Forest Rights Act in Chhattisgarh: Adivasis raise concerns over receiving fractions of forest land on ownership certificates

Photo: Dall.e

Written by Natasha Trivedi

Edited and Designed by: Nayla Khwaja

Copyright: The report, its contents, or a part of them, may be republished or reproduced for non-commercial use with reference to the original as "Natasha Trivedi, LCW Natural Resource Policy Brief - Oct 2023, Land Conflict Watch."
SUMMARY

- Several forest-dependent families in Chhattisgarh’s Surguja district have received only a fraction of the forest land that they have applied for rights over as per rules stipulated in the Forest Rights Act, 2006.

- The FRA prescribes various levels of verification for individual ownership over forest land – from village-level forest rights committee to spot inspections by forest or revenue department officials.

- Despite furnishing documents for proof as per the law, officials from the forest and revenue departments, as well as the sub divisional level committee (SDLC), record only the land area being cultivated at the time of the inspection.

- For instance, if a person has applied for 400 dismil (a local land measurement unit) of land, they have received only 14 dismil, which is roughly the size of a tennis court.

- Worried about being evicted from the land in case an infrastructural or mining project is undertaken, affected families don’t just fear receiving inadequate compensation but add that the land area granted is not enough to ensure a stable livelihood for them.
BACKGROUND

While the current Congress government in Chhattisgarh has made its support for the Forest Rights Act a part of its re-election campaign, an analysis of data at the block and district level in the Udaipur block of the Surguja district shows that the area of land claimed for ownership by individuals does not tally with the area granted on their ownership certificates. The data shows a gap of around 10,000 acres between the two at the district level. This is an issue that can be observed across the state in the implementation of the Individual Forest Rights (IFR) provision of the FRA. The reality of having received small parcels of land as opposed to the actual area that they are cultivating has raised concerns among Adivasi communities.


The Forest Rights Act was enacted in 2006 to correct “historical injustices” against forest-dependent Adivasi communities and other traditional forest dwelling families. Under the Act, these communities can receive rights over forest resources for economic and socio-cultural requirements. The FRA largely bestows three kinds of rights – (1) The individual forest rights (IFR) that allows an individual or a family to receive ownership over forest land that they prove occupation of before 13 December 2005; (2) The community forest rights (CFR) that gives a gram sabha rights over the village’s traditional forest area so that people may access non-timber forest produce (NTFP) and other resources like flowering and fruiting trees, and grazing lands, sources of water, etc; and lastly, (3) The community forest resource rights (CFRR) which empowers a gram sabha to manage the forest resources and plan for the monetization of the same as and when they wish.
The official website of the Union Ministry of Tribal Affairs says, “The forest management policies, including the Acts, Rules and Forest Policies of Participatory Forest Management policies in both colonial and post-colonial India, did not, till the enactment of this Act, recognize the symbiotic relationship of the STs with the forests, reflected in their dependence on the forest as well as in their traditional wisdom regarding conservation of the forests.” With a view of handing over the control of the forest for sustainable use to the people, the gram sabha has been made the nodal authority by the Act.

While some provisions of the FRA have been implemented with political will since 2018, when the Congress government was elected in Chhattisgarh, the loopholes in implementing individual forest rights persist.

b. Individual Forest Rights in Chhattisgarh

People who seek ