

2017

# MAHARASHTRA

PROMISE AND PERFORMANCE

**10** YEARS OF THE  
**FOREST RIGHTS ACT**

**IN INDIA**

CITIZENS' REPORT

Produced by  
CFR Learning and Advocacy Group Maharashtra

As part of  
National Community Forest Rights-Learning and Advocacy  
(CFR-LA) process



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# MAHARASHTRA

## PROMISE AND PERFORMANCE

# 10 YEARS OF THE FOREST RIGHTS ACT

## IN INDIA



The Community Forest Rights-Learning and Advocacy (CFR-LA) process was initiated in 2011. It facilitates the exchange of information and experiences related to the Community Forest Rights provisions of the Forest Rights Act. It encourages people-to-people learning, awareness and training programmes, and provides need-based and site-specific help. As part of CFR-LA, evidence-based advocacy on CFR is done on state and national levels by holding dialogues, writing petitions, producing citizens' reports, newsletters, state reports, and by organizing consultations. Website <http://fra.org.in> and discussion group <https://groups.google.com/forum/#!forum/CFR-la> have been created, which include over 400 participants. Local community members, their sangathanas, civil society groups at local, state and national levels, researchers and academics are part of the CFR-LA process.

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## Abbreviations

- CAF-** Compensatory Afforestation Fund  
**CAMPA-** Compensatory Afforestation Management and Planning Authority  
**CBD-** Convention on Biological Diversity  
**CFR-LA-** Community Forest Rights Learning and Advocacy  
**CFRMC-** Community Forest Rights Management Committee  
**CFRs-** Community Forest Resource Rights  
**COP-** Conference of the Parties  
**CRs-** Community Rights  
**CSD-** Campaign for Survival and Dignity  
**CTH-** Critical Tiger Habitat  
**DCC-** District Convergence Committee  
**DDC-** District Divergent Committee  
**DLC-** District Level Committee  
**DRDA-** District Rural Development Agency  
**FAC-** Forest Advisory Committee  
**FD-** Forest Department  
**FDC-** Forest Development Corporation  
**FDCM-** Forest Development Corporation of Maharashtra  
**FRA-** Forest Rights Act (Also known as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights Act))  
**FRCs-** Forest Rights Committees  
**FSI-** Forest Survey of India  
**GGS –** Group of Gram Sabhas  
**GRs-** Government Resolutions  
**IFA-** Indian Forest Act  
**IFRs-** Individual Forest Rights  
**JFMC-** Joint Forest Management Committee  
**MFPs-** Minor Forest Produce  
**MGNREGA-** Mahatma Gandhi National Rural Employment Guarantee Act  
**MoEF-** Ministry of Environment and Forests  
**MoEFCC-** Ministry of Environment, Forests and Climate Change  
**MoTA-** Ministry of Tribal Affairs  
**MREGS-** Maharashtra Rural Employment Guarantee Scheme  
**MVFR-** Maharashtra Village Forest Rules  
**NTFPs-** Non-Timber Forest Produce  
**OTFDs-** Other Traditional Forest Dwellers  
**PESA-** Panchayat Extension to Scheduled Areas  
**POR-** Primary Offence Report  
**PTGs-** Primitive Tribal Groups  
**PVTGs-** Particularly Vulnerable Tribal Groups  
**RF-** Reserved Forests  
**RoR-** Record of Rights  
**SDLC-** Sub Divisional Level Committee  
**SHG-** Self-Help Groups  
**ST –** Scheduled Tribe  
**TATR-** Tadoba-Andhari Tiger Reserve  
**TCP-** Tiger Conservation Plan  
**TDD-** Tribal Development Department  
**TP-** Transport Permit  
**TRI-** Tribal Research Institute  
**VLF-** Vidharba Livelihood Forum  
**VSS-** Van Suraksha Samiti  
**ZZKS-** Zabran Zot Kruti Samiti

## Executive Summary

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA 2006) was enacted ten years ago in December 2006. This Act recognises the historical injustice that Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) have been subjected to and seeks to secure their rights over the traditionally accessed and managed forest land and community forest resources. It also aims to move forest governance in the country to a democratic and community-based model. It recognises fourteen pre-existing rights of forest dwellers on all categories of forest lands, including protected areas. These rights are **Individual Forest Rights** (IFRs) and **Community Forest Rights** (CFRs) to use and access forest lands and resources, **Community Forest Resource** (CFR) Rights to use, manage and govern forests within traditional village boundaries. This report focuses on the CFR provision, recognising this as one of the most significant and powerful rights in the FRA.

### The Objectives

- Make a quantitative estimate of maximum, mid-range and minimum forest land that has the potential to be recognised as CFR area, and compares it to the actual forest area recognised as CFRs across the state
- Document the positive and negative trends emerging during the implementation of the Act, including narrating situations on the ground towards making a qualitative difference in economic, food and livelihood security and biodiversity conservation
- Identify the major institutional and procedural bottlenecks in FRA implementation
- Suggest the way forward.

### The Promise

This report estimates the **maximum CFR potential** for Maharashtra to be the same as the total forest area i.e. **61274 sq km**. The **absolute minimum CFR potential** is estimated to be **36,209 sq km** (59% of the total forest area). A **mid-range estimate** of CFR potential is estimated to be **50,766 sq km** (83% of the total forest area). **26 million people** are estimated to benefit from FRA implementation.

### The Performance

Maharashtra emerges as a leading state in recognizing CFRs in the country i.e. **12% of the maximum potential, 14% of the mid-range potential and 20% of the minimal potential**. By November 2016, a total of **5741 CFR rights** claims had been recognised over an area of **7260.58 sq km** in the state.



Performance Rate	District
High Performing District (>66% of total Potential achieved)	Gadchiroli
Average Performing Districts (33%-66% of total Potential achieved)	Nagpur, Nanded
Poor Performing Districts (0%-33% of total Potential achieved)	Ahmadnagar, Amravati, Chandrapur, Gondiya, Jalgaon, Nandurbar, Nashik, Thane and Yavatmal
No Implementation Districts (0% of total Potential achieved)	Akola, Aurangabad, Bhandara, Bid*, Buldana, Dhule, Hingoli, Jalna* <sup>1</sup> , Kohlapur, Latur*, Osmanabad*, Palghar*, Parbani*, Pune, Ratnagiri, Sangli, Satara, Sindhudurg*, Solapur*, Wardha, Washim

The data indicates huge disparity in the implementation of the Act across the districts, with 21 districts with near zero CFR recognition and over 60% implementation in districts like Gadchiroli.

## Emerging Positive Trends

- Efforts by Gram Sabhas towards local and sustainable governance, management and conservation of forests through CFR Management Committee.
- Gram Sabhas evolving formal and informal CFR management Strategies/Plans
- Support by government agencies towards filing claims, and supporting drafting and implementation of CFR management plans.
- Gram Sabhas exercising rights over Non-Timber Forest Produce (NTFP), particularly Bamboo and Tendu to enhance local economies and livelihoods.
- PVTGs group Madia Gonds filing Habitat Rights claims
- Gram Sabhas reclaiming water bodies as CFRs and managing them.
- Few but significant processes of gender empowerment using FRA
- Co-ordinated action towards facilitating CFR by Government and non-government agency in some districts

## Emerging Negative Trends

- Notification and implementation of Maharashtra Village Forest Rules under the Indian Forest Act 1927.
- Potential and recognised CFR areas leased to Forest Development Corporations.
- Continuation of diversion of potential and claimed CFR area for development projects such as mining and dams.
- Slow implementation in Protected Areas and continuation of relocation.

<sup>1</sup>\* All these districts do not have a record of CFRs in the Tribal Commissionerate Office of Maharashtra.

## Hurdles and Challenges

- Disproportionate implementation across the districts.
- **Institutional Challenges** such as continued lack of awareness particularly provisions about CFRs, habitat rights and rights of pastoralist communities at all levels of implementing agencies and Lack of dedicated staff at SDLC and DLC levels in many districts,
- **Procedural Challenges** such large scale rejection of claims or pending claims, incorrect or conditional titles, record of rights not revised, disaggregated data on women title holders, CRs and CFR, not available.
- Challenges emerging from **interference and lack of co-operation from the Forest Department** in recognising the CFRs claims and management of CFR.
- Hurdles created due to Conflicting and Divergent forest related Policies
- Hurdles related to CFR management and governance including during sale of major non timber forest produce such as tendu and bamboo.

## Way Forward

- Drawing a roadmap to move towards 100% implementation.
- CFR claims filing process is started in 21 laggard districts in a time bound campaign mode co-ordinated with the civil society group or tribal *Sangathanas* working on FRA.
- The discrepancies in CFR titles including incorrect area, titles being issued to institutions other than Gram Sabhas and titles being issued with conditions are addressed.
- Ensuring that laws and policies conflicting with FRA are not notified, encouraged and supported
- Funds such as CAMPA and others coming to the Forest Department are not use for any activity in PESA and recognised or potential CFR areas without the consent of the concerned Gram Sabhas.
- Such funds are not used for relocation from Protected Areas but are used for facilitating CFR and co-existence process in around protected areas.
- CFR management by Gram Sabhas is systemically and proactively strengthened through block and district level institutions and dedicated liaison personnel. Kind of support opportunities which are currently available in few districts through District Convergence Committees is extended to all districts.
- A minimum support price mechanism for sale of non-timber forest produce (NTFPs) such as bamboo and tendu patta is ensured to stop exploitation of Gram Sabhas by contractors lobby.
- E-tendering facilities are extended to all CFR Gram Sabhas for transparent auctioning of NTFPs
- Ensuring women's empowerment through CFRs

## Section: I

### 1. Introduction

#### 1.1 About Maharashtra

Maharashtra, situated in the western region of India, is the third largest state by area and the second most populated state in the country. The coastal region of Konkan along the Arabian Sea is separated from the Deccan plateau by the Sahyadri range of the Western Ghats, while the Satpura hills on the north and Bhamragad-Chiroli-Gaikhuri ranges on the east serve as natural borders. The state has 36 administrative districts.

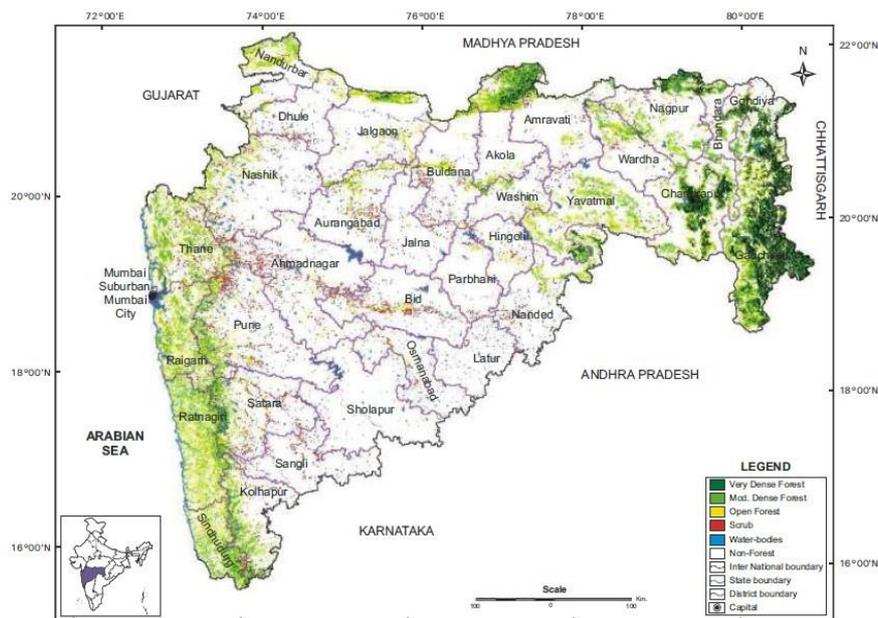


Figure 1. Forest Cover Map of Maharashtra - FSI

	Area (km sq)	% of Geographical Area
<b>Total Geographic Area</b>	307,713	100
<b>Total Recorded Forest Area</b>	61,579	20
<b>Reserved Forest Area</b>	49,546	16
<b>Protected Area</b>	6733	2
<b>Unclassed Forests</b>	5300	1

Table1. Forest Area in Maharashtra

The state has a significant forest cover of about 20 percent (FSI), in various legal categories (Table 1). These forests are primarily located along the Western Ghats (Sahyadris), northern edge of the Satpura hills and eastern end of the state (Gondwana region) (Figure 1). These forests are home to several forest dependent communities, including over 47 Adivasi (tribal) communities. Prominent forest dwelling Adivasi communities include Bhils, Gonds, Mahadeo Kolis, Pawras, Thakurs and Warlis. Three Particularly Vulnerable Tribal Groups (PVTGs) have been identified in the state - Kolams, Katkaris and Madia Gonds. Adivasis constitute over nine percent of the total population, and along with other traditional forest dwellers (OTFDs) constitute a major forest-dependent community.

## 1.2 What this Report Seeks to Do

This report aims to be a concise yet comprehensive and reflective analysis on the implementation of one of the key provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (here on Forest Rights Act or FRA) – the Community Forest Resource (CFR) Rights in Maharashtra. Based on the information received from grassroots organizations, researchers and government agencies, the report gauges the performance of the state in recording and recognising CFR Rights, which according to the FRA are already vested with the communities living in and/or dependent upon forest resources. The report highlights the potential for implementation of CFRs and assesses the extent to which the potential has been realized. It narrates the experiences from areas where CFR Rights have been recognised, documents the emerging trends and hurdles faced during implementation, the strategies adopted, support received and challenges faced by the Gram Sabhas and suggests the way forward.

It is hoped that the report will be of use to government agencies directly and indirectly involved with the implementation of FRA, policy makers, people's representatives from the concerned constituencies, grassroots conservation organizations, and practitioners to set a road map towards the effective implementation of FRA to achieve local ecological, social, economic and political benefits and justice.

## 1.3 Objectives and Outline

Objectives of the report are to

- Make a quantitative estimate of forest land that has the potential to be recognised as CFR area, and compare it to the actual forest area recognised as CFRs across the state
- Assess if there are trends indicating a qualitative difference because of implementation of FRA for food and livelihood security, biodiversity conservation and forest governance
- Identify the major institutional and procedural bottlenecks in FRA implementation and
- Identify the way forward.

This report is divided into four sections.

- In the first section, after a **background** to Maharashtra, we have outlined the key **objectives** and **methods** employed, and stated the **limitations** of the study.
- The second section provides **key features** of the Forest Rights Act, a brief **historical perspective** of the forest and land right struggles in the state, and **more recent civil society** and **the state government's** processes towards facilitating CFR implementation.
- The third section is a quantitative assessment of the **potential** CFR area, that is, the **promise**, and the actual implementation, that is, **the performance**, analysing the overall state performance in comparison with other states as well as district-wise performance within the state.
- The fourth section focuses on the **positive** and **negative trends** emerging from the analysis of the data, understanding variations in implementation and the factors contributing to the same.
- The fifth and last section identifies key **issues** and **challenges** in the implementation and looks ahead giving **policy recommendations** and suggests specific **interventions**, at the operational as well as institutional level, to strengthen CFRs in the state.

## 1.4 Definitions and Terminology

**Gram Sabha:** Gram Sabha, as per the FRA, is the village assembly of all adult members in the village. The 'village' includes all areas referred to as village in any State law related to Panchayats, as well as habitations, settlements, forest villages, traditional villages such as *Padas, Tolas*, etc. The Gram Sabha has been empowered to use, access, manage and govern forests within the traditional village boundaries. It is responsible for the conservation and protection of biodiversity and their natural and cultural heritage. Gram Sabha in Scheduled Areas or the PESA Gram Sabha, according to the Maharashtra Village Panchayats Extension to Scheduled Areas (PESA) Rules, 2014, is the village assembly comprising all persons whose names are included in the electoral rolls for the Panchayat at the village level.<sup>2</sup> Village is defined as "a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs, and which is declared as a village in the prescribed manner..."

**Community Forest Resource Rights (CFR Rights):** Community forest resource rights include the rights to "protect, regenerate or conserve or manage" the customary common forest land to which the community traditionally had access. The provisions under the CFR Rights are vested in the Gram Sabha through Sections 2(a), 3(1)(i), 5 of the FRA and through Section 12 B (3) of the FRA Rules.

**Community Forest Rights (CRs):** All community rights in Section 3(1) of the FRA which include *nistar* rights (customary rights), rights over NTFPs, water bodies, grazing lands, seasonally used lands, rights of PVTGs over community tenures, rights to convert forest villages to revenue villages, access to biodiversity and intellectual property rights. In theory, CRs can be larger than CFRs, as they would include forest areas outside village boundaries which seasonally or regularly accessed.

**Individual Forest Rights (IFRs):** The inheritable but inalienable right held by a forest dweller, to live in or cultivate forest land that was occupied by the person prior to December 13, 2005, is called an Individual Forest Right. It includes rights over disputed lands, *pattas* and leased lands.

**Development Rights (3(2) Rights):** Section 3(2) under the FRA provides for the diversion of forests land for development of village infrastructure such as schools, hospitals, tanks, electricity lines, roads and community centres. These rights are referred to as 'Development Rights'. These rights are distinct from CFR rights and need to be proposed by the government agency developing the facility, with a resolution from the concerned gram sabha. This proposal has to go to the local forest department.

<sup>2</sup> C No. RB/DB/11019(15) (2014) *Compendium of Instructions, Notifications and GRs effective implementation of PESA*. Accessed at: <http://ahmednagar.nic.in/Pesa-Act-1996.pdf>

## 1.5. Methodology

### 1.5.1 Estimation of CFR Potential

Estimating the potential area which can be claimed as Community Forest Resource under Section 3(1)(i) of the Forest Rights Act is a difficult task. The upper bound or **maximum** on this could be the entire legally notified forest area in the state, in addition to the area recorded as 'unclassified forest' (including *zudpi jangal*, etc) which is not controlled by the Forest Department. The data on this can be obtained from Forest Survey of India, 2013.

The **minimum** potential over which CFR Rights can be immediately recognised have been taken as the forest land within the revenue village boundaries of the villages. This has been obtained from the Census of India, 2011. The rationale is that the forests within the revenue boundaries of a village are already established to be traditional forests and need no further proof.

However, considering that the revenue boundaries do not necessarily tally with the actual traditional boundaries of the villages in many parts of the state, a mid range data has been estimated. A **mid-range** estimate can be arrived at by considering the forest areas up to two km radius outside the revenue village boundaries and the area in fully-forested uninhabited revenue villages. **This mid range estimate is what we have used to assess performance.**

### 1.5.2 Estimating Human Population Benefiting from CFRs

The potential human population that could benefit from implementation of CFRs has been calculated by identifying two sets of villages, those villages adjacent to the forests and those villages that may not be adjacent to the forests but have forests within revenue boundaries (excluding towns and cities). The latter is particularly so in Thane, Palghar, Raigad and Nashik.

### 1.5.3 Assessing the Performance

The Tribal Commissionerate in Nashik, which is the State nodal agency, maintains a record of all stages of implementation from claims filed till distribution of titles. This data has been used here for analysis of performance of the CFR recognition process. Two data sets have been used in the report to calculate the performance in each district—

- 1) Status Report updated June 2016, and
- 2) Status Report updated November 2016.

The emerging trends, issues and challenges and case studies have been compiled with inputs from individuals, community based organisations, Gram Sabhas, NGOs working in the field. Minutes of the meetings of various state level NGO forums have also been used. Information has been collected from the offices of the implementing agencies at the state and district levels.



## 1.6. Limitations

Some of the limitations of this report are:

The mandate of this study is limited to assessing the implementation of Community Forest Resource (CFR) rights recognition and does not address the issues related to recognition of Individual Forest Rights (IFR) in the state.

Separate data on the number of villages which have received CFR and those which have received only CRs is not available. The state level performance report does not cover such disaggregated detail. The performance therefore is **maximum** performance as it includes both CRs and CFRs.

Gender disaggregated data is not available with the nodal agency. This has limited the possibility of making a realistic assessment of the achievements of FRA contributing to gender equity. Such data was not very easily available from the civil society groups also.

Data specific to recognition of rights of pastoralists and PVTGs is unavailable. It is not clear from the data if any such rights have been granted.

Data has been collected to the best of the Compilation team's capacity but may still have missed out some crucial bits of information or detail.

## Section: II

### 2. Background

#### 2.1 Forest Rights Act - Highlights

In its preamble, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Forest Rights Act for short), recognizes the historical injustice meted out to Scheduled Tribes (ST) and other traditional forest dwellers (OTFDs). It seeks to secure traditional rights over forest land and community forest resources (CFRs), and establish democratic community-based forest governance.

FRA emerged as a legislative response to a national grassroots movement to record the rights of forest dwelling communities whose rights were not recorded during the consolidation of state forests in the colonial regime and in the post-Independence period. Many of these forest dwellers have been displaced for industrial and conservation projects without rehabilitation due to being labeled 'encroachers' on forest land. Section 4(5) of the Act requires that no member of the forest dwelling Scheduled Tribes or Other Traditional Forest Dwellers (OTFD) shall be evicted or removed from forest land under his occupation till the recognition and verification process is complete.

**The process of recognition and verification laid out in FRA is currently the only legal process for determining the genuine forest rights holders; it recognizes 14 pre-existing rights of forest dwellers on all categories of forestland, including PAs.** The major rights are:

- Individual Forest Rights (IFRs) and Community Rights (CRs) of use and access to forest land and resources;
- Community Forest Resource (CFR) Rights to use, manage and govern forests within the traditional boundaries of villages; and
- Empowerment of right-holders, and the Gram Sabha, for the conservation and protection of forests, wildlife and biodiversity, and their natural and cultural heritage (Section 5, FRA).

The law is significant in seeking to democratize the process of rights recognition by making the Gram Sabha the key authority in the rights recognition process. FRA has also created space for Informed Consent of the Gram Sabha for diversion of forest land<sup>3</sup>.

The implementation of these rights and empowerment of the Gram Sabha can transform and radically democratize forest governance and conservation regimes in India. For the millions treated as 'encroachers' on their forested habitats and others who were deprived of any say in the matters related to the fate of forests on which their cultures and livelihood depend, FRA implies restitution of their citizenship rights and a right to live with dignity.

<sup>3</sup>F. No. 11-9/1998-FC (pt) (2009) *Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 - ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006*. Accessed at:[http://envfor.nic.in/mef/Forest\\_Advisory.pdf](http://envfor.nic.in/mef/Forest_Advisory.pdf)

The CFR provision, taken together with Section 5, is the most significant and powerful right in FRA, as it recognizes the Gram Sabha's authority and responsibility to protect, manage and conserve its customary forests for sustainable use and against external threats. This report, therefore, has a special focus on CFR rights.

## 2.2 Emergence and Implementation of the Forest Rights in Maharashtra- Historical and Current Contexts

Alongside elaborating on the historical context, this section analyses reasons which may be impacting the comparatively higher performance of the state in implementing FRA as compared to other states in the country; the disparity in implementation among and within the districts; emerging trends in the processes related to filing claims, verifying claims, dealing with rejected claims, appeals for grievances; Gram Sabhas asserting rights while waiting for their claims to be recognized; Gram Sabhas devising governance, management and conservation strategies, and dealing with hurdles during all these processes.

There are many reasons for Maharashtra's comparatively higher implementation of FRA, of these, the important ones are

1. Strong grassroots mass movement
2. Presence of civil society groups and committed individuals involved with the implementation of the Act.
3. Periodic push from responsive and proactive individuals within the government agencies at all levels, including district collectors, secretaries of the Tribal Department, and the Governor's office.

The success, however, has been varying in different districts depending on local factors, socio-political histories and other circumstances.

### 2.2.1 Role of Adivasi-led Movements in Maharashtra in the Promulgation of the Forest Rights Act, 2006

Ownership, use and management of forested landscapes in Maharashtra have a contentious and contested history owing to its vast geographic coverage, diversity in the resources and diversity in human communities. A common strand, however, is the colonial conquest of these landscapes. Large swathes of Maharashtra's lands were brought under the legally determined category of 'forest land' to serve as a direct source for timber or as lands for developing plantations for timber during British colonial times. The rights of people living in or off the lands now called 'forests' were often not recognised, improperly settled, or partially settled. Without access to lands or resources, these communities faced social and economic marginalisation. Their discontentment led to several movements including various tribal uprisings and movements in Gadchiroli, Shahada, Dhule, among others, in the pre-Independence era. However, despite these struggles, the forest-dwellers continued to be labelled as encroachers of forest landscapes in several areas of the State. Through various government orders in the 1950s and 1960s, the Government of Maharashtra worked toward settlement of land rights of Adivasis, but they were often localised and piecemeal solutions.

One of the key moments in the history of struggles for forest rights in the country and in Maharashtra was the nation-wide Adivasi Movement for promulgation of the Forest Rights Bill in 2005.<sup>4</sup> The Adivasi Movements based in Maharashtra played an important role in this. The process of building alliances among Adivasi Movements began much earlier in Maharashtra. In June 1978, reacting to the oppression and marginalisation faced by the Adivasi people under the colonial forest laws, activists from the Bhumi Sena, Kashtakari Sanghathana and Jabran Jot Andolan came together. They decided to form a collaborative process on the question of tribal rights in forests. This group came to be known as 'Zabran Zot Kruti Samiti' (cultivation by force) or ZZKS. The process was later renamed 'Soshit Jan Andolan' and agitations were led by several organisations from Vidharbha, Thane, Raigad and smaller scattered groups from Amravati. They focused on legal recognition or regularisation of forest lands being cultivated by forests dwelling communities. They demanded that all forest lands which were occupied for cultivation prior to 1978 should be regularised, using not only Primary Offence Reports as evidence but also land-based activities and testimonials of village elders as proof of occupation.

Subsequently, the Government of Maharashtra passed a resolution on 27<sup>th</sup> December, 1978 (Government Resolution No. LEN -1078/3483/J -1) to regularise encroachment on Government owned fallow land, revenue and forest land, forest land in charge of the Forest Department in Nashik and Thane Districts and *gairans* (grazing lands). Prior to this resolution, several orders had been passed for regularising such encroachments.

The main features of this Government Resolution were

1. It was applicable only to tillers who were Scheduled Castes, Scheduled Tribes, Nomadic Tribes, Vimukta Jati<sup>5</sup> or a Nav Bauddha<sup>5</sup>.
2. If the aggregate income of the families was more than Rs 3600, such cases should be forwarded to the State Government for orders.
3. The beneficiary should be residing within 8 km of the encroached land.
4. The beneficiary should be landless and any Jirayat land held should not exceed 2 ha.
5. Only the land tilled and in the possession as of 31<sup>st</sup> March 1978 would be regularised.
6. If the tiller was tilling forest land of an inclination of more than 10 percent, the tiller would be provided with alternate land.
7. To give effect to the clause pertaining to the transfer of grasslands to the tiller, the Government Resolution specifically directed the Collector to acquire the said grazing land and to thereafter regularise them as per Section 51 of the Mumbai Village Panchayat Act, 1958.

Meanwhile, through ZZKS and independently, the 'cultivation by force' movement had gathered momentum, with Kashtakari Sangathana in Thane, Zamin Kranti Sangathan in Raigad, Jagruk Kashtakari Sanghatana in Karjat, and Sarvahara Jan Andolan and Shramajeevi Sangathana.

<sup>4</sup>Prabhu, P. (2005, August). *The right to live with dignity*. Retrieved from India-Seminar: <http://www.india-seminar.com/2005/552/552%20pradip%20prabhu.htm>

<sup>5</sup> Vimukta Jati, also known as the Denotified Tribes(DTs), were tribes who were originally listed under the Criminal Tribes Act of 1871 which was repealed in 1952, thereby making them denotified. The Nav Buhhas were people who were part of the Dalit Buddhist Movement, where they converted to Buddhism as a way of rejecting the caste based system.

To address the issue of large scale evictions that had begun during the Emergency, Justice PN Bhagwati asked Pradip Prabhu from the Kashtakari Sangathana for a detailed note on eviction from forests, which he then converted to a petition, and gave orders in 1980 to halt evictions.

In 1981, to address the issue of providing evidence for the regularisation process, the Forest Department appointed two committees. These committees were dissolved when the Supreme Court objected to them. In the Pradip Prabhu vs State of Maharashtra case<sup>6</sup>, a second enquiry committee was set up by the Supreme Court which submitted its report. Chief Justice Ranganath Mishra, based on this report and the December 1978 GR, passed an order stating that even when the claimant has no documentary evidence to support his claim, it is the responsibility of the competent authority to enquire into the claim and provide other forms of evidence. This led to local committees being formed comprising the Maharashtra Forest Department and the *patwari* (a revenue official who keeps records regarding the ownership of land) to look into the issues of claims. **This was a historic step as it changed the discourse from the issue of 'encroachment of forest land' which is a criminal offence, to 'settlement of forest rights'.**

Under this process four categories of claimants were identified by the preliminary committee report –

1. Claimants who had documentary evidence
2. Claimants who had no documentary evidence, but *Panchayat member* and *patwari* had visited the spot and verified evidence
3. Either *pancha* or *patwari* disagreed on claimants assertion
4. Both *pancha* and *patwari* disagreed with claim on the ground that the land was occupied after 1978.

Dr. Saldhana, a member of the Supreme Court Committee<sup>7</sup>, put in a dissenting note in the report. He argued that the very existence of a landless Adivasi living a life within the boundaries of the law in a forest area is sufficient evidence that he is subsisting on cultivation. This was an argument which was used later for the FRA.

At this point, two key responsibilities were identified by the Soshit Jan Andolan for member organizations:

1. Mobilise consciousness and strength of communities, resist evictions, assert rights and dissent peacefully
2. Find new legalities to recognise labour, living and subsistence on land as a valid reason for recognition of rights.

Thus, a larger philosophical level argument for policy and discourse changes against colonial forest classification, which had criminalised thousands of tribal communities, began to gain momentum within the movement.

<sup>6</sup>Writ Petitions (C) No. 13696-700 of 1983<sup>5</sup> Gol (2002). Tenth Five Year Plan (2002-2007). Government of India.

<sup>7</sup>Data collected through personal communication with Pradip Prabhu in February 2017.

In 2002, Harish Salve, the then Amicus Curiae, gave a representation to the Supreme Court on the subject of encroachments. Based on this, a circular was issued by the Ministry of Environment and Forests (MoEF) to all state governments, ordering a time-bound eviction of 'encroachments'. This resulted in the eviction of nearly 300,000 families from about 150,000 ha of forest land between 2002-2004<sup>8</sup>, accompanied by brutalities like burning of houses and trampling of standing crops by elephants, amongst others<sup>9</sup>. It was at this point that the Soshit Jan Andolan decided to launch a nation-wide campaign, which came to be known as the Campaign for Survival and Dignity (CSD). CSD organised a number of People's Hearings and released a report called 'Endangered Symbiosis'. CSD also challenged Harish Salve and VK Bahuguna, IG-Forests, MoEF in the Supreme Court.

The Soshit Jan Andolan requested RTI activist Aruna Roy to facilitate a meeting with the then Prime Minister Manmohan Singh, where the Adivasis' problems could be presented and discussed. An Inter-Sectoral Committee on Tribal Issues, chaired by Dr Balachandra Mungekar from the Planning Commission, identified two reasons for growing unrest in the tribal areas, which needed to be resolved.

- i. Failure to recognise forest rights of the tribal people
- ii. Issues of displacement and rehabilitation.

On January 19 2005, the Prime Minister called a meeting at his residence, which included security advisors, PMO staff, Montek Singh Ahluwalia from the Planning Commission, the Minister of MoEF, secretaries from other ministries, and Pradip Prabhu from the SJA was asked to elaborate on the problems concerning Adivasi forest rights. In this meeting, he suggested that a bill for the recognition of rights for forest people be drafted, and this suggestion was accepted immediately. The final drafting committee comprised Praveen Kumar, Madhu Sarin, Sanjay Upadhyay and Pradip Prabhu.

### 2.3. Implementation Trends Immediately after the Enactment of the FRA

The fact that Adivasi groups in Maharashtra had an important role to play in the processes related to drafting and enactment of the FRA, also ensured that the push for its implementation came very soon after the enactment of the Rules in January 2008. The implementation of the Act in Maharashtra started on the 1<sup>st</sup> of May, 2008, when the Government of Maharashtra directed the Gram Panchayats to start with the implementation of FRA. Accordingly, meetings were held in 65 Gram Panchayats across the state, and Forest Rights Committees (FRCs) were constituted. In the meanwhile, a number of training programmes were organised by the Tribal Research Institute (TRI), Pune (then the nodal agency), involving Adivasi Mass Movements, NGOs and others. TRI also started radio and television campaigns about FRA. Despite this initial push however, the implementation of the Act in general and CFR provisions in particular, remained very slow in the initial stages because of a number of reasons, some of which were

- These FRCs were constituted at the Gram Panchayat level and not at the level of the revenue villages and associated hamlets. This led to confusion and the claim filing

<sup>8</sup>Lele, S., Springate-Baginski, O., Lakerveld, R., Deb, D., & Dash, P. (2013). Ecosystem Services: Origins, Contributions, Pitfalls and Alternatives. *Conservation and Society*, 11(4), pp. 343-358.

<sup>9</sup> Ibid

processes could not start in villages which were part of group Gram Panchayats or which were smaller hamlets.

- Most training programmes about the Act were organised at centralized places such as Yashada or TRI in Pune or at district headquarters. Only a limited number of people could go for these meetings and there was no process by which these people would take the information down to sub divisional or village levels.
- Consequently, understanding about the law and claim filing process among the implementation agencies at all levels and Gram Sabhas members remained poor. This continues to be the situation even ten years later in some districts, particularly where Adivasi movements or civil society groups are not present.
- Evictions due to land rights insecurity was one of the important factors for the Movement leading to the enactment of the Act, as in the initial years there was considerable focus only on claiming individual land rights.
- Most communities and individuals found it difficult to find evidence, as the implementing agencies insisted on certain kinds of evidence only, particularly evidence related to filing of Primary Offence Report (POR).
- Filing of claims remained restricted to areas where *jansangathanas* or civil society groups were active.
- The districts where individual land rights claims were filed reported large scale rejection of claims by the Sub Divisional Level Committees (SDLCs)
- There was little awareness at all levels about CFRs and little effort from the government to create awareness. Implementing agencies were insisting on attaching documents related to *nistar* rights with CFR claims.
- In a few districts where CFR claims had been filed, they were not being processed.

In March 2011, Adivasi Movements in Maharashtra called for a rally to draw attention towards the slow implementation of the Act. Thousands of people walked hundreds of kilometers from different parts of the state, and the rally converged in Mumbai. Faced by this situation, the then Chief Minister of Maharashtra made many promises towards implementation of FRA in writing. Some of these included, immediate action towards review of the rejected claims, direction to the implementing agencies on not insisting on only a certain kind of evidence to be provided along with the claim forms, and promising to start a campaign for creating awareness and filing claims for CFRs.

### 2.3.1 Processes in Gadchiroli

In the meanwhile, a campaign was building in Gadchiroli district towards mass filing of CFR rights claims. An important reason for this as mentioned above was collective action from the grassroots level, effective, collective and consolidated advocacy and technical inputs from mass movements and civil society groups; and a responsive and proactive administration, led by a number of sensitive district collectors. This led to multiple learning processes by actors at the district, taluka and village levels to understand and discuss the provisions of the law and its implication for supporting long standing local struggles for resource use and governance rights. Through these study circle processes, groups in Gadchiroli gained clarity on the FRA. They collectively demanded to form FRCs at revenue village and hamlet level in Gadchiroli district.

In mid-2008, the CFR claim making process was initiated for the villages of Mendha-Lekha and Marda. By 15<sup>th</sup> August 2009, Mendha-Lekha and Marda became the first villages in the country to have their CFR rights recognised.

In the meanwhile, as part of the district level study processes, a series of training programmes were initiated for implementing agencies at all levels in a campaign mode. Prior to 2012, no format was available for filing CFR rights. Based on the experience of filing claims at Mendha-Lekha and Marda villages, a format was prepared by Vrikshamitra in consultation with all members of the district level study group. This format ensured a uniform and correct process of filing claims, and was distributed to all Gram Sabhas in the district and elsewhere in the state. The district level campaign also ensured that Gram Sabhas asked the district administration to send all relevant documents to the Gram Sabhas which could be used as evidence towards their CFR claims. The district administration responded by ensuring that records of forest and revenue departments relating to a particular Gram Sabha were posted to them. The uniform format for filing claims and evidence provided based on the documents sent by the district administration ensured that a large number of CFR claims were filed in the districts by 2009.

Within Gadchiroli, a district level pressure group, monitoring the implementation and various hurdles that emerged while implementing the Act and exercising the rights, continued. After the Maharashtra Rules under Panchayat (Extension to Scheduled Areas) Act were notified in Maharashtra in 2014, a district level PESA monitoring group was constituted including Gram Sabha members, civil society groups and the district administration. This monitoring group has since then been acting as a pressure group for the joint implementation of PESA as well as FRA

### 2.3.2 Processes in other Districts

In the rest of the state, the implementation of the Act in general and CFRs in particular continued to be very poor. In order to address this, a meeting was organised on “CFRs: Status, Trends and Way Ahead”, by the Vidarbha Livelihoods Forum (particularly KHOJ and Vidharba Nature Conservation Society), Vrikshamitra, Kalpavriksh and Tata Institute Social Services in Mumbai in January 2013. The meeting was attended by people engaged in CFR activities across the state and Secretaries of all relevant government departments, including the Tribal Department and Forest Department. This led to sharing of experiences and some recommendations to push for CFRs. However, barring a few such state level processes, actions and advocacy related to implementation of FRA have largely been focused at the district level.

### 2.3.3 Role of Tribal Development Department (TDD)<sup>10</sup>

Tribal Development Department (TDD) is a nodal agency responsible for overall policy, planning and development for Scheduled Tribes. In the last few years, TDD has tried to encourage and support projects and programs related to the development of the STs through technical, human and financial resources. In the last few years, recognizing the potential of PESA and FRA the Department has taken up programs related to them in a mission mode.

<sup>10</sup>Information shared by Tribal Development Department Maharashtra, March 2017

This was done in conjunction and coordination with all stakeholders such as related line departments, civil society organisations, academicians and technical agencies. Efforts and initiatives of the TDD has also been acknowledged by the MOTA.

For FRA, the TDD has placed an emphasis on management plans preparation with the involvement and assistance of local CSOs and subsequent convergence with local administration in implementation of village Management plans. TDD considers it one of its pioneering and successful initiatives. MoTA-UNDP assistance and technical guidance to CSOs and Gram Sabhas for drafting management plans in 50 Villages as a pilot programme, led to TDD supporting 145 villages in the subsequent phase.

In the last few years many Government Resolutions (GRs) have been issued to support claim filing and management of CFRs. These include a GR for constituting 'District level Convergence Committee for implementation of the conservation and Management Plans for Community Forest Rights Areas.'<sup>11</sup> Another GR was issued in order to constitute a State level Steering Committee<sup>12</sup> These GR's aimed at effective implementation of CFR provision; effective CFR planning and management and strengthening of the Gram Sabhas; and monitoring, guiding, reviewing and evaluating the projects implemented by the civil society organisations.

Besides the above two, a set of guidelines were issued to help the Gram Sabhas constitute a CFR management Committee (CFRMC), as per Section 4(1) e of FRA Rules and Section 5 of the Act.<sup>13</sup> As per this GR the committees are to be executive committees of the Gram Sabhas for the purpose of planning for the management and conservation of the CFR, manage the revenue being generated from the management of community resources, management of funds being received from the government, keeping accounts of the funds that have been deposited and spent, and to carry out all administrative responsibilities related to FRA.<sup>14</sup>

In the interest of the FRA and to grant rights of ST and OTFD's in urban areas, TDD also issued a GR for implementation of FRA under the Wards of the Municipality Areas. The GR provided for a committee to be formed to initiate, process and finalise the scope of CFR & IFRs in areas under the Municipalities.<sup>15</sup>

Under district convergence committees, TDD has provided funds of Rs. 56.80 lakhs to 50 Gram Sabhas in Gondiya, Gadchiroli, Nagpur, Amravati and Yavatmal. These Gram Sabhas had earlier received funds under the MoTA-UNDP programme for drafting Management Plans for their CFRs.

Besides, funding for the implementation of the plans, TDD is also funding 75 additional GS to draft management plans with support of NGOs working with them. These funds are directly transferred to the accounts of the NGO's. For this programme Gram Sabhas have been selected from Gadchiroli, Gondiya, Amravati, Yevatmal, Thane, and Raigad. A total amount of Rs 1.69 crores has been sanctioned under this programme.

<sup>11</sup>Tribal Development Department Government Resolution, dt. 1st October 2016

<sup>12</sup>Tribal Development Department Government Resolution, dt. 5th March 2014

<sup>13</sup>Tribal Development Department Government Resolution, dt. 24th June 2015

<sup>14</sup> Tribal Development Department Government Resolution no. व्हका-२०१४/प्र.क्र.६६/का-१४, dt 24<sup>th</sup> June 2015

<sup>15</sup> Tribal Development Department Government Resoulution क.व्हका-2015/प.क.61/का-14, dt. 8<sup>th</sup> September 2015

TDD has also provided revolving funds to the Gram Sabha's, managing their rights on a pilot basis. This has subsequently been regularised in schemes of the Human Development Mission under the Rural Development Department. Through the Tribal Development Corporation, the TDD has also supported the process of *tendu* leaves collection and sale collectively by the Gram Sabhas, with help from organisations such as VNCS and KHOJ.

#### 2.3.4 Role of Governor's Office

Since 2014, when the Rules under Panchayat Extension to Scheduled Areas (PESA) Act, were notified, the Hon. Governor's office started taking a special interest in the implementation of the rules in PESA area. Taking the position that the PESA and FRA are closely linked and together strengthen local rights and livelihoods, the governor's office coordinated with the TDD to facilitate, implementation of PESA and FRA, particularly in the PESA areas. The Governor's office has been instrumental in appointment of FRA coordinators by the TDD in many districts and blocks in order to maximise the outreach and help communities file claims<sup>16</sup>. A Tribal Cell has been set up at the Governor's office to nurture any innovative ideas and processes in tribal areas of the State. Collectively, the Governor's office and TDD have been engaged in a constant process of reviewing current implementation, advocacy, capacity building and addressing gaps and incorrect rejections through regular video conferencing.

Under sub-paragraph (1) of paragraph 5 of the Fifth Schedule to the Constitution of India, the Governor may, by public notification, direct that any particular Act of Parliament or of Legislature of the State shall not apply to a Scheduled Area referred to in clause (1) of Article 244 of the Constitution of India or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to the exceptions and modifications specified in the notification. The Governor's office in Maharashtra has used this Constitutional power to facilitate modification of laws and policies which could harm the interest of tribal communities in Scheduled Areas in Maharashtra, including changes in the Village Forest Rules 2014 of Maharashtra to ensure that these Rules will not be applied in the Scheduled Areas. Using this power, a notification has been issued by the Governor's office to modify the FRA in its Section 3, sub-section (2) after the clause (m), to add:

- (i) "(n) godowns, warehouses, cold storages and Haats (Markets) to be operated by the Government of Maharashtra or its subsidiaries;" and
- (ii) "(o) cremation grounds/ burial grounds."

Additionally, many other interventions complement provisions of the FRA. Some specific interventions from the Governor's office in Maharashtra include:

- a) Freeing Bamboo from state monopoly where the Governor's office issued an amendment on 19th August 2014, on the definition of MFPs to be in line with that defined in the FRA, thus including bamboo allowing Gram Sabhas to have rights over conservation and sale of bamboo. It also issued a notification to cancel the section from the IFA (section 2-vii) where bamboo was listed as a tree.
- b) In 2014, rules for PESA were issued which included directives for Hamlet level village formation and provision of a working capital to each village.
- c) Devolution of 5 percent of the funds from the Tribal Sub Plan to the Gram Panchayats in Scheduled Area, releasing Rs 250 crore annually.
- d) Capacity building through PESA co-ordinators at the District and Taluka levels, FRA managers at the Taluka level and also appointing women Self Help Groups (SHG) as PESA mobilizers.
- e) One time financial aid to increase Minor Forest Produce, small fishery harvest.
- f) Ensuring Gram Sabha control over institutions and budgeting, and clarity on income distribution.<sup>17</sup>

<sup>16</sup>Can be accessed at [http://rajbhavan-maharashtra.gov.in/rajbhavan/Pages/frm\\_governor\\_responsibilities.aspx](http://rajbhavan-maharashtra.gov.in/rajbhavan/Pages/frm_governor_responsibilities.aspx)

<sup>17</sup> Can be accessed at [http://rajbhavan-maharashtra.gov.in/rajbhavan/Pages/frm\\_governor\\_responsibilities.aspx](http://rajbhavan-maharashtra.gov.in/rajbhavan/Pages/frm_governor_responsibilities.aspx)

## Section: III

### 3. Potential and Performance Of CFR Implementation in Maharashtra

#### 3.1 Potential for Recognising Community Forest Resource Rights in Maharashtra

##### 3.1.1 Estimated CFR Potential

Estimating how much forest area is likely to be claimed as a CFR u/s 3(1)(i) is a difficult task. The *upper bound* on this would be the entire **legally notified forest area** in the state, plus those areas that are recorded as ‘*zudpi jangal*’ or other such categories considered eligible by the FRA but not currently controlled by the Forest Department. Fortunately, the term ‘recorded forest area’ in Maharashtra includes the latter categories also under ‘unclassified forest’. So we use data on recorded forest area to estimate the maximum CFR potential.

- This **maximum CFR potential** estimate for Maharashtra comes to ~ **61274 sq km**.<sup>18</sup>

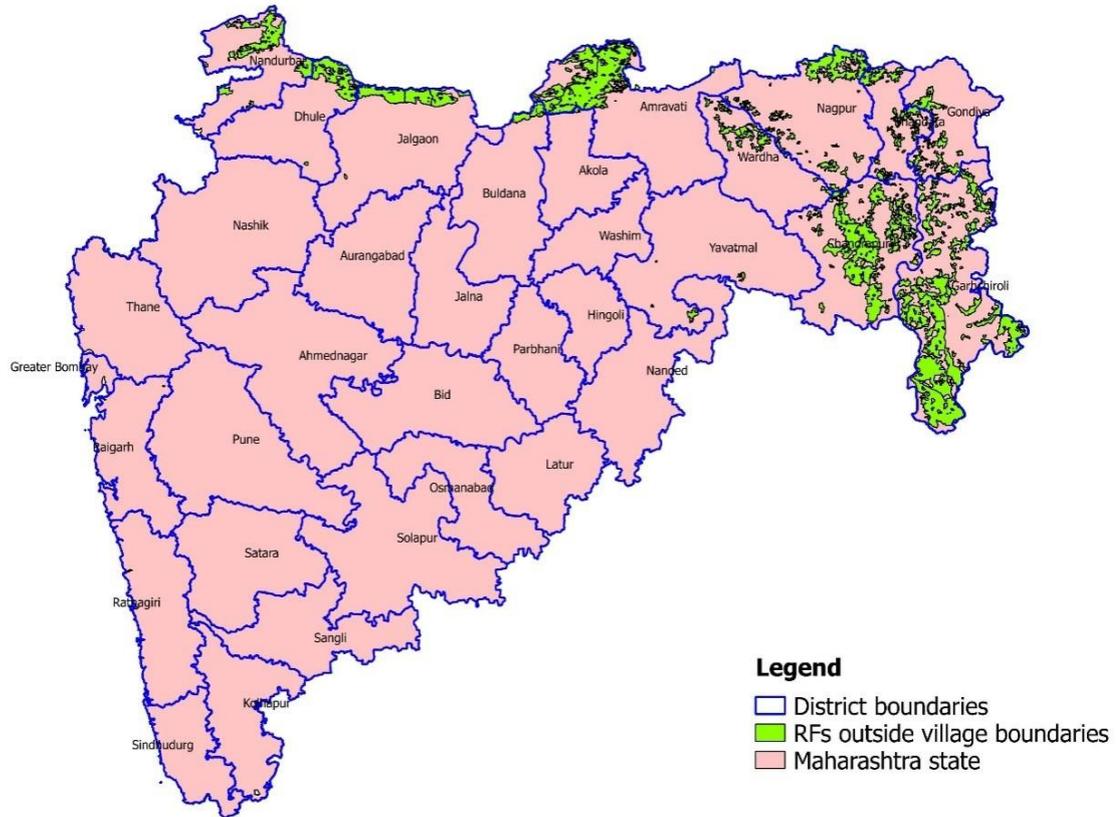
On the other hand, the *minimum potential* is the area of forest land *within* revenue village boundaries. This area is available in the Census data. Although there are some inaccuracies, this is the best available dataset. The absolute minimum potential is estimated simply by totaling the “Forest” column in the Census 2011 village amenities table. In this calculation, we excluded revenue villages which had zero population, except if they were not fully forested.<sup>19</sup>

- This **absolute minimum CFR potential** came to **36,209 sq km**, and exists in **33 districts**.

To get a more realistic *mid-range estimate*, we noted that a significant area of forests in Maharashtra exists *outside* revenue village boundaries. This is especially true in northern (Nandurbar, Dhule, Jalgaon, Akola, Amaravati) and eastern (Nagpur, Chandrapur, Gondiya, Gadchiroli, Bhandara) districts. The extent of such (forest patches outside revenue village boundaries) area is estimated (from GIS data) to be about **16,990 sq km**. To this, we also added revenue villages that were uninhabited and fully forested (42 villages, with 220 sq km), to get a total of **17,210 sq km**. The locations of these areas across all Maharashtra are shown in Figure 2 below.

<sup>18</sup> Forest Department, 2013, “A Statistical Outline: Current Salient Forest Statistics”, Government of Maharashtra p.9. The figure does not include 84.2 sq km. of notified forest within Mumbai City and suburbs.

<sup>19</sup> The idea being that the fully forested ones get added to the ‘forest polygons’ in the next estimate, and the ones that are not fully forested, even if showing zero population, will presumably have some human presence, such as cultivators coming from neighbouring villages.

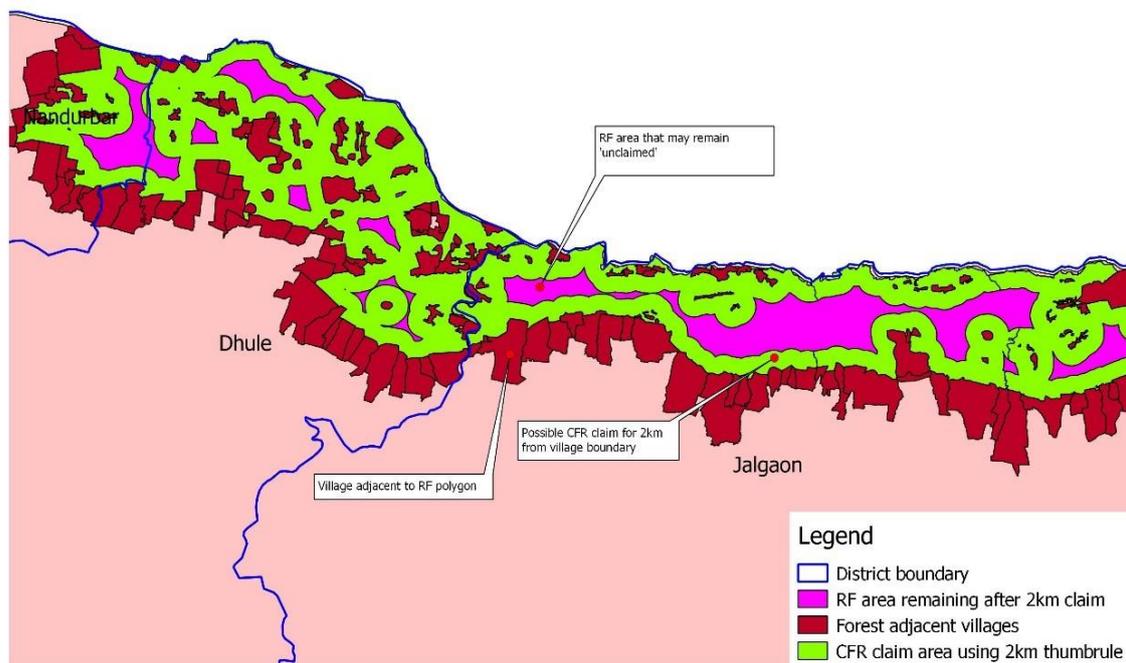


**Figure 2. Location of Large Forest Patches outside Revenue Village Boundaries in Maharashtra**

The question is how much of this area is likely to be claimed as CFRs. As an approximate thumb rule, we assumed that CFRs in these forest polygons would be claimed by villages that are adjoining the polygons, and that each village would claim up to 2km into the polygon. So we ‘buffered inwards’ each forest polygon up to 2km, and the area in this 2km buffer turns out to be **14558 sq km**.<sup>20</sup> An example of such ‘buffering’ is indicated in Figure 3 below. When combined with the forest area within villages:

- This **mid-range estimate** of CFR potential comes to **50,766 sq km** across 33 districts.

<sup>20</sup> Note that this is actually 85% of the forest polygon area. This essentially means that most of the area of these RF polygons would also get claimed if villages claim up to 2km into the RF area.



**Figure 3. Illustration of 2km CFR Claim into Reserved Forest Area**

The above data indicates that the minimum area of forest that can be recognised as CFRs on the basis of the census data itself is about **59 percent of the total recorded forest area** of the state. However, considering that in many districts in the state, the area traditionally falling within the boundaries of a Gram Sabha lies outside the revenue boundaries, the mid range potential for recognising CFR Rights is nearly **83percent of the recorded forests**. (See Table 2, Annexure 1 for data used for analysis in this section).

### 3.1.2 Estimated Population of Schedule Tribes and Other Traditional Forest Dwellers Population benefiting from FRA

It is estimated that approximately 257,70,418 or nearly 26 million people including 58,53,128 Scheduled Tribes (STs) and 26,60,057 Scheduled Castes (SCs) can potentially benefit from the implementation of CFR Rights.(See Table 3, Annexure 1)

## 3.2. Estimating the Performance of Implementation of Community Forest Resource Rights in Maharashtra

### 3.2.1. Estimating CFR Performance in the State

As per the data received from the Tribal Commissionerate of Maharashtra (The Nodal Agency for implementation of Forest Rights Act in the state), till November 2016, a total of 5741 Community Forest Resource Rights titles had been handed over to the concerned communities. From the data it is not clear if these are only CFR Rights or all community forest rights under Section 3 (1) of FRA. Here we are assuming all of these to be CFR Rights and hence this is a **maximum estimated performance** of CFRs implementation in the state. Total amount of forest area recognized as CFRs in the state as per this data is **1794130 acres or 7260.58 sq km**. (See Table 4, Annexure 1)

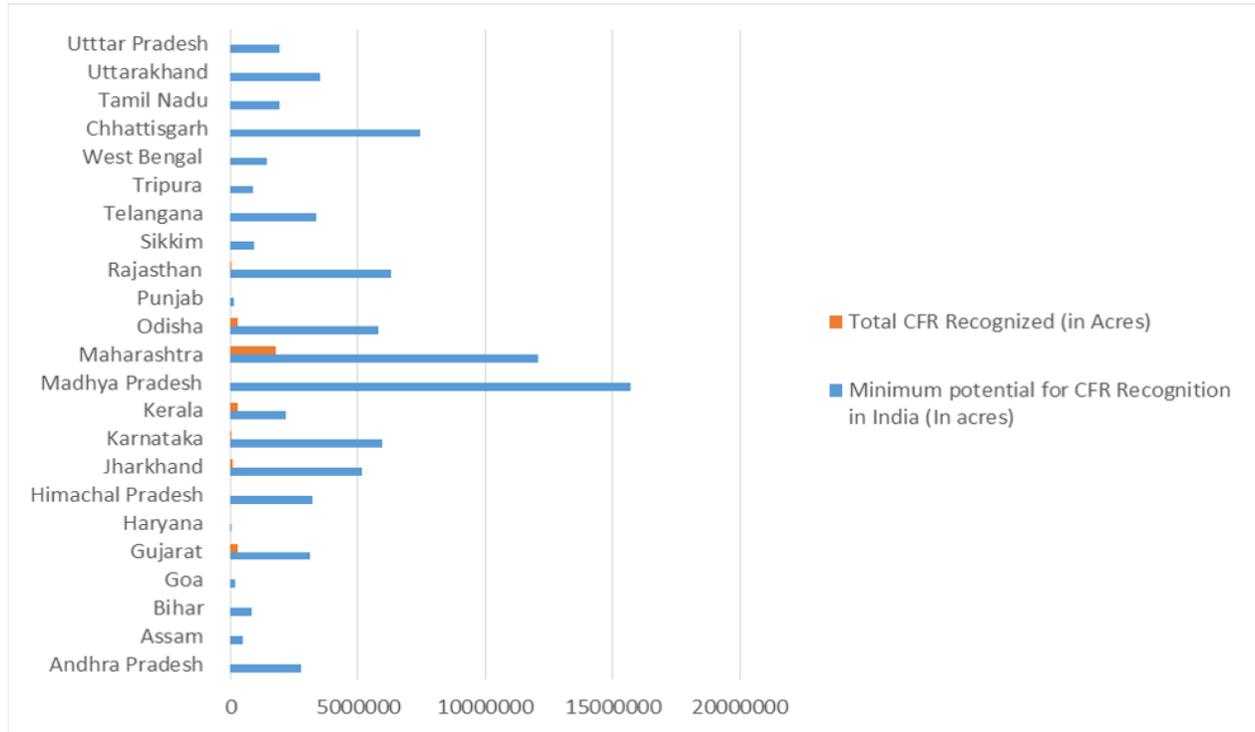
### 3.2.2 Comparing Maximum Performance with Maximum, Mid-Range, and Minimum Potential for Recognising CFR Rights in the state

As shown in Table 5, *the state has so far recognized only 12 percent of the maximum potential of CFRs, only 14 percent of a mid-range potential of CFRs and 20 percent of the minimum potential of CFRs*. For all subsequent district-wise analysis we have used **minimum potential for CFR implementation** to compare with the **maximum estimation of CFR recognised** to keep it uniform with the National level report. Comparing performance against mid-range and maximum potential will have very different picture indicating fairly low level of implementation in Maharashtra.

**Table 5. Comparison of Maximum, Minimum and Mid-range Potential of CFR Rights Recognition in Maharashtra with Maximum Forest Area Recognised as CFR till November 2016**

	Forest area in sq km	Maximum forest area recognised as CFRs till November 2016 in sq km	Percentage
<b>Maximum Potential for CFRs in Maharashtra</b>	61,274	7260.58	12%
<b>Mid-range Potential for CFRs in Maharashtra</b>	50,766	7260.58	14%
<b>Minimum Potential for CFRs in Maharashtra</b>	36,209	7260.58	20%

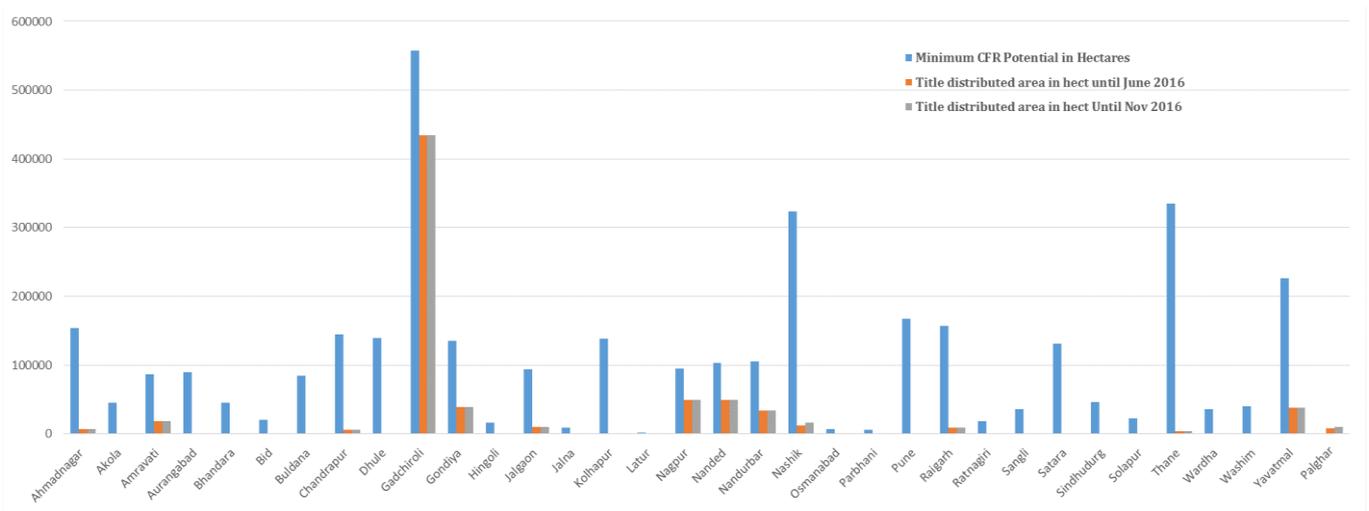
Maharashtra has the highest number of CFRs being recognised in the country with almost 14 percent of the total potential CFRs being recognised followed closely by Kerala, Odisha and Gujarat. This can be attributed to the presence of civil society as well as *sangathanas* and various Adivasi groups who became pressure groups during and after the FRA was formed, enacted and implemented. (Table 6, Annexure 1)



**Figure 4. State-wise Comparison of the Potential CFR to be Recognised and Total CFRs actually being Recognised in India**

### 3.3.3 District-wise Performance Data

While at the national level, Maharashtra emerges as one of the leading states in the implementation of CFR rights, a district-wise analysis shows that this is mainly because of the high rate of recognition in a few districts, particularly Gadchiroli.



**Figure 5. District-wise Comparison of Minimum Potential of CFRs to be Recognised with the Total CFRs Recognised until June 2016 and November 2016**

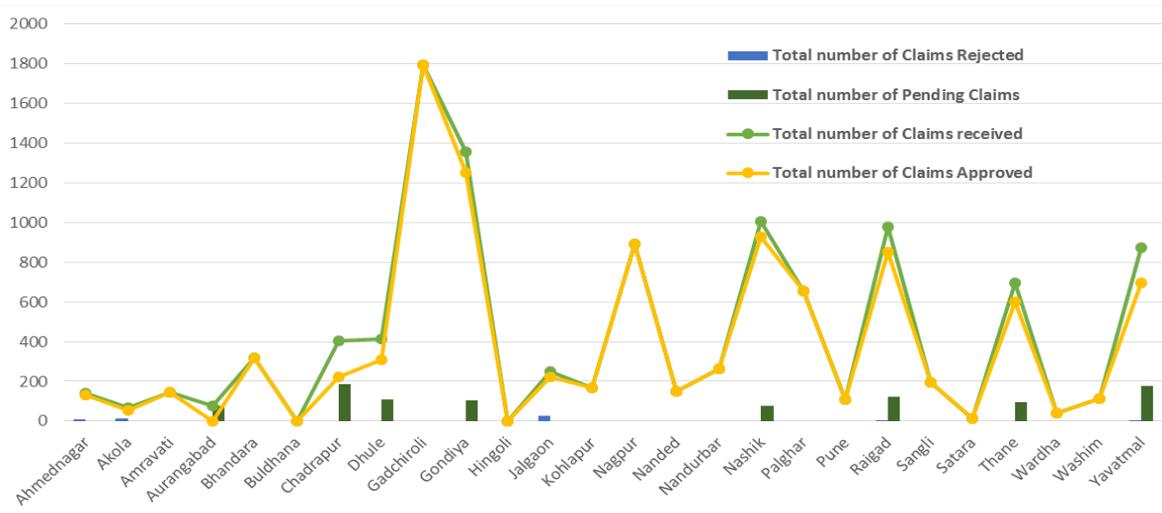
The district-wise data analysis in fact gives a very skewed picture of CFR implementation in the state with one district - Gadchiroli - implementing as high as over 60 percent of its minimum potential, only two districts with above 33 percent implementation, nine districts with less than 30 percent implementation and 21 districts with zero or near zero implementation (see Table 7 below and Table 8, Annexure 1 for details). In fact, some of the districts with a very high potential for CFR implementation have near zero actual implementation, these include Ahmednagar, Chandrapur, Dhule, Gondiya, Kolhapur, Nashik, Pune, Raigad, Satara, Thane and Yavatmal. Of these only Gondiya and Yavatmal show some level of implementation. ***In fact if Gadchiroli is taken out of the picture, Maharashtra's average performance of CFR implementation as compared to the minimum potential would be approximately 10 percent.***

**Table 7. District-wise Analysis of Claims Received, Pending, Approved and Rejected at Various Levels**

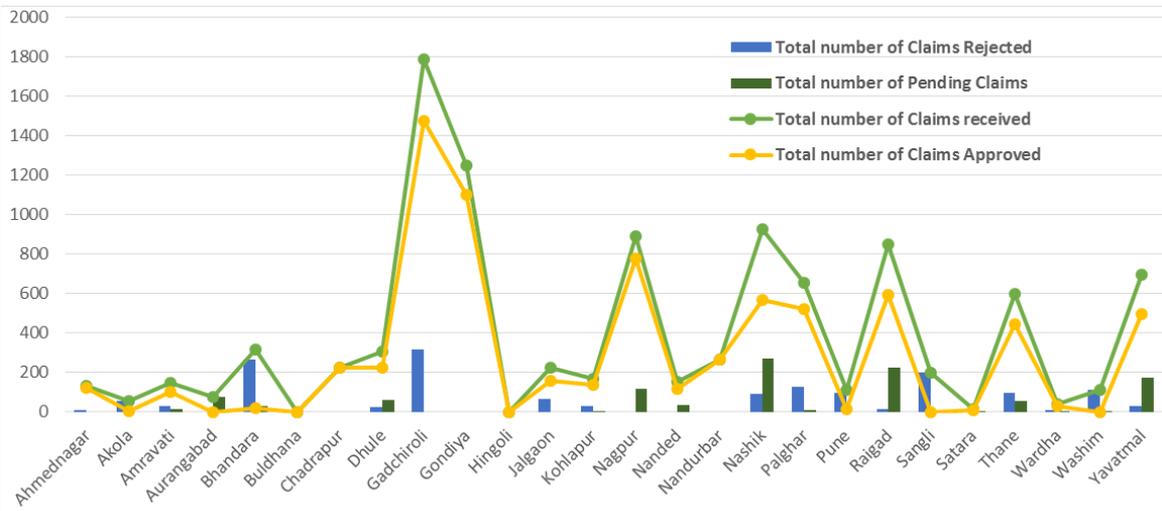
Performance Rate	District
<b>High Performing District (&gt;66% of Total Potential achieved)</b>	Gadchiroli
<b>Average Performing Districts (33%-66% of Total Potential achieved)</b>	Nagpur, Nanded
<b>Poor Performing Districts (0%-33% of Total Potential achieved)</b>	Ahmadnagar, Amravati, Chandrapur, Gondiya, Jalgaon, Nandurbar, Nashik, Thane and Yavatmal
<b>No Implementation Districts (0% of Total Potential achieved)</b>	Akola, Aurangabad, Bhandara, Bid*, Buldana, Dhule, Hingoli, Jalna* <sup>21</sup> Kolhapur, Latur*, Osmanabad*, Palghar*, Parbhani*, Pune, Ratnagiri, Sangli, Satara, Sindhudurg*, Solapur*, Wardha, Washim

The objective of this district-wise data analysis is to understand trends on the rates of CFR rights and CR rights rejection at every level of verification.

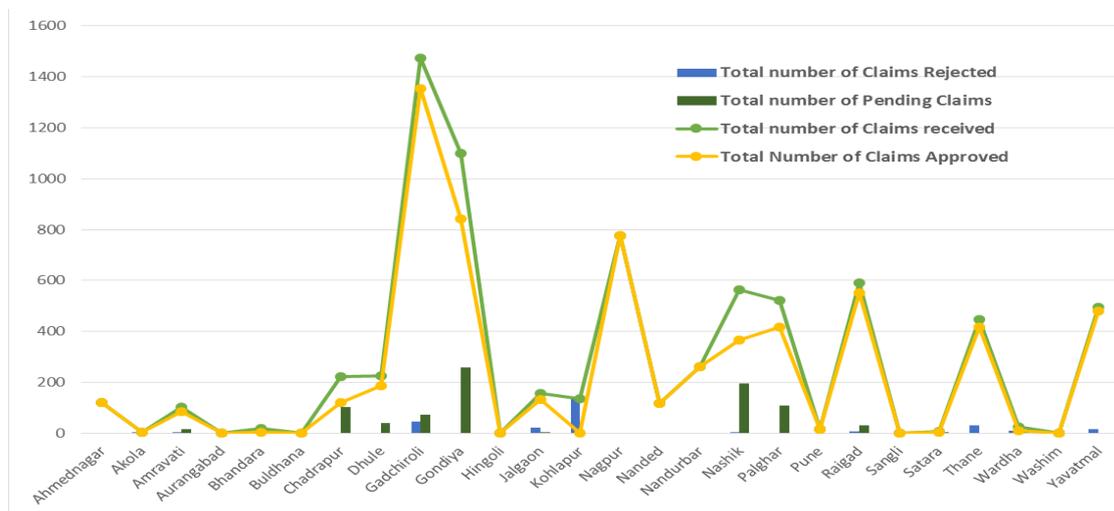
<sup>21</sup> \* All these districts do not have a record of CFRs in the Tribal Commissionerate Office of Maharashtra.



**Figure 6. District-wise analysis of Claims received, pending, approved and rejected at Gram Sabha level (Source: Tribal Commissionerate of Maharashtra, until November 2016)**



**Figure 7. District-wise Analysis of Claims Received, Pending, Approved and Rejected at the SDLC Level (Source: Tribal Commissionerate of Maharashtra, until November 2016)**



**Figure 8. District-wise Analysis of Claims Received, Pending, Approved and Rejected at the DLC Level (Source: Tribal Commissionerate of Maharashtra, until November 2016)**

Analysis of November 2016 data shows that 90 percent of the claims received at the Gram Sabha level have been approved by the Gram Sabhas, except in Ahmednagar, Akola and Jalgaon where the Gram Sabhas have rejected claims. In districts like Aurangabad, Chandrapur, Dhule, Gondiya, Nashik, Raigad and Yavatmal, a large number of CFR and CR claims are still pending approval at the Gram Sabha level. In Chandrapur, almost 45 percent of the claims received were pending at the Gram Sabha level, as of November 2016 (See Figure 6 and Table 9, Annexure 1).

At the SDLC level, 72 percent of the claims received from the Gram Sabhas were approved. Nearly 15 percent of the claims were rejected at the SDLC level, while 12 percent of the claims were pending. There seems to be a high rate of rejection at the SDLC level, with districts like Sangli, Washim, Pune and Akola having rejection rates of more than 80 percent. In districts like Nanded, Nashik, Raigad and Yavatmal, more than 20 percent of their claims are pending at SDLC. Although the Act clearly specifies that the claims cannot be rejected at the SDLC level, the SDLC is responsible for either sending the claims back to the Gram Sabha indicating any procedural lacunae in filing the claims or forwards the claims to the DLC where the final decision is to be taken. It could not be ascertained whether the rejection shown at the SDLC level are final rejections or Gram Sabhas have been asked to resubmit the claims with corrections (See Figure 7 and Table 9, Annexure 1).

Of all the claims reaching the DLC, 85 percent have been approved. 11 percent of the total claims are pending decision at this level. The districts of Gondiya, Chandrapur, Nashik, Palghar and Wardha have high rates of pending cases, where Chandrapur tops with almost 46 percent of its claims pending at the DLC level. Districts like Jalgaon, Kolhapur and Wardha having high rates of rejection at DLC (See Figure 8 and Table 9, Annexure 1).

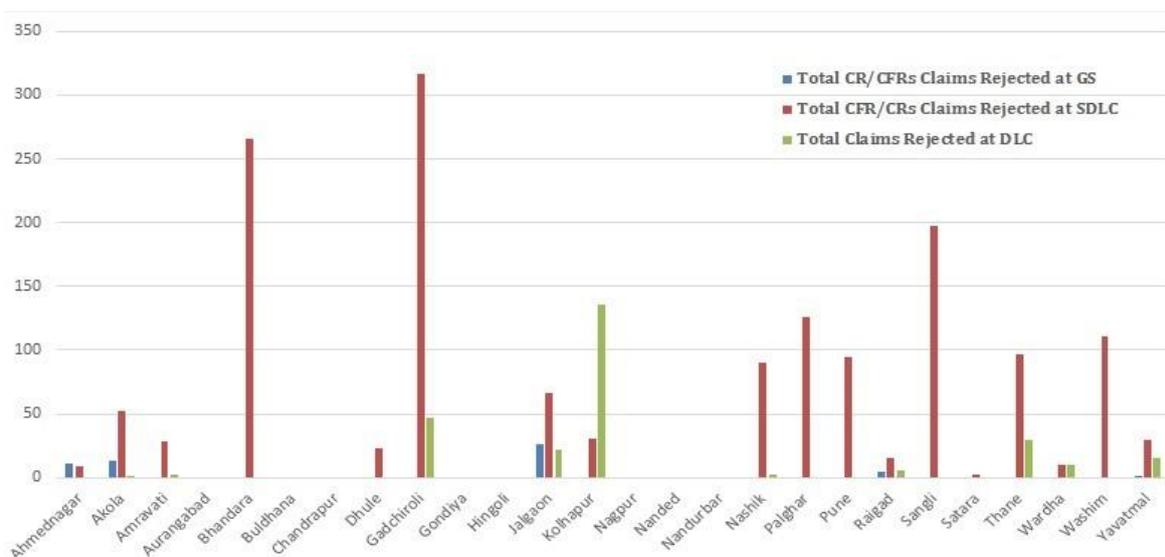


Figure 9. District-wise Analysis of Claims Rejected at Various Levels until November 2016

As per the data analysis, there are high levels of rejection at the SDLC level. This has also been reflected in the district-wise rejection rates data where in most districts the claims are rejected at SDLC level with the exception of Ahmednagar, Kohlapur and Wardha. Akola, Bhandara, Gadchiroli, Jalgaon, Nashik, Palghar, Pune, Sangli, Thane and Washim are the districts which have highest rate of rejection at SDLC levels. (See Table 9, Annexure 1).

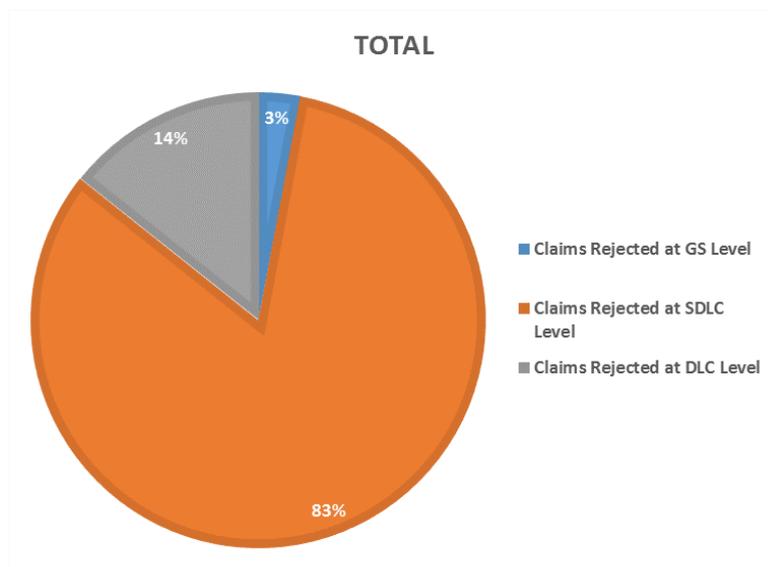


Figure 10. Overall Analysis of Claims Rejected at Various Levels

It is not clear whether these have been returned to Gram Sabhas for correction or have been completely rejected.

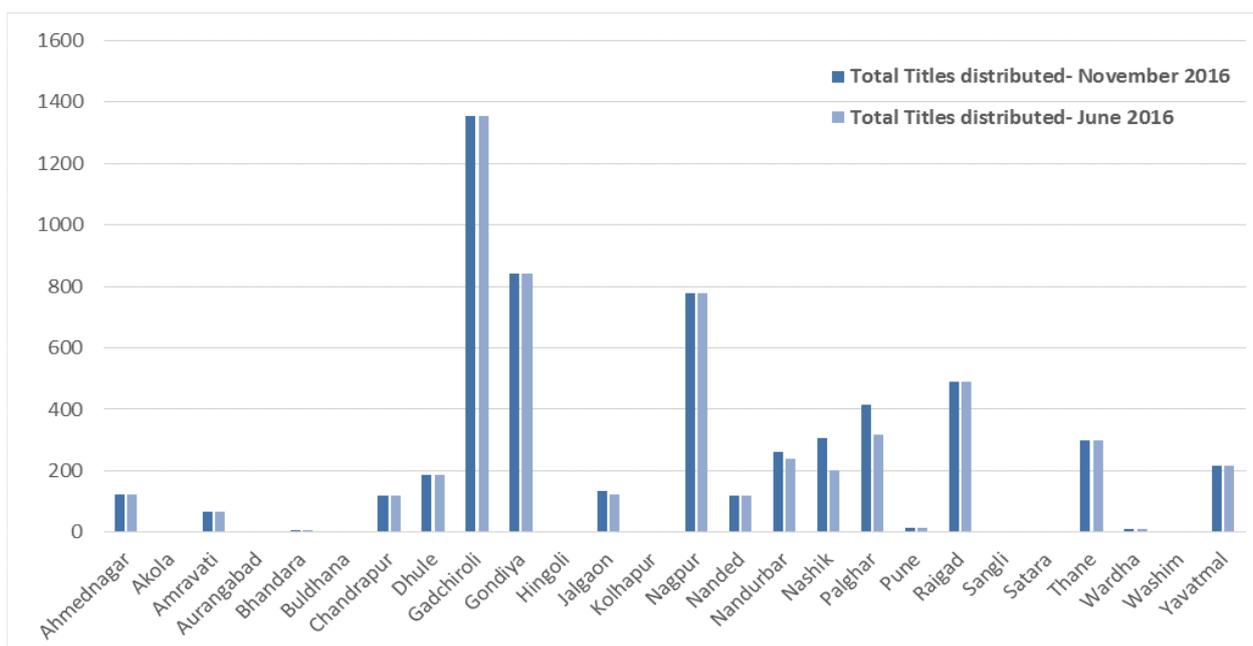
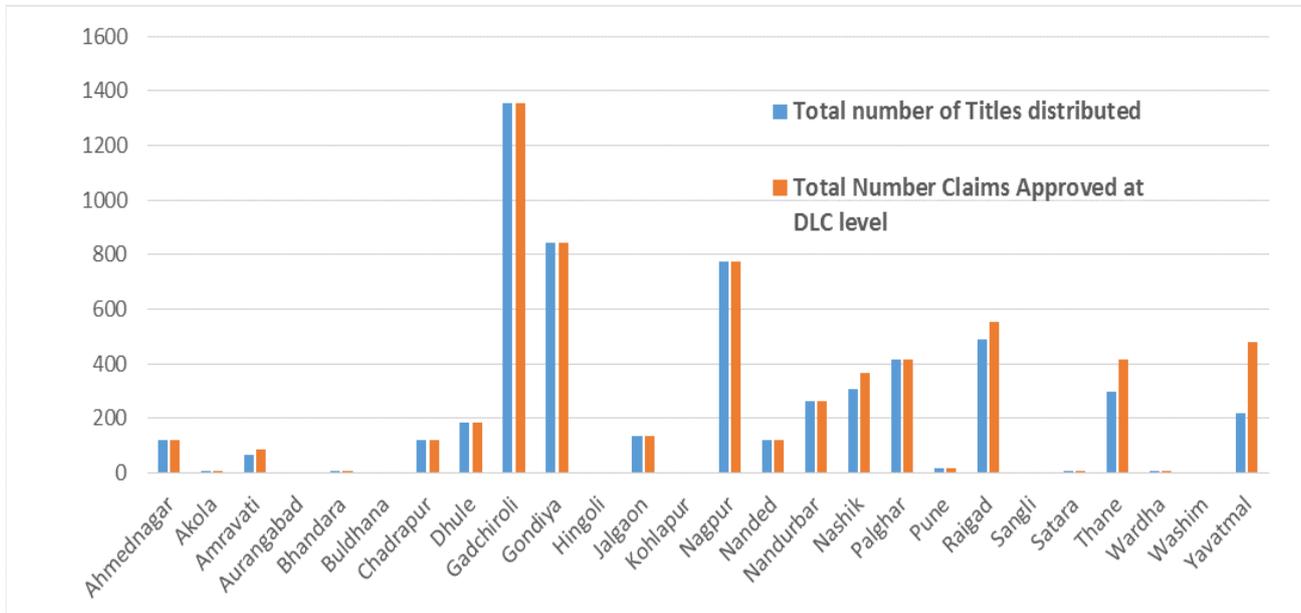


Figure 11. Comparative Analysis of Titles Distributed between June and November 2016 (Source: Tribal Commissionerate of Maharashtra)



**Figure 12. Total number of Claims approved at the DLC Level and the Total Number of titles Distributed until November 2016 by the Tribal Commissionerate of Maharashtra**

Of the total 6264 claims that were approved at the DLC level, 5741 titles have been distributed with 523 titles yet to be distributed. Districts like Yavatmal and Thane have more than 60 percent of the titles which are yet to be distributed. It is not clear why titles for such a large number of approved claims have not been distributed yet. (See Figure 12)

Comparison of data between June and November 2016 shows little change in status except in Nandurbar, Nashik and Palghar, where 234 new titles were distributed during these months covering over 17,277 ha of land. FRA coordinators were appointed in some talukas in these districts by the TDD supported by the Governor’s office. (See Figure 11 and Table 4, Annexure 1).

## Section: IV

### 4. Emerging Trends and Hurdles

#### 4.1 Emerging Positive Trends

The analysis of ten years of implementation of FRA in general and CFR in particular, shows the emergence of various trends. These trends need to be seen in the context of the history of FRA in Maharashtra. The trends have emerged particularly in areas where CFR rights have been claimed and Gram Sabhas have started asserting these rights towards governance and management of CFR Forests. These trends, some progressive and some regressive have enriched the process of implementation of CFRs in the state, and range from struggles for rights, community initiatives, Gram Sabha lead conservation practices, uses and management of forest resources by communities and steps taken by communities, by administration, by *sangathans* and NGOs.

##### 4.1.1 Local and Sustainable Governance, Management and Conservation of Forests

Mendha-Lekha village in Gadchiroli district of Maharashtra, where self-rule and forest conservation date back a few decades, was one of the first to have claimed and received CFR rights over 1800 ha of forests in 2009. Mendha Gram Sabha, represented by all adult women and men, prepared a comprehensive forest management strategy, which included need based extraction and sale of forest produce such as bamboo, establishment of no go zones for wildlife protection, and drafting a village biodiversity register. Village development and forest management activities were linked to the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)<sup>22</sup> ensuring that all villagers would have employment throughout the year, ensuring zero distress outmigration. Amongst the most significant actions taken by the village in recent times has been declaring all village land (community or privately) as village owned under the Gramdaan Act of Maharashtra, with the intention of preventing land alienation under distress. Through the strength of their institutions and systems, the village has been able to ensure effective village and forest governance leading to security of livelihoods, financial security, food security, secured access to natural resources, and cultural and ecological security. This village has become an example for many villages across the state and other parts of the country to learn effective village governance and forest management.

Payvihir village of Maharashtra's Amravati district, claimed and received CFR title in 2012, subsequent forest management and governance has led to uniting a conflict-ridden village towards a visioning and planning process. The village envisioned and prepared a village development plan to avail of financial resources from various local government line-department schemes. They ensured that any forestry related activities would be locally and ecologically appropriate and leading to forest conservation. The result is that today, their CFR has regenerated with increased forest produce. The village also trades in custard apple and

<sup>22</sup> शासननिर्णयक्र. मद्रोरा - २०१२/ प्र. क्र. २५/ रोहयो - १, दिनक- ११अप्रैल२०११

*tendu patta*, contributing to the local economy. During the last few years, the village has seen substantial reduction in distress out-migration for employment and revival of its near degraded forests (see Case Study 1, Annexure 2). Consequently, in Melghat Tiger Reserve and adjoining areas, dozens of villages are now protecting and regenerating their lost forest and wildlife habitats.

Pachgaon village on the outskirts of Tadoba Tiger Reserve in Chandrapur district of Maharashtra after receiving CFR rights in 2012 is nearly self-sufficient in generating local livelihood from regulated bamboo harvest. To maintain the biodiversity of their forests the villagers decided not to harvest *tendu patta*<sup>23</sup> (which was traditionally an important non timber forest produce (NTFP) earning substantial revenue), this they said will reduce forest fires, allow for the regeneration and also provide *tendu* fruits to wildlife. In addition to devising rules and regulations of use for their entire 2486.90 acres of CFR, the village now protects 85 acres as a strictly protected and managed critical zone for wild, including tigers, which are regularly sighted (see Case Study 2, Annexure 2). Inspired by this and other villages in Gadchiroli, whose CFR rights have been recognised and which are located in the buffer zone of Tadoba Tiger Reserve are now seeking help to develop conservation and development plans, and community biodiversity registers.

In Yawal wildlife sanctuary in North Maharashtra, the local tribal *sangathan* (collective), is using FRA along with other relevant Acts to initiate a number of social, ecological and economic processes in villages in and around the sanctuary<sup>24</sup>. Interestingly, the Yawal wildlife sanctuary has been regularly in the news for claims of large scale forest land occupation post FRA enactment. Yet Yawal is where a collective process by local Gram Sabhas, local tribal sangathanas and forest and other government departments has led to reduction in new forest land occupations after the land and forest rights claims of the local people were filed and recognised<sup>25</sup>.

In Thane, Shramik Mukti Sanghatna has helped villagers fight against construction of the Kalu dam, which would submerge their CFR forests. Subsequently, four of these villages have received CFR rights and are currently involved in drafting and implementing their biodiversity management and conservation plans.<sup>26</sup>

#### **Box-I: Thanepada Village Gram Sabha, Nandurbar**

Thanepada village in Nandurbar District is a large village with 800 households, majority of who belong to the Pawara tribe. In 2012, although they claimed CFR rights, they got a title for community rights (CR) with certain conditions from the FD. However, people decided to continue with the JFM committee towards conservation of forests. Consequently, for effective implementation of the *Jalyukt Shivir* Scheme (Soil and Moisture Conservation programme), the village was given an award at the district level. On 26 January, 2013 the village Gram Sabha passed a resolution to reclaim CFR rights. Finally, after a continuous struggle for three years in September, 2016, Thanepada received its CFR rights title over 1400 ha of forest. Subsequently, the village prepared a conservation and village development plan for the following ten years. The district collector of Nandurbar has directed that a committee be formed to ensure that adequate resources are provided to the village to implement its conservation and development plan which also includes an eco-tourism plan.<sup>27</sup>

<sup>23</sup> *Tendu* or *Diospyros melanoxylon* leaves are used for making *bidi* (local Indian cigarettes)

<sup>24</sup> Jathar, R., & Pathak-Broome, N. (2013). Case Studies on CFR- Maharashtra. In S. Desor, *A National Report on Community Forest Rights under Forest Rights Act: Status and Issues* (pp. 19-57).

<sup>25</sup> Mokashi, S., Kumar, Y. & Pathak Broome, N. (2015). *A Process Documentation by Kalpavriksh for Conservation and Development Micro-Planning Process for villages in and around Yawal Wildlife Sanctuary, Jalgaon, Maharashtra Led by Lok Sangharsha Morcha*. Unpublished report.

<sup>26</sup> Personal Communication with Indavi Tulpule in March 2017

<sup>27</sup> Kumar, Y. and Shinde, P. (2016) Field notes collected during on-site research in Nandurbar, Maharashtra

Over 200 CFRs have been recognised in Palghar district, which are also at various stages of management and planning and adopting different systems of management in collaboration with partners including government agencies, NGOs and also corporate bodies through their CSR funding. These include, three villages, Doyapada, Kaspada, Aliwpada, whose collective rights over 150 ha of forests were recognised. Of these, Doyapada has a share of 47 ha, of which they have decided to fence and protect two-thirds of the area. Grazing and felling has been banned in this area through a Gram Sabha resolution, while these activities are allowed in the remaining area. The village has a CFRMC that is registered and has a bank account. The CFRMC holds a monthly pada sabha (also pending a status of Gram Sabha under PESA), the CFRMC has received funds from a CSR foundation. The village also has a JFMC and the DCF has transferred Rs. 7.5 lakh for developing the Community Forest Produce Processing center. This proposed center consists of an oil expeller (for mahua), solar dryers (for drying forest fruit and veg), pulverizer (for making powder of dried products), and a *patrawali* (leaf-plate) machine. The dryers have been procured and are in use. Kokanpada Gram Sabha, also in Palghar, has enclosed 5.5 ha. of its 22 ha., as CFR forest, where grazing and felling is not allowed. This village is part of a tri-partite project involving BAIF, Vayam, and Kokanpada Gram Sabha and is being funded as a habitat conservation project under Maharashtra Gene Bank. Kokanpada villagers have planted about 7000 trees (including 1500 Bamboo) in this enclosed area. Through the Manav Vikas fund of the TDD they have received funds for drying forest produce. Both villages are now earning income from selling the dried forest and farm produce.<sup>28</sup>

#### 4.1.2 CFR Management Strategies and Plans

Section 5 of the FRA, empowers the Gram Sabha, with the right and responsibility

- To protect wild life, forest and biodiversity,
- To ensure that Community Forest Resource (CFR) area is used sustainably and access to it is regulated
- To protect ecologically sensitive areas and to prevent any destructive practices that may affect their cultural and natural heritage.

Rules 4 (1) (e) and (f), empower Gram Sabhas to constitute a committee (henceforth termed as 4 (1) (e) committee) to fulfil above responsibilities. This committee is mandated to prepare a conservation and management plan for the CFR in consultation with the Gram Sabha. As per the preamble of the Act, vesting of responsibility and authority with the Gram Sabha for sustainable use, conservation of biodiversity and maintenance of ecological balance would strengthen the conservation regime of the forests while ensuring livelihood and food security.

As more and more Gram Sabhas claimed CFR rights in Maharashtra, particularly in districts like Gadchiroli, Gondiya, Nagpur, Amravati and started exercising their rights to harvest and sell non timber forest produce, a need was felt to devise formal and informal plans and strategies to take decisions on such harvesting practices. This led to the Gram Sabhas adopting different strategies in different places. In villages like Mendha-Lekha, the Gram Sabha constituted a

<sup>28</sup>Information shared by Milind Thatte, Vayam, Jawar Mokhada, Palghar on 17.03.2017

team from the village, sought help from outside experts like Dr. Madhav Gadgil and started the process of collecting data and drafting the management plan, using the Working Plan code of the Forest Department as a base. Simultaneously, through Gram Sabha discussions they arrived at a sustainable system of harvesting bamboo, which involved identification of coupes which could be harvested in a particular year, monitoring the harvesting process, ensuring that the harvesting does not cause damage to the forests and bamboo clumps and ensuring equitable and fair wages to all.

After the initial years of harvesting, Mendha Gram Sabha decided not to continue with bamboo harvest but to move towards forest management. This would mean only need based harvesting of the bamboo through the year, while focusing on clump management, soil and moisture conservation and mulching for livelihoods. Forest management activities were linked with NREGS to provide sustained wages to all villagers throughout the year. The Mendha experience in management and governance of forests and the process of Gram Sabha drafting their management plans, with the help of experts from within the village and outside, was eventually used to produce a set of guidelines (*Margdarshika*) for others who wanted to follow a similar path process.

Bhimanpayli, a small village of 11 households in Gadchiroli district had claimed an area of 2067 ha as their CFR. In 2012, when their right over this bamboo rich forest was recognised, they began discussions on bamboo harvesting. They visited Mendha-Lekha village to understand their process of bamboo management. After considerable discussion within the village, the Gram Sabha decided to use the existing Working Plan of the Forest Department to identify the bamboo coupes for harvesting and the cycle of harvest. The village continues to follow this process, while decisions on wages, labour and other issues are taken in the Gram Sabha (See Case Study 3, Annexure 2). In villages like Panchgaon, the Gram Sabha worked out a set of over 120 oral rules and regulations to follow for conservation and management of their CFR forests. Decisions regarding bamboo harvesting and sale are taken informally in the Gram Sabha as and when needed. Harvest and sale of bamboo through decisions taken by the Gram Sabhas is among the most common management strategies being followed by over 300 hundred villages in South Gadchiroli district (see Case Study 5, Annexure 2). Rekhatola and Mohagav villages in East Dhanora Tehsil have also self-mobilized and established systems for bamboo harvesting in 2013-14 and Tendu in 2016 (See Case Study 5, Annexure 2) In Korchi tehsil, Temli village has managed to form a '*Van hakka nityantran samiti*' was formed to effectively harvest bamboo and in 2015, managed the sale of bamboo independently without the help of the FD (See Case Study 4, Annexure 2)

In the meanwhile a more formal process of drafting management plans began in some districts in the Vidarbha region after the Ministry of Tribal Affairs (MoTA) in partnership with the United Nations Development Program (UNDP) instituted a joint project, "Strengthening National Capacities in Tribal Areas" to advance tribal development and forest rights in the country. Members of Vidarbha Livelihoods Forum (VLF) led by KHOJ wrote a proposal under this program to facilitate improved governance of forest and tribal villages in the Vidarbha region of Maharashtra through the effective use of FRA. Of the 600 villages which has received CFR

titles in villages where members of VLF were working, 50 were selected for this proposal, which was supported by the Principal Secretary of TDD. This six month process was facilitated by the members of VLF and involved training programmes for Gram Sabha members, meetings with relevant government agencies at all levels, forest stock analysis, and identification of individual and community development needs, among others.<sup>29</sup> After completing the initial pilot project, a hundred more villages were selected from the districts of *Gondiya*, *Gadchiroli*, *Nagpur*, *Amravati*, *Yawatmal*, *Thane* and *Raigad*, where the process of drafting management plans began in the second phase supported by TDD. (See Section 2.3.3) In *Thane* district, CFR rights have been approved for nearly 230 hamlets. Of these, under the above programme supported by TDD, ten CFR holder hamlets in *Murbad* taluka have been in the process of drafting management plans since April 2016, facilitated by *Shramik Mukti Sanghatana*. Four of these are the Gram Sabhas that fall in the submergence area of the proposed *Kalu Dam*, which they have been successful in holding back for the last five years. In June 2016, these Gram Sabhas undertook plantation of trees of their choice under the Forest Department's tree plantation campaign and a total of around 2500 bamboo and 7500 other fruit bearing trees were planted.

In *Korchi Tehsil* of *Gadchiroli* district, five villages have received CFR titles over approximately 1500 ha of land and have been working on regenerating the forest through mixed plantations in 100 ha of forest land. The process began in 2014, and is going on for the last three years. The villages are *Salhe*, *Bharritola*, *Kale*, *Zendapar* and *Nandali*.

#### 4.1.3 Implementation of Plans through District Convergence Committees

In 2013, as an outcome of various discussions and debates related to forest encroachments in and around *Yawal* wildlife sanctuary, a meeting was called by then Principle Secretary Forest and Principle Secretary Tribal Development with members of *Lok Sangharsh Morcha (LSM)*. In order to resolve the issues of post 2005 and pre-2005 forest land occupation and to initiate a micro planning process in fifteen villages in and around *Yawal* wildlife sanctuary, it was decided that the IFR and CFR claims filed by these villages be verified. This process was completed with the Gram Sabha members, members of LSM and some help from other organizations from outside. A decision was taken to facilitate implementation of these plans by converging resources from all relevant departments coordinated by the District Collector. A district level committee was set up by then district collector including representatives from the concerned Gram Sabhas, members of LSM, and representatives from all departments such as Revenue department, Forest Department, Agriculture department, Maharashtra Rural Employment Guarantee Scheme (MREGS), Department of Women and Child Development, District Rural Development Agency (DRDA), Animal Husbandry. As part of this implementation of plans developed by the Gram Sabhas are currently being implemented in some villages.<sup>30</sup>

In 2015, as a follow up to the management plans being prepared in 100s of villages in some districts under the project being supported by the TDD and facilitated by KHOJ on behalf of VLF, a GR was issued. This GR provided for constitution of district level convergence

<sup>29</sup>Mokashi, S., & Pathak Broome, N. (2015). *A Process Documentation by Kalpavriksh of UNDP-MoTA Project on Improved Governance of Forest and Tribal Villages, through the Effective Use of Forest Rights Act in Vidarbha, Maharashtra*. Amravati, Maharashtra: KHOJ

<sup>30</sup> Mokashi, S., Kumar, Y. & Pathak Broome, N. (2015). *A Process Documentation by Kalpavriksh for Conservation and Development Micro-Planning Process for villages in and around Yawal Wildlife Sanctuary, Jalgaon, Maharashtra Led by Lok Sangharsha Morcha*. Unpublished report.

committees for the districts where these management plans were being prepared. The priority was to be given to the village where drafting of management plans was under the TDD support. The objective of this GR was to ensure that the management plans prepared under the project are subsequently implemented and the state departments are held accountable for ensuring support to such village.<sup>31</sup> This along with an initiative was taken by the TDD to provide revolving fund to the Gram Sabhas managing their CFRs through the Human Development Mission under Rural Development Department (Manav Vikas Fund). Many of the villages in Gondiya, Gadchiroli, Amravati, Raigad, Palghar and Thane are currently being supported under this scheme. In Thane out of the 10 Gram Sabhas which drafted their management plans, eight have received money under the Human Development Mission.

#### 4.1.4 Assertion of Rights over Non Timber Forest Produce (NTFP)

In its definition of minor forest produce, Section 2 (i) of the Forest Rights Act 2006 has clearly included two of the most lucrative non timber forest produce (NTFP) – bamboo and *tendu* leaves, among others. Section 3(1) c of the Act further recognises the rights of collection, use and disposal of these NTFPs by the forest dwelling communities eligible under the Act. While the clarity in the definition should have made it quite straightforward for the communities to harvest and sell these NTFPs, in most states including Maharashtra, Gram Sabhas constituted under the Act have faced bureaucratic hurdles from the Forest Department in the process. The stiffest resistance has come in the form of transit pass books for the movement of these NTFPs outside forests for sale. Additionally, the Gram Sabhas have also faced numerous hurdles in the process of auctioning and in some cases ensuring initial capital for the harvest in the initial stages. Given below is an account of the trends that have emerged with respect to Bamboo and *Tendu* through these struggles and subsequent efforts of the Gram Sabhas in some cases also supported by NGOs and government agencies.

##### **Bamboo Harvesting and Management**

In Maharashtra, the district of Gadchiroli alone contributes to 85 percent of the total bamboo production in the state. In 1968, the Maharashtra Government had leased most of its bamboo forests to Ballarpur Industries Limited (BILT). In November 2011, the Forest Department gave the paper mill permission to fell bamboo in all the patches ready for harvest. This included many villages whose CFR rights were already recognised. Some villages successfully campaigned against the felling of bamboo by BILT from their CFRs. After much struggle and negotiation, the district administration issued an order in April 2012 cancelling the government leases and contracts inside CFRs.<sup>32</sup> Subsequently, in a meeting organised by the National Bamboo Mission in 2014 to discuss bamboo productivity in India, the Maharashtra bamboo mission director admitted that most of the bamboo forests in the district were in the process of being handed over to communities under the FRA<sup>33</sup> This could mean that the Gram Sabhas whose CFR rights have been recognized in Gadchiroli will become the biggest producers of bamboo in the state. However, the facilitative processes to ensure this have come after much struggle and have been implemented rather slowly.

<sup>31</sup> Mokashi, S., & Pathak Broome, N. (2015). *A Process Documentation by Kalpavriksh of UNDP-MoTA Project on Improved Governance of Forest and Tribal Villages, through the Effective Use of Forest Rights Act in Vidarbha, Maharashtra*. Amravati, Maharashtra: KHOJ

<sup>32</sup> Shrivastava, K. S., & Mahapatra, R. (2013). *Bamboo Rising*. Down to Earth. Can be accessed at: <http://www.downtoearth.org.in/coverage/bamboo-rising-40053>

<sup>33</sup> Institute, F. R. (2014). *Proceeding of National Seminar "Bamboo Productivity in Forest and Non-Forest Areas"*. Can be accessed at: <http://nbm.nic.in/PDF/NationalSeminaronBamboo30-31Jan-2014.pdf>

In August 2009, two villages in the Gadchiroli district of Maharashtra, Mendha-Lekha and Marda created history by becoming the first villages in the country whose community forest rights had been formally recognized.<sup>34</sup> In 2010, Mendha-Lekha Gram Sabha sought to exercise its right of collection and sale of Bamboo from its bamboo rich CFR, spread over 1800 ha. The village approached the Forest Department to issue transit pass for the movement of bamboo out of the forests, but the department refused. Instead the department invited the village to fell bamboo as per its working plan and receive wages for the same, which the village refused. After almost a year of correspondence with the Forest Department officials over transit passes which yielded no results, the village staged a novel protest to assert its complete rights over bamboo in February 2011.<sup>35</sup> One adult from each of the 80 families in the village felled one bamboo from the forest and organized a symbolic sale of bamboo to individuals present.

Mendha-Lekha found support from the then Minister of Environment and Forests, Mr. Jairam Ramesh, who through a letter dated 21<sup>st</sup> March 2011, asked the chief ministers of the state to direct State Forest Departments to treat bamboo as a Minor Forest Produce and respect the rights accrued to communities under FRA. The letter further stated that in areas designated as CFRs, the Forest Departments must give the Gram Sabha the right to issue transit passes for bamboo. Finally on April 27, 2011, the state Forest Department handed over a transit passbook to the village community leaders, signifying the village Gram Sabha would henceforth exercise the power to issue transit passes for selling bamboo harvested from its CFR.<sup>36</sup> This event marked the start of change in the bamboo regime in the state.

Meanwhile, the Rules of the FRA were amended in July 2012. The amended rules stated that *'The transit permit regime in relation to transportation of minor forest produce shall be modified and given by the Committee'* constituted under Section 4(1)(e) of the Act or the person authorised by the Gram Sabha. Further, the procedural requirement of transit permit would in no way, *'restrict or abridge the right to disposal of minor forest produce.'* Despite the clarity on the authority of issuing transit passes in the amended rules, bamboo battles in CFRs have continued.

While Mendha-Lekha's successful struggle inspired many other villages in Gadchiroli to claim and assert their rights over bamboo, the battle has not been easy for other villages. As of December 2016, 1355 CFR title deeds have been issued to 1191 villages over 434,181 ha of forest lands in Gadchiroli. More than 150 of these villages have bamboo in abundance in their CFRs.<sup>37</sup> However, transit permits continue to be denied or issued late. Some Gram Sabhas in South Gadchiroli district have now decided to print their own Transport Permit (TP) to avoid unnecessary delays, follow the government's system of issuing four copies of each TP, one of which will be given to the FD for transparency and for their reference.

Gram Sabhas have continued to face other challenges in the bamboo trade, including unfamiliarity with the tendering and auction process. Some Gram Sabhas from South

<sup>34</sup>Narayanan, S., & Pallavi, A. (2009). Two tribal villages get 2,349 hectares. Down to Earth. Can be accessed at <http://www.downtoearth.org.in/news/two-tribal-villages-get-2349-hectares-3811>

<sup>35</sup>Pallavi, A. (2011). *Bamboo sale for bamboo rights*. Down to Earth. Can be accessed at <http://www.downtoearth.org.in/news/bamboo-sale-for-bamboo-rights-33167>

<sup>36</sup> DTE Correspondent. (2011). *Rural communities win right over bamboo, finally*. Down to Earth. Can be accessed at <http://www.downtoearth.org.in/news/rural-communities-win-right-over-bamboo-finally-33392>

<sup>37</sup>Raut, M., (2016). Field notes collected during on-site research in Gadchiroli, Maharashtra

Gadchiroli wrote letters to government officials seeking guidance on bamboo trade but got no response. This led to selected contractors hijacking the trade in some cases, and not delivering their promises.<sup>38</sup> As a result till 2015, while some Gram Sabhas like Mendha-Lekha and Panchgaon and a few others in Kurkheda taluk were successful in selling bamboo through competitive bidding/auction to contractors. Many Gram Sabhas continued with advance sales to BILT. In 2016, however over 150 Gram Sabhas in South Gadchiroli decided to experiment with auctioning bamboo through open bidding process and have been successful in doing so (see Case Study 5, Annexure 2).

