situation there is need for repositioning of the institutions; and the first step towards this is convergence of funds of Interdependent Sectors responsible for HDI and SDG. ”

- ▶ The institutional provisions of complementary Acts and policies like Biological Diversity Act and Forest Conservation Act should be incorporated into forest rights discussions and discussed at village level.
- ▶ Tribals should be viewed as the custodians of biodiversity. Hence their empowerment is crucial. He suggested that there is a need to have a new breed of professionals - Tribal Development Management Services.

Ms Shomona Khanna, Advocate Supreme Court presented on the Legal and Constitutional rights of Tribal communities in India. She stressed during her presentation that tribal rights should not be seen in isolation nor seen as something novel. Their rights belong and have to be viewed in relation to The Preamble of the Constitution, the fundamental rights and the directive principles as well.

- ▶ She drew everyone's attention to the landmark Niyamgiri and Samatha Judgements, highlighting thus the importance of tribals in decision-making processes for development.



- ▶ She presented how the significance of the Preamble of the FRA lies in three main points it makes.
 - ▶ For the first time the Act recognizes the historical injustice inflicted on the tribals and forest dwelling communities and acknowledges that forest dwellers have suffered because of 'development' policies.
 - ▶ Secondly, there is a recognition that forest dwellers are crucial to the ecosystem.
 - ▶ Thirdly, again for the very first time, the Act, vests forest rights and provides a framework for recognising it.
- ▶ She also highlighted that the types of evidence which FRA accepts is a landmark change from the types of evidence otherwise permissible as per The Indian Evidence Act. For the first time oral and physical evidence can be submitted which is historic in itself.

Dr Kundan Kumar, Expert on Land Rights and Tenurial Security, presented on reconciling ecological security and tribal livelihoods through FRA from a global perspective. He stressed that collective rights are an important solution for ecological security. The key highlights of his presentation were as follows:

- ▶ Indigenous communities actually manage 24% of the total global carbon



(54546 gigatonnes) stored above land in the world's tropical forest. He brought to everyone's notice that Indigenous Communities and Local Communities claim nearly half of the world's terrestrial area, mostly as collective lands/territories.

- ▶ In countries like Canada almost 44% of the total area is recognized as customary lands of Indigenous Populations and Local Communities, while the First Nations claim almost 80% of the entire land. India's potential for CFR which is around 46 mha seems very meagre compared to what is happening in other countries.
- ▶ He highlighted that by investing in lands through Gram Sabha it will not only improve ecological security but livelihood security as well. Investment in/ support to Indigenous People and Local Communities led ecological restoration and climate mitigation is a win-win situation. With respect to future action, he stressed on mainly three aspects.
 - ▶ Firstly, the need for scaling up support to CFR governance and linked ecological restoration by Gram Sabhas can ensure which can ensure Effective restoration and conservation of India's forests with local knowledges +scientific knowledges, Improved resources for tribal and forest dweller livelihoods, Employment for tribal and forest dweller youth, Improved local tribal and forest dweller economies, Reduction of conflicts over existing climate mitigation, conservation and afforestation programs
- ▶ Urgent need for capacity building of implementing agencies and other stakeholders for implementation of FRA in letter and spirit and capacity building of Gram Sabhas in particular to take up post rights recognition processes. He requested NITI AYOOG to take up steps for capacity building of government line departments and other stakeholders so as to take up implementation of FRA in mission mode.
- ▶ Thirdly the need to channelise funds like CAMPA, climate change programmes etc. to the Gram Sabhas. Support to tribal youths through GS for forest management and ecological protection can become a major employment source.
- ▶ Globally where local communities have been empowered to manage their resources, both the forests and the community have benefited. Success stories of Gram Sabhas managing the CFR areas post rights recognition is also available in India but it is unfortunate that the Government does not take much account of cases of Gram Sabhas where CFR has been recognised and practised. Thus, he stressed that such case studies and best practices need more study and attention. He also suggested that incentives can be provided to Gram Sabhas for protection of forests, such as Payment of Eco-System Services - a direct resource transfer to the poorest



communities in India for protecting India's ecological infrastructure

Kanchi Kohli, Centre for Policy Research, spoke about the Intersectionality of laws Forest Rights Act (FRA), Forest Conservation Act(FCA) and Compensatory Afforestation(CA). She highlighted that tribal economy and tribal areas contribute to India's economic growth but are also impacted by the development programmes. All projects and schemes contribute and impact their lives. She stressed then how many schemes are designed to then accommodate the

impact of the projects and some projects and schemes are introduced to protect non-human entities. Therefore, she highlights that we are in a cycle. The FRA, FCA and CA thus come into play and we have to question what should be prioritised? **She highlighted how often it becomes a case of settlement of rights versus recognition of rights.** She stressed that it is necessary to locate the FRA and its working within this context. She suggested that bodies like Niti Ayog can play a major role in how do we actually recognise the hierarchy of laws and prioritise projects.



Technical Session 2

**Status of FRA Implementation, Key Initiatives Undertaken,
Issues and Challenges & Way Forward**

Chair: Dr. S.B Roy, Founder Chairman IBRAD

The Second Technical Session was on the Status of FRA Implementation, Key Initiatives undertaken, Issues and Challenges & Way Forward

Key initiatives taken by Government of Odisha: Presented by Ms. Guha Poonam Tapas Kumar IAS, Director, ST, ST & SC Development Department. Gov of Odisha

The key initiatives taken by Odisha was presented by Ms. Guha Poonam Tapas Kumar IAS, Director, ST, ST & SC Development Department. Gov of Odisha

- ▶ A number of proactive initiatives have been taken by the State Government for effective implementation of the Act. FAQs were prepared, a number of training cum orientation programmes have been organised and the Forest Rights Act and

the Rules have been translated into Odia and 10 tribal languages.

- ▶ Special drive taken for the constitution of FRC in all the villages/habitations including the forest / un-surveyed villages
- ▶ The institutional support is essential for



smooth implementation at ground and for this purpose 160 FRA Cell Staffs at tahsil, sub division and district level have been formed in all TSP districts; Retired *Amins* and Revenue Inspectors have been recruited to fasten the process of boundary demarcation and mapping.

- ▶ Special efforts have been made for convergence and letters were issued to all District Collectors for the same.
- ▶ Both state and central government schemes have been linked to titleholders, such as PMAY/BPGY, National Mission for bamboo, *Mu Pokhari* etc.
- ▶ **FRA Atlas of Odisha. covering the district wise potential of FRA has been prepared which is used as a monitoring tool to check the progress of FRA implementation in the State.**
- ▶ She also highlighted that the habitat rights mapping and determination process has been initiated with all PVTGS of Odisha.
- ▶ State has designed a special programme namely “ Mo Jungle Jami Yojana” to saturate the rights recognition process under FRA so that no eligible claimant is left out.

Key initiatives taken by Government of Chhattisgarh: Presented by Shri Sanjay Gaur, Tribal Welfare Department, Chhattisgarh

Shri Sanjay Gaur, Tribal Welfare Department, Chhattisgarh, shared experiences from Chhattisgarh.

