

Report of the Working Group on Forest Rights and Community Forest Rights

Terms of Reference of the Working Group:

1. *Assessment of the status of recognition of forest right under different provisions and give suggestions for expediting the solution of pending cases*
2. *Review of procedures adopted for revision of rejected claims in the state and give suggestions to protect the stakes of eligible right holders*
3. *Give suggestions for preparation of work plan for estimation of potential of forest right recognition in the blocks and districts*
4. *Give concrete suggestions for CFR governance by the local communities, methods of benefit sharing, enhancement of forest productivity, successful application of advance technology in protection and regeneration.*
5. *Suggestions for regulatory changes for allocation*
6. *Give suggestions for implementation of best practices adopted in other states in the context of the state*
7. *Any other subject on which group would like to suggest*

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Acknowledgment

Ambrish ji, Trupti Ji from Arch Vahini, Ahmedabad, Gujarat

INDEX

Executive Summary of Recommendations

Glossary

Chapter 1: Introduction and Background

1.1 Implementation of FRA in the state

- 1.1.1 Process adopted for review of Rejected IFR claims
- 1.1.2 Initiatives taken by the State Government for implementation of FRA in the State
- 1.1.3 Record of Rights (RoR): Correction/Update of IFR Land
- 1.1.4 Post Claim Support
- 1.1.5 Achievements

Chapter 2: Methodology

2.12 Scope and limitation of the Report

Chapter 3: Issues and their Analysis

3.1 Individual Forest Rights (IFR)

- 3.1.1 Status of saturation of IFR recognition
- 3.1.2 Status of Pending IFR claims
- 3.1.3 Status of rejected claims
- 3.1.4 Issues related to saturation of IFR title recognition
- 3.1.5 Issues related to pending claims
- 3.1.6 Issues related to rejection of IFR claims

3.2 Community Rights and Community Forest Resource Rights

- 3.2.1 Status of Recognition
- 3.2.2 Status of Post-CFR Recognition
- 3.2.3 Issues Faced in CR and CFR Recognition
- 3.2.4 Issues Faced in Post-CFR Recognition

3.3 Forest Villages: Special Efforts Needed

- 3.3.1 Issues in conversion of forest villages to revenue villages

3.4 Forest Diversion and Relocation

- 3.4.1 Issues in forest diversion and relocation

3.5 Internally Displaced Persons (IDPs) in Andhra Pradesh and Telengana

- 3.5.1 Issues of IDPs

3.6 Harmonising Biodiversity Act 2002 with FRA

- 3.6.1 Issues in compliance

Chapter 4: Recommendations

4.1 Saturation of IFR title recognition

4.2 Pending claims

4.3 Rejection of IFR claims

4.4 Integration of Line Department Schemes with the titleholders

4.5 Updating Record of Rights

4.6 Community Rights

4.7 Community Forest Resource Rights

4.7.1 Completing rigorous CFR recognition

4.7.2 Clarifying and enabling post-CFR recognition processes

4.8 Conversion of forest villages to revenue villages

4.9 Compliance of FCA and WLPA with the FRA

4.10 Internally Displaced Persons from Chhattisgarh to Andhra Pradesh and Telangana

4.11 Harmonising Biodiversity Act 2002 with FRA 1996 and PESA

Annexures

Annexure 1: MoTA F.No.23011/16/2015 dated 22 September 2015

Annexure 2: MoTA directives under Sec.12 of FRA No.23011/16/2015-FRA dated 23 April 2015

Annexure 3: Forest Villages: Clarification

Annexure 4: MoEFCC letter F. No. 11-9/1998-FC(pt) dated 03 Aug. 2009 on FCA compliance with FRA

Annexure 5: Forest Diversion, Relocation and Rehabilitation under Forest (Conservation) Act 1980 and Wild Life Protection Act 1972

Annexure 6: Internally Displaced Persons from Chhattisgarh to Andhra Pradesh and Telangana

Annexure 7: Check list for verifying whether forest rights recognition/ rejection

Annexure 8: MoTA circular No.23011/16/2014-FRA dated 3 March 2014

Annexure 9: Clarification on Community Forest Resource rights under Sec.3 (1)(i) and Power and Duties under Sec.5 of FRA

Annexure 10: Critical Wildlife Habitat F. No 1-23/2014 WL dated 4 January 2018

Annexure 11: Harmonising Biodiversity Act 2002 with FRA 2006 and PESA 1996

ABBREVIATIONS

- **CR**, i.e., community forest rights which includes nistar rights, grazing rights, ownership rights over NTFP including rights to access, collect and sale, rights over water bodies and fishing, rights of seasonal resource access by nomadic or pastoralist communities, rights over biodiversity and community right over intellectual property etc. under sections 3(1)(b)-(e) and 3(1)(h)-(l)
- **CFR**, i.e. community forest resource rights to “protect, regenerate, or conserve or manage any community forest resource, which they have been traditionally protecting and conserving for sustainable use” under sec 3(1)(i)
- **DR**, i.e. development rights that provide for diversion of forest land for public developmental purposes by the government, such as schools, aanganwadis, dispensaries or hospitals, fair price shops, community centres, under sec 3(2)

CHAPTER1

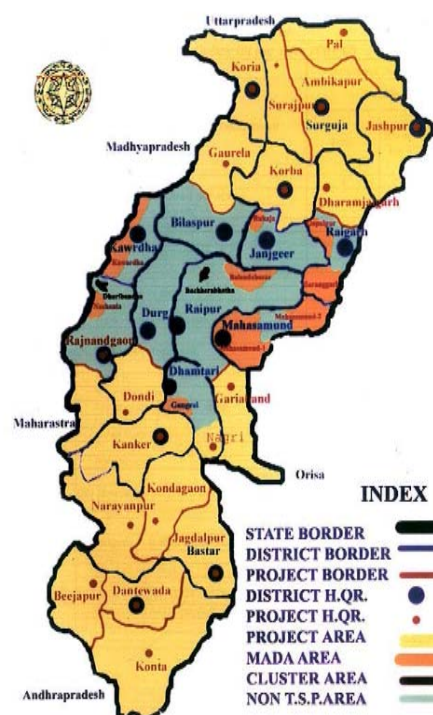
Introduction and Background

Chhattisgarh state, formed on 1 November 2000, has a geographical area of 1,35,191 sq.km and ranks 9th in the country according to the size. 44 % area of the State is covered with forest, around 60 % area, consisting of 85 blocks and 10,971 villages falls within Scheduled Area, and 65.12 % falls within tribal sub-plan area.

It has a population of 255.45 lakh (2011 Census) of which 30.62% (78.22 lakhs) are Scheduled Tribes (STs) and 12.81% (32.47 lakhs) are Scheduled Castes (SCs). Overall gender ratio of the state is 991 females per 1000 males while gender ratio among STs is higher at 1013 females per thousand males. The ST literacy rate is 59.09 % which is at par with national average.

There are 42 tribal groups in the state of which 5 PVTGs are identified by Central Government (Abhujmaria, Kamar, Birhor, Baiga and Pahadi Korwa) and 2 by the State Government (Pando and Bhunjiya).

The recorded forest area in the state is 59,772 sq kms which is 44.21 % of its geographical area. Reserved, Protected and unclassified Forests constitute 43.13 %, 40.21 % and 16.65 % of the total forest area respectively. It has three National Parks of 2,899.08 sq kms and eleven Wildlife Sanctuaries covering an area of 3,760.28 sq kms. A total of 6,659.36 sq kms area constituting 4.93 % of the geographical area of the state is under protected area network. There are 3 Tiger Reserves in the State covering 5,555.627 sq kms of which 2,735.655 sq kms is Core / Critical Tiger Habitat and 2,819.972 sq kms is in the buffer zone. The legality of the constitution of such protected area network is yet to be ascertained.



1.1 Implementation of FRA in the state

- Of the 28 Districts in the State, FRA is being implemented in 25 districts except Raipur, Durg and Bemetara districts where it has been claimed by the forest department that there is no forest.
- Of these 25 districts, 14 are fully notified and 6 districts are partially notified under the Fifth Schedule of the Constitution.
- Till date 12,850 Forest Rights Committees (FRCs), 84 Sub-Divisional Committees (SDLCs) and 25 District Level Committees (DLCs) have been constituted.
- FRA implementation began from January 2008 and is still continuing.

Status of Recognition of Rights under FRA (Up to February, 2022)

Type of Forest Rights	Claims Received	Approved Claims	Titles Distributed	Distributed Forest Land (in ha.)
Individual Forest Rights (IFR)	8,67,054	4,52,419	4,45,865	3,63,597.067
Community Forest Rights (CR)	50,844	46,289	45,764	19,82,977.388
Community Forest Resources Right (CFR)	3,752	3,656	3,512	14,59,595.74

Recognition of FRA in Urban Areas (Up to February, 2022)

Type of Forest Rights	Claims Received	Approved Claims	Titles Distributed	Distributed Forest Land (in ha.)
Recognition of IFR in Urban Areas	274	158	158	35.6719
Community Forest Rights (CR)	6	6	6	5.06
Recognition of CFRR in Urban Areas	4	4	4	4,143.588

Status of review of Rejected IFR Claims in the State (Up to February, 2022)

Subject	No of IFR Claims	Remarks
Total No of Rejected Claims	4,52,275	As in Dec, 2017
Approved by DLC after Review	30,279	
Rejected Claims by DLC after Review	3,98,505	
Pending Claims	17,459	Koria, Surguja, Mahasamund, Sukma, Balauda Bazar, Surajpur

1.1.1 Process adopted for review of Rejected IFR claims

- Series of review meetings were organized by the Tribal Department with the Tribal Assistant Commissioners and other concerned district officials.
- Trainings and clarifications were provided.
- Orders /Directives issued to districts from time to time.

1.1.2 Initiatives taken by the State Government for implementation of FRA in the State

A. For awareness generation

- State Level Meetings were organized in the presence of Chief Minister in Bastar and Surguja Division
- Series of offline and online district and block level training programs were organized.
- After amendment of FR Rules, approximately 14,000 of FRA books in Hindi were disseminated up to Gram Sabha level.
- Training materials like posters were developed and distributed
- Short film on FRA in Chhattisgarhi made and circulated.
- Compendium of FRA circular is being prepared and will be published.

B. Towards Strengthening of the mandated institutions:

- Reconstitution of 84 SDLCs and 25 DLCs after panchayat elections in 2009 as per the provisions under FRA and its Rules
- Trainings of SDLCs and DLCs members including PRI members has been held
- Clarification issued on various aspects

C. Making FRA Information Public and Digitization of FRA Information

- Digitized IFR Data (approved and rejected) and uploaded in the department's website
- Digitizing IFR, CR and CFR data and titles with the help of CHiPS
- Development of Online Monitoring and Online Claim portal is under process through UNDP
- Disaggregated data is being collected from the districts.
- Data on IFR of PVTG is available (22,034)
- IFR to single women headed households (31,707)

1.1.3 Record of Rights (RoR): Correction/Update of IFR Land

Out of the 4,41,502 IFR titles issued in the State by June, 2021, 2.55 lakh Van Adhikar Pustika (Rin Pustika) has been issued to IFR titles holders and revenue department has made correction/updated about 14,476 khasara/khata having 1,16,775 hectare of IFR land in the Bhuiyan web portal.

1.1.4 Post Claim Support

Post Claim support has been provided to 3,71,889 IFR title holders

Land Development Work	
No. of Beneficiaries	1,49,762
Area Treated	58,812.97 Ha.
Approved Amount	36,580.47 Lakh
Support for Manure and Seeds	
No. of Beneficiaries	1,84,311
Approved Amount	4,345.33 Lakh
Agriculture appliances provided	
No. of Beneficiaries	11,040
Approved Amount	444.215 Lakh
Area Treated for Irrigation	
No. of Approved Work	41,237
Irrigated Area	11,082.761 ha.
Approved Amount	20,443.73 Lakh
PM Awas Yojna (Rural)	
No. of Beneficiaries	95,957

Collection of Minor Forest Produce

- Purchase of 52 MFP under Minimum Support Price (MSP) in place of 7 MFP is being done by the state
- Chhattisgarh is the largest purchaser of MFP in the country and has purchased 77.02 per cent of total MFP purchased in the country in 2020-21. Value of MFP Collected was Rs. 1,173 Cr.

- There are 3,500 village level and 837 local market level collection centres of MFP managed by SHGs having 52,000 members.
- In the process, about 6 lakh families are being covered.
- About Rs 1.20 crore have been disbursed to SHGs as commission for the purchase of MFP

1.1.5 Achievements

- 41,711 OTFDs have been issued IFR Titles in the State
- Jabarra Village issued CFRR title for an area of 5,352 Hectare of forest land
- CFRR Titles issued in core area of Tiger Reserve/PA Area (Dhamtari district)
- IFR and CFRR titles have been issued in Urban Areas (Jagdalpur, Kanker, Dhamtari district)
- Safalta ki Kahani, a book about the good practices regarding FRA, has been published

CHAPTER 2

Methodology

The information required was collected from secondary sources, stakeholder consultation and government departments. Two sub-groups were constituted from among the members of the working group: one for IFR and the other for CR and CFR in order to examine the issues in depth.

The State Planning Commission organized a number of online meetings. Some members of the Working Group visited villages, discussed with beneficiaries and experts and shared their views in these meetings. The Working Group members analysed secondary data to find out gaps and potential in recognition of right and post-claim process for the benefit of the community as per the Act. For the compilation of best practices an experience sharing workshop was conducted.

Various documents such as circulars, orders, reports and research papers, articles etc., and reports of Department of Tribal and Scheduled Caste and Forest department etc. were accessed.

2.1 Scope and limitation of the Report

- All the group members have rich experience of working on the issue of Forest Rights Act as researchers, practitioners and grass-root level actors.
- The report is mainly based on experience and insights of the members in the light of the data and information made available.
- Due to travel restrictions, time and resource constraints, almost all discussions were held online with all its limitations. Direct discussions with the representative statutory institutions constituted under FRA, examination of field records and beneficiaries etc could not be held except for one final meeting with the officials of Forest, Tribal, Panchayat, Agriculture, Horticulture and State Level Bankers Committee.

CHAPTER 3

Issues and their Analysis

3.1 Individual Forest Rights (IFR)

Chhattisgarh is one of the leading states in recognising Individual Forest Rights (IFR) in the country. Though ranked first in the country in terms of area recognised for IFR, the IFR area was 0.80 ha per household (HH) which is below the national average of 0.88 ha per HH. Table given below gives the status of IFR distribution in the State.

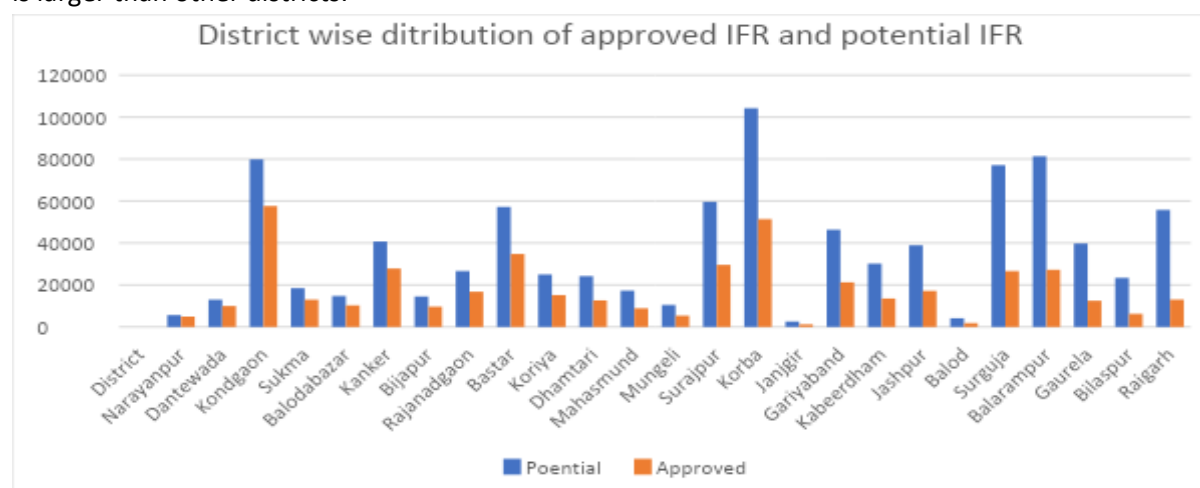
Stages	ST	OTFD	Total	Remark
1. Potential Claims	6,80,036	2,30,936	9,10,972	40% ST HHs have been considered as potential HHs for FRA title.
2. Claims filed by Gram Sabha	6,37,260	2,29,791	8,67,051	94% of the potential claimants filed claims with the Gram Sabha.
3. Claims approved by DLC	4,05,528	46,888	4,52,416	DLC approved only 52% of the claims approved by the Gram Sabhas
4. Titles distributed	4,02,801	43,064	4,45,865	Titles for 98% approved claims were distributed. This constitutes 48% of potential claimants.
5. Area of title distributed	3,33,167.42 2	30,429.645	3,63,597.067	6% of total recorded forest area is recognised as IFR.

Source: Report shared by Tribal department as on Feb 2022

The critical issues that have emerged in IFR recognition are: saturation of IFR recognition, rejection of IFR claims, pending IFR claims and integration with other entitlements and benefits.

3.1.1 Status of saturation of IFR recognition

As per SECC 2011 census, there are 16 lakh ST HHs. As per government estimates 6.8 lakh ST HHs and 2.3 lakh OTFD HHs are potential HHs for IFR recognition. Till date, only 48% of potential HHs have received the title. It shows that the job is only half done. There are few districts where this gap is larger than other districts.



In terms of number of claimants (not area) there are 15 Districts that have recognised less than 60 % of IFR potential and there are five districts where this is less than 40 %. Three districts that have recognised more than 70% of the potential are Narayanpur, Kondagaon and Dantewada. However, the potential of IFR recognition in Narayanpur and Dantewada is very low in comparison with the tribal population and forest area.

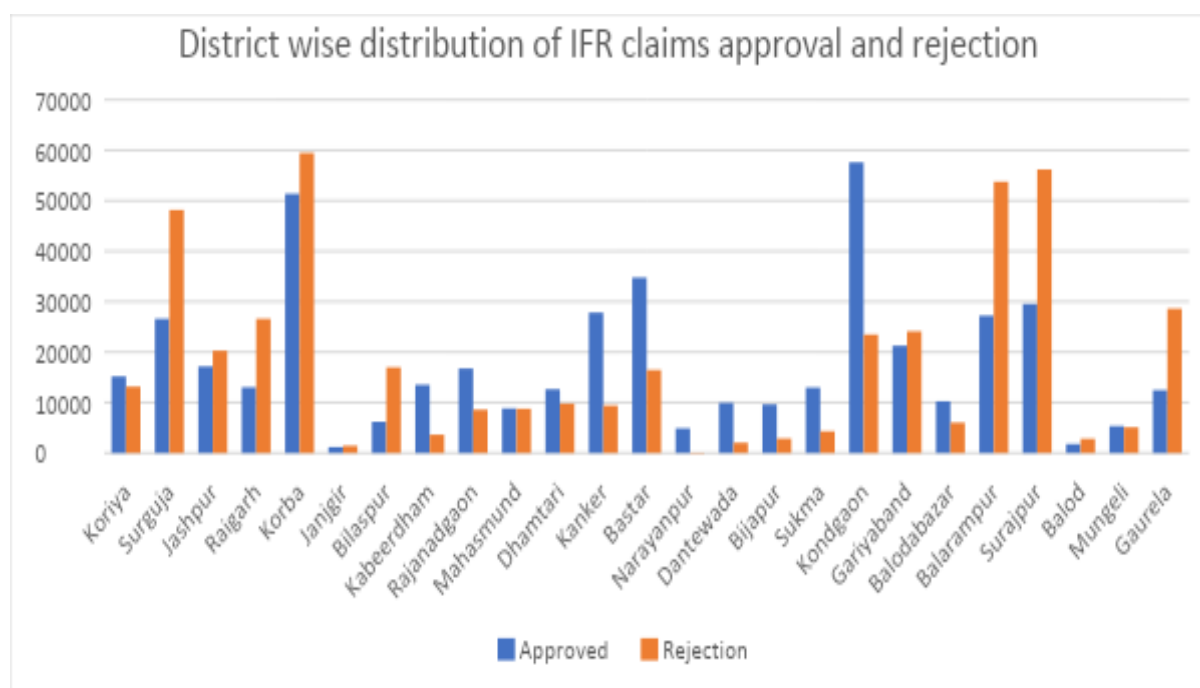
In case of PVTGs, till date, 22,034 titles have been recognised. This includes 1,073 titles for homestead. In comparison with the total 49,198 HHs (census 2011) of PVTGs in the state, this covers only 44% of their HHs even if one takes only one title for one HH. Similar trend is seen in the case of single women HHs. Till date only 16,639 single women (widow, single, unmarried and divorcee) have received IFR title which is only 3.7% of the total claims approved. As per SECC 2011, women headed HHs are 5,96,624, which is 13% of total number of HHs (45,40,999 HHs).

3.1.2 Status of Pending IFR claims

There is no clear data available on pending claims. Total claims filed at the Gram Sabha level is 8,67,054. DLC approved 4,52,419 claims while rejecting 3,98,505 claims. In total, 8,25,367 IFR claims have been recognised. The remaining 16,130 claims can be categorised as pending at different levels.

3.1.3 Status of rejected claims

Chhattisgarh has the highest rate of rejection of IFR claims in the country. Gram Sabha has filed 8,67,054 IFR claims and DLC has rejected 3,98,505 IFR claims. It is about 43% of the claims filed. District wise approved and rejected claims are shown in the graph below. It shows that more than half of the districts have reported more rejection than approval of IFR claims.



Source: Reports of Tribal Department, June 2021

As per the FRA 2006 and its rules, aggrieved claimants can file appeal against the decision (in case of rejection in full or part of claim by the GS) at the SDLC level and at the DLC (in case of rejection in full or part of claim by the SDLC). However, there is no appeal in the state by the claimants themselves at any level. The State Government had suo motu taken a decision in July 2019 (while filing an affidavit before the Supreme Court) to review all the rejected IFR claims (4,52,275) in the State. As of June 2021, the process of review of rejected claims is given below.

S. No.	Stages	Number of IFR claims
1	Number of claims rejected as on 31 December 2017	4,52,275
2	Number of duplicate claims in the rejected claims	55,733
3	Actual number of rejected claims	3,96,542
4	Number of approved claims after review by DLC	30,279
5	Number of rejected claims after review by DLC	3,43,779
6	Number of rejected claims -review is under progress	22,484

Source: Reports of Tribal Department, as on 17th June 2021

3.1.4 Issues related to saturation of IFR title recognition

1. State government worked for recognition of IFR during 2012 to 2016. After that the IFR application process was closed for a long time. It was restarted recently in 2019, but the progress is negligible. For now, the Government has shifted the focus to CFR in rural areas and IFR/CFR rights in urban areas.
2. Although government report gives data about the IFR potential, there is hardly any evidence-based study to assess the scope of IFR recognition. In the absence of a goal post, there is hardly any drive in the department and political leadership.
3. It was mentioned in the interviews with PVTG HHs that they are unaware about the IFR process and moreover, they do not have any documentary evidence to prove their possession of land on the cut-off date. There is hardly any special effort from the department to support PVTG, women and other vulnerable families to file their claim.
4. It is shown that DLC has rejected almost 50% of these claims. In most of the cases, claimants do not know the reason for the rejection. Therefore, the rejections, whether partial or full, are not in accordance with FRA provisions and hence, a violation of Rules. It has negatively affected the whole process. Demand for filing of claims has declined.
5. FRCs are formed in almost all the forest fringe villages. But there is hardly any input provided for capacitating these FRCs. In the absence of direction and training, FRCs have become mere passive actors in the whole process. This has created scope for dependency and hijacking of the process by political leaders and ground level government functionaries.
6. In one of the interviews with grass-root NGOs, it was highlighted that people did not get proper guidance and

Households who could not able to claim

- *Particularly vulnerable tribe group (PVTG) HHs*
- *HHs living in remote and inside the forest area*
- *HHs who are living in national parks, Tiger reserves and sanctuaries*
- *Few other traditional forest dwellers HHs*

information from the ground level government functionaries. Due to lack of proper information, claimants were not able to follow up their claims properly.

7. A false perception that continues to prevail about IFR recognition amongst the officials and ground level staff is that this legalises the encroachments on forest land which then pose threat to the forest and environment. The historical and legal fact that the non-recognition of rights at the time of notification of the forests constituted a gross violation of the law by the forest and revenue bureaucracy which is being rectified now by FRA is yet to become the standard position of the government departments. Effective steps to counter this misconception have not been effectively initiated within the departments as a result of which hostility to FRA continues to mar FRA implementation.

3.1.5 Issues related to pending claims

In the absence of any information about duration and issues of pendency, it is difficult to give any input on issues regarding pending claims.

3.1.6 Issues related to rejection of IFR claims

- Although the State has taken steps to review the rejected claims, there is a lack of systematic approach and preparedness to address the issue. There was no time bound procedure adopted to finish this huge task.
- Neither the SLMC nor the tribal department issued any letter to clarify and explain the review process in detail. Therefore, there is a lack of clarity among the FRC, Gram Sabha, SDLC and DLC members about their role and responsibility in the review process.
- No effort was made to inform and involve the FRCs and the Gram Sabhas in the review procedure.
- Review process unfolded as a paper work exercise for final rejection of claims by DLC rather than to rule out the possibility of gaps in the evidence gathering or lapse in procedures. This has also put a lot of stress on the system, and authorities have stopped accepting new cases. Issuing the certificate of completion of review of rejected cases has become a priority for the DLCs. As a result, the review of rejected claims itself will not pass the scrutiny of the law.
- Throughout the process, except for limited sets of reasons for rejection, all the reasons for rejection of claims were not clearly defined. Nor were the reasons informed to the claimants and the Gram Sabha. Once again the appeal process was not activated.
- It was shared in the interviews with grass-root NGOS and potential IFR claimants that a significant number of claims were rejected at the Gram Sabha level. Following points were shared about the rejection at the Gram Sabha level:

Reasons for not being able to claim

- Lack of right information
- Conflict in ownership and possession (this is mostly in case of PVTGs)
- Not able to submit the right kind of evidence
- Documents are misplaced by beat guard and GP secretary.
- Confusion among other forest dwellers for providing proof of possession of 75 years
- Rejection of claims by the concerned persons like FRC members

- Claims which were rejected at Gram Sabha level across the years were not properly preserved and stored. They were either discarded or went missing. Hence most of the claims at Gram Sabha level were not traceable.
- Duplicate applications were prepared by Panchayat Secretary and were again summarily rejected in resolutions of Gram Sabha without conducting any field verification by Forest Rights Committee of the village.
- Information/notices about rejection of claims were issued in many villages by the Panchayat Secretary without holding fresh Gram Sabha meeting or giving any proper reason for rejection. In many cases backdated notices of rejection were issued, which prevented the applicants from filing appeals as the 60 day period had already lapsed.
- The provisions and procedure for appeal and submission of additional documents were not explained to the claimants while giving notice for rejection.
- SDLC and DLC were supposed to assist the claimants to obtain evidence present in government records. No such efforts were made at any level whatsoever nor did the SLMC monitor and rectify these lapses.
- In the consultation with different stakeholders, group members listed the following issues at SDLC and DLC level.

Partial rejection of claims

- a. Claims approved but title is not given
- b. Due to illiteracy, people could not submit the claim properly.
- c. Area has been entered without any proper measurement
- d. Field verification is not done properly
- e. FRC is not involved.
- f. Gram Sabha took place without quorum.

Issues at the SDLC level	Issues at the DLC level
<ol style="list-style-type: none"> 1. Most of the claim documents rejected earlier were missing at SDLC level. 2. Documents which are available were scattered in Janpad Panchayat, SDM (Revenue), SDO (forest) and Ranger offices. 3. Documents which were missing were recreated using records from the previous resolutions of SDLC. 4. Backdated notices are given for rejection to the claimants in most of the places, thereby denying the claimants an opportunity to appeal. 5. Wherever new notices were given, the process of appeal was not made clear to the claimants, and no help extended 	<ol style="list-style-type: none"> 1. Documents of claims rejected earlier by DLC were not traceable in most of the districts. 2. Documents of claimants were found to be scattered in the offices of DFO, AC Tribal and Land Revenue Department. 3. Documents were recreated in many cases from earlier DLC records. 4. DLC did not wait for mandatory 60 days after SDLC gave notice of rejection to the claimants. 5. In claims earlier rejected by DLC, claimants were not informed about it and given backdated notices. 6. Most of the times the rejected cases

<p>to them to find evidence in government records.</p> <ol style="list-style-type: none"> 6. Claimants were encouraged by the village level government functionaries not to appeal saying that nothing much would come out of the process. 7. SDLC did not wait for mandatory 60 days after the Gram Sabha gave notice for rejection to the claimants. SDLC meetings were held immediately after and the cases were rejected summarily and sent to DLC. 8. Often the SDM heard the cases personally after recording them as revenue cases. The cases should have been heard by the SDLC as a committee. 9. Cases were rejected in groups without giving the opportunity to the claimants to appear in person and argue their case. 10. Wherever hearings were conducted, too many claimants were called on the same day and hence the hearings were not conducted properly. 11. There was no clarity about the reasons for rejection and how to apply a particular reason for rejection and in what circumstances. 12. Janpad Panchayat members, who are part of SDLC, were not kept in loop about the process followed while rejecting the claims. 	<p>were taken as appeal cases and all the appeals were heard in one go without giving the opportunity to the claimants to present their case.</p> <ol style="list-style-type: none"> 7. Focus was more on giving final notice of rejection to the claimants. 8. No additional efforts were put in to look for evidence in government records so as to assist the claim of the claimants. 9. Many cases were deemed as duplicate cases where the claimants had applied previously in which their claims were rejected or partially recognized. 10. Claims on “pahad-chattan” land were rejected even though it is a category of forest land as defined by the Supreme Court in its order on 12 December 1996. 11. Advisory of the Supreme Court was not followed about GPS mapping/referencing of all the cases which have been rejected. 12. Help of satellite imagery to assist the claimants was not tried in any of the districts. 13. Zila Panchayat members, who are part of DLC, were not kept in loop about the process followed while rejecting the claims.
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3.2 Community Rights and Community Forest Resource Rights

3.2.1 Status of Recognition

- First phase of community rights (CR) recognition (till 2019) focused mostly on CR and DR rights.
- Large number of CRs were recognized within the last 15 years. It is reported that in 46,289 claims, rights over 19,82,977.388 ha of land were recognized by August 2021.
- Starting 2019, the focus of the government shifted to community forest resource (CFR) rights recognition.

- A 300-day '*abhiyan*' or campaign was planned by the Department of Tribal and Scheduled Caste. However, it was never executed.
- The first major step completed was the preparation of a detailed FRA manual in Hindi which was launched in March 2020.
- The process of community forest resource (CFR) rights recognition has continued through a combination of grassroots work by activists and NGOs and pressure from the Chief Minister of the state to ensure speedy recognition.
- Supporting activities during the last two years included:
 1. Organizing a number of training programmes for government officials, including:
 - One-day conference of Collector, DFO, AC Tribal held under the Chairmanship of the Chief Minister at the state level which was followed by two regional conferences at division level in Surguja and Bastar
 - Two rounds of district-level trainings held (1-day workshops) in all the districts of Bastar division while one round of district-level trainings were held (1-day workshops) in all districts of Surguja division
 - One round each of online workshop for DLC and SDLC members were held under the Chairmanship of Minister for Tribal Affairs, Government of Chhattisgarh.
 - Two rounds of block-level training programmes were held by members trained at district level.
 2. Creation of an FRA Cell in the Tribal Department with UNDP support with 4 domain experts who are providing information and guidance on FRA related matters and liaising with Ministry of Tribal Affairs, Government of India. The Cell is also coordinating some of the trainings.
 3. The net outcome has been that by Feb 2022, about 3,656 CFRs were recognized.
 4. Some highlights of this outcome include:
 - Districts where the traditional boundaries have been mapped extensively are Surguja, Kanker, Kondagaon, Gariyaband, Dhamtari and Surajpur.
 - CFR rights have been recognized in core as well as buffer area of Sitanadi Udanti Tiger Reserve, a first for the state.
 - CFR rights have been recognized for three Ward Sabhas of Nagri Town Panchayat, the first time in the country where claim of urban area has also been recognized.
 5. In terms of improved process:
 - Bottom-up processes were initiated in many areas with the involvement of Sarv Adivasi Samaj across the state and CSOs such as Chaupal in Surguja, Khoj in Gariyaband and Dhamtari, etc. and other activist groups.
 - Overall, much greater understanding of CFR rights now exists in the tribal community, administration and in areas where civil society groups are active.
 - A recent development has been the signing of MoUs with two NGOs namely FES & PRADAN by forest department under which they will facilitate the claiming of CFRs in a large number of villages.

3.2.2 STATUS OF POST-CFR RECOGNITION

IN POCKETS, SEVERAL COMMUNITIES ARE TRYING TO EXERCISE THEIR COMMUNITY FOREST RESOURCE (CFR) RIGHTS IN DIFFERENT WAYS:

- Jabarra village, one of the earliest to get CFR rights in the state, stopped felling of trees soon after recognition of CFR and launched an eco-tourism initiative with backing from district administration. It is, however, facing renewed pressure from the Forest Department which wants to continue coupe cutting and has been able to successfully do so violating FRA.
- Khairkheda village in Kanker has established a Gotul Sports Academy in the community forest land and is training more than 300 youths in various athletic activities.
- Villagers in Surguja got the encroachments in forest land vacated through their CFR management committee.
- Kumudkatta village in Balod district has got an account opened in the CFR management committee of the village.
- Several villages are trying to make their own CFR management plans, and have been already protecting, carrying out afforestation, etc.; for instance, Gulbha village and Parond village in Kondagaon district.

3.2.3 Issues faced in CR and CFR recognition

Due to the process not being followed in letter and spirit, many discrepancies and errors have crept in during recognition of community rights (CR), including

- The process was almost top-down with minimal or no involvement of villagers. In most cases, village communities are unaware as to what community rights (CR) rights really mean and that they had received any such rights. Only in limited number of cases, proper orientation of villagers have been done and that too in places where civil society organisations have been active.
- CR titles have been issued in the name of Sarpanch, Gram Panchayat, Van Suraksha Samiti (JFMCs) or Forest Rights Committees (FRCs) which are against the law.
- A large number of rights recognized under CR were those of DR (forest diversion) which should have been done under section 3(2) of the Act under development rights. However, the data seems to have been corrected recently.
- There is enormous double and triple counting of CR areas where CR titles for different CRs were issued for the same area or parts of the same area to the same village. Instead of reconciling the titles with the actual forest lands, the areas mentioned in each title were mechanically added resulting in a wrong blown up figure of forest area recognised under FRA.
- Religious places of villages on forest land are not being recognised and recorded as Community Rights.
- The setting of targets has often been counterproductive, with lower level officials pushing the process without community involvement and getting erroneous claims approved while villagers remain unaware about them having 'received' a right. In such cases, the area recognized is according to the compartment boundaries rather than that of actual use in case of community rights (CR) and traditional boundary of the village in case of community forest resource (CFR) rights CFR.
- While the nistar and other forest-access rights of neighbouring villages are being recorded in the CR claim of a particular village, they are not in a format which would make sense on ground and could be understood clearly by reading the title document.

- The CR rights of neighbouring villages are not being recorded in the CFR title.
- Form B (CR) and Form C (CFR) claims are filled out simultaneously which makes villagers think that the areas in both should be identical,
- CR areas beyond the CFR area are not being recorded in the claims and titles, nor are overlapping CRs of neighbouring villages being acknowledged.
- In several cases, if Gram Sabhas are claiming the area contained within the customary boundary of the village as a CFR, even where parts of the lands thus claimed are non-forest revenue lands, instead of just the area of forest land that is to be claimed under sec 3(1)(i), then it is the responsibility of the SDLC to demarcate the forest lands within the claimed area and process them.
- Where the area recognized deviates from the claimed area, no reasons are being specified. Moreover, the claims are not remanded back to the Gram Sabha for reconsideration and possible appeal.
- The investment by and capacity of the Department of Scheduled Tribe and Scheduled Caste Development in this entire process of training, implementation and quality control remains weak.
- The scope and extent of MOUs signed with the NGOs regarding CFR implementation has not been publicly stated.
- The training programmes are targeting officials at various levels. However, the '*Margadarshika*' issued does not segregate work of officials at each level.
- No guidelines for officials have been provided as to how to scrutinise the claims, how not to reject erroneously and how to inform the Gram Sabha if there are issues to be clarified. MoTA's directions in [F.No.23011/16/2015 dated 22 September 2015 \(Annexure 1\)](#) required the State government to "make an assessment within next one month on the potential CFR area in their jurisdiction and to direct the DLCs at the various Districts that necessary steps be taken to ensure that CFR rights are recognised." It suggested the use of (a) the State of Forest Report 2009, Forest Survey of India (b) the village directory of Census 1991 (c) land use data from the village directory of Census 2001 and Census 2011. MoTA stated that this would only be a "conservative estimate as this includes only those villages having forest land within their revenue boundaries. The potential CFR areas however could be more." Such an exercise has not been carried out by the Chhattisgarh government which could have helped the process.

3.2.4 ISSUES FACED IN POST-CFR RECOGNITION

There are several major bottlenecks in taking the post-recognition process forward:

- There is lack of clarity on what process to follow after the CFR rights are recognized: how to constitute *committees* for the protection of wildlife, forest and biodiversity, from amongst its members as under Rule 4(1)(e), whether to open bank account and in whose names, which government funds can come to the Gram Sabha to carry out works related to CFR protection, regeneration, conservation and management.
- JFMC funds have not yet been transferred to the Gram Sabha CFR Committee/s. So also funds available under ST Component Plan, MGNREGA, funds available with the Gram Panchayat, and funds under CAMPA (vide MoTA directives under Sec.12 of FRA [No.23011/16/2015-FRA dated 23 April 2015](#) (See Annexure 2).
- Making of CFR conservation and management plans is also stuck because the Forest Department appears to insist that they follow the structure of the Working Plans or JFM micro-plans, which is contrary to Rule 4(1)(f) of FRA and Clause 2(iii) of MoTA 23 [April 2015 Guidelines \(Annexure 2\)](#).

Rule 4(1)(f) of FRA requires the Gram Sabha to 'integrate such conservation and management plan with the micro plans or working plans or management plans of the forest department with such modifications as considered necessary by the Committee. Clause 2(ii) of the said directive states that '*Each Gram Sabha shall be free to develop its own simple format for conservation and management plan of the CFR which its members can understand with ease and may also comprise of the rules and regulations governing forest access, use and conservation*'.

- There is particular tension in some areas around the question of coupe-felling, with the Forest Department insisting that the Working Plan still prevails even if villagers do not want coupe-felling. The law is clear that the Gram Sabha decision prevails.
- Role clarity in the post-CFR recognition situation is lacking, along with mechanism for convergence. In particular, the status of JFMCs has not been categorically clarified in administrative orders, although legally it is clear that JFMCs should cease to exist once Gram Sabhas approves and get CFR rights recognized.

3.3 Forest Villages: Special Efforts Needed

There are 658 forest villages with a population of 2,17,123 of whom 1,79,423 are STs of which 421 Forest villages were converted to Revenue villages (Lok Sabha Starred Question 104 answered on 02.05.2016). The process of bringing these villages under the revenue administration has started. Patwaris have been assigned to all the villages. The Survey of the lands of these villages was entrusted to IIT Roorkee, who have used a combination of remote sensing (Google Earth high resolution data) and field surveys to map each parcel of land owned by individual farmers and other land uses such as built-up, water bodies, drains, open land, forest, and roads. IIT Roorkee has completed the work for most districts and submitted the maps to the Director of Land Survey and Settlement, but the process appears to be held up there. Forest Village (FV) are a separate category of villages with its own Gram Sabha. The conversion of forest villages to revenue villages is a specific right under Section 3 (1) (h) of FRA. (See Annexure 3 for further clarifications).

3.3.1 Issues in conversion of forest villages to revenue villages

It is not clear whether the forest villages that have reportedly been converted to revenue villages was carried out under the provisions of FRA. Further, forest rights have not been determined and titles issued just as other revenue villages.

3.4 Forest Diversion and Relocation

Forest Diversion under Forest Conservation Act 1980 (FCA) for non-forestry purpose during 2008 to 2020 (as on 31 March 2020) in Chhattisgarh was 26,518.556 ha and degraded forest diverted for compensatory afforestation in lieu of forest diversion for non-forestry purposes was 48,626.1703 ha. The Ministry of Environment, Forest and Climate Change (MoEFCC), as part of compliance of FCA with FRA clarified vide [order F. No. 11-9/1998-FC \(pt\) dated 3 Aug 2009](#) (see Annexure 4) provided clear procedures that ought to be followed in all cases of forest diversion. This was followed up with amendments to the FCA Rules in 2014 and 2017 fixing the responsibility for ensuring and certifying the completion of FRA implementations and village Gram Sabha consent in all instances of forest diversion with the District Collector. Further the Right to Fair Compensation and Transparency in

Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR) has specific provisions for compensation, and rehabilitation and resettlement (R&R). There are an estimated 9,870 families in the Core / Critical Tiger Habitats (3,553 in Achanakmar TR, 1,440 in Indravati TR and 4,877 families in Udanti-Sitanadi TR). Of them, it is reported that 249 families were relocated from Achanakmar TR since the inception of Project Tiger ([Lok Sabha Unstarred Question No. 3405 answered on 12.07.2019](#)). It is not known how many were relocated since the Wild Life Protection Act 1972 was amended in 2006 making Tiger Reserves a statutory category of Protected Area. Nor is it known how many were relocated from other forest areas under 'voluntary relocation'. The relevant provisions in the laws for Forest Diversion, Relocation and Rehabilitation under Forest (Conservation) Act 1980 and Wild Life Protection Act 1972 are provided in Annexure 5.

