

Forest Rights Act 2006: Providing Land to the Landless in Orissa

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Reaching out to the tribals in the remote areas of Orissa, Pradan is participating in the process of implementation of FRA 2006, which seeks to legitimize the use of forest land for habitation, cultivation and livelihood purposes by tribals, who have been present in the area for generations.

INTRODUCTION

Across the world, people who reside in the fringe areas of forests are mostly poor, illiterate and backward although they stay amidst rich natural resources. This contrast can only be explained by the fact that forest dwelling communities do not have access to the rich natural resources around them, and thus are not able to benefit from them. Upon losing ownership over these forest resources to the forest department, the traditional systems that were evolved for the judicious use and conservation of forests disintegrated. This is primarily because without the participation of local communities, the department is unable to manage forest resources properly whereas the forest dwellers continue to depend on such resources. However, with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 coming into force, the Government of India has provided these most deserving communities with usufruct forest rights and the opportunity to protect forest resources. The Forest Rights Act (FRA) 2006 recognizes forest dwellers as both the real users and the custodians of forests.

FRA 2006 is of significance to the work Pradan is carrying out in the five districts—Kandhamal, Kalahandi, Rayagada, Keonjhar and Mayurbhanj—of Orissa. Communities in these districts depend on natural resource-based livelihoods and, therefore, most of Pradan's interventions are aimed at increasing the carrying capacity of land, be it revenue or forest. In the course of Pradan's work on livelihoods, we became aware of the many difficulties the forest dwellers were facing in availing of rights under the aforesaid Act. At the request of the community members, and realizing the importance of the Act, we engaged actively with departments/institutions at the village and district levels.

This article captures some of our chief experiences and learning from Kandhamal district in central Orissa. Kandhamal district was formed in 1994 by the division of

erstwhile Phulbani district. The district comprises 2 subdivisions, 12 blocks, 153 panchayats and 2,546 villages. It is regarded as one of the least developed districts in Orissa. Of the total population, 52% are scheduled tribes (STs) and 17% scheduled castes (SCs). The Kandha tribe, after whom the district is named, constitutes 91% of the total tribal population in the district. More than 78% of the families here live below poverty line (BPL). Due to a high percentage of the geographical area being under forests (72%), the average land holding per family is below 2 acres, and that too of very poor quality. As per government records, 31% families are landless. They cultivate encroached revenue and forest lands. In such a context, the FRA gains special significance.

KEY FEATURES OF THE FRA

- A person will be eligible to avail of the rights of this Act if he/she belongs to an ST and has been occupying the forest land before 13 December, 2005. For other forest dwellers, they should have been staying or occupying the concerned forest plot for at least three generations (that is, 75 years) before 13 December 2005.
- The Act provides the right to hold and live on forest land under individual or common occupation for habitation, self-cultivation and/or livelihood purposes by person(s) belonging to forest dwelling STs or other traditional forest dwellers.
- Forest dwelling communities can exercise their right of ownership, access to collect, use and dispose minor forest produce, which has been traditionally collected within and

outside the village boundaries. Community rights also include the use of forest land for common purposes such as for the village school, village tank, road and electricity connection, community hall and grazing.

- The right to use and maintain forest land cannot be transferred to any other person but only to his/her offspring.

STEPS TO IMPLEMENT THE ACT

1. A Forest Rights Committee (FRC) is formed through gram sabha meetings in each village, comprising 10 to 15 members, with at least one-third representation of STs and women.
2. Eligible individuals must apply to exercise their right (both for individual and community claims) to the FRC in prescribed formats within three months of the formation of the committee.
3. Each application needs to be accompanied by proof such as caste certificate, voter identity card and a minimum of two proofs showing the use of this land by him/her and a rough sketch of the plot.
4. The FRC forwards all the applications to the sub-divisional level committee (SLC) after an initial verification of the claims and having them vetted by the gram sabha.
5. The SLC examines the resolution made by the gram sabha by conducting ground verification through people deployed from the revenue department and forest department. Following this verification, it prepares the records of forest rights and forwards them to the District Level Committee (DLC).
6. Any individual, aggrieved by the decision of the gram sabha, may

make a petition to the SLC within 60 days of the decision. Similarly, a person may lodge a petition with the District level Committee (DLC), within 60 days of submission of record by the SLC to the DLC. After

this stipulated period, the DLC takes a decision that is final and binding.