- ▶ He highlighted that Chhattisgarh government is the first to initiate



recognition of IFR in urban areas. Also, CFR has been recognised and under process in 7 National Parks.

- ▶ Realizing the importance of awareness generation, the State has conducted a series of offline and online training for different stakeholders. Around 14000 booklets on FRA have been prepared in Hindi and widely distributed,
- ▶ The State is in the process of preparing the compendium on FRA circulars and guidelines and Digitalisation of titles is in process as well.
- ▶ With technical support of United Nations Development Programme (UNDP) the government has set up a FRA cell at state level. Further, proposal to appoint PO and FW in 25 DLCs and SDLCs has also been mooted. The Government has signed a MoU with Foundation for Ecological Security (FES) in 9 districts for better implementation of the Act.
- ▶ He stressed there are several issues with Internally Displaced Persons (IDPs) and there should be further research and action on such communities as well.

Experiences of FRA implementation from Madhya Pradesh: Presented by Professor Amitabh Pandey, IIFM, Bhopal, MP



Professor Amitabh Pandey, IIFM Madhya Pradesh, shared experiences from Madhya Pradesh.

- ▶ He highlighted that Madhya Pradesh is the third highest in the country in terms of FRA implementation. In tribal dominated districts like Umaria, there are zero rejection rates, similarly in Mandla and Jhabua districts the rejection rates are also very low.
- ▶ He drew caution to the fact that FRA is being continuously portrayed as a land-based policy but the tribal's life and welfare is not just land.
- ▶ **Another major challenge he shared is the process of appeal as provisioned under FRA, which puts the entire responsibility on the individual and this becomes very difficult for the Adivasis.** But he shared that the major challenge remains attitudinal change of the bureaucracy which cannot be brought about by a single Act.
- ▶ He highlighted that apart from tangible material benefits, including easier access to benefits of government schemes, one of the major positive outcomes of FRA implementation is the intangible gains

such as community mobilisation, better access to and management of natural resources, socio-religious gains etc. He stressed that FRA is vertically linked to Sustainable Development Goals (SDGs).

- ▶ Prof. Pandey narrated the story of the *Sahariya* community who were relocated from their homelands for creation of National Lions Park. But over the years the lion park could not be created and exotic cheetahs from Africa are being brought in instead. The issues of dispossessed Sahariya who are PVTG communities have not received any attention and their rights haven't even been recognized under FRA. He raised an important question which needs clarification, regarding the status of rights recognition of relocated communities under FRA.

Experiences of FRA Implementation in the State of Gujarat: Shri Rabadia Deputy Commissioner, Directorate Tribal Development, Gujarat

- ▶ In Gujarat, around 3799 FRC committees, 40 SDLCs, 14 DLCs have and a State Level Management Committee have been formed for implementation of FRA. 25 orientation programmes have been organized by the Tribal Department through Tribal Research and Training Institute for capacity building of frontline officials and other stakeholders. More than 3,00,000 forms, pamphlets on FRA were have been prepared in local language and widely distributed
- ▶ **Special initiatives have been taken up by the Gujarat State government in reviewing rejected claims especially after the High Court Judgement.** Large portions of claims which were filed but rejected are being reviewed using satellite imagery with the collaboration

of GEER foundation and Arch Vahini.

- ▶ **In the process, village youth are being trained to use GPS and make shape files and carry out surveys and mapping.** He shared in details the steps involved in this entire process and he highlighted that of the 2000 rejected claims, all have not been reviewed yet but of those reviewed 900 are ready for recognition.
- ▶ It was also added that Satellite Imagery with ground truthing is being used proactively by the State and district administration to create evidence for where tribal communities do not have much paper based evidence and only oral evidence is available

Status of FRA implementation in Himachal Pradesh: Prakash Bhandari, Himadri

- ▶ Himachal Pradesh has two thirds of its geographical area declared as forestland and more than 1.5 lakh pastoral families of Gaddis and Gujjars and medicinal plant collectors are dependent on forestland for livelihoods but still the implementation of FRA is yet to take off in full swing.



- ▶ FRA implementation started in tribal areas of the state in 2008-09. In 2012, after a High Court order, the State Government issued an order to implement FRA in the whole state but not much progress has

been made till date. Initially the FRCs were formed at Panchayat level which were then reconstituted at revenue village level and 17503 FRCs have been constituted so far.

- ▶ The State government had held the position that Forest rights settlement had already taken place in the State Forest and Revenue Settlement process till the time the Ministry of Tribal Affairs issued the clarification in 2015 that the forest rights have to be recognized and recorded under FRA.
- ▶ Development of Resource materials and training programmes were initiated for the first time only in 2020. Till May 2022, only 189 IFR claims and 57 CFR claims have been approved
- ▶ **In Kangra, 28 CR and CFR titles have been distributed but Forest Department is not ready to accept the Gram Sabhas as partners in forest management.**
- ▶ In Lahul, Mahila Mandals who are protecting and conserving the forests feel that that they are treated as daily wage labourers, they are not part of decision making and have no say in the big projects Forest Department is bringing in the name of conservation and climate change.
- ▶ In states like Himachal Pradesh, OTFDs are important stakeholders yet their rights are not recognized under FRA due to misinterpretation of 3 generations occupation in forestland. He shared about a study of 1351 IFR claims in selected districts which showed that 90 percent of the claims were for less than 10 bigha land (i.e. 2 acres). In Lahul and Spiti only claims for residence is considered

Status of FRA implementation Telangana: Kalyan Reddy, Joint Director, TRI

- ▶ Telangana has taken up developmental rights along with individual and community forest rights under the FRA including electrification, infrastructure development amongst others.
- ▶ He shared that after the formation of Telangana only the pendency titles were cleared. He highlighted that the state's flagship scheme called *Rythubandhu*, is being converged with forest rights holders.
- ▶ He also highlighted that there were a number of issues in implementation of individual rights such as cases of encroachments after the cut-off date of 2006. **There are a lot of disputes pertaining to forest and revenue areas.**
- ▶ He highlighted that they have just signed a MoU with FCRI for training MFP gatherers, and safety equipment are also provided to them (*Chenchu* tribes who collect honey).
- ▶ Under CFR, in coordination with the Forest Department, registration, training and capacity building of ST fishermen co-operative societies were facilitated.
- ▶ **He also highlighted that they had recently signed a MoU with Bharat Rural Livelihood Foundation to generate CFR potential maps.** He shared that there are issues of restrictions of the forest department for MFP collection in protected areas like Tiger zones.

Status of Implementation of FRA in Andhra Pradesh: Shri R. Kondala Rao, OSD, TRI, Andhra Pradesh

- ▶ The total number of individual claims approved are 2.16 lakhs over an area of 4.43 acres of forestland. Total community

rights claims approved are 1822 over an extent of 5.26 acres of forestland.

- ▶ Land mapping and geo referencing has been undertaken in the state under *Giri Bhumi* portal. They have all the data of districts and mandals and this data can be shared with all departments for implementation of different schemes.
- ▶ E-passbook can also be generated through the portal. The core data contains 36 parameters to analyse a top view pattern of the land. All the lands of the title holders are geo referenced and geo fenced which will help them in posterity and also is very beneficial as it facilitates effective land use.
- ▶ He also highlighted that Andhra Pradesh implements *Rythubharosa* for farmers under which Rs. 13,500 is extended to all beneficiaries and title holders under FRA.

Experience of FRA implementation from Tamil Nadu: Presented by Dr. Sudarshan Naidu

- ▶ In Tamil Nadu, there is lack of political will for implementation of FRA. Till date not a single community claim has been approved, Out of 55,000 claims, only around 15,000 have been found eligible and the rest have been rejected on various grounds.



- ▶ Village Forest Councils, Joint Forest Management Committees are being promoted under various projects of the Forest Department but recognition of Community Forest Management Committees is not there and Gram Sabhas are not empowered to manage the forests.
- ▶ Dr. Naidu stressed that If each one of us can strive to take care/adopt at least one of the tribal families and to help them avail benefit from atleast one government scheme, it can change the lives of at least 10,000 tribal families
- ▶ Further, in Tamil Nadu, he shared that Schemes like afforestation and other plantation programmes, minor forest produce schemes etc are all being done through non-tribals. If tribal families can be engaged in such types of work, it can benefit the tribal families in providing employment and addressing poverty issues.
- ▶ He shared that proactive policies are there, funds are there, but what we need are fire-band go-getters who have the passion and willingness to implement the programmes in the right spirit of tribal development.
- ▶ Maharashtra began the process of management plans with UNDP support in 50 villages in 5 districts. Thereafter the process was taken over by the state Tribal Development Department and over 350 plans were supported by the Department.
- ▶ In 2015, district convergence committees were set up which helped resolve a lot of issues and also enabled provision of funds. She shared that under CFR several villages across Maharashtra have relentlessly worked for rights over water bodies which further ensured fishing rights for them.
- ▶ There have also been dedicated efforts in coordination with various departments to facilitate dairy development, commercial poultry and development of agriculture through SMC works.
- ▶ Plantation and agroforestry work have also been undertaken in convergence with MGNREGA.
- ▶ She stressed on how women have also taken up leadership roles. And most importantly she presented that unlike many other places in the country, **Gram Sabhas in Maharashtra are empowered as key decision-making bodies. They issue transit permit for all tendu and Bamboo either under PESA (Panchayat Extension under Scheduled Areas) or FRA.**

Experiences from the State of Maharashtra: Purnima Upadhaya, KHOJ, Amravati, Maharashtra

- ▶ She highlighted that in Maharashtra, initially it was only in Gadchiroli where CFR rights were recognised, however, from 2012, many other districts came forward.
- ▶ She highlighted that on November 21st 2021, the state government issued a Government Resolution recognising the CFRMC of Gram Sabhas as an agency under MGNREGA in order to undertake NREGA work on CFR land.



Day 2: 8th July 2022

The **second day** of the Consultation, July 8th started with a brief recap of the previous day's session by Prof A.B Ota, Director, SCSTRTI.

Address by Secretary, Ministry of Tribal Affairs, Government of India

Shri Anil Kumar Jha, Secretary, Ministry of Tribal Affairs, Govt. of India joined the Consultation virtually from Sundergarh , Odisha. He congratulated SCSTRTI, SC & ST Development Department for organising the two days national consultation on FRA which was much needed for understanding the implementation gaps in the States across the country and paving a roadmap. He urged the States to take up the implementation of FRA on a priority basis for the overall development of the tribals and other forest dependent communities.

Secretary, MoTA stressed that an integrated and holistic view should be incorporated and not limit ourselves to numbers of applications filed and titles distributed. FRA

implementation is not the end product and a lot of more hard work is needed to be done for holistic development of tribals. For this purpose, he urged for convergence between various line departments and the need to orient officers across departments and institutions such as all TRIs in all states, even Banks and Anagndwadi workers so that all sectors work with the same vision.

Though the tribal communities have shown improvement in health parameters like institutional delivery and vaccination, nutritional security is very poor and leads to problems like high IMR. In keeping with the holistic perspective, nutritional security as well as livelihood security can be specifically addressed by the FRA.



Secretary MoTA also said that as a follow-up of this consultation the Ministry is planning to organise a two day 'Chintan Shivir' soon to further deliberate on way forward. ”



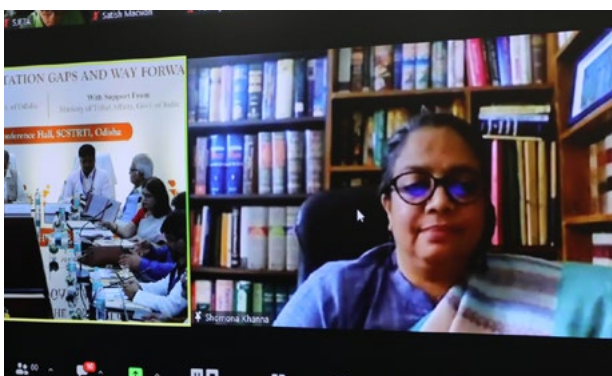
Technical Session 3

**Securing Community Rights to strengthen forest governance
and ensuring ecological security**

Chair: Prof. Amitabh Pandey, IIFM

The third Technical Session's deliberations were on significance of securing community rights in strengthening forest governance and ensuring ecological security. The session focussed on the role CFR plays and can contribute to strengthening conservation, livelihood and climate change mitigation.

Shomona Khanna, Advocate Supreme Court presented the constitutional framework for CFR governance and overlapping of laws.



She pointed out that the Preamble of the FRA is very significant since for the first time there was an acceptance of forest dwellers as an integral part of the ecosystem; something very different compared to other wildlife / conservation laws. She stressed on how but States have made various efforts to restrict FRA. For instance, Himachal Pradesh claims that all rights have been settled so there is no need for the FRA; Haryana and Punjab claim that there are no forest dwellers in their respective states; in Bihar, Jharkhand, Andhra Pradesh, there is a large population of Other Traditional Forest Dwellers (OTFDs) but no rights have been recognised in their case; there is a blanket non-recognition and hence non-implementation in the north eastern states of FRA.

She highlighted Section 4(1) and Sec 13 of the FRA as important in order to address the contradictions which arise between FRA and other laws. The Principle of Purposive Construction (when there is no clear written instruction) becomes highly important in the case of the growing contradictions between FRA and other laws and in places of doubt. She shared in such cases it is necessary to go back to the purpose of why the Act was enacted, its Preamble and other external aids such as parliamentary debates, the Joint Committee's Report etc.

Y. Giri Rao Executive Director, Vasundhara, presented on the Guidelines for Conservation, Management and Sustainable use of Community Forest Resources under Forest Rights Act, 2006

The Guideline was drafted by the committee constituted by the Ministry of Tribal Affairs, Govt. of India. **As per the recommendations by the Committee, the Gram Sabha is capable of managing the forests and should be capacitated to manage and conserve their community forest resources.** It was also found by the Committee that traditional knowledge is fading and hence there is a need to preserve this which can also be done through recognition of CFR rights.