3.4.1 Issues in forest diversion and relocation

It is not clear whether these mandatory legal requirements were met and compensation, alternative arrangements for the loss of forest rights made and R&R provided in all the case of forest diversion for non-forestry purposes, afforestation and voluntary relocation as applicable and as required by laws. That would mean recognition of forest rights, consent for diversion and compensation in cash and kind, as specified under FCA, WLPA and RFCTLARR. Neither the SLMC nor the Department of Scheduled Tribe and Scheduled Caste are monitoring compliance with these laws with reference to forest rights and the acquisition or settlement of these rights. SLMC under FRA Rule 10(e) is to monitor resettlement under Sec. 4(2) of FRA. Compliance need to be verified and rectifications, if any, made.

3.5 Internally Displaced Persons (IDPs) in Andhra Pradesh and Telangana

A large number of tribal people from Chhattisgarh fled to the adjoining States of Andhra Pradesh and Telangana, especially during the period 2005-8 from the conflict zone. They constitute Internally Displaced Persons (IDPs). Their forest rights under FRA remain to be recognised besides issues of rehabilitation. A detailed examination of the legal provisions and possibilities are provided in Annexure 6.

3.5.1 Issues of IDPs

Details of the number of households and persons who are displaced and are currently residing in the Andhra Pradesh and Telangana, their place of origin, the current place of residence, the loss that they have suffered - material and emotional, the present living condition and their aspirations, whether they wish to return to their original village, or resettle elsewhere in Chhattisgarh or wish to remain where they are currently residing are not known. There are reports of some of these IDPs being evicted from forests as encroachers while at the same time receiving public services and some welfare measures. The National Commission for Scheduled Tribes (NCST) and MoTA were asked to conduct a survey of these IDPs in July 2019. NCST issued notice in January 2022 to Chhattisgarh, Telangana, Andhra Pradesh, Odisha and Maharashtra to submit a report on the action taken to identify and rehabilitate these IDPs.

3.6 Harmonising Biodiversity Act 2002 with FRA

The subject of biodiversity is now covered by FRA including the Intellectual Property Rights. Since FRA is enacted subsequent to the Biodiversity Act, FRA prevails. However, this is only with reference to the forest area recognised as CFR area under FRA and not to the revenue lands. However, these

are to be read together with the relevant PESA provisions in their application to the Scheduled Area of the State.

3.6.1 *Issues in compliance*

Lack of harmonising the applicable laws, namely BDA with PESA and FRA leads to multiplicity of mutually conflicting structures leading to violations of laws.

CHAPTER 4

RECOMMENDATIONS

4.1 Saturation of IFR title recognition

1. Systematic effort for saturation of claims of eligible PVTG households is needed. Procedures to follow the process can be simplified and shortened to cover 100 % HHs in a short span of time.
2. Focused effort should be made for recognition of eligible single women and single women headed households. Such HHs are to be identified with the help of SECC and social security schemes data for recognising the rights of single women headed HHs and other vulnerable women. A list of potential eligible women HHs should be made from it. By special drive, eligible women headed HHs should be covered.
3. There should be an assessment of potential of IFR claims. This can be done by each Gram Sabha or its FRCs by counting the number of households and potential IFR area they might claim. FRCs should then encourage the families to submit claims. The state tribal department should facilitate the Gram Sabhas and FRCs to map the village-wise potential IFR beneficiaries and facilitate their claims at the Gram Sabha, SDLC and DLC level. FRCs can ask for Gram Sabha to be convened for this. A special agenda for the Gram Sabha may also be sent by Tribal Department in coordination with Panchayat Department. All the resolutions passed by the Gram Sabha should be read and accordingly recorded before being signed.
4. The only other indicative data available of potential IFR claimants is the forest department's list of encroachment prepared in 1994-95. This list should be handed over to the concerned Gram Sabhas and Tribal Department for further action as per need.
5. Tribal Department should take help of grass-root NGOs, elected representatives, people's organisations, activists, political parties, etc for FRA implementation at the cluster or block level to facilitate its effective implementation.
6. State government should give a clear message through mass media that this process is open and people can come forward to file their claims.
7. Corrections should be carried out in all the IFR titles where they have been issued without writing the name of either of the spouse and descendants.
8. Clear procedure of transfer of land to family members after the death of title holder should be spelt out in accordance with relevant revenue and forest laws along with proposed PESA rules.
9. Record of Rights should be updated immediately after the recognition by the Revenue and Forest Department. Pending record of rights should be updated in a time bound manner by both the departments.
10. For points number 8 and 9 above, the process should be Gram Sabha centric where once the Gram Sabha recommends the relevant revenue (patwari), panchayat secretary and forest department (beat guard) should act on it within 15 days of such recommendation.

4.2 Pending claims

1. There should be an on-line MIS system to capture the real time progress of FRA in the state. To increase the accountability of the concerned department, progress of claims at different stages should be kept in the public domain.
2. FRC and the claimants should have access to information about the progress and issues raised on the claim by Gram Sabha, SDLC and DLC. FRC and claimants should be informed about the status of claim after completion of the stipulated period as per the Act through SMS and letter.

3. The SDLC and DLC do not meet at regular intervals. This is the main reason for delay in disposal of the claims resulting in the claims remaining pending as well as lack of check on fulfilment of lawful procedures resulting in errors. The State should issue orders for regular meetings of SDLC and DLC on a fixed interval. The interval should not be of more than one month.
4. Pending issues should be resolved in a planned manner and the State Level Monitoring Committee should review this as a regular agenda of the meeting. Focus should be on each and every issue rather than mere reporting of the FRA implementation figures. Review of SDLC wise pending claims should be carried out.

4.3 Rejection of IFR claims

1. State should reopen all the rejected and partially accepted or partially rejected claims because of procedural lapses at many levels.
2. Claims that are approved with reduced area should also be reviewed by Gram Sabha followed by DLC separately.
3. Clear procedure should be formulated for each statutory body of FRA namely Gram Sabha, FRC, SDLC and DLC and instructions should be issued along with non-negotiable check list for review of claims by the designated officer and committee/s specifically entrusted with the review of rejected claims.
4. Dedicated wing should be established at the state level office of Tribal Department for review of rejected claims, which should be headed by senior or retired IAS officer.
5. A block level team of grass-root civil society organisations, elected representatives, people's organisations, activists, social and community groups, etc could be formed which should work as volunteers with the SDLC and aid them in review of rejected cases.
6. Tribal Department should adopt a time bound approach for review of all the rejected cases. All the stakeholders should be oriented about the procedure beforehand.
7. Transparent and accountable process should be adopted for review and progress reporting.
8. Claims rejected at SDLC and Gram Sabha level should also be reviewed comprehensively.
9. Reasons for rejection should be documented and communicated properly.
10. Gram Sabha, FRC and claimants should be informed in writing about the outcome of the review process.
11. GPS imagery created using Google Earth should be accepted as one of the evidences while reviewing rejected cases.
12. Any Gram Sabha and IFR claimants should be empowered to demand, if they so wish, that the Revenue/Forest Department conduct a GPS survey of any particular claimed plot and overlay it on Google Earth imagery of a date before the cut-off date in the Act and get a printout to use as evidence when applying for review of a rejected case.

Refer Annexure 7 for check list to verify whether forest rights recognition/rejection has fulfilled all the key provisions under FRA and its Rules.

4.4 Integration of Line Department Schemes with the titleholders

1. Clause 16 of the FRA Rules 2008 as amended in 2012 specifies that the State Government shall ensure through its departments that all government schemes, including those relating to land improvement, land productivity, basic amenities and other livelihood measures, are provided to such claimants and communities whose rights have been recognized and vested under the Act.

2. Similarly, efforts must be made to ensure that the IFR title holders should be given access to bank loans and other schemes based on their IFR titles. Orders issued in this regard by the state government of Chhattisgarh should be communicated to the local administration so that awareness programs can be conducted for the forest-dwellers. The Department of Tribal and Scheduled Caste should issue an order requesting the District Collectors to inform the banks to remove any hurdles in accessing formal credit. The district administration should be directed to chalk out plans to allow the IFR title holders to access other government schemes. In the district development plans the IFR title holders should be given priority in the district development plans in land improvement schemes and income-augmenting schemes. They should also be given preferential priority for being shortlisted as beneficiaries for schemes under the departments of agriculture, tribal development and rural development.

4.5 Updating Record of Rights

1. The forest rights claim recognised under the FRA is a legal title in the form of a signed document by the competent authority. The recognised title is non-transferable and inalienable but heritable. Therefore, the final title document given to the forest rights holder, whether individual or the Village/Gram Sabha as the case may be, should have a clear description of the forest right conferred, the demarcation of boundaries, and other relevant information. The titles should not contain conditions other than those permitted by law.
2. With reference to record of rights, Rule 12 A of the FR Rules provides that on the completion of the process of recognition of rights and issue of titles, the Revenue and the Forest Departments are required to prepare a final map of forest land so vested. The concerned authorities are also required to incorporate the forest rights so vested in the revenue and the forest records within the specified period of record updating. This position has been reiterated by the Ministry of Tribal Affairs in their circular [No.23011/16/2014-FRA dated 3.3.2014](#) (Annexure 8), which noted that the FRA process will be completed only when the RoR (record of rights) is created.
3. Further, the CFRs 'should be recorded as "CFRs" in the Record of Rights and be suitably incorporated in the records of the Forest Department" (Clause 2(v) of MoTA directives under Sec.12 of FRA No.23011/16/2015-FRA dated 23 April 2015).
4. The names of the husband and the wife should be recorded as title holders. In case the title holder(s) is without a direct heir, the nearest family member should be appointed as the heir as approved by the Gram Sabha.
5. The legal category of the land, however, will continue to remain 'forest'.
6. Odisha and Maharashtra have already issued orders stating that all the titles issued under FRA should be recorded in the 7/12 (RoR) extract under the column 'other rights'. Similarly, on the 28th December 2018, the Tribal Development Department of Maharashtra issued an order directing to ensure that IFR title holders are issued independent 7/12 extracts by actual measurement of their land. The Government of Chhattisgarh should issue similar orders and prepare the RoRs for all the recognised IFR titles.

4.6 Community Rights

1. The data related to Community Rights titles issued should be put in the public domain on the Tribal Department's website according to village, block and district where they have been issued. GPS maps of the community rights should be integrated in a webGIS portal to visualize it better.

2. All the Community Rights should be reviewed by a team at the state level to ascertain lapses in procedure and outcome (in terms of area, location of claim and name of the claimants).
3. Once reviewed, all the titles issued should be sent for further review to the Gram Sabha with the observations of the state level team to check whether they have been issued according to the actual use of forest by the Gram Sabha members.
4. Rectification procedures should be formulated and Gram Sabhas and FRCs should be made aware about it. SDLC and DLC should support Gram Sabhas and FRCs in the process of rectification.
5. Separate process should be formulated by the Tribal Department to enable Gram Sabha to claim all the left out Community Rights. This should involve comprehensive training at all levels about what all rights can be claimed under Community Rights and what should be the procedure for it.
6. CR area beyond the CFR area should also be recorded in the CR titles.
7. The definition of *nistar* should be given in accordance with what is being practised by the community rather than being restricted to the definitions given by forest and revenue department. Department of Scheduled Tribe and Scheduled Caste should issue instructions/clarifications regarding this.
8. State should issue instructions/guidelines regarding recording the CRs of neighbouring villages in both CR as well as CFR title.
9. State government should issue guidelines regarding recognition of Community Rights where they are spread across more than one block, district or state and how the coordination between various FRCs, Gram Sabhas, SDLCs, DLCs and SLMCs should be carried out.
10. Procedure and formats should be given by tribal department for correction of record of rights of both forest and revenue departments with respect to Community Rights especially those in *Nistar Patrak* and Compartment History.
11. All the sacred and traditionally/culturally important places of villages located within the forest should be recorded as CR on priority basis.
12. Recommendations should go from the state Tribal Department to the Union Ministry of Tribal Affairs about improvements to be made to the format of CR along with a request to issue specific comprehensive guidelines for process of recognition of Community Rights and their updation in record of rights.
13. Habitat Rights have to be recognized for the PVTGs and nomadic communities. Ministry of Tribal Affairs should collate all the anthropological studies and ethnographic studies available with various universities, independent individuals and research organisations across the country along with those available with Anthropological Survey of India and Tribal Research Institute, Bhopal. Where the relevant data is not available, such studies should be commissioned which specifically document the land use patterns of PVTG and nomadic communities so as to enable and facilitate them to file their claims. Also, focus group discussions with the traditional and community level organisations of PVTGs and nomadic groups.
14. Finally, community Rights once claimed in entirety and Community Rights titles issued to a single village through multiple certificates has to be reconciled into a single consolidated CR map where there could be overlap of different CRs. The area thus computed shall be the total forest lands titled under various CR. This area may include the CRs of adjacent villages too which too needs to be demarcated in the consolidated map.

4.7 Community Forest Resource Rights

The recommendations are in two parts; pertaining to completion of proper CFR recognition, and to the post-recognition process. For clarifications on Community Forest Resource rights under Sec. 3 (1) (i) and Power and Duties under Sec. 5 of FRA, see Annexure 9.

4.7.1 Completing rigorous CFR recognition

1. Estimating CFR potential area and listing CFR potential villages

- Department of Scheduled Tribe and Scheduled Caste should make an assessment of the potential CFR area as per MoTA's directions in September 2015 based on which directions are to be issued to the DLCs to take necessary steps to ensure that CFR rights are recognised. Using a combination of census data, data available with forest and revenue department about the forest cover and GIS techniques, a list of all villages (as defined in census) that have CFR potential and the estimated aggregate CFR potential area at block/sub-division level should be prepared immediately. Villages and hamlets where FRCs have been formed should be included in the list with potential CFR area. The list and method prepared by ATREE, CM's office and Vasundhara can be used as a starting point and refined as necessary. Forest department should independently also declare the total forest area under them according to block and district boundaries while revenue department should come up with a list of villages, block and district with total forest area within them under their jurisdiction.
- Such list of villages should also be prepared for Durg, Bemetara and Raipur districts where it has been the stated position of forest department that no forest exists in these districts. However, these districts have revenue forest which are forest land under the law, and henceforth should be included in further implementation of FRA.
- This list, once prepared should target such villages for capacity building in claiming the CFR. This should be taken by the government as the MINIMUM list of villages and potential, with clarification that these villages are to claim their CFR according to their traditional boundary, and jointly so where the traditional boundary overlaps with those of adjacent Gram Sabha/s.
- A public domain webGIS platform should be created by Tribal Department showing these potential villages and showing the progress of CFR claims and the boundaries of claims made will serve to guide all stakeholders.