In 2017, the CFR Gram Sabhas in South Gadchiroli used past data and fixed a minimum auction price on tendu leaves. Such Gram Sabhas had not found a buyer till the end of April. Although similar and higher prices were paid by the contractor to Gram Sabhas which did not insist on a transparent process.

In Chandrapur district, the Forest Department filed a case of offence in 2014 against the village Panchgaon for felling bamboo from its CFR without a working plan. The Forest Department also issued an order for seizing the felled bamboo in May 2014 and refused to issue fresh transit passes for bamboo. A massive protest followed, and the entire village blocked the roads for the movement of the 'seized' bamboo. Panchgaon village prepared a bamboo working plan and submitted it to the district forest administration.<sup>39</sup> The village eventually won the battle and has been successfully and profitably harvesting and marketing bamboo every year since 2014.

### **Livelihood and Bamboo Management**

Despite its challenges, bamboo is proving to be a huge livelihood opportunity for Gram Sabhas in Maharashtra. In 2015-16, the revenue from bamboo in CFRs ranged from Rs.76,000 (Bhimanpayli) (See Case Study 3, Annexure 2) to Rs.1.14 crores (Mayalghat).<sup>40</sup> Gram Sabhas like Mendha-Lekha and Panchgaon earned over one crore in the first couple of years of bamboo trade. Most of these Gram Sabhas have met the operational costs of harvesting bamboo including wages to its members from the turnover generated from bamboo. The wages for bamboo are decided by the Gram Sabha and have been higher than those provided under MGNREGA. Panchgaon, for instance, decided to pay Rs.385 to its members in 2016 when the MGNREGA wages stood at Rs.192. The profits have been ploughed back to meet the development needs of the village, thus paving the way for self-governance. A part of the funds have also been utilised to improve the production of bamboo and other NTFPs in CFRs valued by the locals. Several villages like Temli, Yerandi and Lavari in the district have carried out plantations of bamboo and other mixed species like mango, *mahua*, *hirda*, *behera*, *char*, etc in their CFRs. In some cases like Temli, the Forest Department provided 5,000 bamboo saplings to the Gram Sabha for plantation in its CFR free of cost, while the wages were met from the bamboo turnover.<sup>41</sup> Bamboo with its widespread local and commercial use has also become an incentive for Gram Sabhas to use and manage this valuable resource sustainably. Several Gram Sabhas have developed rules for the harvesting, management and regeneration of bamboo in their CFRs. Most of them practice rotational felling of bamboo to allow its natural regeneration. There is a cap on the number of bamboo culms that can be harvested by a member of the Gram Sabha in one day to avoid over-exploitation of the resource. There are also conditions on the age and length of bamboo that can be harvested to ensure sustainable extraction of the resource. Panchgaon, for instance, has decided that only clumps that are three years or older can be harvested by its members.

<sup>38</sup>Shrivastava, K. S., & Mahapatra, R. (2013). *Bamboo Rising*. Down to Earth. Can be accessed at: <http://www.downtoearth.org.in/coverage/bamboo-rising-40053>

<sup>39</sup> Pallavi, A. (2014). *Village bullied for using its forest*. Down to Earth. Can be accessed at: <http://www.downtoearth.org.in/news/village-bullied-for-using-its-forest-44365>

<sup>40</sup>Personal communication with Keshav Gurnule in February 2016, and Ajit, S. & Pathak Broome, N. (2016). Field notes collected during on-site research in Gadchiroli, Maharashtra.

<sup>41</sup> See [http://www.mahaforest.nic.in/fckimagefile/CFR%20Wadsa%20Dn\\_.pdf](http://www.mahaforest.nic.in/fckimagefile/CFR%20Wadsa%20Dn_.pdf)

Mendha-Lekha in the meanwhile has decided to move towards management of bamboo forest rather than regular harvest (see section above for details). They have also leveraged funds from MGNREGA to manage the resources in their CFRs including bamboo. Youth from these villages have been trained to carry out soil and water conservation measures in the CFRs and a total of 4,310 man days were created under MGNREGA resulting in a payment of Rs. 5,92,670 to 85 families in less than one year. In addition to creating employment, the result of the SWC measures also led to an increase in the productivity of bamboo in Mendha-Lekha's CFR from 450 clumps/ha (80% long and 20% medium) to 850 clumps/ha (90% long and 10% medium)<sup>42</sup>. This highlights the potential of CFRs to improve the productivity of bamboo if adequate support is provided to the Gram Sabhas, while ensuring conservation of other species in the forest.

### ***Harvesting and Management of Tendu Leaves***

The debate related to extraction and marketing of bamboo in Gadchiroli resulted in paving the way for a number of circulars and orders facilitating bamboo extraction and sale by the CFR villages. Similarly, civil society organizations have been lobbying for a Gram Sabha-led process for harvesting and sale of *tendu patta*. Prior to FRA, the harvest and sale of *tendu* leaves was under the jurisdiction of the Forest Department. The department employed communities to collect *tendu* on daily wages and sell it to traders directly.

In 2013, 74 villages of Gadchiroli and 30 villages in Gondiya district with CFR titles were taken off the list of *tendu* auction units of the state Forest Department. As a result of negotiations and lobbying with relevant state agencies, the state government as per a letter written by the forest secretary of the state to the Principal Chief Conservator of Forests (PCCF) dated 8<sup>th</sup> April 2013, took a decision that all forest areas where CFR rights have been recognised will be excluded from the Forest Department's *tendu* auction notice. Such villages would be free to opt for the government agents, if they chose to do so.

#### **Box-II: Collection and sale of tendu leaves by Gram Sabhas in Vidharba**

Tendu leaves are a major source of livelihood for over 450,000 families in rural eastern Maharashtra State. The state Forest Department was managing collection and sale of *tendu* leaves under "Maharashtra Forest Produce (FP) (Regulation of Trade) Act, 1969 and Maharashtra FP (Regulation of Trade in Tendu Leaves) Rules, 1969. This process continued even after FRA came into force in 2006. In 2013 collection of 6,81,650 standard bags of *tendu* leaves was targeted by the FD seven forest circles through 457 units at an estimated cost of Rs. 140-150 crore. Some of these were Gram Sabhas which had already received their CFRs. Groups like VNCS and KHOJ working with these villages brought this to the notice of the then State Principal Secretary of Forest, who called a meeting under Chairmanship of the State Chief Secretary at Mumbai on 18<sup>th</sup> February 2013, including officials from the Department of Tribal Development, Revenue and Law & Judiciary. It was agreed that *tendu* leaves should be collected and sold by Gram Sabhas and contradictory rules obstructing this would be

<sup>42</sup>Personal communication with Subodh Kulkarni in 2015. In Tatpati, M. (Ed). (2015). *Citizens' report 2015: Community forest rights under the Forest Rights Act*. Pune, Bhubaneshwar and New Delhi: Kalpavriksh and Vasundhara in collaboration with Oxfam India as part of Community Forest Rights Learning and Advocacy Process.

accordingly amended. A letter was issued by Deputy Secretary (Forests) on 10.05.2013 recognizing Gram Sabhas as the Agent (Abhikarta) of the FD to collect *tendu*. Gram Sabhas refused to work as the Agents of FD when they had complete rights to collect and sell under the FRA. 18 Gram Sabhas the decided to collect and sell *tendu* leaves from their CFR and other areas, from where they have been traditionally collecting the leaves.

Following this a group of Gram Sabhas (GGSs) was formed based on their traditional areas of collection of *tendu* leaves, dividing 18 villages into 4 units. A Technical Advisory Committee was set up comprising two members each from 18 GGSs, representatives from VNCS and KHOJ, Chief Conservator of Forests, District Conservator Forests, and a Technical Adviser, the representatives of lead banks were nominated as the members of this committee to guide and monitor the process. Tender document was prepared through a joint consultation of Technical Experts, VNCS team, members of the Gram Sabhas and finally signed and issued by the representatives of the Gram Sabhas. This was then published in major newspapers and was also uploaded on the website of Chief Conservator Forests, Gadchiroli.

TDC provided Rs. 70,00,000 as an advance to the Gram Sabhas from time to time. However, after the leaves were plucked, dried and packed the TDC refused to pay Rs. 3500 per standard bag being asked by the Gram Sabhas. With help from VNCS and KHOJ the leaves were then sold in the open market at Rs 3600 to 3200 per standard bag depending on the quality of leaves. Gram Sabhas of Dhamditola Unit in Gondiya became the first few villages to return Rs. 28,00,000 advance that they had received from the TDC, having covered all their costs and profits.

Based on the bundles of *tendu* leaves deposited by the pluckers and approved by the checker/Phadi Munshi and representatives of Gram Sabhas, payments for collection of *tendu* bundles were deposited in the bank account of respective Gram Sabha of that center by the group of Gram Sabhas from their main account. Gram Sabhas disbursed collection charges at Rs. 195 per 100 bundles (Rs. 1950 per standard bag) to the pluckers. Collectively the leaves were sold for Rs.69,82,502 and Rs. 41,55,816 was paid to 1449 families as collection charges. It was decided that the balance after deducting plucking charges and management cost will also be paid to the plucker as bonus. Accounts were audited by and external Auditor. These audited statements will be presented in all respective Gram Sabhas and individual families involved in plucking.

This is a great leap with respect to Gram Sabhas empowering themselves both economically and politically by claiming their right over the NTFP. There continues to be hurdles in the process including FD officials coercing people in the village to sell *tendu* in a run-up auction. Also as advertising for an auction for traders in newspapers becomes very expensive, Gram Sabhas are looking at e-tendering, where the FD is expected to help. The FD contests that no applications have come in for e-tendering, although there have been several reports which show GGSs being rejected when they approach for e-tendering process. In recent times, villages in Amravati like Upkheda Payvihir have consciously chosen to stop *tendu* collection due to its ill effects on health and have started concentrating on their work on soil and water conservation.<sup>43</sup>

**Source: Wasudeo Kulmethe and Rajesh Prasad, VNCS, Nagpur**

<sup>43</sup> Bhattacharya, A. (2016). *Adivasis have taken charge of the *tendu* auction in Gadchiroli, but there's room for improvement*. Scroll.in.

Following the notification of rules of Panchayat (Extension to Scheduled Area) in 2014 (also called PESA), the Governor of Maharashtra issued a notification on 19<sup>th</sup> August 2014, overruling all State Acts preventing rights of PESA villages over *tendu*, bamboo and other MFP (as stated in the definition of MFP in FRA) and bringing it in accordance with Sec 3(1)(c) of the FRA.<sup>44</sup> Another notification, dated 19<sup>th</sup> of January 2015, under the PESA rules, calls for organizing special Gram Sabhas to hand over control of NTFP like *tendu* and *apta* leaves to the villages. The Gram Sabhas can, through a resolution, either ask the Forest Department to carry on the sale of *tendu* (although the rights remain with the GS), or can manage the sale on its own and ask for support from various government departments. To address the problems encountered during collection, processing and sale of *tendu*, a district committee must be formed. Members of the resource management committees under PESA and Rule 4(1)(e) committees under FRA are to be elected in case of any option chosen by the GS to carry out the sale of *tendu*.<sup>45</sup>

Despite these GRs, the journey of the Gram Sabhas in South Gadchiroli has been slightly different as no civil society group is active in this area. Some Gram Sabhas mobilised and decided to collect and sell NTFP under PESA in early 2016. They submitted a request to the District Collector to help them in the e-tendering process but the district administration expressed its unwillingness to do so. Many Gram Sabhas decided to auction *tendu* on their own. They floated an advertisement and tender notice, and the auction process was conducted successfully in 2016. The Gram Sabhas earned a royalty of Rs 6300 per standard bag (1000 bundles of *tendu* leaves) and distributed wages for collection at the rate of Rs 310 (for per 100 bundles of *tendu* leaves). This was a sharp increase in total income from *tendu* collection both for the Gram Sabhas collectively and villagers individually as compared to previous years when *tendu* was collected and sold by the Forest Department. Collectively in South Gadchiroli, the Gram Sabhas earned a profit of about Rs 35 crores in 2016.<sup>46</sup> This has been a leap with respect to Gram Sabhas empowering themselves economically and politically by claiming their right over the NTFP. Over 300 villages in South Gadchiroli have also received CFR rights.

Some Gram Sabhas involved in *tendu* collection and sale maintain meticulous records of harvest, sale, wages paid and profits earned either on their own or with the help of NGOs and convey them to the government agencies. Temli Gram Sabha in Korchi tehsil in Gadchiroli district also maintains detailed data on harvest and sale. (See Table 10 below and Case Study 4, Annexure 2).

<sup>44</sup>No. RB/TC/e-11019 (15) (2014)/Notification-3/Bamboo-MFP/741, dated 19th August 2014 from the Governor, Government of Maharashtra

<sup>45</sup>Letter No: PESA-2012/ No. 65/-2, dated 19th January 2015 from the Rural Development and Water Conservation Department, Government of Maharashtra (Taken from Citizen's Report 2015: Community Forest Rights under the Forest Rights Act)

<sup>46</sup>Bhattacharya, A. (2016). *Maoist Belt Gram Sabha rake in crores*. The Statesman. Can be accessed at <http://epaper.thestatesman.com/c/12633141>

**Table 10. Collection and Sale of Tendu Leaves in May, 2016 by Gram Sabhas under CFR**

District/Taluka	No. of CFR Villages	Standard Bags collected	Rate (per Std. bag)	Amount paid by trades (lakhs INR)	No. of families	Man days created
Gondiya/Deori	8	1976.8	5500	108.72	719	24700
Gondiya/Sadak arjuni	6	550	5200	28.6	275	5750
Gadchiroli/Armori	9	751.492	4100	30.81	692	9400
Total	23	3278.29		168.13	1686	39850

(Source: VNCS, Nagpur)

All Gram Sabhas, however, do not have the capacity to do so and hence are not able to maintain such records. Many Gram Sabhas have also imposed rules for protecting and managing *tendu* leaves. In some Gram Sabhas only naturally grown and available stock of *tendu* leaves is allowed for harvesting. Using ecologically un-sustainable practices like forest fire and bush cutting to get better harvest have been banned in these Gram Sabhas, though bush cutting is officially allowed by the Forest Department.

#### 4.1.5 Issues of the Particularly Vulnerable Tribal Groups (PVTGs) and Habitat Rights of the Madia Gonds

The UN describes indigenous communities thus: “Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system.”<sup>47</sup>

Section 3 (e) of the FRA recognises the ‘Rights including community tenures of habitat and habitation for primitive tribal groups and Pre-agricultural communities’. ‘Habitat’ is described as “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”. The Ministry of Tribal Affairs has further clarified the scope and extent of the definition of Habitat Rights in 2002 as “the right to community tenures of habitat and habitation may be recognized over customary territories used by the PTG for habitation, livelihoods, social, economic, spiritual, cultural and other purposes.”

Maharashtra has three Particularly Vulnerable Tribal Groups (PVTGs) (mentioned in government records as Primitive Tribal Groups), the Katkaris, Kolams and the Madia Gonds. The Madia Gonds in Maharashtra almost exclusively reside in Gadchiroli district.

There are many traditionally identified *Ilakas* or “habitats” that different groups of Madia Gonds identify for themselves in Gadchiroli. One of them is the *Ilaka* of the 60 Madia Gond village Gram Sabhas from Khutgaon in Dhanora Taluka in Gadchiroli. Khutgaon *Ilaka* filed their Habitat claim under Sec 3(1)(e) of the FRA claim on 21<sup>st</sup> January 2016. They have thus become the first PT Group to file such a claim in Maharashtra. The traditional elders and community leaders were present at the meeting. IFRs and CFRs have already been recognised

<sup>47</sup>See <http://hrlibrary.umn.edu/edumat/hreduseries/TB7/Chapter%202%20P7-P14.pdf>

in several of these villages. The process towards preparing the habitat rights claim began in April 2015, with collation of information on the habitat based on testimonies of traditional elders. Each of the Gram Sabhas organised several meetings to understand the claiming process and for collection of evidence. Several meetings were also organised at the *llaka* level. The final claim was prepared when each Gram Sabha had passed a resolution to this effect.

Several local and district level governmental functionaries were also asked to be present for the meeting where the claim was verified and passed. The claim was subsequently submitted to the SDLC. The claim includes:

- Habitation and cultural rights of the Madia Gond community
- Cultural and religious rights over the traditional geographical area
- The right to use, protect, manage and conserve the natural spaces, nature, and sacred spaces associated with their religious and cultural traditions
- The right to protect spaces of religious, cultural and traditional importance from any kind of change or destruction
- The right over spaces currently in use for the community programmes and traditional festivals and also the right to find new places for such events as decided by community consensus as and when needed
- The right to practice traditional/customary forms of farming, and the right to use, protect, manage and conserve forests that they have been seasonally using for livelihood needs
- The right to protect, manage and conserve their community resources in their traditional area
- The right to collectively use all the above-mentioned rights with other STs and OTFDs, through recognition of their pre-existing rights
- Any other rights which may arise out of further study of the habitat.

In addition to Khutgao llaka, claim processes are underway in other parts of Gadchiroli. These include Jhada-Papada llaka in Dhanora Block, Surajagad Patti in Etapalli Block, Bhamragad Patti in Bhamragad block, among others. Of all these, only Khutagao llaka has been submitted to the SDLC and is currently pending decision at the DLC.

Although Habitat Rights have not been filed in any other part of the state, in Thane district, 133 claims for homestead for the Katkari tribe have been approved under Section u/s 3(1) g of FRA. The Shramik Mukti Sangathana working with the Katkaris has demanded that these Katkari hamlets should also get the surrounding forest area which is in their community possession, as CFR. DLC has accepted this demand and is currently in the process of measuring these areas.

#### 4.1.6 Reviewing and Correcting faulty CFR Titles

Till 2012, the titles that were issued to the Gram Sabhas were in most cases not as per the Act and had a number of defects. These included: Titles being issued given along with some conditions, the area recognised under CFR was much less than the area claimed, titles were issued in the name of individuals and not the Gram Sabha, in districts like Thane, *suo moto* CFR titles were given to the Gram Sabhas, who had never filed the claims, over a very small forest

area. After consistent lobbying by the Adivasi sangathanas and civil society groups in most districts, some of these titles have been withdrawn with the promise to issue correct titles as per the MoTA directives. In cases like Thane, where around 100 CFRs were issued *suo moto* over a forest area of 1 to 10 hectares each, they have been ordered to be reviewed and sent back to the SDLCs for re inquiry. In nearly all cases, the Gram Sabhas however have not received the titles back yet. Similarly in South Gadchiroli, CFRs were recognised *suo moto*, subsequently over 300 Gram Sabhas have filed fresh CFR claims as per what they consider their traditional boundaries and have returned the earlier titles for correction.

#### 4.1.7. Reclaiming the Resource- Water Bodies as CFRs in Control of Gram Sabhas

Apart from the land and minor forest produces, CFR rights have also helped reinstate the rights of the Gram Sabhas over the water bodies and minor minerals. Though most of the struggles and mobilisations take place as and when the conflict arises, this it is treated as a good sign to carry out collective action.

The villages of Jaitadehi and Upatkheda, struggled to ensure rights over the water bodies that were built on their forest land. The process of recognition was itself not easy, as till then such rights were barely recorded under CFR in the State or in the country. After having proved that the submerged forest was part of the CFR area, Jaitadehi's right to fishing the 250 ha waterbody and that of Upatkheda to a 29ha water body were recognised.

A second struggle began when the communities demanded cancellation of all fishing licences issued by the department of fisheries on these water bodies. When these leases were terminated in view of the CFR's, they were challenged in the High Court of Mumbai, Nagpur bench. The Gram Sabha intervened and ensured that their hard earned rights were upheld. The Court remanded the case to be heard by the Fisheries officials. The Assistant Fisheries Commissioner upheld the rights under FRA and thus the decision was put to rest and the Gram Sabha now had full rights over the water bodies. For the last three years, they have now been fishing. Jaitadehi, a village evicted by the dam, now had a new source for survival and livelihood. Having started with four people, today over forty people go fishing in the dam. Every year, the numbers are increasing. However, they are still short of resources for investment, and have not realised the full potential. Upatkheda, too has been experimenting with management of fishing rights in the water body. They derive an annual income from a lakh to three lakh rupees as they learn and move forward. Today, these stand out as examples of people's struggle and persistence from the field to the courts. Many challenges emerged, but the collective will and efforts and the rule of law prevailed.

In Vihirgaon village in Gadchiroli, the Panchayat Department continued to auction the pond for fishing to outside contractors. After their CFR right was recognized, the villagers realised that the fish in the pond had been auctioned without their consent. After detailed study of the Act with the help of the civil society groups, the villagers filed a complaint with the District Collector. In adherence with the provisions under FRA, the District Collector issued an order in April 2012 that all the rights of control and decisions are deemed to be with the Gram Sabha and the same shall be followed by the Panchayat Department as well. It also directed all departments to withdraw any permits provided on lands /water bodies which legally fall in the purview of Gram Sabha.

In Murumbodi village of Bhikarmaushi Gram Sabha in Gadchiroli, a lake in the CFR area of the village continued to be given on lease to a fishing society of another community by the Block Development Officer (BDO), without any discussion with the Murumbodi villagers. After much petitioning, the society has complied with the demand of the GS and 50 percent of the benefits are presently shared with the village.

#### 4.1.8 Engendering Forest Governance through FRA

FRA gives significant emphasis to gender equity. It requires that land titles for IFRs are issued in the joint names of both spouses, or in the name of a single household head, irrespective of gender. The Act, thereby, equally entitles women-headed households. In case of community rights, including the critical CFR right, all adult women implicitly gain equal right to access and participate in gram sabha decisions related to CFR management. FRA also mandates the representation of women in the Act's implementation in institutional structures of the gram sabha, FRC, SDLC, DLC and SLMC. At least one-third of the minimum quorum for gram sabha meetings must consist of women and at least one-third of FRC members must be women. In SDLCs, DLCs and SLMCs, at least one of the elected members must be a woman. Thus, FRA creates space for inclusion of women in forest governance and decision making through secure forest rights and representation in the institutional structure. However, there is a need for more work to challenge deeply entrenched processes of patriarchal dominance including state institutional structures, and socio-cultural practices and taboos.

To what extent these gender empowering provisions and spirit of the Act has been implemented on the ground has been difficult to assess because of lack of information both at the official level as well as from civil society actors on the ground. A few experiences that are available are important to mention, even though they may not directly relate to CFRs.

In Northern Maharashtra, women members of Lok Sangharsha Morcha have not only been active in the Movements for enactment of FRA but have struggled for equal rights for women. In 2008, 200 women filed IFR claims over land which was under their occupation prior to 13<sup>th</sup> December 2005. These claims were repeatedly rejected on the grounds that the women were not 'widowed' and hence cannot claim rights in their names. After much struggle finally their rights were recognized as joint right holders with the women being the first right holder. In 20 villages, in the same region, women have been appointed President of the CFR management committees constituted under Rule 4(1)(e) of FRA. This would arguably be the only example of this kind anywhere in the state so far.<sup>48</sup>

In Korchi block of Gadchiroli district, women from Temli village got together to discuss their role in Gram Sabhas and implementation of FRA. One of the key points that came out was that their region is a proposed site for mining which implies displacement for the communities. The women will be the most affected by destruction of their forests as they were exclusively dependent on the forests for their livelihoods and sustenance. Women realized and asserted that CFR rights give them the power to protect their resources and their homes from being taken away in the name of development, in this case, mining.

<sup>48</sup>Kumar, Y. and Shinde, P. 2016. *FRA Status in North Maharashtra – A Report*. Lok Samanvay Pratishthan, Jalgaon. (Unpublished Report)

### **Box-III: Gender empowerment through FRA in Korchi block of Gadchiroli**

In September 2016, a program was organised in the Temli village of Korchi block of Gadchiroli district on “Women’s Rights and Role in Gram Sabha and Implementation of FRA Provisions” by the women engaged in SHGs and Gram Sabha activities. Some of the issues discussed and raised in the programme were –

1) It was found that women seldom participated in Gram Sabha meetings. Despite reservation, there was only token representation of women in formal institutions. Most women shy away from actively taking part in the meetings due to the pressures created from within. However, in some villages, to ensure that women voices are heard, women Gram Sabhas are held to discuss issues that concern the community and key decisions are put forward in front of all members of the village. Through such changes in the governance mechanisms, women are able to ensure that their voices are heard and opinions taken into account before any key decision is made.

2) Women are only allowed to participate in physical work but are not given importance in decision making. This prompted the demand for active involvement of women in key decision making bodies of the village and other institutions.

3) A common phenomenon was that men disturbed Gram Sabha meetings after consuming alcohol. Alcohol also affected people lives through increased cases of domestic violence. Therefore, the women of Korchi block gathered in March 2016 and protested against this and started a movement to ban liquor consumption. A letter was given to the Police station to seek their active involvement in ensuring that the ban was effective. However, the police said that they were busy quelling naxal trouble in the area and hence could not help.

4) The area is also a proposed mining site and the issues with respect to displacement have critically affected the women. There is direct dependence on forest resources for the sustenance of the family. NTFP collection, fuel wood and water for cooking, farming, and forest protection are some of the activities, which are mostly carried out by the women of the village. Mining would take away these vital forest resources and therefore the women demanded that any developmental activities involving displacement should be withdrawn from this region.

**Source: Mukesh Shinde, Amhi Amchi Arogya Sathi, Korchi, Gadchiroli**

## **4.2. Emerging Negative Trends**

As narrated above CFR rights have led to many positive trends, particularly towards mobilisation and collective action of Gram Sabhas towards realising the potential of FRA for political, social ecological and economic self-empowerment. Simultaneously, there have also been efforts, particularly from the state Forest Department to subvert or obstruct implementation of the Act or governance and management by the Gram Sabhas.

Between 2009 and 2012, immediately after some Gram Sabhas received their CFR titles, many conflicts emerged with the Forest Department. Most of these had to do with the conflict over who had the jurisdiction over the CFRs. Some Gram Sabhas like Ghati and others in Gadchiroli, stopped selective timber felling and timber being transported out by the Forest Department from their CFRs. The timber was being felled by the Forest Department as per their existing working plan. In many such areas, the Forest Department continued to insist on implementing its own working plans in now recognised CFRs. Similarly, the lease given by the Forest Department to BILT for Bamboo extraction from the forests which were now CFRs continued despite opposition from the Gram Sabhas till 2012. The Forest Department also continued to auction *tendu* leaves from forests which had already been recognised as CFRs till 2013.