He highlighted that the Draft guidelines also had components on: Institutional mechanism; governance and management of CFR; role and responsibility of SDLC, DLC, SLMC, FD and other line departments in facilitating Gram Sabhas for CFR areas management.

He stressed that a dedicated and robust financial management system is necessary for Gram Sabhas to exercise their CFR rights and states like Rajasthan have started with such an initiative. He clarified that the **drafted Guidelines will not be a standardised set of**

rules and there will be ample scope for each Gram Sabha to discuss and decide their own plans of conservation and management.

Dr. Raktima Mukhopadhyay, Executive Director, IBRAD, presented on livelihood security through ensuring recognition of forest rights with special focus on community forest resource rights.



She stressed that the scope of CFR has to be planned keeping in mind the different contextualities of the landscapes and the cultural uniqueness of the concerned communities. Hence livelihood strategies can only be successful if these nuances are taken into consideration. She shared cases of initiatives which can be undertaken to further enhance land productivity and livelihood security, such as vermicompost pits, community nursery, nutritional gardens etc. She also conceptualised livelihood security and the five capital assets required for its development, however, she stressed that the most important was the social capital aspect.

Ms. Swapnasri Sarangi from Foundation of Ecological Security, presented the best practices adopted for implementation and monitoring of CFR

She presented the good practices adopted across the country for CFR management with special focus on interventions taken in Odisha, Kerala, Maharashtra and Chhattisgarh. She stressed how both vertical



and horizontal governance initiatives are necessary for successful implementation of FRA.

In Odisha some unique initiatives have taken place such as the Palli Sabha is now recognised as the Gram Sabha, and the Welfare Officer is used as the facilitator of FRA at the block level, also guided mentoring platforms have been set up for addressing field level issues, queries on claims. She shared that encouraging case studies have emerged from Jamguda village in Kalahandi; Mayurbhanj district ; and in Similipal Tiger Reserve CFR titles were issued. **In Boudh district, non-tribals in non-PESA areas / non-TSP areas have managed to claim their CFR rights.**

In Kerala's Thissur district, the Kadar tribes' CFR rights have been recognised. In Chhattisgarh she shared that they have trained different ground level frontline workers, such as the Patwari, Panchayat Secretary, Forest Guard etc.

Tushar Dash, FRA expert, presented on the potential of Forest Rights Act in climate change mitigation and strengthening forest governance.

He stressed on the fact that climate change mitigation projects themselves cause climate injustice by over- emphasising on Nature Based Solutions. Tenurial security

and decentralised forest governance in climate change mitigation should be the focus and this he highlighted has already been proved by international reports and institutions. India is instead shifting from REDD to REDD+. He highlighted how this approach and increased reliance on forests as carbon sinks creates further problems as it increases risks of dispossession and land conflicts.



He suggested that for the way forward what is required instead is inclusive land governance frameworks. He stressed how CAMPA and Green India Mission etc do not take into consideration how compliance with Gram Sabhas should be incorporated in their projects and there is an urgent need to set up this institutional framework. He also stressed the need to revisit the Nationally Determined Commitments and state and national climate action plans.



ue: Conference Hall, SCSTRTI, Odisha



Technical Session 4

Potential of FRA in improving the livelihood of forest dependent communities

Chair: Dr. G.B Panda, Former Senior Adviser, Planning Commission

The Fourth Technical Session focussed on the potential of FRA in improving livelihood of forest dependent communities and the convergence mechanisms which can facilitate this. The session also discussed on the role of TRIs in effective implementation of FRA

Convergence mechanism for linking right holders with livelihood needs: Experiences from Odisha

Shri R.K Das, OSD, ST & SC Development Department, Odisha presented the various proactive initiatives taken by Odisha government to facilitate convergence of FRA right holders with various programmes/ schemes of the government

He shared the various communications that had taken place among the different

Departments for ensuring implementation and convergence. During Covid induced lockdown, he shared how Odisha Government had issued special orders for including the forest rights holders in MGNREGA work. He highlighted that the way forward was through strategic livelihood plans and he laid out the process steps that they have been following mostly, which



involves forming a district level convergence coordination committee, maintaining an inventory of title holders and field visits and FGD with these groups to identify what are the most suitable areas of intervention, after which their names and the projects are included in the annual shelf of projects. He shared few successful case studies from Nabarangpur and Balasore districts.

He highlighted that under Mission Jeevika, they will be identifying clusters having 500 acres in a patch where agri-allied schemes can be taken up and in TSP blocks, **MoTA has already earmarked funds for this particular intervention under Article 274 (1) of the Constitution.**

In backward districts of Malkangiri, SETU (Socio-Economic Transformation and Upliftment) scheme has been implemented wherein 500 title holders are going to be benefitted with lemongrass growing project.

He also stressed that the state is in the process of developing a detailed database of all forest rights title holders covered under different schemes and programmes of the Government.

Convergence mechanism for linking right holders with livelihood needs: Experiences from Gujarat

Shri Ambrish Mehta, ARCH-Vahini, Gujarat presented the experiences from Gujarat on role of FRA in improving livelihoods. Shoolpaneshwar Sanctuary in Gujarat is a Protected Area (PA) where CFR rights have been recognised and a vast difference can be seen in the situation post CFR rights and IFR recognition.

He shared how earlier Minor Forest Produce collection was restricted since it is a PA but bamboo cutting was allowed by a paper mill, something which the people opposed from 2001 onwards. The villages had a very dismal



development index with no proper roads, water or electricity. He then highlighted how post FRA implementation, things changed, the Adivasi villagers started land levelling activities in their recognised land; they took up more planned and scientific cropping patterns and many of these title-holders undertook farm bunding under MGNREGA. Mango orchards were cultivated under the WADI projects of NABARD and government schemes of solar powered pumps were used for irrigation. They also could start accessing loans for the first time. He highlighted that as a result of these initiatives incomes almost doubled and for those with access to irrigation it increased even more.

He also stressed on the specific changes post CFR recognition. Community Forest Resource Management Committees (CFRMCs) were formed and the communities started protecting forests from outsiders and fires. They began to harvest and sell dry bamboo through the Gram Sabhas and almost 20 crores as wages have been generated over 5 years. He shared that **Management Plans have been prepared with specific focus on landscape management plan.** He felt that if community and individuals' rights were recognised then they themselves undertake initiatives for enhancement of their livelihood as well.