1. Training

- Training of FRC, SDLC and DLC members (and presence of support staff at both levels to ensure the quality of the process) is essential.
- Separate special training for non-official members of the SDLCs and DLCs (not only how to function in the committee, but also function as a bridge between the Committees and the Gram Sabhas to ensure proper implementation of FRA)
- The rest of the training process should:
 - a. Focus more on the field level i.e., on the Gram Sabhas or FRCs
 - b. Focus only on claim-making (not getting into management plans) as part of the CFR campaign
- There should be smaller manuals for government functionaries, especially beat guard, patwari, panchayat sachiv along with SDLC and DLC members
- The state government will need to provide more funding and staffing at state, district, block and village levels. The Consolidated Fund of India under Article 275 should be accessed by the Tribal Department for the same.

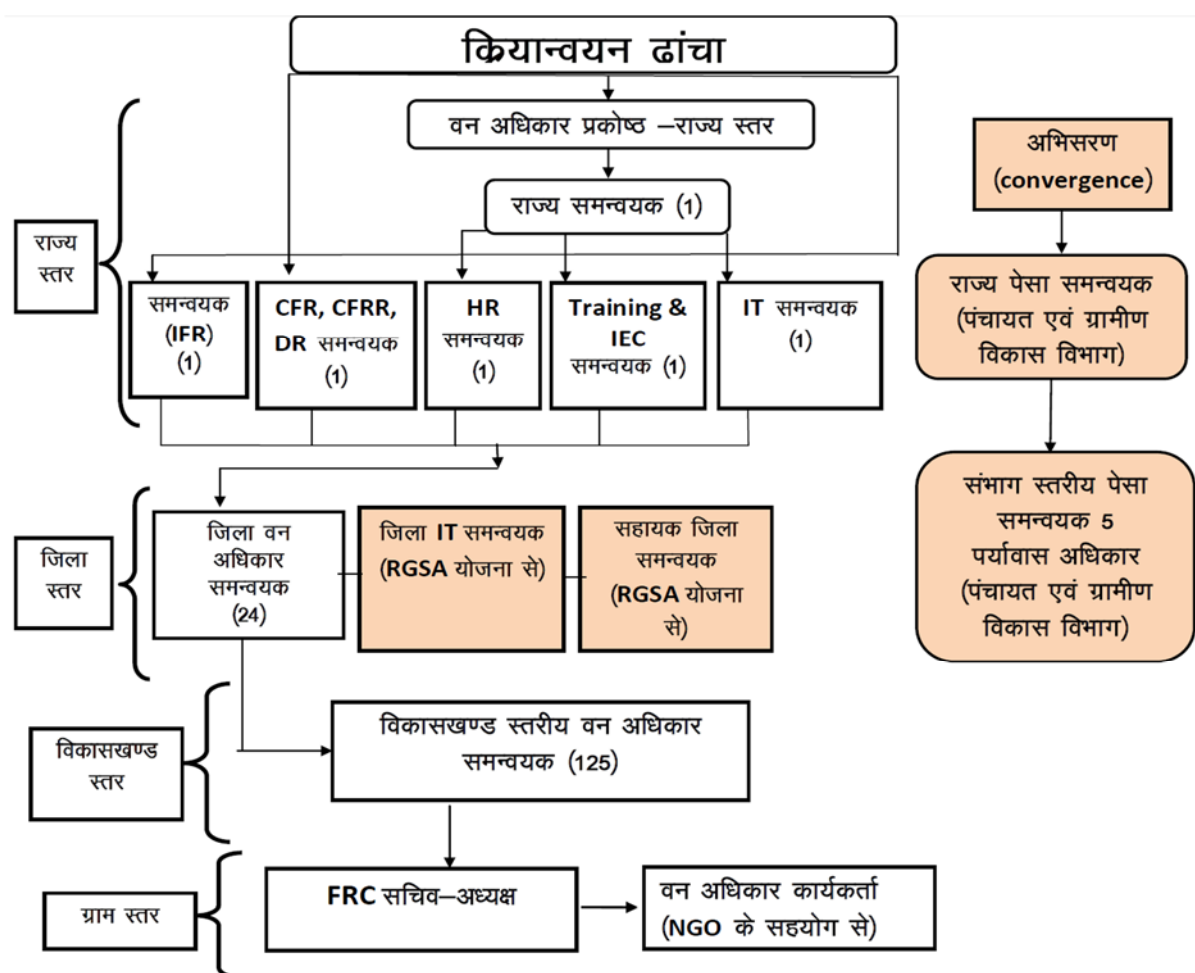
- CFRR claims recognized so far must be scrutinized for the kinds of faults/lacunae mentioned from hurried implementation. A special committee needs to be constituted consisting of independent FRA specialists to carry out such scrutiny. This committee should also recommend what process to follow for correcting faulty CFR titles given earlier.
- All the necessary documents mentioned in Rule 13 to be used as evidence while claiming CFR should be made available to the potential villages by respective SDLCs, especially forest and revenue officials so that Gram Sabhas can attach them with the CFR claim.

2. *Carrying out CFRR recognition in a bottom-up campaign mode*

- Recognition of CFRR under FRA should be completed at the earliest. A time bound campaign can be designed to build awareness about the CFRR, strengthening the Gram Sabha and facilitating the village level process as per the FRA. Ultimate goal of this process should be strengthening the Gram Sabha's capacity and role as envisaged in the FRA.
- A revised approach and structure is required. Main steps which should be followed are:
 - a. First and foremost, a State-level High Powered Committee chaired by the CM, and including the Tribal, Forest, Revenue and Rural Development Ministers, independent experts and senior activists should be formed. High power committee will provide the overall guidance and leadership in the implementation of CFR recognition and post recognition processes as per the letter and spirit of FRA in Chhattisgarh.
 - b. Second, a mission/ special force headed by the Tribal Commissioner and including additional senior staff (see figure below) should be formed and given a fixed term of two years for the implementation process including recognition and post recognition process. This Mission/ special force should report to the High Powered Committee. Mission should have officers from forest, P&RD, revenue and other departments to facilitate a coordinated effort. Mission should encourage and join hands with civil societies for empowering the Gram Sabha and capacity building of village level actors like FRCs and Rule 4(1)(e) Committees etc.
 - c. Third, adequate resources (technical, financial and human) should be provided to this special force/ mission.

3. *Institutional support to the Gram sabhas for forest governance*

- FRA recognises the village Gram Sabha (as defined by PESA) as the governing and executing institution for protection, conservation, regeneration and management, of forest. The State should devolve powers and provide fund and functionaries to Village Gram Sabha.
- The Gram Sabha should get adequate share through state finance commission, MGNREGA and CAMPA. .
- The Gram Sabha should be provided dedicated functionaries for facilitating FRA recognition and post recognition process. Provision of at least one functionary for Gram Sabha should be created. This functionary should support FRC, Rule 4(1)(e) Committees formed under FRA and other Acts like PESA and Biodiversity Act in performing their role. This functionary should be selected by Gram Sabha and paid by Gram Sabha. State should provide sufficient funds to Gram Sabha to manage the functionaries. Tribal Department in coordination with Panchayat department should take lead in facilitating the process.



Suggestive structure for rigorous and rapid implementation

Source: 300 days abhiyaan of Tribal Development Department of Chhattisgarh

- Campaign mode should be used for capacity building and awareness generation is used, its duration should not be more than for 3 months for the ground level process.
A short version manual specific to different administrative staff should be developed for clarity about their roles and responsibilities and how they should go about monitoring field level process.

4.7.2 Clarifying and enabling post-CFR recognition processes

Financial, technical and policy support is required for the post-recognition process. Specifically, learning from the experience of states like Maharashtra and Odisha, Chhattisgarh should issue its own notification(s) regarding the following:

- Defining the structure of forest governance in the post-CFRR context, i.e., what roles will different departments play and how support, convergence, monitoring and conflict resolution will be done at the district or block-level on an ongoing basis.
- A comprehensive set of **Post-recognition CFR Operational Guidelines** must be notified by the Tribal Department after full consultation with Gram Sabha representatives, activists and independent experts along with relevant departments. These must include:

- a. Directions allowing the Gram Sabhas to constitute and convene Committee/s under Rule 4(1)(e) to protect, regenerate, conserve and manage CFRs.
 - b. Directions to banks to allow the village Gram Sabhas (as defined in the FRA Act) to open and operate bank accounts in their names independent of the Gram Panchayat and its accounts. The main account should be in the name of village Gram Sabha and sub-accounts in the name of its executive committee/s. As the village Gram Sabha is a statutory body under FRA, relevant amendments should be made in the Chhattisgarh Panchayat Raj Act if need be for the same.
 - c. Stipulation that Gram Sabhas must get their accounts independently audited by recognized Auditors.
 - d. Directions to the Forest Department that their Working Plans will not be applicable in CFR areas unless approved by Gram Sabha and that plans made by Gram Sabhas will prevail over the working plans.
 - e. Directions to the Forest Department to close down accounts of JFM committees and transfer their funds as “untied funds” to the respective Gram Sabhas to aid in implementing the Gram Sabha plans.
 - f. Directions should be issued to the Forest Department so as to make available all funds related to afforestation and forest protection and regeneration scheme funds including CAMPA funds to Gram Sabhas in proportion to land area being managed by them.
 - g. Directions to the Forest Department that it must provide policing support when called upon by the Gram Sabha.
- The 2015 CFR Guidelines issued by MoTA says funds from Tribal Sub-Plan, MGNREGA, Gram Panchayat CAMPA be made available to the Gram Sabha to develop CFR; This should be strongly implemented.
 - Changes should be made in CAMPA guidelines to devolve funds to Gram Sabha.
 - All the committees formed under the directions of SLMC for CFR and post-CFR process headed by the forest department should be reconstituted under the chair of Tribal Department.
 - Reviving or re-creating convergence, monitoring and conflict resolution committees at the district as well as block level with inclusion of Gram Sabha representatives and civil society representatives (non-voting).
 - Directions should be given by SLMC to Tribal Welfare Department to
 - a. provide financial support to Gram Sabhas for preparation of management plans (Maharashtra Government is providing Rs.1.74 lakhs per Gram Sabha from central funds),
 - b. to engage independent bodies to do training to build a **cadre of personnel** who can provide support for grounded, people-oriented sustainable forest management, especially NTFP management and livelihood enhancement.
 - Bring convergence between ongoing NTFP policies and institutions (such as MFPPED) and the Gram Sabhas which are now the statutory bodies for NTFP related work. The monopoly of MFPPED over nationalized NTFP should be abolished as Gram Sabhas are the sole authority to issue any kind of Transit Permits (TPs).
 - Timber rights should be clarified by the state government by issuing an order stating that CFR management would also cover management of timber in accordance with the conservation and management plan of the Gram Sabha wherever Gram Sabha’s CFR rights have been recognized.

4.8 Conversion of forest villages to revenue villages

Conversion of forest villages to revenue villages under 3(1)(h) is in relation to change in category of the village in order to ensure that these villages should be extended with all government services and development activities that otherwise are not available to forest villages.

- a. Inform all residents of the forest villages of their rights under sec 3(1)(h) and put all forest village related maps and records from the Forest Department (including list of van patta holders) and the IIT Roorkee maps in the public domain.
- b. Identify and include all 'unsurveyed' and undemarcated forest habitations not included in the official list as 'forest villages', if any, for the purpose of conversion to revenue villages.
- c. The Gram Sabha should demarcate the land that would be the revenue boundary of the newly proposed revenue village. This should 'include the actual land use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities and public spaces.' [Rule 12(h)]
- d. The habitation in its entirety including the common lands such as open lands, drains, water bodies and roads shall constitute the revenue village while the land would remain forest land. The conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc.
- e. The cultivated/inhabited area in a forest village should be treated separately and 'converted in its entirety', without the 4 ha limit, and (more important) for ALL the residents of the forest village regardless of whether STs or OTFDs.
- f. The forest villages that are already converted to revenue villages or are yet to be converted to revenue villages should all, without fail, complete the process of determining forest rights under FRA just as other revenue villages
- g. Ensure that all common (forested or open) lands within the forest village boundary, plus any customary use/management areas outside the forest village boundary, are included in CFRR recognition process.
- h. A special team has to be constituted by SLMC to undertake this task on a priority basis as these habitations constitute the most underserved and deprived villages

4.9 Compliance of FCA and WLPA with the FRA

- Review all central and state laws and Rules, directions, GOs, guidelines, policies etc. for compliance with FRA. Inconsistencies and conflicts should be rectified forthwith through suitable modification or withdrawals as applicable by the State government and by the Governor under subparagraph (1) of Paragraph 5 of the Fifth Schedule to the Constitution of India as are required.
- Under the FRA, the Gram Sabha is the statutory authority to protect, conserve and manage the forests under their jurisdiction (see Annexure 5 for details). Any change in land use or activity in the area under the Gram Sabha jurisdiction requires the consent, direct control and supervision of the Gram Sabha including any modification of rights (including relocation) in the interest of wildlife conservation, and forest diversion for non-forest activities and afforestation. To ensure this:
 - Halt all ongoing forest clearances till CFR recognition is complete
 - Review all Forest Clearances given since 2009 and check for compliance with MoEFCC order F. No. 11-9/1998-FC (pt) dated 3 Aug 2009 on forest diversion under Forest conservation Act

1980 compliance with FRA (See Annexure: 4), amended FCA rules and FRA, and redo the process where required.