The role and responsibility of each of the actors in the steps mentioned are provided here.

No.	Institution/Committee	Role and Responsibility
1.	Forest Rights Committee (FRC)	<p>Receives and acknowledges the receipt of claims in specified forms along with the supporting evidence for each claim.</p> <p>Prepares a list of claimants by physically verifying claims on forest rights.</p> <p>Prepares the records of claims, prepares maps and delineates areas under claims by indicating recognized landmarks.</p> <p>Prepares claims on behalf of the gram sabha for community forest rights.</p> <p>Presents its findings on the nature and extent of the claim before the gram sabha for its consideration.</p> <p>Resolves conflicts with other FRCs by calling for joint meetings. If such conflicts are not resolved, claims are referred by the FRC to the SLC.</p>
2.	Gram Sabha	<p>Plays a role in the formation of the FRC, and oversees the functions performed by the FRC.</p> <p>Verifies the claims, records and maps prepared by the FRC, and vets the same before passing the same to the SLC.</p>
3.	Sub-Divisional Level Committee (SLC)	<p>Being constituted at the sub-divisional level, this body examines the resolution passed by the gram sabha and prepares the record of forest rights and forwards it to DLC for final decision.</p>
4.	District Level Committee (DLC)	<p>The committee is headed by the District Collector, who finally approves of the record of forest rights prepared by the SLC. The decision of the DLC on the record of the forest rights shall be final and binding.</p> <p>It receives and reviews grievances from individuals, who are not satisfied with the decision of the SLC.</p>
5.	State Level Monitoring Committee (SLMC)	<p>Constituted at the state level, it comprises officers from the revenue, forest and tribal affairs departments of the state government, who monitor the process of recognition and vesting of forest rights.</p>

THE PROCESS ADOPTED IN BALLIGUDA AND KANDHAMAL DISTRICTS

In mid 2008, the district-level administration called for a meeting, which was attended by Block Development Officers (BDOs), District Forest Officers (DFOs), officers from the revenue department and NGOs having an active presence in the area. Pradan also attended this meeting. The District Collector stressed the need for implementing the FRA on a priority basis here. Keeping in mind Pradan's success in implementing the Orissa Tribal Empowerment and Livelihoods Programme (OTELP), Pradan was invited to participate in the implementation of FRA in Balliguda block, comprising 14 panchayats.

The block administration was given the responsibility of organizing the preliminary meetings in each panchayat and ensuring that gram sabhas are conducted. The forest and revenue departments were asked to demarcate and measure all such lands that come under claims. Pradan, on its part, was expected to facilitate village meetings, and provide support in constituting the FRC. Pradan was also required to assist the revenue department, especially the tehsildar, in its efforts to delineate and measure lands under claim, and assist the claimants in filling and submitting the prescribed forms to the FRC.

Soon after this meeting, Pradan fixed the date for the first FRC-related meeting, in consultation with the gram panchayat. The date for the meeting was fixed at the panchayat-level meeting, attended by all the ward members. With the assistance of the

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ward members, Pradan then made sure that the community members, particularly those living in remote habitations, were informed of the date well in advance. Pradan also relied upon its cluster of SHGs to spread awareness about FRA and the importance of attending the upcoming meeting. The meeting resulted in the successful formation of a FRC.