Convergence mechanism for linking right holders with livelihood needs: Experiences from Chhattisgarh

Dr. Manohar Chauhan, Programme Officer, UNDP Chhattisgarh, presented the convergence mechanism from Chhattisgarh. He shared that the fundamental power of the FRA lies in the Gram Sabha and in fact the FRA Gram Sabha is the realisation of Article 40 of the Constitution. **The FRA legally empowers this institution to function as self-governance units.**



He also stressed on how FRA extends the scope of PESA to the whole country. In Chhattisgarh he shared about a very recent initiative that has taken place at district level- District Level Convergence Committee, which is to be headed by the District Collector and to be coordinated by the Tribal and Panchayat Raj Departments. He raised certain crucial questions regarding the plan for IFR and CFR post FRA implementation with respect to migration and cutting of trees. He stressed that post claims support can be seen with respect to different schemes and presented the number of title holder families that have been covered till now under convergence from PM Kissan Samanidhi Yojana (crop insurance), MGNREGA, Irrigation schemes, PM Awas Yojana etc. The formation of institutional structures for planning and monitoring this stage is very crucial and at every level,

he highlighted the need to develop such institutions. He also stressed that during convergence they attempt to prioritise the most vulnerable families among the title holders for faster support.

Dr. Nupur Tiwary, Special Director, NTRI, and Prof. Ota, Director & Special Secretary, SCSTRTI, Govt. of Odisha presented on the role of Tribal Research Institutes (TRIs) in effective FRA implementation.

Dr Nupur Tiwary highlighted that TRIs have the **potential to catalyse the entire process of FRA implementation since they have been closely associated with the tribal communities.**

Dr Ota stressed that each TRI should have a pool of resource persons and proficient trainers with knowledge of FRA rules, process and modalities of FRA implementation.

Both the speakers highlighted that TRIs can play a major role in ensuring effective implementation of FRA. TRIs as research and training wings of the State governments can ensure the following:



- ▶ Develop the IEC materials and salient features of the Act in respective local languages of the State and tribal languages
- ▶ Provide capacity building trainings to the frontline officials and a wide range of stakeholders;



- ▶ Conduct studies on status of implementation of FRA and its impact at regular intervals.
- ▶ Develop a cadre of resource persons at community level for better implementation of FRA.
- ▶ Prepare FRA Atlas as Odisha has developed, which will facilitate the implementing agency to carry forward

FRA processes and track the potential and performance of the State with respect to FRA implementation.

- ▶ Partner with local community-based organizations to identify the habitat boundary with respect to PVTGs, in consultation with the community, and ensure filing of habitat rights.
- ▶ The FRAPMU should be set up in the TRIs for monitoring the FRA implementation at the field level through its field units for a time bound saturation of the FRA implementation.
- ▶ With its empirical observation and findings TRIs should suggest the critical areas of concern in implementation processes to the state government and also at other appropriate platforms/networks.



Date: 7th – 8th July 2022 | Venue: Conference H



Technical Session 5

Potential of FRA in empowering vulnerable groups- PVTG and Nomadic communities

**Chair: Ms. Guha Poonam Tapas Kumar, Director (ST), ST & SC Development
Department, Govt. of Odisha.**

The Fifth Technical Session was on the potential of FRA in empowering vulnerable groups- PVTG and Nomadic communities. The session highlighted on the process of habitat rights recognition, the issues and challenges of pastoral communities and the way forward.

Shri P. Arthanari, PD OPELIP, Odisha presented on the socio-economic upliftment of PVTGS through FRA.

He shared his experiences from OPELIP (Odisha Particularly Vulnerable Tribal Groups Empowerment and Livelihoods Improvement Programme) which has taken up the FRA in mission mode giving PVTG titles as a result of a project taken up by IFAD and Government of Odisha, for 8 years.



He highlighted how OPELIP facilitated the formation of the Gram Sabha and filling of claim forms. He shared that demarcation of the boundaries often becomes an issue. He also highlighted how they collected saturation certificates from each GS so that no more claims are made from that area.

Ms. Sweta Mishra, Lead Consultant, SCSTRTI, shared experiences of mapping and recognition of habitat rights of PVTG from Odisha.

She highlighted on the significance of recognition of habitat rights of PVTGs and pre agricultural communities under FRA which has been a largely ignored subject till date. Recognition and restoration of the habitat rights becomes important to secure not only their livelihoods but to secure the very existence and cultural identity of such vulnerable communities.



Globally, in case of **Indigenous Communities**, the term 'ancestral domain' or 'ancestral land' or 'traditional territories' is being used in different countries, which represents their identity and existence deeply connected with their spiritual, cultural, social and economic activities to a territory. The rights of Indigenous People over their ancestral domain are legally recognized in various countries and examples can be drawn from them on how recognition of land tenures of indigenous communities and their management rights over forests can help tackle the adverse impacts of climate change. Internationally, the role of indigenous communities and the importance of legally recognising their rights is being increasingly recognised in climate change mitigation as well.

Hence, she highlighted that the recognition of habitat rights under FRA can play a vital role in safeguarding livelihoods and the culture of the PVTGs as well as in reviving traditional forest management practices not recognised under the current governance regime

She shared that SCSTRTI had taken up a study on Mapping of habitat rights of all PVTGs in Odisha and going beyond the scope of the study the habitat rights claim filing was also facilitated through the traditional institutions of the respective PVTGs. **As a result of this study and rights claiming process, operational guidelines have been produced which can be shared with other states.** She shared that the concept of 'habitat' is not been defined in FRA and hence there is confusion among States for going ahead with the recognition process. Hence, it is very important that Ministry of Tribal Affairs should come out with detailed guidelines on determination and recognition of habitat rights of PVTGs and pre agricultural communities.

Shri Bibhore Deo, UNDP, Chhattisgarh presented on the PVTG rights recognition processes and experiences from Chhattisgarh.

He highlighted that earlier they had made attempts to work on habitat rights with the *Abuj Maria* but due to Left Wing extremism it has not been possible.

Then in 2021 the SLMC took up the responsibility of realising the habitat rights of Kamar PVTG community in Chhattisgarh. He highlighted that a pilot study had to be undertaken to understand the habitat of *kamar* which was a time taking process in itself. He stressed that traditional leaders have to be consulted from the very beginning. One of the major challenges he felt was to decide where to start and claim rights since

habitat can spread across a very large area and might not be continuous in geography. He shared how the *Kamars'* habitations are interspersed with different communities and also other revenue villages; hence different Gram Sabhas had to be formed. He stressed on the nuances of the living world systems of the tribals which had to be taken into account during each step.

After his extensive experience with PVTGs both in Odisha and Chhattisgarh, he felt that it was necessary to build resource persons specifically for working on habitat rights and a set of Guidelines and /or clarifications would help facilitate the process.

Ms. Viyona Mohan, Centre for Pastoralism shared the status of forest rights recognition of pastoral communities.



She highlighted through a map showing different pastoral communities belonging to different regions of the country. There are almost 20 million pastoralists in the country and they follow both vertical and horizontal movements during different seasons of the year. **She stressed on how the non-recognition of pastoral systems and rights leads to declining economy at the national level since products like milk and wool are dominantly sourced from these communities in very large quantities (though wool has declined); a decline of the environment,** since their system of migration and access is highly scientific and facilitates

conservation through manuring and other traditional practices; and thirdly, **decline of indigenous breeds**, since pastoralists are not simply grazers but rear indigenous breeds and hence holders of rare gene pools. She highlighted that one of the major challenges for recognition of these communities' grazing rights, was their inter-state movement and mobility.