- Halt all relocations including voluntary relocations including in the name of creating 'inviolate' areas under the WLP 1972 for Protected Area conservation from any protected area and make the process fully compliant with Critical Wildlife Habitat provisions of FRA and MoEFCC Guidelines for notification of Critical Wildlife Habitat [F. No 1-23/2014 WL dated 4 January 2018](#). (See Annexure 10)
- Diversion of forest land without completion of recognition of IFR, CR, CFR and Habitat rights is illegal both under FCA and FRA and should be halted. Action against all such illegal diversions are to be initiated. All forest diversions should be processed in only those areas where forest rights under FRA have been recognized
- For land already diverted after the enactment of the Forest Rights Act and where the rights have not been recognised, they should be recognized and compensation should be given to the respective Gram Sabhas for CR and CFR and individuals in case of IFR, especially from funds deposited in CAMPA and NPV.
- In cases where land has been diverted on paper and land use has not changed, IFR, CR and CFR rights should be recognized and compensations should be given to the Gram Sabhas for acquisition of land before change of land use.
- Instructions should be given to the District Collector and the Conservator of Forests to ensure that all IFRs, CRs and CFRs are recognised, that these rights are quantified for compensation as per applicable laws along with alternatives and/or Gram Sabha approved alternative rehabilitation and resettlement package prior to processing the proposal for forest clearance and certifying that all requisite procedures are fulfilled.
- The Principal Secretary/Secretary, Department of Tribal and Scheduled Caste of the State shall monitor and report compliance periodically on each of the above to the State Level Monitoring Committee constituted under Section 6(7) and 6(8) of FRA, verify the same, and forward their findings and action taken report to the office of the Governor and to the Ministry of Tribal Affairs, the nodal ministry for implementing FRA 2006.

4.10 Internally Displaced Persons from Chhattisgarh to Andhra Pradesh and Telangana

- The Chhattisgarh government should constitute a Commission of Inquiry to look into the issue restitution and reparation of the IPDs in time bound manner.
- The SLMC should take up the issue of determining and recognising their forest rights in Chhattisgarh at the earliest in coordination with the respective SLMCs of Andhra Pradesh and Telangana.
- There could be 4 categories of IDPs
 - Pre-2005 and post-2005 IDPs who wish to claim their forest rights in their original village to be facilitated specially through FRA process;
 - Pre-2005 and post-2005 IDPs who do not wish to return to their original village but wish to be provided in-situ rehabilitation elsewhere in Chhattisgarh which could be provided under Sec.3(1) (m) of FRA 'right to in situ rehabilitation; If there are legal impediments, this may be sorted out using the powers of the Governor according to the provisions of the Fifth Schedule of the Constitution through suitable notification for rehabilitation and resettlement of the IDPs;

- Pre-2005 and post-2005 IDPs who wish to claim their rights in their present location of their residence in Andhra Pradesh / Telangana which they are eligible to claim only as OTFDs fulfilling 3 generations criteria of residence in the bordering Chhattisgarh area; and
- Pre-2005 and post-2005 IDPs who do not wish to return to their original village, nor claim rehabilitation elsewhere in Chhattisgarh and are also not eligible to claim rights in the current place of residence in Andhra Pradesh / Telangana, but can be rehabilitated in the State of their current residence in Andhra / Telangana through special rehabilitation and resettlement package outside the Scheduled Area of the respective States.

4.11 Harmonising Biodiversity Act 2002 with FRA 1996 and PESA

- The 'local' body under the Biodiversity Act and Rules in Scheduled Area and the CFR area is now the village Gram Sabhas. The Chhattisgarh government should notify all existing Biodiversity Management Committees (BMCs) constituted by the Panchayats in the said area as null and void (See Annexure 11 for the legal clarification on Biodiversity Management Committee). The village Gram Sabhas (under PESA and FRA) should be empowered as the statutory authority to constitute BMCs responsible for forest and revenue lands in the Scheduled Area and CFR lands outside the Scheduled Area.
- Chhattisgarh government should demand that the Union Government should make all necessary amendments to the guidelines issued by National Biodiversity Authority under the Ministry of Environment, Forests and Climate Change, particularly those that make the field level officials of forest and agriculture department as the secretary to the Biodiversity Management Committee (BMC) which now stands ultravires PESA and FRA. Instead, in the Scheduled Areas and the CFR area outside Scheduled Areas, the secretary should be an appointee of the Gram Sabha.
- The BMC constituted by the village Gram Sabhas would carry out all the functions as required under the law including maintaining Biodiversity Registers. The current practice of Biodiversity Registers being made by NGOs who are appointed as technical support group by the State Biodiversity Board should be immediately stopped and instead capacity building of Gram Sabha appointed BMC members be undertaken. Wherever such registers have already been made, they should be revised by committees formed by Gram Sabha.
- Whatever funds that are allocated for making Biodiversity Registers should go to Gram Sabha rather than directly to BMCs.
- As per Section 4(1) (e) of FR Rules, Gram Sabha is competent to constitute committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of Section 5 of the Act. Thus, this provision should be used for constituting BMC at the village Gram Sabha level.

ANNEXURES

Annexure 1

MoTA F.No.23011/16/2015 dated 22 September 2015



FRA MoTA 150922
to Chief Secs. CFR ai

Annexure 2

MoTA directives under Sec.12 of FRA No.23011/16/2015-FRA dated 23 April 2015



FRA MoTA 150423
To Secs on CFR.pdf

Annexure 3

Forest Villages: Clarification

Forest villages (FVs) were created by the Forest Department during the colonial period, in which forest-dwelling communities were forced to settle down, or in a few cases, brought from elsewhere to settle. *“The forest villages are very old entities, at times of pre-independent era, duly existing in the forest records. The establishment of these villages was in fact encouraged by the forest authorities in the pre-independent era for availability of labour within the forest areas (UNDP-MOTA FAQ). The Forest Department issued ‘van pattas’ in such villages and regulated all land uses. These are not ‘encroachments’, nor are they cultivation/settlements ‘missed out during reservation’. They are purposefully created patches of habitation and cultivation and strictly regulated by the forest department. “The well-defined record of each forest village, including the area, number of inhabitants, etc. exists with the State Forest Departments.” (MoTA-UNDP FAQ).*

The Forest Rights Act provides for the conversion of such villages into revenue villages: *Sec.3(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages; Furthermore, the Rules clarify that: Rule 12 (5) The conversion of forest villages, unrecorded settlement under clause (h) of Section 3 shall include the actual land use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities and public spaces. Further, the FAQ clarifies that: The four hectare limit specified in Section 4(6) applies to rights under Section 3(1)(a) of the Act only and not to any other right under Section 3(1), such as conversion of pattas or leases, conversion of forest villages into revenue villages etc. [(j) of (i) Process of Recognition of Rights in FAQ].*

Records of the forest villages maintained by the Forest Department may thereafter be suitably updated on recognition of this right. [(d) of iii. Community Rights, FAQ]. There could be habitations within the forests which are not officially brought under the list

Observations from field:

Generally, the boundaries of forest villages are clearly demarcated by the FD including all land use within that boundary. This is supposedly mapped by IIT Roorkee, and presumably includes habitation, land under livelihood activities, common lands within the habitation etc.

However, data from Bastar district show that in most FVs, the area under IFRs is **far below** the area of cultivation in the village. See table below.

Forest Village Name (Bastar district)	Agri+Builtup from IIT Roorkee maps	Total IFR Recognized (as per ROFRA website data)
Lawagaon	362.771	168
Toynar	316.293	89
Mundenar	164.168	88
Kudumkhodra	87.209	no data
Tareka	203.62	53
Mohkagaon	160.102	145
Mohlai	344.956	321
Komar	354.949	232
Tolawada	31.97	9
Tiriya	246.599	83
Surundwada	180.075	5
Pulcha	87.586	48
Machkot	109.767	54
Kotamsar	240.729	153
Chargaon	345.444	177
Bispur	351.758	257
Bengpal	136.399	no data
Bhiranda	127.842	130
Bagraiy	197.87	32
Kodrichapar	247.841	1

Annexure 4

MoEFCC letter F. No. 11-9/1998-FC(pt) dated 03 Aug. 2009 on FCA compliance with FRA

Annexure 5

Forest Diversion, Relocation and Rehabilitation under Forest (Conservation) Act 1980 and Wild Life Protection Act 1972

A. Forest Diversion

1. Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA)

- Recognises the centrality of Gram Sabha in decision making about the various rights guaranteed under the said Act;
- Section 4(i) requires the Gram Sabha or the Panchayats at the appropriate level to be consulted before making the acquisition of land in the Scheduled Areas for development projects;

- Section 4(m) (iii) confers the Gram Sabha the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;
- Section 4 (m) (ii) endows specifically the Panchayats at the appropriate level and the Gram Sabha with the ownership of minor forest produce;

2. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

- Enacted 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,
- Section 6 provides the procedure for vesting of such forest rights to the forest dwelling Scheduled Tribes and other traditional forest dweller;
- Section 3(1)(i) confers the Gram Sabha with the rights to protect, regenerate or conserve or manage any community forest resource, the customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;
- Section 5 empowers the holders of any forest right, Gram Sabha and village level institutions in these areas are empowered to – protect the wild life, forest and biodiversity; adjoining catchments area, water sources and other ecological sensitive areas; their habitat from any form of destructive practices affecting their cultural and natural heritage, and to ensure compliance with the Gram Sabha decisions to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity;
- Section 4 (5) specifically forbids eviction or removal of any member of a forest dwelling Scheduled Tribe or other traditional forest dweller under his occupation till the recognition and verification procedure is complete.

3. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), 1989

- provides for penal action of imprisonment of not less than six months extending to five years with fine for wrongful occupation and dispossession of land, interference with forest rights as defined under FRA 2006, land and water vide Section 3(1)(g), and obstruction of rights to common property resources vide Section 3(1)(za)(A).

4. The Ministry of Environment, Forests and Climate Change (MoEFCC) in order to ensure that all forest diversions under FCA 1980 complies with FRA 2006, issued a letter F. No. 11-9/1998-FC(pt) dated 03 August 2009 regarding Diversion of forest land for non-forest purposes under the Forest (Conservation) Act 1980;

5. Procedure for forest diversion

For the forest land that are proposed to be diverted for any purpose whether *for non-forestry purpose or afforestation or any other purpose*

- (a) Where the process of settlement of Rights under the FRA has been completed or currently under process, as per MoEFCC order referred in (4) above, the proposal for such use shall be accompanied by the following:

- (i) A letter from the State Government certifying that the complete process for identification and settlement of rights under the FRA has been carried out for the entire forest area proposed for diversion, with a record of all consultations and meetings held;
- (ii) A letter from the State Government certifying that proposals for such diversion (with full details of the project and its implications, in vernacular / local languages) have been placed before each concerned Gram Sabha of forest dwellers, who are eligible under the FRA;
- (iii) A letter from each of the concerned Gram Sabhas, indicating that all formalities / processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures, if any, having understood the purpose and details of proposed diversion;
- (iv) A letter from the state government certifying that the diversion of forest land for facilities managed by the Government as required under section 3(2) of the FRA have been completed and that the Gram Sabhas have consented to it;
- (v) A letter from the State Government certifying that discussions and decisions on such proposals had taken place only when there was a quorum of minimum 50% of members of the Gram Sabha present of whom at least one-third present shall be women;
- (vi) Obtaining the written consent or rejection of the Gram Sabha to the proposal;
- (vii) A letter from the State Government certifying that the rights of Primitive Tribal Groups and Pre-agricultural Communities, where applicable have been specifically safeguarded as per section 3(1)(e) of the FRA;
- (viii) Any other aspect having bearing on operationalisation of the FRA.

And as per FCA Rule 6 (3)(e) the District Collector shall complete the process of recognition of forest rights under FRA, obtain consent of each Gram Sabha having jurisdiction over whole or part of the forest indicated for diversion and forward the findings to the Conservator of Forests;

- (b) Where the process of settlement of rights under the FRA is yet to begin, the State Government is required to enclose evidences supporting that settlement of rights under FRA 2006 will be initiated and completed before the final approval for proposals.

B. Inviolable areas in Protected Areas

1. The Wild Life (Protection) Act, 1972 (WLPA)

- Provides for creating inviolable areas that are to be specially protected, which may require modification and/or acquisition of existing forest rights under extant laws, and relocation only where co-existence of any kind is not possible;
- Section 38V(4) requires the State Government to prepare a Tiger Conservation Plan, ensuring the agricultural, livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve consisting of
 - (i) core or critical tiger habitat areas of National Parks and sanctuaries which are required to be kept as inviolable for the purposes of tiger conservation, without affecting the rights of the Scheduled Tribes or such other forest dwellers and

- (ii) buffer or peripheral area consisting of the area peripheral to critical tiger habitat or core area, which aims at promoting co-existence between wildlife and human activity with due recognition of the livelihood, developmental, social and cultural rights of the local people;

2. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

- Section 2(b) defines Critical Wildlife Habitat as such areas of National Parks and Sanctuaries which are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests;
- Section 4(2) provides for the forest rights recognised under this Act in critical wildlife habitats to be subsequently modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely: -
 - (a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;
 - (b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;
 - (c) the State Government has concluded that other reasonable options, such as, co-existence are not available;Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses;
- Ministry of Environment, Forest and Climate Change issued Guidelines for determination and notification of Critical Wildlife Habitats within National Parks and Sanctuaries as defined by Section 2(b) read with 4(2) of the FRA 2006 vide letter F. No. 1-23/2014 WL dated 04 January 2018;

C. Relocation, resettlement and rehabilitation applicable due to forest diversion and creation of inviolate areas

1. Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA),

- Section 4(i) requires the Gram Sabha or the Panchayats at the appropriate level to be consulted before resettling or rehabilitating persons affected by such projects in the Scheduled Areas;

2. The Wild Life (Protection) Act, 1972 (WLPA)

- Section 38V(5) permits only *voluntary relocation on mutually agreed terms and conditions*, and that no Scheduled Tribes or other forest dwellers shall be *resettled* or have their rights adversely affected for the purpose of creating inviolate areas for tiger conservation unless—
 - the process of recognition and determination of rights and acquisition of land or forest rights of the Scheduled Tribes and such other forest dwelling persons is complete in sub-section (i);

- the concerned agencies of the State Government establish with the consent of the Scheduled Tribes and such other forest dwellers in the area, and in consultation with an ecological and social scientist familiar with the area, that the activities of the Scheduled Tribes and other forest dwellers or the impact of their presence upon wild animals is sufficient to cause irreversible damage and shall threaten the existence of tigers and their habitat sub-section (ii);
- the State Government, after obtaining the consent of the Scheduled Tribes and other forest dwellers inhabiting the area, and in consultation with an independent ecological and social scientist familiar with the area, has come to a conclusion that other reasonable options of co-existence, are not available sub-section (iii);
- Section 38V(5) permits only *voluntary relocation on mutually agreed terms and conditions* unless -
 - resettlement or alternative package has been prepared providing for livelihood for the affected individuals and communities and fulfils the requirements given in the National Relief and Rehabilitation Policy vide sub-section(iv);
 - the informed consent of the Gram Sabhas concerned, and of the persons affected, to the resettlement programme has been obtained vide sub-section (v);
 - the facilities and land allocation at the resettlement location are provided under the said programme, otherwise their existing rights shall not be interfered with vide sub-section (vi).

3. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

- Section 4(2) provides for the forest rights recognised under this Act in Critical Wildlife Habitats to be subsequently modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied
 - a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government vide sub-section (d);
 - the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing vide sub-section (e);
 - no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package vide sub-section (f);
- the State Level Monitoring Committee is required to monitor the resettlement under Rule 10(e).

4. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR)

- Section 3(c) includes as affected families

- the Scheduled Tribes and other traditional forest dwellers who have lost any of their forest rights recognised under the FRA 2006 due to acquisition of land in sub-section (iii);
- the family whose primary source of livelihood for three years prior to the acquisition of the land is dependent on forests or water bodies and includes gatherers of forest produce, hunters, fisher folk and boatmen and such livelihood is affected due to acquisition of land in sub-section (iv);
- Section 3(r) includes as land owner
 - any person who is granted forest rights under the FRA 2006 or under any other law for the time being in force in sub-section (ii);
- Section 3(x) includes as person interested
 - the Scheduled Tribes and other traditional forest dwellers who have lost any forest rights recognised under the FRA 2006 in sub-section (ii);
- Section 29 requires
 - the District Collector to use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him to determine the value trees and plants attached to the land acquired in sub-section (2);
- Section 41 provides special provisions for SCs and STs namely
 - Development Plan shall contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years, sufficient to meet the requirements of tribal communities as well as the Scheduled Castes under sub-section (5);
 - the affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects;
- Section 42 requires
 - the quantification and payment in monetary amount to the individual concerned who has been displaced due to acquisition of land in proportion with his share in such community rights where the community rights have been settled;
- The Third Schedule: Provision of infrastructural amenities
 - provision of their forest rights on non-timber forest produce and common property resources, if available close to the new place of settlement and, in case any such family can continue their access or entry to such forest or common property in the area close to the place of eviction, they must continue to enjoy their earlier rights to the aforesaid sources of livelihood vide Item 23.

5. Procedure for relocation, resettlement, rehabilitation and compensation in the case of forest diversion

(a) For forest diversion under FCA for non-forestry purposes, afforestation and any other purposes that may result in relocation or loss of forest rights or both as the case may be

From any area falling within the jurisdiction of the Gram Sabhas shall fulfil the following conditions:

- i. the area from which the forest dwellers are to be relocated and resettled and/or are required to forgo their forest rights wholly or partly are to be delineated and informed in writing to the concerned Gram Sabhas;

- ii. Gram Sabha consent with 50% quorum of whom at least one-third present shall be women shall be obtained for the proposed diversion;
- iii. the resettlement package providing secure livelihood shall be made available to affected families, land owners and interested persons as defined in Section 3(c)(iii) and (iv), Section 2(r)(ii) and Section 2(x)(ii) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;
- iv. the resettlement package providing secure livelihood shall include the value of trees and plants attached to the land; sufficient alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years for the communities; payment in monetary amount to the individual concerned who is being relocated his share in such community rights where the community rights have been settled; provision of their forest rights on non-timber forest produce and common property resources close to the new place of settlement and, in case any such family can continue their access or entry to such forest or common property in the area close to the place of relocation, they must continue to enjoy their earlier rights to the aforesaid sources of livelihood as per Section 29(2), Section 41(5), Section 42(3) and Item 23 of The Third Schedule of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 respectively;
- v. Gram Sabha consent with 50% quorum of whom at least one-third present shall be women shall be obtained that the resettlement package providing secure livelihood and other provisions as applicable under the extant laws are agreed upon;
- vi. Gram Sabha resolution with 50% quorum of whom at least one-third present shall be women shall be obtained that resettlement has taken place after the facilities and land allocation at the resettlement location are complete as per the promised package;
- vii. the Principal Secretary/Secretary, Department of Tribal and Scheduled Caste of the State shall monitor and report compliance periodically on each of the above to the State Level Monitoring Committee constituted under Section 6(7) and 6(8) of FRA, verify the same, and forward their findings and action taken report to the office of the Governor and to the Ministry of Tribal Affairs, the nodal ministry for implementing FRA 2006.

(b) For creation of inviolate areas in Protected Areas under WLPA read with FRA that may result in relocation or loss of forest rights or both as the case may be

Voluntary relocation of scheduled tribes or other forest dwellers from any area falling within the jurisdiction of the Gram Sabhas, wholly or partially, shall fulfil the following conditions:

- i. Gram Sabha consent with 50% quorum of whom at least one-third present shall be women shall be obtained that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat, that co-existence with wildlife is not possible in the said area, and that all the forest rights under Section 3 of FRA have been recognised;
- ii. the said area from which forest dwellers are to be relocated and resettled are wholly or partly part of the area declared as Critical Wildlife Habitat notified by the Central Government in the Ministry of Environment, Forests and Climate Change as required under Section 2(b) read with Section 4(2) of the FRA as per the Guidelines for determination and notification of Critical Wildlife Habitats within National Parks and Sanctuaries issued by the Ministry of Environment, Forest and Climate Change vide letter F. No. 1-23/2014 WL dated 04 January 2018;
- iii. the resettlement package providing secure livelihood shall be made available to affected families, land owners and interested persons as defined in Section 3(c)(iii) and (iv), Section

2(r)(ii) and Section 2(x)(ii) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

- iv. the resettlement package providing secure livelihood shall include the value of trees and plants attached to the land; sufficient alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years for the communities; payment in monetary amount to the individual concerned who is being relocated his share in such community rights where the community rights have been settled; provision of their forest rights on non-timber forest produce and common property resources close to the new place of settlement and, in case any such family can continue their access or entry to such forest or common property in the area close to the place of relocation, they must continue to enjoy their earlier rights to the aforesaid sources of livelihood as per Section 29(2), Section 41(5), Section 42(3) and Item 23 of The Third Scheduled of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 respectively;
- v. Gram Sabha consent with 50% quorum of whom at least one-third present shall be women shall be obtained that the resettlement package providing secure livelihood and other provisions as applicable under the extant laws are agreed upon;
- vi. Gram Sabha resolution with 50% quorum of whom at least one-third present shall be women shall be obtained that resettlement has taken place after the facilities and land allocation at the resettlement location are complete as per the promised package;

Annexure 6

Internally Displaced Persons from Chhattisgarh to Andhra Pradesh and Telangana

Sec.3(1) (m) of FRA states: 'right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes or other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.'

(1) Pre-2005 and post-2005 IDPs who wish to claim their rights in their original village

FRA provides for FDSTs and OTFDs to claim any forest rights under their occupation prior to 2005. The pre-2005 and post-2005 IDPs who wish to claim their forest rights in their original village should be facilitated to return and claim all their rights in their original villages of residence in Chhattisgarh under FRA. They would require special assistance of being accompanied and assisted by the Chhattisgarh government as are required by them, throughout the process until they are resettled.

(2) Pre-2005 and post-2005 IDPs who do not wish to return to their original village but wish to be provided in-situ rehabilitation in Chhattisgarh under Sec.3(1)(m)

The eligible IDPs should be accompanied and assisted by the Chhattisgarh government to demarcate their rights in their original villages. The Chhattisgarh government should provide for the R&R as they become eligible under the Sec.3(1)(m) for in-situ rehabilitation. They should be rehabilitated as per the provisions of R&R under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as applicable. They are to be facilitated to

(a) first, demarcate the forest rights they held in their original place of residence, whether recognised or not,

(b) secondly, identify the location where they feel secure and the DLCs of their original place of residence and their desired place of new residence (if the Districts are different or if not different,

then the same DLC) facilitate a dialogue with the concerned Gram Sabhas, if applicable, in the desired place of relocation for enabling their in-situ rehabilitation

(3) Pre-2005 and post-2005 IDPs who wish to claim their forest rights in their present location of their residence in Andhra Pradesh / Telangana

Both the pre-2005 and post-2005 IDPs from Chhattisgarh who are currently in Andhra Pradesh / Telangana are not eligible to claim forest rights under FRA in Andhra Pradesh / Telangana for the following reasons:

- a) Those who are in occupation of any forest land *after* 13 December 2005 (i.e. post-2005), the cut-off date under FRA, are not eligible for claiming forest rights under FRA by law;
- b) Those STs of Chhattisgarh who are pre-2005 occupants of forest lands in Andhra / Telangana, are STs only in their original state of residence which is Chhattisgarh, the State of their origin, and not in Andhra / Telangana. Article 342¹ under which the Presidential notification of STs are made explicitly permits ST notification with reference only to 'that State or Union territory'. The State list of STs recognizes STs with respect to that state or areas within that State only. Even if the ST community of Chhattisgarh is listed in the state ST list of Andhra and/or Telangana, they are non-STs in Andhra and Telangana. In effect, they would be OTFDs for the purpose of FRA in Andhra / Telangana. Further as OTFDs, they have to prove their residence for three generations in the region, i.e. prior to 1930, to become eligible to claim under FRA. Even if they are able to prove that they and their ancestors for three generations resided in the same region where they now claim forest rights under FRA, which is in Chhattisgarh State adjoining the borders of Andhra / Telangana, they still will not become eligible for individual forest rights to land if forest rights claimed are within the Scheduled Area of Andhra / Telangana. The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 applicable to both Andhra and Telangana prohibits transfer of land situated in the Scheduled Area to any person who is not a member of an ST in relation to the State of Andhra Pradesh / Telangana. However, they would be eligible to exercise forest rights under Community Rights of FRA as members of the concerned Gram Sabha as the case may be. Hence, they will have to choose between option (1) and (2) above for obtaining forest land rights for habitation and cultivation.

(4) Pre-2005 and post-2005 IDPs who do not wish to return to their original village, nor claim rehabilitation elsewhere in Chhattisgarh and are also not eligible to claim forest land rights in the current place of residence but wish to be rehabilitated in the State of their current residence in residence in Andhra / Telangana

- a) If they wish to be rehabilitated in their present State of residence, then Chhattisgarh SLMC can initiate a process of demarcating their forest rights in their original village in Chhattisgarh along with other provisions under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and request the Andhra / Telangana government to rehabilitate them in an area falling *outside* the Scheduled Areas in Andhra / Telangana as the Andhra Pradesh Scheduled Areas Land

¹Article: 342. Scheduled Tribes:

(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes **in relation to that State or Union territory**, as the case may be

Transfer Regulation, 1959 prohibits transfer of land situated in the Scheduled Area to any person who is not a member of a ST in relation to the State of Andhra Pradesh / Telangana. The Andhra / Telangana governments may also provide additional package for rehabilitation as well as facilitate access of welfare programmes.

- b) The Chhattisgarh government could issue certificated to such of these IDPs who are STs as bonafide ST migrants to Andhra / Telangana so that they are eligible for welfare and other benefits as available under central government schemes though will not be eligible to enjoy state level reservations as STs.
- c) Chhattisgarh government along with Andhra / Telangana government could jointly take steps on a priority basis to submit proposals to the Union Government to include the STs of Chhattisgarh who are IDPs in Andhra / Telangana and do not wish to return or repatriated to Chhattisgarh to be notified as STs in the State and area within the State where they reside now. This could make them eligible to have land rights including forest land rights in the respective Scheduled Area of Andhra / Telangana.

Annexure 7

Check list for verifying whether forest rights recognition/ rejection has fulfilled all the minimum requirements under FRA and its Rules			
General			
	Name of the village/hamlet:		
	Name of the Taluks:		
	Name of the District and State:		
	Name of the claimant		
		YES	NO
1.	<i>Gram Sabha</i>		
	Was the Gram Sabha constituted at the revenue village or hamlet level?		
2.	<i>Forest Rights Committee</i>		
	Was the FRC constituted by the revenue village or hamlet?		
	Does it have 10-15 members?		
	Are 2/3 rd members STs?		
	Are 1/3 rd members women?		
3.	<i>Village records</i>		
	Were records and documents related to the village/hamlet were provided to the Gram Sabha/FRC by the Sub-Divisional Committee (SDLC)?		
4.	<i>Verification and approval</i>		
	Was field verification of claims conducted by the FRCs?		

	If yes, were the officials of the forest and revenue department intimated about the verification?		
	Did the Gram Sabha consider the verification reports of the FRC and approve the claims?		
5.	<i>Status of the claims: Gram Sabha</i>		
	Did the Gram Sabha reject the claim?		
	If yes, did the Gram Sabha inform the claimant the reasons for rejection?		
	If yes, give the reasons for rejection:		
	Did the Gram Sabha modify any claims?		
	If yes, did the Gram Sabha inform the claimant the reasons for modifications?		
	If yes, give reasons for modifications:		
5. 1	<i>Appeal to SDLC</i>		
	Did the claimant whose claim was rejected or modified by the Gram Sabha submit appeal to SDLC?		
	If yes, were the appealing claimant heard by the SDLC?		
	Was the modification or rejection approved by the SDLC?		
	If yes, did the SDLC inform the claimant and the Gram Sabha the reasons for rejection or modifications?		
	What were the reasons for modification or rejection?		
	If no, did the SDLC inform the claimant and the Gram Sabha that the claim was accepted?		