Shortly after the formation of the FRC, a team was formed to undertake the verification of forest plots. The team was headed by the tehsildar and comprised one representative each from the revenue and forest departments, and Pradan. The team was supported by a few volunteers and *amins* hired on a contractual basis by the revenue department. In order to ensure that there was no confusion and that the survey is carried out in a well-planned, phase-wise manner, Pradan called for preliminary meetings. Such meetings shed clarity on the areas that the team would survey, and also ensured the presence of the claimants at their plots during the survey. In addition, care was taken to ensure the presence of the village heads, ward members and FRC members during ground verification. Besides playing a vital role in the verification of forest plots, Pradan assisted individual claimants in undertaking the necessary paper work and arranged for the required support documents such as the voter identity card and the caste certificate.

To hasten the process of filling forms, village-level service providers were selected and they were given information about the Act. They

were trained in all respects, especially with regard to the maintenance of registers and records at the FRC level. A small amount was fixed for the services of such individuals. It was decided that the service providers would get Rs 12 per application—Rs 7 when the form is filled and submitted before the SLC and Rs 5 when the household receives the *patta* (record of land ownership).

Once the plots were surveyed and applications put in place, the date for the next gram sabha meeting was fixed, in order to prepare resolutions and forward the applications to the SLC. The district administration deputed two more officers, of the rank of tehsildar, at the sub-division level to expedite the process. Pradan did another round of information sharing to ensure that community members participate in the second meeting as well. As a result of all such

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efforts and the constant follow-up, the SLC prepared its reports and forwarded them to the DLC within 60 days, as required by the Act.

RECOGNITION OF CLAIMS

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the block level comprises about 12,400 families. The collective effort undertaken by Pradan has helped to reach out to 8,959 families falling in these panchayats. So far, 3,000 claims have been processed by the FRC and passed on to the DLC for final sanction. These 3,000 claims amount to nearly 1,015 acres of land. Considering the meagre landholding of the tribals in this area, ownership of such lands would greatly ensure tenure for a large number of households. Most of lands will also become eligible for other government programmes such as

TABLE 1: ACHIEVEMENTS UNDER FRA 2006

No.	GP	Total Families	SC	OC	ST	Families Claimed	Claims Passed by FRC, Submitted to SLC/ DLC	% of Families	Area (in ha)
1	Bataguda	883	222	167	494	461	461	93.3	206.6
2	Rebingia	698	100	165	433	429	417	99.1	181
3	Mediakia	541	135	132	274	250	250	91.2	126.5
4	Rutungia	749	162	90	497	401	401	80.7	149.2
5	Landagaon	553	111	289	153	58	58	37.9	23.7
6	Sudra	916	112	195	609	382	382	62.7	101.2
7	Balliguda	2,455	640	1,525	290	250	0	86.2	
8	Khamankhol	680	112	295	273	241	241	88.3	
9	Salaguda	852	141	234	477	420	420	88.1	107.6
10	Budrukia	632	85	131	416	370	370	88.9	119.5
	Total	8,959	1,820	3,223	3,916	3,262	3,000	83.3	1,015.3

NREGA. All such incentives are likely to decrease the pressure on forest resources, and provide greater impetus for conservation.

Pradan is now aspiring to reach out to the remaining 4 panchayats within Kandhamal. These panchayats comprise 3,500 households, of which more than 50% are STs. Simultaneously, a plan is being prepared to develop the newly claimed lands under NREGA.

Another achievement has been the survey of reserve forest lands under the provisions of the FRA. Previously, only revenue forests were being surveyed and measured for the purpose of claims. Pradan was able to raise this issue directly with the District Collector, and have tracts of lands that fall within the reserve forest areas surveyed by special teams constituted under the Act.