Shri Ramesh Bhatti, Sahjeevan, Gujarat presented about the situation of pastoral communities in general and few in particular who have been engaged in the process of FRA.

He shared about the high demand for indigenous products, citing the example of donkey's milk which is very expensive and used in cosmetic products. He stressed hence on the need to introduce proper mechanisms for recognition and preservation of the systems that produce these products. He shared the successful case study of recognition of CFR rights of pastoral communities, *Maldharis* of Banni grassland of Gujarat, followed by grazing rights recognised for few pastoral communities in Himachal Pradesh. He highlighted that in Banni grassland an elaborate and detailed exercise of claiming rights and forming Breeders' Association had taken place but their CFR rights had not yet been formally given as a title by the Government. The Secretary of Tribal



Development Department has written twice about the matter but of no avail. The Maldhari community, however, has started their own process of self-claiming and consequent protection and management activities.

He reminded everyone that a **Committee had been formed for drafting Guidelines for recognition of forest rights of pastoral communities;** and this draft had been submitted in August 2021, hence there was a need to review and finalise those **Guidelines on a priority basis.**

Dr Raja Muzaffar Bhat, Social Activist & Columnist, Chairman, District Biodiversity Management Committee, J&K and Dr Rauf M Malik, Director KOSHISH, J & K, presented about the key issues and challenges of pastoral community rights in Jammu and Kashmir.

Dr Raja Muzaffar Bhat shared that the situation in these UTs was very dismal. Though the FRA has only recently been implemented in their UT, and hence held the scope to reframe itself after learning from



all the experiences across the country, but he shared that unfortunately that has not happened. **The Forest Department has been made the nodal agency for the FRA, which in itself is one of the biggest challenges for implementation of the Act now.** He highlighted another major issue, since many of the pastoral communities have not been given Scheduled Tribe status and hence the process of rights recognition becomes even more challenging. He also stressed that the pastoralist communities in their region sometimes suffer extra hardships due to the presence of excessive military forces.





Valedictory Session

The Valedictory session was graced by Shri S.N Tripathi, DG IIPA.



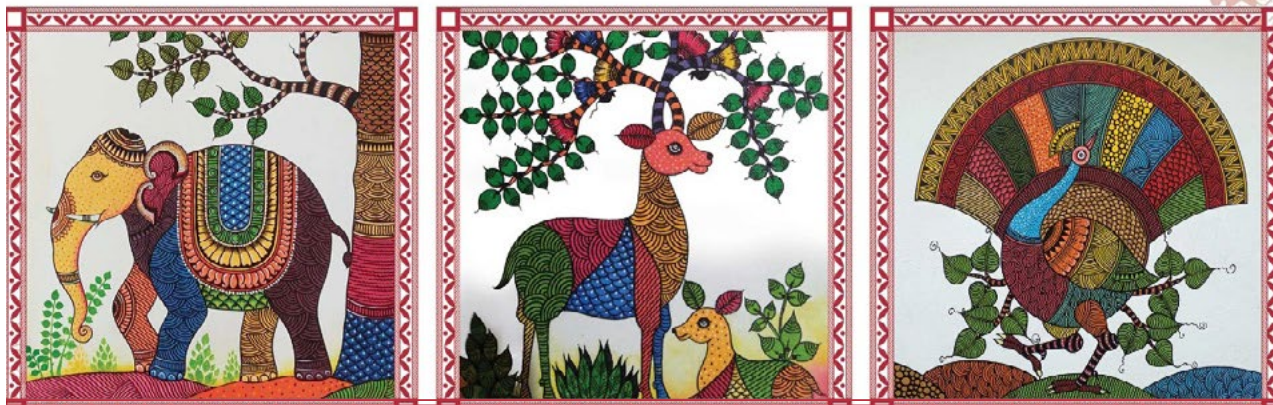
Shri S.N Tripathi appreciated the efforts of SCSTRTI, ST & SC Development Department, Govt. of Odisha and UNDP for organising the national consultation. He appreciated the efforts taken by Ministry of Tribal Affairs, Govt. of India towards tribal development. He hinted that recognition of land rights under FRA is important but an overall approach of development focussing on health, nutrition, education needs to be undertaken so as to achieve holistic tribal development. He expressed that the

consultation will definitely pave a roadmap for policy makers and implementors to design strategies for addressing issues of tribal development and empowerment.

Closing Remarks

Prof. (Dr) A.B. Ota, Director SCSTRTI summed up the key learnings and issues and challenges raised by the participants during their deliberations during the two days of the national consultation. He also summed up the suggestive way forward which was discussed during the consultation process. He expressed his gratitude to all the dignitaries and participants for their active participation and sharing their insights which will definitely lead to coming up with strategic solutions addressing the bottlenecks and operational issues of FRA implementation. He shared that the detailed report of the consultation will be shared with Ministry of Tribal Affairs, Govt. of India so that some concrete action points can be drawn out from the two day consultation on FRA.

NATIONAL CONSULTATION ON POTENTIAL OF FOREST RIGHTS ACT IN THE CONTEXT OF TRIBAL DEVELOPMENT: IMPLEMENTATION GAPS AND WAY FORWARD



Key Issues & Challenges

During all the technical sessions and open house discussions, there were a number of major issues and challenges which emerged, few were crosscutting and few were specific to respective states. The key ones have been briefly stated below:

Issues in implementation

- ▶ The implementation of recognition of community rights is very low – only 4 % of the potential has been recognized. Some State are in a very nascent stage of implementation eg, Himachal Pradesh, Jammu & Kashmir whereas potential of such States with respect to FRA implantation is very high
- ▶ Correction of Record of Rights (RoR) is not being done in most cases where rights are being recognised, thus leaving the process of recognition itself incomplete.
- ▶ The presence of functionaries of the Tribal Development Department is only till the Block while many other
- ▶ Departments such as Forest Department and Agriculture Department, have workers till the village level. Hence regular facilitation and information dissemination is a hurdle in case of Tribal Development Department. It is also a challenge that the Tribal department has not dealt with forest issues as a subject
- ▶ There is also a lack of coordination between forest, tribal and revenue departments to address any legal issues or challenges on the ground. Joint verification is also one of the major issues that needs urgent attention
- ▶ If any discrepancy in the rights recognised arises, the process of appeal puts the entire responsibility on the individual and this process becomes very difficult and cumbersome for the not so well aware and legally sound ST communities
- ▶ In states like Himachal Pradesh, the nodal agency for implementation of FRA is the Social Welfare Department and in Jammu

and Kashmir it is the Forest Department. This is in direct contradiction to the Act's Guidelines and creates hindrances in implementation.

- ▶ Lack of channelization of funds and momentum to support Gram Sabha through a proper hand holding process remains a challenge.
- ▶ The implementation of FRA in non-Scheduled areas is also lagging behind
- ▶ The State Level Monitoring Committees (SLMCs) play a pivotal role in assessing the scope of FRA and monitoring its implementation, and pro-actively clearing all the bottlenecks that the implementation encounters. They are also expected to report to MoTA on a regular basis on the progress in implementation. However, the SLMC is non-functional in a number of States or not meeting quarterly as required.