5.	<i>Claims remanded to Gram Sabha</i>		
2			
	Was the claim remanded to the Gram Sabha for reconsideration by the SDLC?		
	If yes, did the Gram Sabha reconsider the claim?		
	If yes, did the Gram Sabha resolve the appeal?		
	If yes, was the rejection or modification re-approved?		
	If no, was the claim approved as it is?		
	If no, was the claim approved with new modification?		
	Did the Gram Sabha inform the claimant the reasons for its decision?		
	What were the reasons?		
6.	<i>Status of the claims: SDLC</i>		
	Did the SDLC reject the claim?		
	Did the SDLC inform the claimant the reasons for rejection?		
	What were the reasons for rejection?		
	Did the SDLC modify the claim?		
	Did the SDLC inform the claimant the reasons for modifications?		
	What were the reasons for modifications?		
	Did the SDLC approve the claim?		
	If yes, did the SDLC inform the claimant?		
<i>6.1 Appeal to DLC</i>			
	Did the claimant whose claim were rejected or modified by the SDLC submit appeal to DLC?		
	If yes, was the appealing claimant heard by the DLC?		

	Was the modification or rejection approved by the DLC?		
	If yes, did the DLC inform the claimant and the Gram Sabha the reasons for rejection or modifications?		
	What were the reasons for modification or rejection?		
	If no, did the DLC inform the claimant and the Gram Sabha that the claim was accepted?		
	What were the reasons for approval of the claim?		
6. 2	<i>Claims remanded to Gram Sabha</i>		
	Was the claim remanded to the Gram Sabha for reconsideration by the DLC?		
	If yes, did the Gram Sabha reconsider the claim?		
	If yes, did the Gram Sabha resolve the appeal?		
	If yes, was the rejection or modification re-approved?		
	If no, was the claim approved as it is?		
	If no, was the claim approved with new modification?		
	Did the Gram Sabha inform the claimant the reasons for its decision?		
	What were the reasons?		
7.	<i>Status of the claims: DLC</i>		
	Did the DLC reject the claim?		
	Did the DLC inform the claimant the reasons for rejection?		
	If yes, what were the reasons for rejection?		
	Did the DLC modify the claim?		
	Did the DLC inform the claimant the reasons for modifications?		
	If yes, what were the reasons for modifications?		

	Did the DLC approve the claim?		
	If yes, did the DLC inform the claimant?		
7.1	<i>Claims remanded to Gram Sabha</i>		
	Was the claim remanded to the Gram Sabha for reconsideration by the DLC?		
	If yes, did the Gram Sabha reconsider the claim?		
	If yes, did the Gram Sabha resolve the appeal?		
	If yes, was the rejection or modification re-approved?		
	If no, was the claim approved as it is		
	If no, was the claim approved with new modification?		
	Did the Gram Sabha inform the claimant the reasons for its decision?		
	If yes, what were the reasons?		
7.2	<i>Appeal to DLC</i>		
	Did the claimant submit an appeal for the rejection or modification by the DLC to the DLC?		
	If yes, was the appealing claimant heard by the DLC?		
	Was the rejection or modification over ruled by the DLC?		
	If yes, was the claimant informed of the decision?		

CLAIMS REJECTION	YES	NO
Did the claimant have a reasonable opportunity to present their claim to the Gram Sabha?		
Did the Gram Sabha pass a resolution rejecting the claim?		
If yes, was the claimant present at the Gram Sabha meeting where the resolution was passed?		
Did the Gram Sabha inform the claimant of their decision to reject the claim?		
Did the Gram Sabha communicate its reasons for rejecting the claim to the claimant?		

Did the claimant petition the SDLC against the rejection by the Gram Sabha?		
Did the claimant get a chance to present their case before the SDLC?		
Did the SDLC remand the claim to Gram Sabha for reconsideration?		
Did the SDLC record its reasons in writing?		
Were the reasons communicated to the claimant by the SDLC?		
Did the claimant petition the District Level Committee against the decision of the SDLC?		
Did the claimant get a chance to present their case before the DLC?		
Did the DLC remand the claim to Gram Sabha for reconsideration?		
Did the DLC record its reasons in writing?		
Were the reasons communicated to the claimant by the DLC?		

Annexure 8

MoTA circular No.23011/16/2014-FRA dated 3 March 2014



FRA MoTA 140303
on Record of Rights

Annexure 9

Clarification on Community Forest Resource rights under Sec.3(1)(i) and Power and Duties under Sec.5 of FRA

The governance jurisdiction of Gram Sabhas to protect, regenerate or conserve or manage community forest resource under FRA is defined and determined by two relevant interlinked provisions under FRA namely Sec.3(1)(i) and Sec.5. These provisions are to be read together to delineate the geographical area that falls within the purview of the Gram Sabha governance.

Section 3(1)(i): rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

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

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

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

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

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

The CFR area (Form C) would include:

(a) the areas claimed by its residents as individual forest rights [Sec.3(1)(a) Form A] except those claims its residents may have claimed and been granted by Gram Sabhas of other villages.

Explanation: A person/family resident in a village may have ancestral rights in another village having originally hailed in that village and moved on to the present village by virtue of marriage and/or livelihood and / or due to other reasons. However, the area claimed by such a person does not fall within the CFR area claimed by this Gram Sabha but falls within the CFR area of the other Gram Sabha. Similarly, any person from other villages may claim individual rights in this village, and if approved by this Gram Sabha, then this area falls within the CFR area.

(b) The areas claimed as community rights (Form B) vis-a-vis Sec.3(1) b to (m), whether right to access or rights of usufruct over resources, may fall partially or fully or not at all within the CFR area as the case may be. Note that it may also be the case where a portion of the CFR area of this village may be jointly protected/ regenerated/ conserved/ managed with one or more nearby Gram Sabhas.

The powers and duties of the Gram Sabhas under Sec.5 read with Sec.3(1)(i) to

(a) protect, regenerate, conserve and manage extends to

i. CFR area of the village in Section 5(d)

(b) protect extends to

i. 'Adjoining catchments area, water sources and other ecological sensitive areas' in Section 5(b). This may fall partially or fully or the CFR area or it may fall totally outside the CFR area;

ii. 'Habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers'. FRA defines 'habitat' in Section 3(1) (h): "habitat" includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes'. This may fall partially or fully in the CFR area, or it may fall totally outside the CFR area;

Therefore, the Gram Sabha's duty to 'protect' could extend beyond the CFR areas as the case may be, if the adjoining catchment area, water resources and other ecologically sensitive areas, and the customary habitat and other habitats extend beyond the CFR partially. The law as yet does not prescribe any geographical limit to the forest lands over which the Gram Sabha has the powers and duties under Sec.5. It is left open ended and therefore at the will of the Gram Sabha

CFR and CFR Management: The Statutory authority under Forest Rights Act 2006 to protect, regenerate or conserve or manage Community Forest Resource area (CFR) [Sec.3(1)(i) and Sec.5) - the forests under their jurisdiction - is vested in the Gram Sabha This right and statutory power extends to the CFR which is the traditional or customary boundary of that village [Sec.2(a)]. Any activity within the forest land under the jurisdiction of the Gram Sabha is to be approved, monitored and managed by the Gram Sabha. All activities falling within the CFR area of the village shall be regulated by the concerned Gram Sabha. The District Level Committee is to ensure that Community Forest Resource rights are recognized in all villages and titles issued [Rule 12B(3)]. The District Level Committee is to issue a copy of the record of rights and title over the Community Forest Resource rights to the Gram Sabha of that village [Rule 8(i)]. If no Community Forest Resource rights are recognized, then the District Level Committee is to record the reasons [Rule 12B(4) and CFR 2015 Guidelines Clause 2(vi)].

Legal clarification

1. Gram Sabha

The Gram Sabha is to

- a. Consider and approve the CFR claim submitted by the FRC [Rule 12(1) (g)];
- b. Regulate access and stop activities that adversely affects the forest [Sec.5(d)];
- c. Constitute Committees for the protection of wildlife, forest and biodiversity from amongst its members to execute the Gram Sabha decisions made in order to carry out the provisions of Section 5 of the Act [Rule 4(1)(e)];
- d. Monitor and control the CFR Committee/s who shall prepare a conservation and management plan [Rule 4(1)(f)];
- e. Freely develop its own simple format for conservation and management plan of the CFR [CFR 2015 Guidelines Clause 2(ii)];
- f. Approve the conservation and management plan prepared by the CFR Committee/s [Rule 4(1)(f) and CFR 2015 Guidelines Clause 2(iii)];
- g. Modify the micro-plan or working plan or management plan of the Forest Department to the extent necessary to integrate the same with the conservation and management plan for the CFR as passed by the Gram Sabha [Rule 4(1)(f) and CFR 2015 Guidelines Clause 2(iii)];

2. The FRC

- a. Constituted by the Gram Sabha [Rule 3(1)];
- b. Accepts the claims [Rule 11(1)(a)];
- c. Assists the Gram Sabha to receive, acknowledge and retain the claims [Rule 11(2)(i)];
- d. Issues acknowledgement receipts to the claimants [Rule (11)(3)];
- e. Prepares claims on behalf of the Gram Sabha with regard to Form B (community rights) [Rule 11(4)];
- f. Prepares the record of claims and evidence [Rule 11(2)(ii)];
- g. Prepares the list of claimants [Rule 11(2)(iii)];
- h. Verifies the claims [Rule 11(2)(iv)] as per the procedure [in Rule 12 & 12A];
- i. Presents findings to the Gram Sabha [Rule 11(2)(v)];
- j. Cease functions when the process of recognition of all forest rights is completed.
- k. Prepares the claim for community forest resource in Form C [Rule 11(4)];
- l. Demarcates the customary boundary/territory of the village [Rule 12(1)(f)]

- m. Prepares a map along with evidence [Rule 13(2)] (more than one evidence [Rule 13(3)]);
- n. Places the completed claim before the Gram Sabha who then is to approve the claim [Rule 12(1) (g)];

3. CFR Committee

- a. Constituted by the Gram Sabha as it deems fit to execute the decisions of the Gram Sabha regarding protection, regeneration, conservation and management of CFR [Rule 4(1)(e)];
- b. Protects wildlife, forest and biodiversity to carry out the provisions of Section 5 of the Act [Rule 4(1)(e)];
- c. Subjects themselves to being monitored and controlled by the Gram Sabha [Rule 4(1) (f)];
- d. Gets all their decisions approved by the Gram Sabha [Rule 4(1)(g)];
- e. Prepares a conservation and management plan for CFR to sustainably and equitably manage such CFR for the benefit of FDSTs and OTFDs 4(1) (f)];
- f. Gets the Gram Sabha approval for CFR conservation and management plan [Rule 4(1)(f) and CFR 2015 Guidelines Clause 2(iii)];
- g. Gets the CFR conservation and management plan integrated with the micro plans or working plans or management plans of the forest department with such modifications as they consider necessary [Rule 4(1)(f)];
- h. Modifies the micro-plan or working plan or management plan of the Forest Department to the extent necessary to integrate the same with the CFR conservation and management plan as passed by the Gram Sabha [CFR 2015 Guidelines Clause 2(iii)];
- i. Obtains Gram Sabha approval for all their decisions pertaining to issue of transit permits, use of income from sale of produce, or modification of management plans.
- j. Use funds made available by the departments under Tribal Sub-Plan, MGNREGA, Gram Panchayat CAMPA to develop CFR [CFR 2015 Guidelines Clause 2(iv)];

4. Forest Department

- a. Records and enters the CFR area as "CFRs" in the Record of Rights and suitably incorporate in the Forest [CFR 2015 Guidelines Clause 2(iv)];
- b. Ensure that the Gram Sabha approved CFR conservation and management plan is integrated into the Forest Department micro-plan or working plan or management plan [CFR 2015 Guidelines Clause 2(iii)];

5. State government

- a. Makes available funds under Tribal Sub-Plan, MGNREGA, Gram Panchayat and CAMPA through its departments to CFR Committee to develop CFR [CFR 2015 Guidelines Clause 2(iv)];
- b. Provides information on the CFR claims, CFR rights recognised and extent of forest land under CFR in the monthly and quarterly reports to MoTA [CFR 2015 Guidelines Clause 2(vii)];

6. CFR Management Plan

- a. For governing
- b. forest access
 - i. forest use and
 - ii. forest conservation
- c. To be developed by CFR Committee, submitted to the Gram Sabha for approval and approved by Gram Sabha;

- d. Own simple format [CFR 2015 Guidelines Clause 2(ii)];
- e. Easily understandable to the Gram Sabha members [CFR 2015 Guidelines Clause 2(ii)];
- f. May comprise rules and regulations [CFR 2015 Guidelines Clause 2(ii)];
- g. Plan to be
 - i. CFR specific
 - ii. Addressing ecological needs
 - iii. Addressing community needs
 - iv. As per their own priority
 - v. Evolving over time
 - vi. Executed by CFR Committee with community participation
 - vii. Financed by the Gram Sabha
 - viii. Monitored by Gram Sabha

Annexure 10

Critical Wildlife Habitat F. No 1-23/2014 WL dated 4 January 2018



FRA CWH MoEF
180104 CWH guideli

Annexure 11

Harmonising Biodiversity Act 2002 with FRA 2006 and PESA 1996

- The 'local body' is the authority to constitute the Biodiversity Management Committee (BMC) under Sec.41 (1) of the Biodiversity Act 2002 (BDA) read with Rule 22 of the Biological Diversity Rules 2004. Sec.2 (h) of the BDA defines 'local bodies' thus: "local bodies" means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of article 243B and clause (1) of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act'.
- FRA recognises the right of forest dwellers to access biodiversity, intellectual property and traditional knowledge [Sec. 3(1)(k) of FRA] which has to be determined and approved by the concerned Gram Sabha. FRA further empowers the Gram Sabha to (i) protect biodiversity [Sec.5(a)] and (ii) regulate access to community forest resources and stop any activity which adversely affects biodiversity [Sec.5(d)]. The Gram Sabha is required to constitute committee/s to carry out these functions [Rule 4(1)(e)]. These provisions are in consonance with the below mentioned provisions of PESA applicable in the Scheduled Area.
- In the case of Scheduled Area under the Fifth Schedule, Article 243M exempts the provisions of Part IX of the Constitution and existing panchayat raj laws in the states to be applied to the Scheduled Areas only in terms of duly enacted modifications, that is, only in terms of the Provisions of the Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA). Under PESA, the Gram Sabha is the authority for carrying out the 'traditional management practices of community resources', [Sec.4(a) of PESA] and 'shall be competent to safeguard and preserve the...community resources' [Sect.4(d) of PESA]. Therefore, the 'local body' under BDA will be the Gram Sabha in the Scheduled Area.