CHALLENGES AND THE WAY FORWARD

However, all was not smooth. Like most of the programmes or Acts, which are being implemented by the government, the FRA 2006 faces a number of hurdles. Following are some of our observations and learning:

1. In most remote villages, barring a few, people do not have any knowledge about this Act. This makes it all the more important to ensure proper awareness. In this regard, timelines should be prepared, depending on the awareness level of the community, available human resources, seasonal engagement of people and ease/difficulty in carrying out physical verification. On an average, a full year should be given to complete this

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2. Forest dwellers have been fined heavily in the past for encroaching government lands, especially the revenue wastelands. There is some apprehension, therefore, in

availing of rights under the FRA 2006. Forest dwelling communities most often suspect that an admission of their encroachments (as far as FRA 2006 is concerned) might end up inviting the government to forge encroachment cases against them, as has happened in the past. Such myths should be dispensed.

3. At a very basic level, people do not even know the category of lands they have occupied. To make things even more confusing, there are several instances in which a part of the total encroachment has been regularized in the past and a part has not. In such cases, farmers do not know for which of their plots they should make a claim. The absence of *pattas* or land documents adds to the problem. Revenue records should be made freely available to the farmers in order to assist them in making claims. Needless to say, land is always a sensitive issue. True claims are often compromised by the false claims made by the more influential lot. The administration must recognize such instances of land grabbing by well-off farmers.
4. Other backward castes and SCs cannot avail of the benefits of the Act because

- they are required to provide proof of occupation (over land) for a minimum of three generations. This has resulted in friction in certain villages where other backward castes and SCs feel that they are not receiving their due even when they have been dwelling in the forest fringe areas for just as long as the STs.
5. Likewise, at the village level, gram sabhas are meant to play a crucial role. But everyone knows that gram sabhas hardly take place, except where there is the active presence of an NGO, such as Pradan. It is well understood in the development sector that, in the absence of proper investment in group building, no collective operates in a participatory manner. In such cases, the poor suffer the most. This makes it all the more important for the administration to rely upon the community organizing skills of NGOs, in order to ensure the proper implementation of the Act. Without proper gram sabhas and community mobilization, FRCs will continue to exist on paper. In addition, the poorest of the poor or those living in remote habitations are likely to remain left out.
 6. Surprisingly, not much budgetary allocation has been made for handholding as mentioned above. The implementation process involves a lot of paper work and it goes through various actors at distant places before the final processing at the district level. Poor and illiterate people usually lack confidence in dealing with the above situations and depend on outsiders. The involvement of local NGOs should be encouraged, and sufficient financial allocations should be made to ensure their continuous engagement.
 7. Providing a proof-of-caste certificate is a mandatory requirement. This has to be attached to the application form. Getting the caste certificate within a short span of time from the tehsil office not only involves frequent trips to and fro, but also involves significant costs, in terms of the legal fee and under-the-table transactions. However, a decision taken by the SLMC grants that a gram sabha attended by at least two-third of its total members can pass a resolution confirming the caste status of individuals. Such resolutions can be produced in lieu of caste certificates. The process can be further simplified, as done by Pradan in Kandhamal and Balliguda, by providing the entire set of claim-related papers in a single set to community members.
 8. Ensuring access to leaves for leaf plate making through the provisions of the FRA is one of Pradan's biggest achievements. However, the claim cases for community rights are very low and claims for community rights over minor forest produce are mostly absent. This makes for a serious issue, amounting to a non-recognition of community based measures for ensuring forest conservation. This also undermines or overlooks the dependence of forest dwelling communities on minor forest produce, which, as several studies reveal, contribute significantly to the food and livelihood basket of forest dwelling communities.

CONCLUSION

The Forest Rights Act has tremendous power to conserve and regenerate forest resources. This will not only stop the current alarming situation of environmental degradation but also help in providing promising livelihood

opportunities to poor forest dwellers. However, the present way of implementing the Act may lead to many irregularities. It might even fail to benefit the most deserving households. Extensive awareness-building in each and every hamlet, allocating sufficient time to forest dwellers to understand and engage,

proper handholding support by a pool of volunteers and NGO involvement are the most critical requirements to effectively implement this Act. Proper budgetary allocations to enable handholding on the part of NGOs will also help in fulfilling the very objective of the Act.