Issues related to recognition of rights of PVTG and pastoral communities

- ▶ No clear guidelines for recognition of rights of PVTGs (habitat rights) and pastoral communities, both of whom have unique contexts compared to other tribal communities.
- ▶ In many States, pastoral communities do not have a scheduled Tribe Status and this becomes hindrance in receiving recognition of rights under FRA
- ▶ **Non-recognition of pastoral systems and rights leads to declining income** since products like milk and wool are dominantly sourced from these communities in very large quantities (though wool has declined);
- ▶ **Decline in the pastoral ecosystems**, since their system of migration and access is highly scientific and facilitates

conservation through manuring and other traditional practices;

- ▶ **Decline of indigenous breeds**, since pastoralists are not simply grazers but rear indigenous breeds and hence holders of rare gene pools.
- ▶ One of the major challenges for recognition of these communities' grazing rights was their inter-state movement and mobility.

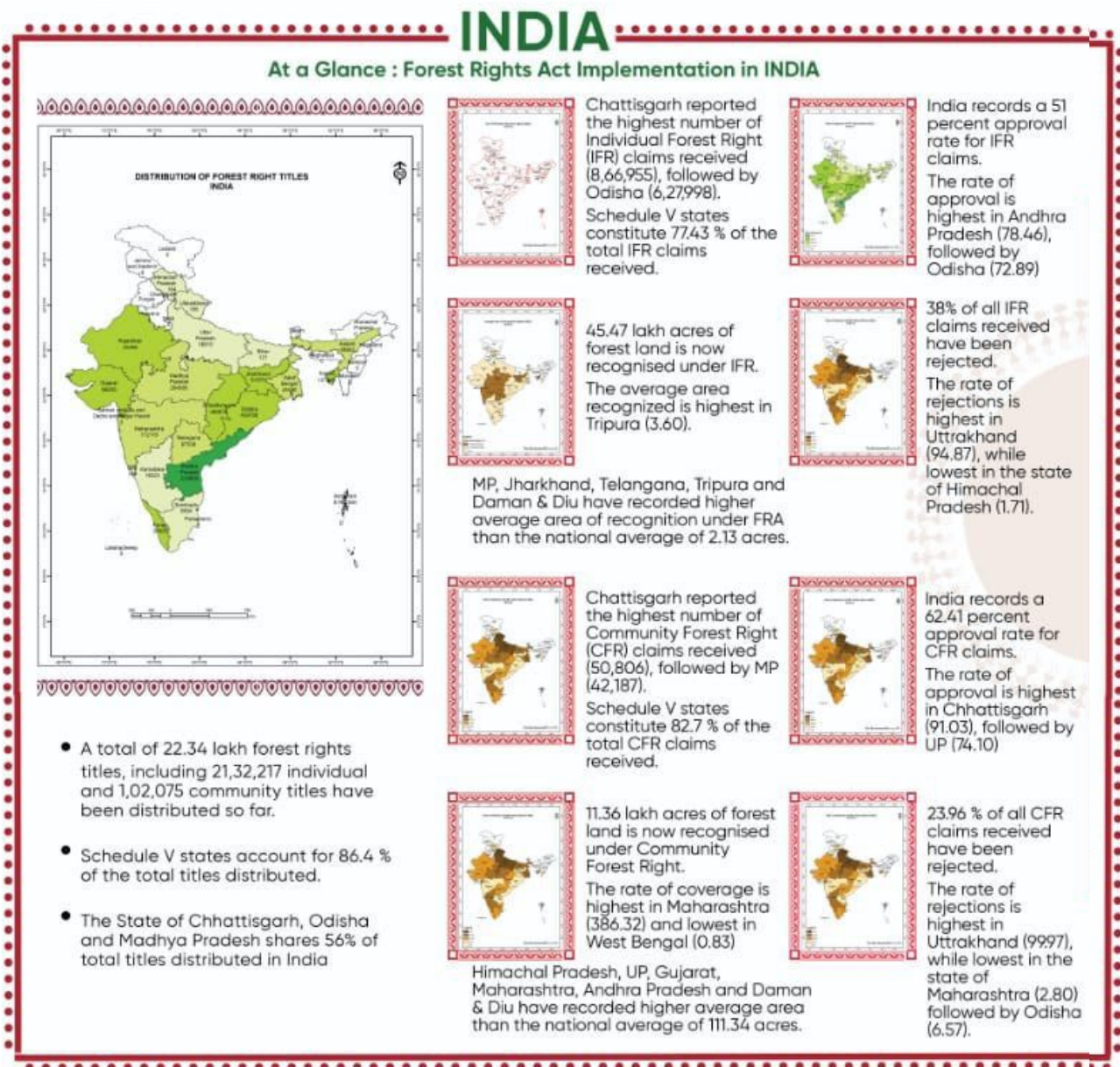
Issues related to recognition of CFR rights

- ▶ Absence of Guidelines and clarity for Community Forest Resource Rights Management areas and institutional mechanisms for the same. This is leading to widespread undermining of Gram Sabha powers in realising the true spirit of the Act and daily activities like issue of Transit Permit etc.
- ▶ Non recognition of customary traditional boundaries while demarcating the CFR areas rather in many states CFR rights are given in the names of VSS
- ▶ Lack of disaggregated data for number of Community Rights And Community Forest Rights recognized across the country. No disaggregation in the Monthly Progress Report (MPR) format for Community Rights and Community Forest Resource Rights; hence lack of clarity in data even after fifteen years of implementation.
- ▶ Recognition of forest rights inside Protected Areas, especially CFR rights, has only taken place in very few regions and mostly remains unrealised despite its tremendous scope.
- ▶ Numerous conflicts have emerged due to plantations under Compensatory afforestation that have been carried out on CFR or IFR land without consent

of Gram Sabha. These include areas where forest rights under FRA have been recognized and those where such recognition is still pending.

- ▶ As the current administrative and legal frameworks are more suitable for channelization of private property

regimes, evolving parallels for administration, monitoring, and legalizing community resources is a challenging task, that needs to be undertaken through a convergence exercise with contributions from TRIs, anthropologist, dedicated human resources at the State and District level etc.





Way Forward

Towards the end of the two-day Consultation, it was decided that as an immediate follow-up to the Consultation, smaller groups and meetings can be organised and specific Action Plans can be consequently framed. From this two-day consultation as well as consequent discussions, a roadmap will be submitted to the Ministry. Apart from this, few long-term suggestions and ideas emerged which can facilitate the realisation of the FRA in its true spirit. The major ones are briefly categorised and stated below.