After the FRA Rules were revised in 2012 and clearly specified, CFR management committees were constituted and Gram Sabhas were to draft the plans for the CFRs, such conflicts reduced. However, many others continued, some significant ones are listed below:

#### 4.2.1 Maharashtra Village Forest Rules Undermining Forest Governance by Gram Sabhas

The Indian Forests (Maharashtra) (Regulation of assignment, management and cancellation of village forest), 2014, mentioned here on as VFR 2014, were notified on 13<sup>th</sup> May 2014. Apart, from many tribal Gram Sabhas and civil society groups, these Rules were also strongly opposed by the Governor of Maharashtra. Among the many objections raised was need for notifying VFR Rules 90 years after the colonial government enacted the Indian Forest Act. This was particularly significant when both FRA and PESA had already been enacted to address the historic injustice against Scheduled Tribes and OTFD by colonial laws like the Indian Forest Act 1927. It was also ironical that these Rules were being implemented in Maharashtra, which was emerging already as a leading state in the implementation of FRA. Questions were raised about the undemocratic manner in which these Rules were notified without any public consultation. Immediately after their notification, concerted efforts were made in various districts for the speedy implementation of these Rules. This was being done by getting the Gram Sabhas to accept the Rules *suo muto*, particularly in Scheduled Areas and areas where CFRs had been claimed. Efforts included encouraging the Gram Sabhas to pass resolutions adopting these rules on the 15<sup>th</sup> of August 2014. These resolutions, drafted by the Forest Department handed over all rights of the Gram Sabhas to the Forest Department. The Rules were particularly pushed in districts such as Gadchiroli, where maximum number of CFRs had already been vested and many village communities were in the process of formulating systems of forest governance and management.

Apart from procedural issues and serious contradictions with the FRA, legal issues were also raised regarding process of notification of these Rules “The provisions under VFR 2014 are violative of the superior rights granted by these two central legislations with non-obstante clauses. Even the saving clause (VFR 2014 (3)) will ensure that a right which lies with the STs, OTFDs, or Gram Sabha can be taken away by a written order, or agreement made by the State Government.”

Responding to these concerns the Ministry of Tribal Affairs (MoTA) took cognizance of the Rules and issued an order on 27<sup>th</sup> November 2015, for these Rules to be kept in abeyance (ref. F. No. 23011/17/2014-FRA, dated 16.04.2015), which MoTA further re-emphasised on 27.11.2015 (ref. No. 23011/17/2014/FRA). These two orders were issued after seeking legal opinion and clearly stated that:

1. The VFR encroach upon and are irreconcilable with the provisions of the Scheduled Tribes and Other Traditional Forests Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) and the Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA).
2. The VFR encroach upon a field of law already occupied by the FRA, which is a Central Government legislation.
3. There are numerous contradictions between various provisions of VFR and FRA

4. The said rules, have not obtained the consent of the President (considering that they occupy the same field of law as a central legislation), hence are contrary to the mandate of Article 254 of the Constitution of India.

Despite the objections, the Government of Maharashtra continued to implement the VFR Rules. Subsequently, as reported in media, MoTA's position changed after an intervention from the Cabinet Secretariat. This intervention came after a CS meeting held on 17<sup>th</sup> November 2015 was supported by the Prime Minister's Office. MoTA then issued an office memorandum (dated 8<sup>th</sup> December 2015), endorsing the VFR after suggested amendments "*Once the Gram Sabha in its wisdom resolves that no rights are either claimed, or are pending and also that no future rights are likely to be claimed by the forest dwelling scheduled tribes and other traditional forest dwellers, and passes a resolution to that effect, there may be no object on the part of this Ministry, if the provisions of MVFR are implemented in such area*". This would have meant that VFRs could not be implemented in areas where CFR rights have been recognised, are pending recognition or are likely to be claimed in the future. Also that in areas where CFR claims have not been filed yet, VFRs could only be implemented if the concerned Gram Sabhas passed a resolution saying that no rights have been claimed and recognised, no filed claims are pending recognition, and no claims are likely to be filed in the future. On 18<sup>th</sup> June 2016, the Government of Maharashtra again notified VFRs with two amendments,

- a) The MVFR will not be applied in Scheduled Areas (as insisted by the Governor's office),
- b) In the non scheduled areas forest rights claimed under FRA and which may eventually be recognised and vested, shall be dealt under FRA and in no way be abridged by VFR.

These amendments provided for a blanket applicability of VFRs in all non scheduled areas where CFR rights have been claimed, where CFRs have been recognised and where they may be claimed in the future. The Amendments do not say that the VFRs will not be applied in areas where CFR rights have been claimed, pending recognition or likely to be claimed in the future, as was required by the MoTA Directions. The Amended notification does not talk about requirement of the Gram Sabha resolution as directed by MoTA. The amendment says that the rights recognised under FRA shall not be abridged. However, application of VFRs itself is abridgement of the rights recognised under FRA. FRA not only recognises the rights to use and access forest resources but Section 5 of the Act and Section 4 (1) of the Rules empower the *Gram Sabha*, with the right and responsibility

- to protect wild life, forest and biodiversity
- to ensure that CFR area is used sustainably and access to it is regulated
- to protect ecologically sensitive areas
- to protect their habitat from any form of destructive practices that may affect their cultural and natural heritage.

Rules 4 (1) (e) and (f), empower Gram Sabhas to constitute a committee to fulfil the above responsibilities. This committee is also mandated to prepare a conservation and management plan for their CFR. These management plans after being approved by the Gram Sabhas are to be integrated with the micro plans, working plans or management plans of the Forest Department. By implementing VFRs in areas where CFRs have been recognised, about to be recognised, or could be claimed in the future, all the rights mentioned in point 2 (c) above will be violated. The MVFRs however continue to be implemented in the state.

#### 4.2.2 Forest Compartments Leased to Forest Development Corporation (FDC)

Forest Development Corporations (FDCs) were set up in 1970s in nineteen states to convert “low value” forests to high yielding revenue generating forests through forestry programmes including large scale timber plantations. In Maharashtra, the forest area currently leased out to the FDCM is 3,67 lakh ha, about six percent of the total forest area of the State.<sup>49</sup>

In keeping with FRA, the leases to FDC should have been null and void as soon as the said compartments were claimed as CFRs by Gram Sabhas. However, in Maharashtra, there has been a reverse trend of allocating to the FDCM, forest compartments which are either under CFR claim or are potential CFRs. Some of these leases have been granted as late as in 2015 but without any free prior informed consent of the local Gram Sabhas. Large scale clear felling of timber in these forests patches have led to intensified conflict between the Gram Sabhas and the Forest Department.

In 2013, 63,000 ha of reserve forest was transferred to FDCM, an area equivalent to the area of Tadoba-Andhari Tiger Reserve (TATR). In 2015, over 1500 ha of forest was leased to FDCM in Gadchiroli district falling under the Brahmapuri forest division and 20,000 ha in Bhandara district, among others. As per official documents some of these forests have been leased out to the FDCM as compensation for having stopped their activities in forests compartments now falling under the buffer zone of Tadoba-Andhari Tiger Reserve. Apart from being potential CFR area, some of these forests also fall under Scheduled V of the Constitution where PESA applies.

There has been widespread opposition by the local villagers against these leases, which they claim would lead to destruction of these dense, diverse and old growth forests, while seriously impacting long term local livelihoods, food security, and interests of the future generations.<sup>50</sup> These include opposition by over twenty Gram Panchayats in Bhandara, which came together to oppose handing over of 20000 ha of forests in their region<sup>51</sup>. Over ten Gram Sabhas in Gadchiroli district have also opposed leases granted in 2015 over their forests. Many of these Gram Sabhas had already filed CFR claims in 2011<sup>52</sup>, some of these are still pending decision. These Gram Sabhas include Vihirgaon in Gadchiroli districts, which had filed a CFR claim over 312 ha of forests, of which the rights were recognised only over 252.56 ha. The appeal by the Gram Sabha to review the title is still pending with the SDLC. Similarly, Sawalkheda also in Gadchiroli had filed claims over five compartments (some of which have been leased out to the FDCM) of which rights were recognised only over one compartment covering 261.79 ha.

<sup>49</sup>See <http://www.fdcn.nic.in/Area-of-Operation.aspx>

<sup>50</sup>Ajit, S. & Pathak Broome, N. (2016). Field notes collected during on-site research in Gadchiroli, Maharashtra. And Agarwal, S. (2016). *Planting problems*. Down to Earth. can be accessed at <http://www.downtoearth.org.in/news/planting-problems-56169>

<sup>51</sup>Pinjarkar, V. (2016). *20 GPS oppose state move on Bhandara forest to FDCM*. Times of India. Can be accessed at : <http://timesofindia.indiatimes.com/city/nagpur/20-GPS-oppose-state-move-on-Bhandara-forest-to-FDCM/articleshow/55694254.cms>

<sup>52</sup>Ibid

The situation is very similar in other villages, namely, Karadi, Bhagwanpur, Shivpur, Chiklireeth, Chiklitukum, Dongargaon, Mortola, Yerandi and Kasari, all in Gadchiroli. In April 2016, after many other forms of opposition, Sawalkheda village tried to physically stop FDCM by confiscating the tree cutting tools and lodging a police complaint. The police, however, did not support the Gram Sabhas and instead under pressure got the community members to give a written declaration that they will not interfere with the FDCM's activities. Some of the local leaders were arrested and cases were filed against them. In the meanwhile, a PIL was filed by the affected villages on the violations by FDCM in the Nagpur Bench of Bombay High Court which was later transferred to the National Green Tribunal in Pune and currently remains there without being brought for hearing.

Despite opposition, the FDCM continued its activities and by June 2016, had already cleared 385 ha of dense forest. A fact-finding study<sup>53</sup> conducted in the region shows that almost 3542 trees were felled, 60 percent of which were under ten years of age. The felling included eleven species such as *Tendu*, *Mahua*, *Charoli*, *Avla*, *Bel*, *Salai* amongst others, extremely important NTFP for local livelihood and development. Apart from the diversity in the tree species, the forest is also home to leopards, wild dogs, sambar and other wild animals, who will be adversely affected with the large scale felling of trees, which in turn will drive them further into the human settlements and lead to increased human-animal conflict.

#### 4.2.3 Continuation of Forest Diversion in Violation of FRA

The FRA provides for communities under Section 5 to protect forests, wildlife and biodiversity and empowers them to preserve natural and cultural heritage from destructive activities. In August 2009<sup>54</sup>, the MoEF issued a circular that lays down certain procedures to complete recognition and vesting of rights under FRA, and to seek free prior informed consent from affected Gram Sabhas of forest dwellers over forest land required to be diverted for various developmental and infrastructural activities<sup>55</sup>. The letter and spirit of this provision is being violated in many parts of Maharashtra. In Thane, villagers are fighting against illegal construction of the Kalu dam (being constructed to provide water to Navi Mumbai), with the help of Shramik Mukti Sanghatana. The dam is being constructed without completing legally binding processes under the FRA. Many affected villages have already filed CFR claims, thus asserting their community rights over the forests which are being diverted for the project. The project proposal was initially rejected by the Central Government on the grounds that included non-compliance of FRA. A fresh proposal was subsequently presented by the project proponent to the Government of Maharashtra, which was forwarded to the central government in March 2013. On April 4, 2013, the FAC (Forest Advisory Committee) recommended that the project be given forest clearance, despite the fact that all the Gram Sabhas had passed resolutions rejecting the project. In the meanwhile the villagers continue to await hearings on the case filed by Shramik Mukti Sanghatana in Bombay High Court.

<sup>53</sup> Kharinar, J., & Sawalkar, P. (2016). *Exploitative Conservation- Fact Finding Report*. Report supported by Amhi Amcha Arogyasathi.

<sup>54</sup> Circular available at: [http://envfor.nic.in/mef/Forest\\_Advisory.pdf](http://envfor.nic.in/mef/Forest_Advisory.pdf)

<sup>55</sup> Diversion of forests for any non forestry purposes in India is regulated by the Forest (Conservation) Act, 1980. This Act provides for a process for applying for and clearing such diversion.

In another example, forest clearance was granted to the windmills project in 2009 within the boundaries of fourteen villages in Pune District and situated within a 10 km radius of Bhimashankar Wildlife Sanctuary without Gram Sabha consent. The consent letters attached with the proposal had signatures of the Forest Rights Committees of a few villages, which the villagers allege were forged.

In Gadchiroli district around over 25 mining areas have been identified for exploration and exploitation of iron ore and other minerals. These mining areas are likely to impact approximately 15,000 ha of dense forest area directly under mining and around 40,000 acres of forest land for mining related and other activities. At one of these sites, at 'Surjagad Hills' of Etapalli block, Lloyd Metals and Engineers Ltd, Mumbai has initiated mining despite strong resistance from over 70 Gram Sabhas of Madia Gonds, a PVTG community for whom these are traditional lands and who consider these Hills sacred.

Similarly, construction of transmission lines in Gadchiroli district, has affected several villages as it involved cutting down of NTFP in their existing and potential CFRs. None of the Gram Sabhas were consulted before cutting the trees under the transmission lines. Lavari Gram Sabha resisted the cutting of trees from their CFR<sup>56</sup>, which they alleged were over 1600 as against the 960 claimed by the Forest Department. Eventually, a decision was taken to pay compensation to the Gram Sabhas which had lost important NTFP trees for transmission lines.

#### **Box-IV: Mining in Surjagad – the Sacred Hills of the Madia Gond**

In 2007, Lloyd Steel—a Mumbai based Private company, received clearance for over 348.04 ha of forests to mine iron ore in Surjagarh hills of Gadchiroli, predominantly inhabited by the PTG group, the Madia Gonds. Of the estimated 270 MT of iron ore in the state of Maharashtra, Gadchiroli has about 180 MT. However, even after approval, the project has been stalled multiple times primarily for two reasons; protests by local villagers, and a strong Naxalite (a banned organization, and an armed group) presence in the area. Owing to the presence of Naxalites, the region has been heavily militarized by deploying paramilitary troops for 'industrial security'. Although this conflict is being projected as a debate between processing the ore within the region or transporting it out and Naxal activities, the real issue is that the local Adivasi groups are opposing mining in these forests. There are multiple reasons why the local Adivasi community has been protesting against the mining operation, despite strong state repression. These include loss of physical space, dispossession and displacement, loss of cultural ways of living, and fear of further economic marginalization.

Local Adivasi leaders say that the socioeconomic condition of the Gadchiroli tribals is not bad, and that "no one ever hears of deaths related to malnutrition". Additionally, the income earned by the local Gram Sabhas from bamboo and *tendu* sale during the preceding year (mention year) far outweighs any economic incentives that the industrial development in this region can bring.

If anything, mining will lead to pollution of currently abundant water sources available for agriculture; destruction of farm lands getting covered under flying red ore and destruction of forests which are now an important source of economic empowerment.

Culturally, these hills are associated with the stories of origin and sacredness, particularly the mountain and shrine of Thakurdeo—the God of Gods, to the Madia Gond community. The currently ongoing mining is at the heart of this sacred hill.

The Surjagad mountain range, which houses Thakurdeo, is the location where people from 70 villages gather for an annual celebration to express gratitude for their well-being and to pray for a good year ahead. The villagers and activists have been demanding cancellation of 24 sanctioned and proposed mining leases over 15,000 ha of diverse and dense forests in Gadchiroli. These forests are the traditional habitat of many tribal and non-tribal forest dependent communities.

**Source: EJAtlas**

<sup>56</sup> Agarwal, S. (2016). *A village in Maharashtra stands up for its rights*. Down to Earth. Can be accessed at <http://www.downtoearth.org.in/blog/a-village-in-maharashtra-is-standing-up-for-its-rights-54682>

#### 4.2.4 Implementation in Protected Areas

The Convention on Biological Diversity (CBD) is amongst the most important international treaties on biodiversity conservation. Being a signatory, India is legally bound by the treaty and all its subsequent decisions adopted at the Conferences of the Parties (COP). Element 2 of CBD strongly emphasizes:

- Recognition and respect for indigenous peoples' and local communities' knowledge and practices in general and those relating to biodiversity conservation and the sustainable use of natural resources in particular;
- Recognition and respect of the rights of indigenous people and local communities in protected area establishment and management; and
- Promotion of effective and equitable governance of protected areas (including indigenous peoples' and local communities' full and effective participation with respect for their rights).

Recognition of individual and collective rights and Gram Sabha empowerment, both inside and outside protected areas under FRA, are all in the direction of meeting CBD goals and targets of conservation with full and effective recognition and respect of rights, protection of traditional knowledge and knowledge systems and participation in conservation governance. However, implementation of FRA in protected areas is very slow in the state. Few CFRs have been recognised in Melghat, Tadoba, and Nawegaon Tiger Reserves, some after much struggle by the Gram Sabhas.

There have been no efforts towards devising co-existence plans in any of the protected areas in the state. However, relocation from the protected areas, particularly tiger reserves has continued over the last decade, often in violation of FRA. In Melghat Tiger Reserve, the official Tiger Conservation Plan (TCP) gave some information on the status of claims under FRA received between 2009 and August 2011 in a tabular format. The table neither gave information on whether the claims were filed for land under cultivation/occupation or community forest resource, nor did it explain why the rights were not recognised and at what level were they pending. As per a National Tiger Conservation Authority (NTCA) document, 28 villages within the Melghat Critical Tiger Habitat had to be relocated and a relocation plan for 16 villages had already been submitted. Till 2014, three to four villages had been relocated on the basis of a certificate signed by the collector stating that settlement of these villagers' rights had been completed. While no relocation took place without the consent from the families being relocated, discussions with the villagers revealed that often consent was sought individually and not in a Gram Sabha. The process of recognition of rights had also not been completed in any of the villages in the CTH. According to KHOJ (an organization working in the area), out of the villages still remaining within the CTH, six to eight had filed for CFR claims. In June 2013, a CFR claim from Madizadap village was rejected by the SDLC, citing a letter from Assistant Conservator of Forest dated 16<sup>th</sup> December, 2011 saying that rights were

extinguished in 1994 (even though villagers had attached grazing passes issued on subsequent dates, - in the year 2007 - along with their claims). Claims were filed by villagers of the now-relocated village Vairat (and also officially acknowledged) but it is clear that relocation happened without recognition of rights claimed under FRA as no titles were distributed.<sup>57</sup>

The Tadoba-Andhari Tiger Reserve (TATR) in Chandrapur district has only five villages still located inside the CTH, though the CFR areas of many other villages fall under the CTH. Grazing, access to Tadoba temple (an old sacred site), and putting up of gates and restrictions on NTFP collection continues within the core. Kolsa village located inside the CTH was planned to be relocated, a few families (particularly landless families) were shifted out but others have rejected the relocation plan and have refused to move. Kolsa Gram Sabha filed a CFR claim in 2010 which remains pending at the DLC.<sup>58</sup>

Many Gram Sabhas in the buffer area of TATR have filed or are in the process of filing CFR claims. One such village Wadala-Tukum, which is located on the western boundary of the national park, had sent notices to the concerned departments (including FD) for joint verification after filing their claims. Joint verification however could not take place because Forest Department officials remained absent on the set date. In March 2013, the claim was rejected on the grounds that the area claimed bordered the CTH, and any human activity in the area was liable to irreversibly affect wildlife and exacerbate man-animal conflict, and the rights conferred would interfere with<sup>59</sup> the main objective of the Tiger Reserve, that is, to protect and conserve the tiger and its habitat. On 3<sup>rd</sup> May 2013, the GS appealed to DLC. In 2016 however CFR rights for five villages in the buffer zone were recognized including Wadala-Tukum, Ghosari, Sitarampet, Kondegaon and Kuthwanda<sup>60</sup>.

Maharashtra also has a unique example of Totladoh village fighting a case against its illegal relocation from Pench National Park. The village won the case and was provided some compensation in the form of housing, etc. In 2010, they filed a CFR claim and a right to continue fishing in Totladoh reservoir, the claim is still pending at the DLC. The villagers however have already started asserting the right by fishing in the reservoir.<sup>61</sup>

<sup>57</sup>Desor, S. (2014) *Making of a Tiger Reserve - A study of the process of notification of Tiger Reserves, in accordance with WLPA 2006*. Unpublished. Kalpavriksh and Action Aid, India.

<sup>58</sup>Personal communication Satish Shidam, Kolsa village in February 2017

<sup>59</sup>Desor, S. (2014) *Making of a Tiger Reserve - A study of the process of notification of Tiger Reserves, in accordance with WLPA 2006*. Unpublished. Kalpavriksh and Action Aid, India.

<sup>60</sup>Personal Communication with Shankar Bharde, Paryavaran Mitra in March 2017

<sup>61</sup>Personal communication with Vinod Gajbiye convener of Jan Van Andolan, in February 2017

## Section: V

### 5. Hurdles, Challenges, and Way Forward

#### 5.1 Hurdles and Challenges

##### 5.1.1 Disproportionate Implementation across Districts

Two important facts emerging from the analysis of the quantitative data include that Maharashtra is ahead of all the states in the country in implementing FRA, meeting 20 percent of its minimum potential, 14 percent of mid-range potential and 12 percent of maximum potential of implementation. This is commendable and indicates coordinated action by Gram Sabhas and government and non government agencies in some areas. Within the state, however, there are some districts where the implementation of FRA is much higher than in the others. There is also disparity in implementation within a district, with some parts performing better than the others.

As the data analysis shows, if Gadchiroli district is taken out of the picture Maharashtra's average performance of CFR implementation as compared to the minimum potential would be approximately 10 percent. Implementation of FRA is almost non-existent in districts like, Akola, Aurangabad, Bhandara, Buldhana, Kolhapur, Pune, Sangli, Satara, Wardha and Washim. This is despite a very high potential for implementation in most of these districts. While districts like *Gondiya*, Nagpur, Yavatmal, Raigad, Nashik, Nandurbar, Palghar and Thane have performed well, Gadchiroli district is way ahead of all other districts. One of the biggest challenges facing implementation of the Act is this disparity. Among the major reasons contributing to this disparity are some institutional challenges, operational challenges, and conflicting forest related laws and policies.

##### 5.1.2. Institutional Challenges

The national level report on Promises and Performance: Ten Years of Community Forest Rights Implementation in India<sup>62</sup>, reveals that absence of political and administrative will was a key obstacle in achieving the potential of FRA at the national and state levels. Institutional challenges have affected the overall implementation of CFR across all states, including in many districts of Maharashtra. Some of these institutional challenges/hurdles being experienced in Maharashtra include:

##### ***Continued Lack of Awareness about CFRs in Many Districts***

In many districts there continues to be lack of awareness, particularly at the SDLC level and other relevant government departments, about different provisions of FRA in general and CFRs in particular. Distinction between CFR rights under Section 3 (1) I, Community Forest Rights under Section 3 (1), rights for development facilities and individual rights, as also procedures for filing claims are not clear to the concerned staff.

<sup>62</sup> Can be accessed at <http://fra.org.in/document/Promise%20and%20Performance%20Report.pdf>

**Functioning of DLCs and SDLCs**

In some districts and talukas the membership of DLCs and SDLCs is still not clear. Till 2015, the SDLC in Khed taluka of Pune district was not constituted and no meetings of the SDLC were held. In some cases, the composition of DLCs/SDLCs violates the statutory requirement with over representation of officials and less representation from elected representatives. In some districts meetings of DLCs/SDLCs are not regular and instead of deciding on claims in a meeting, they are sent to different departments, particularly to the Forest Department for their approval.

**Lack of Dedicated Staff at SDLC and DLC Levels**

In districts like Pune, it has been extremely difficult to coordinate with the over-worked staff at the SDOs office, who have been handling FRA responsibility as an additional task. There is little enthusiasm or capacity to take on a sustained campaign for either awareness or filing claims. The claims filed by some villages since 2009 remain unapproved because of lack of staff. Often sustained efforts are not possible because of transfers of concerned officials.

**Lack of Trust between Gram Sabhas and Forest Department**

There are serious ideological differences between the Forest Department and local communities. In spite of rights provided by law to the communities, the Forest Department continues to distrust the Gram Sabhas' capability to manage and conserve forests. In districts like Nandurbar, the Forest Department continues to regulate the management and conservation process of forests though the communities have CFR rights (see box 3 for reference).

**Box-V: Legaani village**

People from Legapani village received IFR titles in 2010 and CFR titles in 2014. It's been two years since the village is managing their forest which is now 'officially authorized' to the villagers. Still there are instances when it was found that officials of forest department are ignoring these rights and oppressing people by imposing fines with no legal validations. Chilya Gambhir Nayak (65) of this is one of the victims of this behavior of forest department. On 22nd July, 2016 he got charged for grazing on his own land. He was charged Rs. 2000/- against illegal grazing and Rs. 3100/- against others columns of fine slip. He had to pay Rs. 5100/- to forest department as fine to access his own land.

**Source: Lok Sangharsha Morcha, Nandurbar**

**5.1.3. Operational Challenges**

Some of the operation hurdles facing implementation include:

**Pending Claims**

A large number of claims are pending at various levels all over Maharashtra. In districts like Pune, some claims have been pending since 2009 and in protected areas such as TATR since 2010. As per November 2016 data, 946 claims at the Gram Sabha level, 1238 claims at the SDLC level and 850 claims at the DLC level are pending across the state. In many cases CFR claims are pending due to objections raised by the Forest Department at SDLCs or DLCs.

As of November 2016, 522 CFR titles were yet to be distributed after being approved by the DLCs. It is not clear why such a large number of approved claims have not been distributed to the concerned Gram Sabhas.

### ***High Rate of Rejection of CRs and CFR Rights at SDLC***

November 2016 data shows that 83% of the CRs and CFR rights claims have been rejected at SDLC level. Akola, Bhandara, Gadchiroli, Jalgaon, Nashik, Palghar, Pune, Sangli, Thane and Washim are the districts with highest rejections at the SDLC level. Civil society actors on the ground say that no written explanation or reasons are given by the authorities for rejecting claims of either IFR, CR or CFR. Orally the reasons are communicated as faulty paper work but these claims are not sent back to the Gram Sabha for correction as is required by law. As per FRA claims cannot be “rejected” at the level of SDLC, if sufficient information does not exist then the documents are to be sent back to the Gram Sabha with a request to file again. Claims can only be rejected by the DLC, and conveyed to the concerned Gram Sabha with appropriate reasons for rejection.

### ***CFR area claimed different from area recognised***

Many examples were reported where total area claimed under CFR was very different from the actual area recognised. Customary boundaries delineated by the Gram Sabha are not accepted or are changed by revenue and Forest Department functionaries during field verification. In cases where Gram Sabhas have appealed against this, their appeals are still pending.

### ***Delays in IFRs Impacting Enthusiasm for CFRs***

In districts like Thane, the process of IFR claims has been very slow and there have been high rates of rejection. This has led to dejection and lack of enthusiasm about filing CFRs.

### ***Discrepancies in the Titles and Title Correction***

In the absence of a uniform format for CFR titles, CFR titles have been issued with many incongruencies, including titles with conditions (to follow the Forest Department’s working plans), titles in the name of Gram Panchayats or individuals in the village instead of Gram Sabhas, titles in the name of Joint Forest Management (JFM) committees, titles with incorrect area of the CFR, among others.

In some districts like *Gondiya* and Gadchiroli, titles have been taken back by the district administration for corrections but have not been returned yet (See Case Study 3, Annexure 2). For example, the CFR committees in Deori and Sadark Arjuni Taluks of *Gondiya* district have already appealed to the district administration to speed up the process and give the titles back to the Gram Sabha, but the titles are yet to be reissued.

### ***Conversion of Forest Villages into Revenue Villages***

Conversion of forest villages and other settlements to revenue villages under Section 3(1) h remains largely unimplemented across the state. In districts like Nandurbar, Jalgaon and Dhule, the process was initiated by the district administration but has been very slow and incomplete. Officials from various departments are often unaware of the provisions under Section 3(1) (h). Some villages such as Langda Amba and Uttam Nagar in Jalgaon are struggling to convert their status into revenue villages, while many others are yet unaware of the provision and its implication.

#### 5.1.4 Hurdles Related to Handholding and Management of CFRs

##### ***State and District Level Support System***

As mentioned in section 2.2.2 and 4.1.3 above, since 2015, there have been efforts by the state government particularly the TDD towards systemic support for CFRs, including by issuing the GRs for constituting CFR Management Committees, District level Convergence Committees and a State level Steering Committee. In some talukas FRA coordinators have also been appointed. All of this has had desired positive impacts in some districts or in some parts within the districts (pl see section 4.1 on positive trends). This support however is not uniform across districts and within the districts as is illustrated in the section 4.1.4 and 4.2 above. Many Gram Sabhas are still unaware of CFR provisions, have not started the process of filing claims, where filed their claims are still pending or rejected without reason. Many are also struggling to find hand holding support for CFR management when most needed (See Section 4.1.4), or are struggling against FDCM (including police cases filed against them) or mining or relocation from protected areas. Unless there is help from Adivasi Movements or civil society organizations, the Gram Sabhas often do not know how and where to avail help in these situations for filing claims, or managing CFRs.

##### ***Interference from the Forest Department***

The Forest Department has resources meant for forest development. The Forest Department, however, is not always supportive of CFR management committees and often insists on the Forest Department's institutions such as Joint Forest Management Committees (JFM) to receive support even if CFR committees already exist in the village. In districts where awareness about CFRs is low, lack of resource for CFRs and resources available through JFM discourage and restrict the claiming process. Many villages where JFM is being promoted are getting confused because of multiple committees. Aggressive promotion of JFM is hampering the effective implementation of CFR and constitution of CFR management committees under Rule 4 (1) e of FRA. This is more so as JFM comes with financial allocation, whereas there is no such committed allocation for CFRs.

As per the law and the directions issued from time to time by the government, the Gram Sabhas are entitled to get Transport Permit (TP) for transportation of NTFP managed and collected by them. However, Gram Sabhas continue to face problems and delays in getting TP from the Forest Department and are often forced to make multiple trips to the local forest office.

##### ***Maintaining Records for NTFP Harvest and Sale***

Some Gram Sabhas, particularly those which have literate members in the village or help from civil society groups are able to maintain meticulous records of the NTFP harvest, sold, royalties received, wages paid, profits earned and so on. Such records are useful in deciding future management strategies, in avoiding internal and external malpractices, ensuring fair prices and negotiations with the contractors and general evidence for the future. However, the situation is difficult for those Gram Sabhas which do not have people trained to maintain such records. The Forest Department maintained such records in the past but are unwilling to help communities where needed.

### 5.1.5 Hurdles Caused by Conflicting and Divergent Policies

The huge gap between the promise and performance of FRA can also be attributed to conflicting and divergent laws, policies and programmes. These state laws, policies and programmes are directly conflicting or seriously undermine the provisions of FRA. Some such policies are mentioned below.

#### **Notification of Village Forest Rules**

The Indian Forests (Maharashtra) (Regulation of assignment, management and cancellation of village forest), 2014, mentioned here on as VFR 2014, were notified on 13<sup>th</sup> May 2014 and amended Rules were notified in May 2016. As has been mentioned in section 4.2.1, implementation of these Rules will have a long term impact on implementation of CFRs in non scheduled areas. Without verifying whether or not CFRs are applicable for a Gram Sabha or not and clearly specifying how not the VFRs are already being implemented in various districts across the state, including states with high CFR potential, such as, Dhule, Jalgaon, Bhandara, among others. Considering a lack of systemic and *suo moto* support to CFRs, VFR will have financial power in areas where Gram Sabhas are not sufficiently aware. All the forest development funds coming to the Forest Department, including through CAMPA are likely to be spent by creating VFR institutions rather than supporting CFRs (see section 4.2.1 for details)

#### **Compensatory Afforestation Fund Act 2016 (CAMPA)**

The CAF Act,2016, has paved the way for releasing around Rs 42,000 crore to the states for carrying out compensatory afforestation, primarily in lieu of diversion of customary forests of STs and OTFDs. The state institutions set up under the CAF Act are dominated by forest bureaucracy with no representation of forest dwellers. The CAF Act also provides incentives to displace forest dwellers from protected areas by making specific provision for funding relocation. Forest dwellers and STs have widely opposed the CAF Act for not requiring consent of the Gram Sabhas to use their traditional lands and forests for compensatory afforestation.

In many areas, the Forest Department has started measuring land being cultivated by people based on encroachment records available with the Forest Department, disregarding that these areas are under claim. No information is shared with Gram Sabhas prior to or during such demarcation.

#### **Guidelines for Privatisation of Forests**

MoEFCC issued guidelines in August 2015 to lease 40 percent of degraded forests in the country to private companies for afforestation. Considering that a minimum of 59 percent and a mid range estimation of about 83 percent of total forest area in Maharashtra is estimated to be the potential CFR area (see section 3.1.1), these guidelines stand in complete violation of FRA. They disregard the fact that most of these forests are either already recognised CFRs, are in the process of being claimed as CFRs, or are potential CFRs to be claimed in the future. It is therefore unclear how 40 percent of area can be handed over to the companies without impacting the forest rights of hundreds of Gram Sabhas.

***Leasing of Forests to Forest Development Corporations (FDCM)***

As explained in detail in section 4.2.2. above, the Forest Development Corporation (FDC), set up since the 1970s, hold over six percent of states forests and new leases continue to be given to FDCM over potential CFR forests, leading to conflict with the surrounding Gram Sabhas (see section 4.2.2 for details).

***Protected Areas and Relocation***

Forest dwellers continue to be forcibly relocated from tiger reserves, in violation of FRA and provisions of the Wildlife Protection (Amendment) Act, 2006 (see section 4.2.4 for details)

***Violation of FRA or Slow Implementation in Areas Marked for Forest Diversion***

There are various incidents where forests have been diverted for various developmental projects without the consent or consultation of the Gram Sabhas. These include forests in Thane where Gram Sabhas are resisting submergence of their CFRs under the Kalu Dam and hundreds of villagers in Gadchiroli, who have been demanding cancelation of over 25 sanctioned and proposed mines over 15,000 ha of diverse and dense forests across (see section 4.2.3 for details).

**5.1.6 Habitat Rights and Rights of Pastoralist Communities**

Of the three PVTG communities in Maharashtra Habitat claim has only been filed by one group of Madia Gonds in Gadchiroli (see section 4.1.5. for details). No substantial work has been done by the state administration in recognition of Habitat Rights for PVTGs. In Gadchiroli, Gram Sabhas are coming together to file for habitat rights, but administrative support is lacking so far. The areas which are traditional habitat of PVTGs are under great threat from proposed and sanctioned mines in the district.

No claims have been filed by the pastoral communities in the state yes, no concerted action is being taken to facilitate such claims under Section 3(1) d.

**5.1.7 Gender Concerns**

Neither MoTA nor the TDD maintains gender disaggregated data on FRA. There is little available information on whether all IFR titles are being issued in the joint names of both spouses. It is also not known if single women have had their rights recognised. There is no reporting on whether one-third of the FRC members are women, or how they were selected and whether the Gram Sabha's quorum has indeed had at least one-third presence of women. Reporting from some districts by civil society groups mentions low or no representation of women at the SDLC and DLC levels. Though there are elected women representatives in SDLC and DLC, they are not informed or empowered sufficiently to participate effectively in the meetings.

## 5.2. The Way Forward

The above analysis of several documents, facts and experiences from different districts in Maharashtra suggest that the state of Maharashtra stands out as one of the best performing states across the country as far as the process of recognition of community forest rights claims and activities in the post-recognition phase is concerned. Nevertheless, there are a number of issues and challenges that do impede the effective and uniform implementation of CFRs. This section outlines the ways through which the government machinery can address various challenges and intervene at appropriate level.

### 5.2.1. No Encouragement and support to Conflicting Policies

1. Ensuring that **CAMPA funds are used to strengthen CFR management and governance** by Gram Sabhas under FRA. That these funds are provided under District Convergence Scheme to all Gram Sabhas which submit a proposal for managing their CFRs by constituting CFR Management Committees under Section 4e of FRA.
2. Ensuring that **CAMPA funds are not used** for any other activity in Scheduled V areas and all areas where the Community Forest Rights (CFRs) are legally applicable (including areas where CFRs have been recognised, CFR claims have been filed but pending recognition and CFRs are likely to be filed in the future) **without a written Free Prior Informed Consent** of the Gram Sabhas in these.
3. Ensuring **CAMPA funds are not utilised for relocation** from in and around Protected Areas. Ensuring that **CAMPA funds are utilised** for facilitating CFRs in and around Protected Areas and in Wildlife Corridors and for processes **towards co-existence** as provided under Section 38V4(ii) (v) of Wildlife Protection Act.
4. Ensuring that **all leases for mining, FDCM, dams** in Schedule V areas and areas where the Community Forest Rights (CFRs) are legally applicable as per the FRA (including areas where CFRs have been recognised, CFR claims have been filed but pending recognition and CFRs are likely to be filed in future) **are cancelled**. No such leases are given without the Free Prior Informed Consent of the concerned Gram Sabhas whose CR rights, CFR rights or Habitat rights include such forest areas.
5. Ensuring **JFM and VFRs are not imposed or pushed** by giving priority in Schedule V areas and areas where the Community Forest Rights (CFRs) are legally applicable as per the FRA (including areas where CFRs have been recognised, CFR claims have been filed but pending recognition and CFRs are likely to be filed in the future).

### 5.2.2. Strengthening Implementing Agencies and Claims Filing Process

1. Ensure dedicated **full-time staff** for FRA implementation at **all sub-divisional and district levels**, similar to PESA coordinators in Schedule V areas. Such staff must work in close coordination with the tribal *sangathanas* and civil society groups working on FRA in the district. Staff must include women. Extra efforts must be taken to include women members in SDLCs and DLCs
2. Ensure **continuous and regular training and capacity-building** for implementation agencies at all levels in all districts. Such training programmes must include special modules for gender empowerment through CFRs. Special training programmes must be conducted for women FRA staff and women members of FRCs, SDLCs and DLCs.
3. Ensuring a **time bound awareness campaign for Gram Sabhas** for filing and review of claims. This should be done following all prescribed procedures in the law, using formats provided under FRA, and with specific timelines. Special awareness programmes must be organized for women in general or for their collectives such as self help groups (SHGs)
4. Ensuring a **time bound review and decision** by the SDLCs and DLCs, after the CFR claims have been filed.
5. Special efforts need to be made towards ensuring habitat rights and pastoralist rights claims.

6. Streamlining the functioning, accountability and transparency of SLMCs, DLCs and SDLCs by ensuring **regular review and monitoring and uploading meeting minutes and actions taken on websites** for public access.

### 5.2.3 Addressing Discrepancies in CFR Titles

1. Ensuring a uniform format for CFR titles is adopted officially for rights being recognised under Section 3 (1) i of FRA.
2. Ensuring that titles are free of all conditions.
3. Correcting the titles where the CFR titles have been recognised but in the name of FRCs, VSSs, *panchayat*, Eco-development Committees, JFMCs or any other committee instead of the Gram Sabha
4. Correcting titles which mention the area of the CFR wrongly.
5. Ensuring that titles taken back for correction are return in a time bound manner.

### 5.2.4 Revising Record of Rights and Boundary Demarcation

The legal requirement of final mapping of forest land and incorporation of the rights in the Record of Rights (R & R) is yet to be initiated in the state. This has resulted in confusion about the areas and jurisdiction of the Gram Sabhas. The nodal agency needs to clearly specify a timeline for revising the Record of Rights once the titles have been received by the Gram Sabhas. Once the RoR has been revised, it must be ensured that a copy of the same is sent to all relevant departments and the concerned Gram Sabhas.

### 5.2.5 Database on Recognised Rights

There continues to be a number of inconsistencies in the data available at the district level, state level and National level. The district-wise data still does not segregate information about CR or *nistar* rights under Section 3 (1) and the right to govern and manage under Section 3(1)(i). Gender specific data is also not available. These inconsistencies and data gap need to be plugged.

### 5.2.6 Creating District Level FRA cells and FRA Coordinators

The state government in Odisha has taken special interest in constituting a FRA Cells in each district to speed up the process of recognising claims under FRA. The Cell provides detailed information about the status of claims to the beneficiaries. Similarly, a welfare officer has been appointed in each block of Odisha to facilitate between the district administration and local community related to forest rights activities. Other states like Jharkhand and Madhya Pradesh are now taking similar steps. It is also clear from the narratives and data that appointment of FRA coordinators in some *talukas* in Maharashtra has been very useful in ensuring that Gram Sabhas are informed about CFRs and their rights are recognised.

The nodal agency in Maharashtra could ensure creation on **FRA Cells, appointment of block level welfare officers and FRA coordinators in all talukas** and blocks to take CFR implementation to a campaign mode. These Cells, functioning in close coordination with local

Gram Sabhas, Adivasi Movements, and CSOs, could liaison between the Gram Sabhas requiring any kind of help for CFR governance and management and government agencies that can provide the help.

#### 5.2.7 Operationalising District Convergence Committees in all Districts

1. District Convergence Committees (DCC) similar to the ones already set up by the TDD in some districts need to be set up and actively operationalised in all districts.
2. In order to make the DCCs more effective and accountable, the State Government needs to issue guidelines clearly specifying the roles and responsibilities of the DCC and criteria to prioritise and approve the work plans/Gram Sabha resolutions as submitted by the Gram Sabhas.
3. All Gram Sabhas through *gram sevaks* need to be made aware about presence of the DCC and its role in supporting CFR management and governance, including financial and technical help (e-tendering, documentation, auditing, etc.), if needed.
4. Process for applying for these should be clearly informed to the Gram Sabhas directly through regular Gram Sabha meetings.
5. The Gram Sabhas should be able to make a request for help through a simple resolution passed at the Gram Sabha.

#### 5.2.8 Technical and Financial support to CFR gram sabhas, including for NTFP trade

Hundreds of CFR gram sabhas in districts like Gadchiroli, Gondia, Chandrapur, Amravati, and others are exercising their rights to harvest and sell major NTFP such as tendu patta and bamboo. These gram sabhas are adopting a number of processes for facilitating such sales, including seeking help from civil society groups, as individual gram sabhas entering into direct agreements with the traders and contractors, as clusters of gram sabhas independently calling for open tenders, or as clusters of gram sabhas specifying a minimum auction price and calling for open tenders. In these situations while they are learning from their experiences, they are also facing high handedness and exploitation by contractors and traders lobby. Particularly the individual agreements with gram sabhas, many of which are non transparent and involve many middle agents kick backs. This lobby is also ensuring that gram sabhas that are seeking transparent and collective actions are isolated and not allowed to succeed. In these situations the gram sabhas have demanded that the state government helps overcome such exploitative methods adopted by the contractors, traders and middle agents. Little help has been extended thus far, some of the demands for technical and financial help in these situations to strengthen gram sabhas include:

Providing facilities for e-tendering of NTFP to any gram sabha that asks for it.

1. In consultation with the gram sabhas developing a minimum support price mechanism for traded NTFPs. This mechanism should also ensure that guidelines put in place by gram sabhas for sustainable harvest and transparent functioning are respected by all contractors and traders.
2. Proving direct funds coming for forestry sector and CAMPA to CFR gram sabhas through their section 4 (1) e committees.
3. CFR gram sabhas should be the primary implementing agency for MNREGA. MNREGA, in addition to desilting of water bodies, should also include the entire ridge to valley planning and its implementation.

#### 5.2.9 Ensuring women's empowerment through CFRs

This can be done by enabling women to play an active role in all post CFR processes.

## 6. Conclusion

This report indicates that the minimum forest area in Maharashtra over which CFR rights should be recognized is 3620900 ha. This represents almost 59 per cent of the state's total forest land. Ten years after FRA's enactment, 20 per cent of this minimum potential has been achieved in the state. This makes Maharashtra one of the leading states in the country in implementing FRA, having met 20 percent of its minimum potential, 14 percent of mid-range potential and 12 percent of maximum potential of implementation. This performance can be attributed to the historical roots of resistance in the state and also to the more recent combined efforts by Gram Sabhas, Adivasi Movements, Civil Society Groups, Tribal Development Department, Governors office, Block and District administrations in many districts.

This performance however is not uniform across the state or within the districts. While some districts like Gadchiroli have achieved over 60% of their potential, 21 out of 36 districts are lagging behind with near zero performance. In many districts there continue to be institutional and operational hurdles impacting the implementation process. These range from lack of awareness about the Act at all levels to lack of financial and dedicated human resources for implementation of the Act.

By recognizing individual and collective rights of forest dwellers, FRA supports access to critical life-sustaining resources that support subsistence, livelihood, food and water security together with socio-cultural integrity for over 26 million people in Maharashtra. In doing so, it also conforms with country's commitments under the Convention on Biological Diversity and those related to climate change. Positive examples of assertion of CFR rights, poverty alleviation, sustainable and equitable forest use and management based on democratic decision-making have been cited in the report.

These examples illustrate that Maharashtra has also emerged as a leading state in setting examples for the rest of the country in a number of positive ways. Most important of these being the various ways in which the Gram Sabhas have struggled sometimes with the administration, at times with neighbouring villages where two would share the boundaries, sometimes with the external developmental pressure and at times within the community itself. They have struggled sometimes supported by the administration, sometimes by tribal *sangathanas*, sometimes by the civil society groups and sometimes on their own. Through these multiple, complex and dialectic processes the Gram Sabhas are now using the FRA (where applicable in combination with PESA) to arrive at:

- Local, formal or informal, sustainable, governance, management and conservation strategies;
- Strategies for enhancing and strengthening local livelihoods by exercising rights over Non Timber Forest Produce (NTFP), particularly Bamboo and Tendu;
- Experimenting with complex processes such as tendering, auctioning, maintaining accounts, among others;
- Have sometimes entered into detailed internal dialogues and self-reflection to understand their own worldviews and notions of development through the process of filing Habitat Rights or by resisting against mining, commercial and extensive timber felling;

- In some cases women have begun to discuss their own role in society and meaning of forests to them

Institutional support at multiple levels has also been crucial for successfully recognizing and subsequently supporting CFRs in the state. Districts like Gadchiroli, Amravati and others are indicating that community mobilisation and collective action of Gram Sabhas has immense potential to achieve social, ecological and economic wellbeing. However, it is also clear that such mobilized collective actions are less effective if the government institutions are hostile to the local methods of governance, mobilization and resource management. The efficiency of local collective action is further reduced when government agencies, particularly the forest department are not supportive at crucial points such as helping in NTFP auction and marketing, providing initial financial help, not supporting the wish of the community of their forests being diverted for non-forestry purposes or to FDCMs, among others.

The assertion of rights by organized Gram Sabhas, even where these are yet to be recognized formally, is changing the balance of power between the Gram Sabhas and, the forest bureaucracy. In some cases unfortunately this same change in power structure is becoming a reason for greater hostility than support from the forest bureaucracy. Wherever forest dwelling communities have successfully challenged non-consultative diversion of their customary forests for non-forest use, or relocation from protected areas, efforts have been made to directly and indirectly create hurdles and obstructions for them.

In the last few years several attempts have been made in the state to dilute and bypass the provisions of FRA. These include: notification on Village Forest Rules (VFRs) in Maharashtra, leasing out forest lands to FDMC without Gram Sabha's consent, supporting JFM Committee in recognised CFR villages and more recently, diversions of forests for non-forest purposes against the wish of the affected Gram Sabhas. Despite several protests and appeals, including those from the MoTA and Hon. Governor's Office, Maharashtra, the state government has allowed these conflicting policies to be implemented. These policies will reinforce the traditional centralised governance of forests by the Forest Department, seriously impacting both access and conservation rights of Gram Sabhas. There is an urgent need to stop encouraging all kinds of conflicting policies which are against the letter and spirit of the Forest Rights Act.

The TDD as the nodal agency has taken many steps to support filing of CFRs claims and to support CFR management and governance in some parts of the State. Their supportive role has added to the efforts of the Gram Sabhas and civil society groups to achieve the 20 percent potential in the state. However, to ensure that the promise of remedying historical injustice to the most marginalized forest dwelling communities is truly realized, the state government needs to urgently address the hurdles in the way of recognizing these pre-existing rights. This needs to be done particularly by ensuring the filing of CFR claims in a campaign mode in districts lagging behind; supporting Gram Sabhas more effectively where their rights have been recognized; and most importantly by ensuring that their traditional forests are not diverted for mining and other commercial activities or taken over by policies which dilute their powers and authority.



## Annexure 1- Data Tables

**Table 2. District-wise Potential Data**

S.n.	District Name	Total Geographic Area	Step 1: Minimum CFR Potential	CFR Potential (within village Boundaries)	Minimum CFR Potential	Step 1: Mid-range CFR Potential	Mid-range CFR Potential	Maximum CFR potential
			Area of forests in uninhabited villages, with cultivation			Area of 2 km buffer around forest areas		
1	Ahmadnagar	1,704,800	-	154,306	154,306	-	154,306	190,488
2	Akola	539,000	3,409	41,505	44,913	1,791	46,704	49,907
3	Amravati	1,221,000	6,964	79,686	86,650	203,619	290,269	348,230
4	Aurangabad	1,010,700	-	89,946	89,946	-	89,946	92,452
5	Bhandara	358,800	7,017	38,581	45,598	78,515	124,113	163,306
6	Bid	1,069,300	160	20,564	20,724	-	20,724	25,683
7	Buldana	966,100	3,069	81,802	84,871	19,865	104,736	116,826
8	Chandrapur	1,144,300	12,144	132,530	144,674	249,185	393,859	346,815
9	Dhule	718,900	17,240	122,726	139,966	63,431	203,397	205,994
10	Gadchiroli	1,441,200	16,455	540,682	557,137	454,686	1,011,823	1,426,476
11	Gondiya	573,300	224	135,633	135,857	49,427	185,284	236,557
12	Hingoli	468,600	-	16,226	16,226	-	16,226	29,081
13	Jalgaon	1,176,500	2,142	91,431	93,573	68,508	162,081	199,487
14	Jalna	771,800	7	9,079	9,087	-	9,087	10,118
15	Kolhapur	768,500	1,143	137,395	138,537	-	138,537	174,583
16	Latur	715,700	-	2,320	2,320	-	2,320	4,006
17	Nagpur	989,200	10,273	85,062	95,334	116,261	211,595	252,305
18	Nanded	1,052,800	1,763	101,138	102,901	-	102,901	129,914
19	Nandurbar	596,100	4	104,944	104,948	90,991	195,939	239,382
20	Nashik	1,553,000	-	323,340	323,340	-	323,340	344,217
21	Osmanabad	756,900	-	6,675	6,675	-	6,675	7,177
22	Parbhani	635,500	-	6,393	6,393	-	6,393	10,179
23	Pune	1,564,300	213	167,213	167,426	-	167,426	202,899
24	Raigarh	715,200	342	156,411	156,753	114	156,867	174,832
25	Ratnagiri	820,800	805	18,062	18,867	-	18,867	6,995
26	Sangli	857,200	837	34,739	35,576	-	35,576	55,231
27	Satara	1,048,000	226	131,027	131,253	-	131,253	159,079
28	Sindhudurg	1,489,500	-	46,628	46,628	-	46,628	55,567
29	Solapur	520,700	-	22,886	22,886	-	22,886	37,775
30	Thane	955,800	680	334,626	335,306	-	335,306	388,101
31	Wardha	630,900	3,664	32,007	35,671	48,573	84,244	107,522
32	Washim	518,400	2,167	37,728	39,895	-	39,895	33,095
33	Yavatmal	1,358,200	12,865	213,758	226,624	10,839	237,463	303,083
	<b>Total</b>	<b>30,711,000</b>	<b>103,813</b>	<b>3,517,048</b>	<b>3,620,861</b>	<b>1,455,805</b>	<b>5,076,666</b>	<b>6,127,362</b>