Scope of Implementation

- ▶ Need to look beyond implementation of FRA in terms of number of titles and extent of land being recognised.
- ▶ Design a criteria to measure the effectiveness of FRA on tribal communities' welfare. A measurement which has to be understood and acknowledged by the tribal communities, the Forest Department as well as the policy maker.
- ▶ In India 8.6% of our population (ie the tribals) are living in areas which have 25% of forest cover and large biodiversity reserves. Hence recognition of rights under FRA is critical for protection of the entire ecosystem.
- ▶ A strong convergence between various Departments like, Forest, Revenue, Tribal Welfare, Panchayat Raj and such other departments is necessary for translating the FRA in letter and spirit.
- ▶ Investing in lands through Gram Sabha will improve ecological security and livelihood security as well. Such a linkage can further reduce land conflict as well. Understanding of interlinkages and interdependence of ecosystem components are essential
- ▶ Need to strengthen the Gram Sabha in terms of a financial and decision-making authority of self-governance.
- ▶ Channelise funds directly to Gram Sabha from existing Programmes like CAMPA,

climate change programmes etc for CFR management.

- ▶ Minimum Support Price for Minor Forest Produce should be set at competitive levels and implemented along with that enhancement of MFP production needs to be taken up.
- ▶ Convergence for ensuring livelihood security of forest rights holders needs to be strategically planned, budgeted for and institutionalised.
- ▶ Inclusive land governance frameworks are critical to achieve climate change goals. Need to revisit the Nationally Determined Commitments, and State and National Climate Action plans in this context.
- ▶ Mainstreaming CFR as a core programme and strategy for tribal welfare in the country supported by adequate human and financial resources for implementation.
- ▶ Dedicating separate funds and budget for FRA implementation and benefits to Forest right holders to improve their livelihood is essential and creating budget head for the same is a step towards that
- ▶ MoEFCC and MoTA need to coordinate to ensure that all forest-related laws and policies are harmonized with FRA by undertaking a systematic review;
- ▶ MoTA, MoEFCC and the State Government need to ensure that all forest related interventions and projects, including those related to plantations and climate change mitigation, necessarily require gram sabha consent for use/diversion of forest land.

Vulnerable Groups

- ▶ Focus should be given to settle FRA related issues in the Protected Areas since large populations of forest communities are living and depending on these forests.
- ▶ Habitat Rights for the PVTGs has not been taken up anywhere, except Odisha and Chhattisgarh, and should be taken up on priority basis.
- ▶ Guidelines for FRA implementation with respect to pastoral communities and PVTGs should be researched on and released. Reference materials and handbooks need to be created and disseminated widely for implementation
- ▶ Guidelines for community forest resource rights management and implementation should be deliberated on and released.
- ▶ There is strong gender dynamics among communities with respect to relationships with forests and dependency on forests, and this should inform all forest related programmes and initiatives.
- ▶ Special provisions and attention need to be paid for improving the status of forest rights of Other Traditional Forest Dwellers (OTFDs).

Monitoring; Training & Planning

- ▶ FRA needs to be taken up on a fast track/mission mode setting time frame for its implementation.
- ▶ Robust monitoring mechanism should be set up by both State Governments, and with the Central Government on a monthly basis to give priority to FRA implementation.
- ▶ All TRIs need to be asked to carry out an empirical study to see the effectiveness and progress and also to

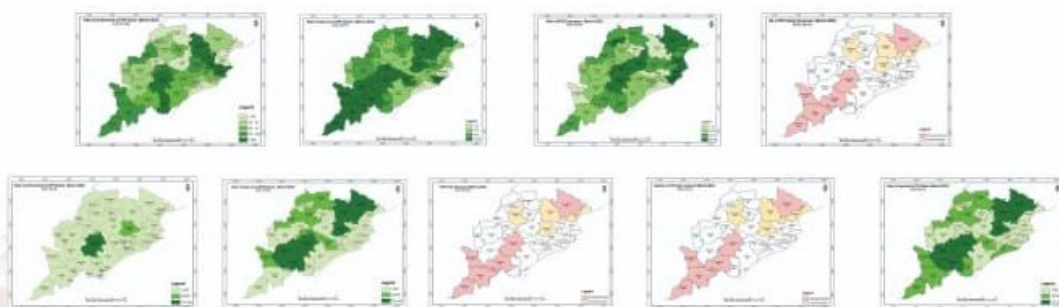
identify the critical areas of concern in implementation of FRA to give input to their respective governments and other concerned bodies. Few common materials should be developed for every state, such as a state FRA Atlas and translated copies of the Act, Guidelines and important Amendments, Rules, Orders, in vernacular and tribal languages.

- ▶ Each State needs to prepare a road map/ implementation plan with a timeline for bringing the FRA implementation into saturation mode.
- ▶ Training and capacity building of key stakeholders, the PRI Members and Gram Sabhas, to be done through TRIs and developing a pool of FRA experts as resource persons for the above.



ODISHA

One of the Leading States in Implementation of Forest Right Act



KEY ACHIEVEMENTS

- 48,559 FRCs constituted in 48,071 revenue villages
- 587 FRCs constituted in Forest & Un-surveyed villages
- 30 DLCs & 58 SDLCs constituted
- Sensitization camps organised for Gram Sabha and PRI members -Around 30,000 ST PRI members trained
- More than 200 facilitative circulars issued for effective implementation of the Act
- 6.27 lakh IFR claims received of which 4.57 lakh claims have been approved
- 4.52 lakh titles distributed over 6.71 lakh acres of forest land
- 18,491 IFR titles distributed to PVTGs over an area of 31,263 acres
- 3.51 lakh title holders covered under various government programs and schemes
- 4.52 lakh IFR title holders incorporated under the Crop Insurance Scheme
- 2.59 lakh RoRs created out of 4.52 lakh titles
- 4.52 lakh IFR title holders incorporated under the Crop Insurance Scheme
- 9214 Community Rights claims received of which 5648 claims have been approved and distributed
- 6068 CFR claims have been received of which 4098 claims have been approved and 3393 titles distributed
- 3393 villages got CFR titles over 2.46 lakh acres of forest land
- 100% coverage of PVTG title holders under the State and Central Government sponsored schemes

GOOD PRACTICES

- "Palli Sabha" notified as "Gram Sabha" in Odisha
- Authority to Gram Sabha to issue Caste Certificate
- Translation of the Act & Rules in Odia and 10 tribal languages
- Resource materials developed in local languages and widely circulated
- Sensitization program for Government officers, PRI members, FRC members, Tribal Youths, SHG groups, CBOs at regular intervals
- Handholding support to the Gram Sabha and FRC members for determination of nature and extent of Forest Rights through FRA Cell
- Free distribution of claim forms and supply of secondary evidences to Gram Sabhas
- 'Squad Approach' for completion of the process in a time bound manner
- Constitution of FRA Cells in Scheduled Districts
- Use of Technology for mapping of Community Forest Resource Rights
- Listing of Potential villages for recognition of forest rights under the Act including forest and un-surveyed villages
- Steps taken to confer forest rights to people enlisted under Pre-1980 encroachment cases
- Facilitative guidelines issued for conversion of forest & un-surveyed villages to Revenue Villages
- Issuance of TT Permit book free of cost to the Gram Sabha
- Plough back of profit earned from the KL Trade
- "Suo-Moto" review of all rejected claims



SCSTRTI (TRI Odisha)
ST & SC Development Department
Govt. of Odisha