**Table 3. Scheduled Tribes and Other Traditional Forest Dwellers Population benefiting from FRA**

S.no	District Name	Estimate d No of villages under CFR	Total Population benefiting from CFR	Total Populatio n of Scheduled Caste	%	Total Population Scheduled Tribe	%	Total Population of All Others	%
1	Ahmadnagar	794	1,800,575	198,853	11	221,896	12	1,379,826	77
2	Akola	280	328,101	69,984	21	46,579	14	211,538	64
3	Amravati	768	766,066	110,511	14	224,232	29	431,323	56
4	Aurangabad	372	688,599	75,017	11	48,102	7	565,480	82
5	Bhandara	175	286,914	35,276	12	4,190	1	247,448	86
6	Bid	571	576,369	95,210	17	62,786	11	418,373	73
7	Buldana	356	507,213	88,157	17	61,993	12	357,063	70
8	Chandrapur	1,184	944,873	127,876	14	235,796	25	581,201	62
9	Dhule	386	905,849	46,343	5	393,977	43	465,529	51
10	Gadchiroli	1,590	908,382	96,809	11	392,206	43	419,367	46
11	Gondiya	782	902,567	114,508	13	186,217	21	601,842	67
12	Hingoli	100	341,471	32,720	10	118,790	35	189,961	56
13	Jalgaon	486	863,035	78,044	9	135,998	16	648,993	75
14	Jalna	99	159,065	19,737	12	3,295	2	136,033	86
15	Kolhapur	516	821,659	101,848	12	3,907	0	715,904	87
16	Latur	85	200,850	40,939	20	5,590	3	154,321	77
17	Nagpur	1,212	924,635	145,423	16	153,917	17	625,295	68
18	Nanded	434	725,755	122,787	17	126,973	17	475,995	66
19	Nandurbar	456	640,465	9,246	1	561,741	88	69,478	11
20	Nashik	1,174	1,917,683	103,919	5	978,279	51	835,485	44
21	Osmanabad	139	325,100	53,766	17	6,650	2	264,684	81
22	Parbhani	59	94,168	11,200	12	5,363	6	77,605	82
23	Pune	1,212	2,047,643	181,434	9	194,853	10	1,671,356	82
24	Raigarh	1,258	1,136,987	45,481	4	219,010	19	872,496	77
25	Ratnagiri	297	266,448	12,573	5	4,587	2	249,288	94
26	Sangli	244	745,548	94,195	13	5,278	1	646,075	87
27	Satara	856	1,162,707	119,865	10	11,776	1	1,031,066	89
28	Sindhudurg	293	307,709	21,406	7	2,091	1	284,212	92
29	Solapur	220	627,835	101,576	16	8,281	1	517,978	83
30	Thane	1,348	1,713,996	39,599	2	1,038,695	61	879,127	51
31	Wardha	870	688,838	89,981	13	98,888	14	499,969	73
32	Washim	232	317,666	52,511	17	39,901	13	225,254	71
33	Yavatmal	998	1,125,647	123,263	11	251,291	22	751,093	67
	<b>Total</b>	<b>19,846</b>	<b>25,770,418</b>	<b>2,660,057</b>	<b>10</b>	<b>5,853,128</b>	<b>23</b>	<b>17,500,658</b>	<b>68</b>


**Table 4. District-wise Titles Distributed and the Forest Area for the Titles Recognised for June 2016 and November 2016**

Districts	Total Titles distributed(Nov 2016)	Total Titles distributed (June 2016)	Total Area of Title distributed (Nov 2016)	Total Area of Title distributed (June 2016)	Forest Area (In Acres pertaining to the claims approved by DLC) –Nov 2016	Forest Area (In Acres pertaining to the claims approved by DLC)June 2016
Ahmednagar	121	121	17139.36	17139.36	17139.36	17139.36
Akola	3	3	4.36	4.36	4.36	4.36
Amravati	65	65	46301.6	46301.6	58988	46301.55
Aurangabad	0	0	0	0	0	0
Bhandara	5	5	10.09	10.09	10.09	10.09
Buldhana	0	0	0	0	0	0
Chandrapur	119	119	16167.67	16167.67	16167.67	16167.67
Dhule	186	186	709.4	709.4	709.4	709.4
Gadchiroli	1355	1355	1072425.9	1072425.9	1072425.9	1072425.9
Gondiya	843	843	96683.9	96693.9	96683.9	96683.9
Hingoli	0	0	0	0	0	0
Jalgaon	133	122	25435.25	24243.65	25435.25	24243.65
Kolhapur	0	0	0	0	0	0
Nagpur	777	777	121757.1	121757.1	121757.1	121757.1
Nanded	118	118	121598.08	121598.08	121598.08	121598.08
Nandurbar	262	240	85062.02	83770.58	85062.02	83770.58
Nashik	305	202	39771.66	30437.7	45593.26	43474.43
Palghar	416	318	24131.9	18936.68	24131.9	18936.68
Pune	15	15	4.61	4.61	4.61	4.61
Raigad	491	491	22711.25	22711.25	37631.4	37631.4
Sangli	0	0	0	0	0	0
Satara	3	3	2.24	2.24	2.24	2.24
Thane	298	298	9609.96	9334.8	23744.29	17728.63
Wardha	9	9	15.72	15.72	15.72	15.72
Washim	0	0	0	0	0	0
Yavatmal	217	217	94587.93	94587.93	277782.95	277782.95
<b>Grand Total</b>	<b>5741</b>	<b>5507</b>	<b>1794130</b>	<b>1776852.62</b>	<b>2024887.5</b>	<b>1996388.3</b>

Source: Tribal Commissionerate of Maharashtra, Nashik

**Table 6. State-wise Analysis of Promise and Performance**

State Name	Minimum potential for CFR Recognition in India (excluding five NE States and J&K) (In acres)	CFR Recognized (in Acres)	% of Potential Achieved
Andhra Pradesh	27,65,367	0	0%
Assam	5,00,996	0	0%
Bihar	8,24,940	0	0%
Chhattisgarh	74,52,000	0	0%
Goa	2,07,342	0	0%
Gujarat	31,31,933	2,81,970	9%
Haryana	60,300	0	0%
Himachal Pradesh	32,11,000	0	0%
Jharkhand	51,58,389	85,578	2%
Karnataka	59,73,818	38,676	1%
Kerala	21,98,639	2,98,340	14%
Madhya Pradesh	1,57,20,915	0	0%
Maharashtra	1,20,50,071	17,66,310	15%
Odisha	57,88,714	3,10,824	5%
Punjab	1,58,917	0	0%
Rajasthan	63,09,957	380	0%
Sikkim	9,51,449	0	0%
Tamil Nadu	19,21,537	0	0%
Telangana	33,73,527	0	0%
Tripura	8,85,503	0	0%
Uttarakhand	35,12,678	0	0%
Uttar Pradesh	19,13,577	0	0%
West Bengal	14,43,722	0	0%
<b>Total</b>	<b>8,56,05,944</b>	<b>27,82,078</b>	<b>3%</b>

S. n.	District Name	Total Geographical Area	Minimum CFR Potential	Total titles distributed	Total area of Titles distributed in ha	Total Titles distributed	Total area of Title distributed in ha	% of MIN Potential recognised until June 2016	% of MIN Potential recognised until Nov 2016
				Until June 2016	Until November 2016				
1	Ahmadnagar	17,04,800	1,54,306	121	6,939	121	6939	4.5%	4.5%
2	Akola	5,39,000	44,913	3	2	3	2	0.0%	0.0%
3	Amravati	12,21,000	86,650	65	18,746	65	18746	21.6%	21.6%
4	Aurangabad	10,10,700	89,946	0	-	0	0	0.0%	0.0%
5	Bhandara	3,58,800	45,598	5	4	5	4	0.0%	0.0%
6	Bid	10,69,300	20,724				0	0.0%	0.0%
7	Buldana	9,66,100	84,871	0	-	0		0.0%	0.0%
8	Chandrapur	11,44,300	1,44,674	119	6,546	119	6546	4.5%	4.5%
9	Dhule	7,18,900	1,39,966	186	287	186	287	0.2%	0.2%
10	Gadchiroli	14,41,200	5,57,137	1355	4,34,181	1355	4,34,181	77.9%	77.9%
11	Gondiya	5,73,300	1,35,857	843	39,147	843	39,143	28.8%	28.8%
12	Hingoli	4,68,600	16,226	0	-	0	-	0.0%	0.0%
13	Jalgaon	11,76,500	93,573	122	9,815	133	10298	10.5%	11.0%
14	Jalna	7,71,800	9,087				0		0.0%
15	Kolhapur	7,68,500	1,38,537	0	-	0			0.0%
16	Latur	7,15,700	2,320						0.0%
17	Nagpur	9,89,200	95,334	777	49,294	777	49,294	51.7%	51.7%
18	Nanded	10,52,800	1,02,901	118	49,230	118	49,230	47.8%	47.8%
19	Nandurbar	5,96,100	1,04,948	240	33,915	262	34,438	32.3%	32.8%
20	Nashik	15,53,000	3,23,340	202	12,323	305	16,102	3.8%	5.0%
21	Osmanabad	7,56,900	6,675					0.0%	0.0%
22	Palghar			318	7,667	416	9770		0.0%
23	Parbhani	6,35,500	6,393						0.0%
24	Pune	15,64,300	1,67,426	15	2	15	2	0.0%	0.0%
25	Raigarh	7,15,200	1,56,753	491	9,195	491	9195	5.9%	5.9%
26	Ratnagiri	8,20,800	18,867				0	0.0%	0.0%
27	Sangli	8,57,200	35,576	0	-	0		0.0%	0.0%
28	Satara	10,48,000	1,31,253	3	1	3	1	0.0%	0.0%
29	Sindhudurg	14,89,500	46,628					0.0%	0.0%
30	Solapur	5,20,700	22,886					0.0%	0.0%
31	Thane	9,55,800	3,35,306	298	3,779	298	3891	1.1%	1.2%
32	Wardha	6,30,900	35,671	9	6	9	6	0.0%	0.0%
33	Washim	5,18,400	39,895	0	-	0	0	0.0%	0.0%
34	Yavatmal	13,58,200	2,26,624	217	38,295	217	38,295	16.9%	16.9%
	<b>Total</b>	<b>3,07,11,000</b>	<b>36,20,861</b>	<b>5507</b>	<b>7,19,374</b>	<b>5741</b>	<b>726368</b>	<b>19.9%</b>	<b>20.1%</b>

Table 8. District-wise Comparison of Minimum CFR Potential with the CFRs/CRs Titles recognised by the State

**Table 9. District –wise Claims Received, Approved, Pending and Rejected at Gram Sabha, SDLC and DLC Levels**

Row Labels	Claims received	Claims Rejected	Claims Approved	Pending Claims	Claims Received	Claims Rejected	Claims Approved	Pending Claims	Claims Received	Claims Rejected	Claims Approved	Pending Claims
	Gram Sabha				Sub Divisional Level Committee				District Level Committee			
Ahmednagar	141	11	130	0	130	9	121	0	121	0	121	0
Akola	69	13	56	0	56	52	4	0	4	1	3	0
Amravati	145	0	145	0	145	28	102	15	102	2	84	16
Aurangabad	77	0	0	77	77	0	0	77	0	0	0	0
Bhandara	316	0	316	0	316	266	20	30	20	0	5	15
Buldhana	0	0	0	0	0	0	0	0	0	0	0	0
Chandrapur	406	0	222	184	222	0	222	0	222	0	119	103
Dhule	415	0	307	108	307	23	225	59	225	0	186	39
Gadchiroli	1791	0	1791	0	1791	317	1474	0	1474	47	1355	72
Gondiya	1357	0	1251	106	1251	0	1100	151	1100	0	843	257
Hingoli	0	0	0	0	0	0	0	0	0	0	0	0
Jalgaon	248	26	222	0	222	66	156	0	156	22	133	1
Kolhapur	168	0	168	0	168	31	136	1	136	136	0	0
Nagpur	891	0	891	0	891	0	777	114	777	0	777	0
Nanded	152	0	152	0	152	0	118	34	118	0	118	0
Nandurbar	262	0	262	0	262	0	262	0	262	0	262	0
Nashik	1005	0	927	78	927	90	565	272	565	2	367	196
Palghar	655	0	655	0	655	126	523	6	523	0	416	107
Pune	110	0	110	0	110	95	15	0	15	0	15	0
Raigad	976	5	850	121	850	15	591	244	591	6	553	32
Sangli	197	0	197	0	197	197	0	0	0	0	0	0
Satara	13	0	13	0	13	3	8	2	8	0	3	5
Thane	696	0	599	97	599	97	446	56	446	30	416	0
Wardha	39	0	39	0	39	10	26	3	26	10	9	7
Washim	113	0	113	0	113	111	0	2	0	0	0	0
Yavatmal	872	1	696	175	696	30	494	172	494	15	479	0
<b>Grand Total</b>	<b>11114</b>	<b>56</b>	<b>10112</b>	<b>946</b>	<b>10189</b>	<b>1566</b>	<b>7385</b>	<b>1238</b>	<b>7385</b>	<b>271</b>	<b>6264</b>	<b>850</b>

Source: Tribal Commissionerate of Maharashtra, Nashik

## Annexure II- Case Studies

### Case Study 1: Payvahir: An Incredible Journey to Rights Recognition<sup>63</sup>

Payvahir, a village located in Achalpur tehsil of Amravati district is a successful example of how a community can be empowered through decentralised governance mechanisms that lead to effective conservation and secure livelihood. The census report states that it has 110 households and a total population of 490 people of whom 80 percent belong to the Korku tribe and the other 20 percent to Balai, a SC community. Payvahir got its CFR over 192 ha of forest land in June 2012. Through a combination of schemes and governance systems, the village has undergone an incredible journey to conserve forests that were once degraded.

With the help of KHOJ, a NGO working in Melghat, the village got together and filed for CFR and drafted a management plan that looked at the short term as well as long term means of protecting the forests and ensuring a sustainable livelihood. A process that started in 2009, had the youth as well as the village elders coming together to discuss the problems that the village faced, which included degraded forests due to large scale felling of timber, rampant migration rates and heavy dependence on the Forest Department for sale of NTFPs.

In June 2012, once they got their CFR, the village actively got together to ensure that the management plans that they had devised were implemented right away. With MGNREGA, they started work soil and water conservation, planted a mixed variety of trees that included *amla*, teak, custard apples, *jamun*, bamboo, *mahua* and medicinal plants, planned for forest protection from fires and grazing and boundary demarcation. This ensured employment through the year and reduced the out-migration of villagers. The village decided to ban cutting of timber and collect only dead or dying timber after the thinning activities for fuel wood consumption. They demarcated over 160 ha of land as non-grazing region. Over 40 ha of land were set aside for natural regeneration, of which 15ha of forest land formed a non-intervention zone. With the help of the tribal department, the village is soon shifting towards a biogas project that will lessen their dependence on fuelwood. Most houses are covered under Indira AwasYojana and hence less wood is needed for construction. They have dug water trenches in the forest for wildlife which ensures respite during the harsh summer months.

In 2014, Payvahir received a United Nations Development Programme (UNDP) biodiversity award for the decentralized governance category<sup>64</sup>. The women's self-help group is running a ration shop and the village has become *guthka* and liquor-free. Over the last few years, there are traces of forest regeneration, which has also brought back many species of wildlife found in the region. Sambar, deers, wild boars, jackal and hyenas have been seen in the forest. Collection of custard apples have become a major source of income for the village and have been sold under the brand, 'Naturals Melghat'<sup>65</sup> in Mumbai for Rs 200-300 per dozen and has seen a turnover of 5 lakhs.

<sup>63</sup>Data collected from Management Plans drafted by Payvahir Gram Sabha in collaboration with KHOJ

<sup>64</sup> Source : <http://www.in.undp.org/content/india/en/home/presscenter/speeches/2014/05/22/biodiversity-awards-2014.html>

<sup>65</sup> Source: <http://timesofindia.indiatimes.com/city/nagpur/melghats-payvahir-brands-its-forest-produce-to-success/articleshow/56766788.cms>

### Case Study 2: Panchgaon: Towards Community-led conservation and decentralised governance<sup>66</sup>

Following the footsteps of Mendha-Lekha, Panchgaon has managed to conserve and manage its forest post recognition of CFR claims in 2012. Panchgaon is located in Gondpipri taluka and has a population of 60 households consisting of 72 percent Gond tribe, 28 percent Kunbi and Marar community who belong to the Other Backward Castes (OBC) category. **It was the first village in Chandrapur district to receive the CFR title over 1006.416 ha of forest land.**

Prior to the CFR recognition, the village often faced severe repression from the Forest Department, which had monopoly over their forest. Farming as a source of livelihood was not possible as the inputs could not be afforded and thus remained small scale. There was distress migration as there were no employment opportunities. The sale of the NTFP collection done under JFM would go directly into the Forest Department's account and they restricted the village members from grazing in the forest land or collecting firewood and also extorted bribes from the villagers. With the help of local NGO, Paryavaran Mitra, Panchgaon was availing work that was provided under MGNREGA from 2007 to 2012. However, they soon learnt about the provisions of CFRs under FRA, which would enable them to govern their own forest, breaking the years of oppression that they had been facing in the hands of the Forest Department. They filed for their claim in December 2009 and after years of struggle, they received their title in June 2012.

Post CFR-recognition, the village played an active role in managing and conserving the forest that it had control over. Nearly 85 acres of forest land have been specifically set aside as a critical habitat for wildlife, which is declared as a *devrai*. In this region, no bamboo cutting or grazing is allowed, even a leaf cannot be plucked so that there is no human intervention. There has been an increase in the wildlife as documented by the sightings by the village members. The CFR has also led to greater political participation within the Gram Sabha, whose members involve themselves in the management processes actively.

Sale of Bamboo and its management is one of the key sources of livelihood for the Gram Sabha, which happens throughout the year barring the monsoon season. Panchgaon has put in place an effective bamboo management plan to ensure sustainable extraction. As bamboo requires three years to grow, the region has been divided into three zones and bamboo is cut from these zones on a rotational basis once in three years, which enables regeneration of bamboo stalks. The Gram Sabha auctions the Bamboo independently and the proceeds from its sale go into the GS account. The money is then distributed as wages for those who helped with the bamboo cutting. Nearly 10 percent of the wages are retained by the GS to give to the people when bamboo cutting is stopped for four months.

As bamboo management has improved the livelihoods of those in the village, the migration rates have dropped drastically. They have also stopped collecting *tendu* and *mahua*, citing health problems that are caused by the products of these forest resources.

<sup>66</sup>Gutgutia S., Chowdhary, K, and Patil,R. (2016). Field notes collected during on-site research in Chandrapur, Maharashtra. Unpublished Case Study. and

Agarwal, S. (2016). *Balancing rights and responsibilities: community-based forest governance in Maharashtra*. Down to Earth. Retrieved from <http://www.downtoearth.org.in/blog/balancing-rights-and-responsibilities-community-based-forest-governance-in-maharashtra-56435>

### Case Study 3: Bhimanpayli : Gram Sabha of 11 households managing 1973 ha of forests<sup>67</sup>

Bhimanpayli, a village in the Kurkheda Taluka of Gadchiroli district, covers a geographic area of 2067 ha and has eleven households according to the Census 2011 report. On 30<sup>th</sup> March 2012, Bhimanpayli received its CFR title, which stated that its rights are recognised over 1973 ha of forests. In 2014, the District Conservation Committee had taken back the *patta* (title) citing changes. The village is yet to get the updated title. However, the village continues to assert its rights over the title that it had claimed initially. The villagers constituted their 4(1)(e) Committee under FRA in 2014 and visited Mendha-Lekha in 2015 to understand the different governance mechanisms for proper management of the forests.

As there are only eleven households, **all members of the village are involved throughout the year with bamboo management.** Often there are people from other villages who come here to work on bamboo cutting.

In 2014-15, almost 13,000 long bamboos and 3,555 bundles of smaller bamboo were sold at Rs 10/bamboo and Rs 20/bundle as wage rate respectively. The money that Bhimanpayli receives from the sale of Bamboo comes into the Gram Sabha account and is used in the future to pay for labour from outside for bamboo cutting and for other village requirements such as building check dams, plantations and nurseries.

In 2015-16, the wage for long bamboos and bundles increased to Rs60/bundle and Rs20/bamboo respectively. There is no written rule in the village, however, based on traditional knowledge, the villagers know that they should cut bamboo that is three years old. One can notice an informal management system set in place for sustainable bamboo cutting. The labour comes from Wakdi, Lendhari, Kurkheda, Bhattegaon and Sonpur. At present, the village supervises 105 workers everyday for bamboo cutting. Each labourer is also given Rs1000/- as bonus.

With CFR being recognised, there is very little dependence of the village members on the Forest Department due to which there is growing resentment in the department for losing control over forests. As a result the village is seeing the unreasonable ways in which the State operates, for instance, how it delays tenders to sell bamboo due to which 8000-9000 bundles were burnt during previous years.

<sup>67</sup>Personal communication with Keshav Gurnule in February 2016, and Ajit, S. & Pathak Broome, N. (2016). Field notes collected during on-site research in Gadchiroli, Maharashtra.

#### **Case Study 4: Temli Gram Sabha: Generating huge labour opportunities and maintaining transparency in the documentation and records of finance**<sup>68</sup>

Temli, a village 8 km away from the Korchi tehsil in Gadchiroli district of Maharashtra, has 133 families, a population of 630, 293 male and 337 female. Most of the families in the village belong to Scheduled Tribes (Gond, Kanvar) and some to Scheduled Castes. Temli is surrounded with dense forest. Villagers are traditionally forest dwelling and till today, their livelihood depends on forest produce.

Temli Gram Sabha's claim over 854.71 hectares was recognised. Under the FRA, there are provisions which give rights to *nistar*, collection and use of forest produce, protection, conservation, regeneration and management of forest. Temli Gram Sabha is practicing and using its rights over forest.

After recognition of CFR in 2011, Gram Sabha members had not started any work in the forest. But the Forest Department extracted bamboo illegally from the CFR area of Temli Gram Sabha. This act of the Forest Department was opposed by the Gram Sabha members with the guidance and support of Amhi Amchya Arogyasathi (CSO) based in Kurkheda, Gadchiroli district. People called meetings with officials from the Forest Department over illegal bamboo extraction and the Forest Department apologised to the Gram Sabha and agreed to return 20000 bamboos to the villagers. The Forest Department was ready to help people extract and sell bamboo. So the villagers formed the "van hakka niyantran samiti" and the work of the Gram Sabha started here. But it was not a nice experience with the Forest Department. In 2015, the Gram Sabha decided to work independently for the clump management of bamboo.

The villagers called the Gram Sabha in the month of January and decided the nature of the work to be undertaken. Men and women participated equally in the Gram Sabha and decided that one person from each family would take up work. Wages were to be the same for women and men - Rs. 200 per day. Any decision regarding forest and other work in the village could not be taken without the Gram Sabha. After the Gram Sabha discussed an issue and took a decision, it had to be noted in the proceedings register of the Gram Sabha. In 2015, Temli Gram Sabha worked independently on the bamboo clump management in one of the compartments of its CFR area, where 9278 bamboo bundles and 2400 long bamboo were extracted and their earning amounted to approximately 9 lakh rupees. Bamboo was auctioned. Temli is the only Gram Sabha which auctioned the bamboo independently and completed the process successfully. Bamboo clump management work was undertaken by the villagers who cleaned 6211 bamboo clumps and filled soil in them.

In 2013, the Gram Sabha (by Van hakka niyantran Samiti) worked with the Forest Department and earned approximately 10 lakh rupees. With this amount, the Gram Sabha planted 5000 bamboo on 10 hectares in its CFR area. The Gram Sabha has maintained transparency in the documentation and records of finance. Responsibilities are given to different people for different roles. In 2015, the Gram Sabha generated huge labour opportunities in the village, nearly 4675 jobs.

In 2016, the Gram Sabha harvested 20000 bamboo bundles and 2800 long bamboo from which it earned approximately 16 lakh rupees. Each family could earn Rs. 8000 as wages for bamboo harvesting. This was the big change in their source of income.

Now the Gram Sabha is preparing a working plan. Gram Sabha members have asked for technical support from the Forest Department and Amhi Amchya Arogyasathi. In 2015-16 Gram Sabha started framing a working plan for bamboo and the extraction will start this year.

<sup>68</sup>Contributed by Mukesh Shende and Mahesh Raut

### Case Study 5: Village Self Republics: Bharat Jan Andolan and Experiences from Mohagav and Rekhatola Villages<sup>69</sup>

From the administrative block of Dhanora, there are around 130+ CFR claims that have been sanctioned (District CFR Reckoner, 2012) till date. Each one has a history of struggle and it follows a distinct procedure. At times, this struggle stands with the administration, at times with neighbouring villages where two would share the boundaries, at times with the external/ internal influencing factor, and at times from within the community itself. While there are a number of permutations and combinations of the cases, success and agents, it is quite a task to identify a more generalising, sustaining and steadily percolating model of development that can provide greater support to the villagers as and when required. It needs to be pursued at a macro level for scaling up of the exercise.

As we had the Mendha-Lekha illustration, where consistent external support with highly technical and legal capabilities was available throughout the process, we find another model which works on the basis of people's own mobilisation and attempts to provide local leadership and bring about a quantitative difference -the work of Bharat Jan Andolan (BJA) and people's own mobilisation process. Many villages from Dhanora block and attached areas are associated with Bharat Jan Andolan, *sangathan karyakartas* learned and trained under the guidance of Dr. B D Sharma over PESA and its connotation for this area. The BJA mobilised many villages, achieved the CFR claims, and initiated the moisture conservation treatment by building watershed structures on forest lands through village level built institutions for its construction, protection and management. Mohagao and Rekhatola are successful examples of village self-rule using the provisions of FRA and PESA.

Rekhatola successfully managed the sale of bamboo in 2013-14 and *tendu* in 2016. Villages have well functioning Gram Sabhas and trained 4 (1)(e) committees under FRA. The Gram Sabhas have initiated various development works in the village. The Gram Sabha in Rekhatola has renovated the village pond and initiated collective work on developing organised fishing practices in their village. The Gram Sabha has constructed various small water bodies, which helped to secure one season crop and also small crops for the second season. Mohagao village located on the eastern Dhanora bordering to Chhattisgarh, has rights established under CFR and PESA. And they are managing their own resources. Forest conservation, management, auctioning of MFPs were undertaken by Mohagaon Gram Sabha. But they showcased a real fight for their rights when the Revenue Administration tried to overlook Gram Sabhas under PESA. Continuous illegal prohibitions were imposed by the administration on the use of Minor Minerals, and fines were imposed on a few villagers who were using sand and other minor minerals as per their traditional rights over resources. The Gram Sabha opposed it. They have summoned all the departments to attend their Gram Sabha. When they found out that there are no clear rules or guidelines in PESA on the use of minor minerals, the Gram Sabha have framed their own rules and procedures for using minor minerals.

<sup>69</sup>Compiled by Mahesh Raut



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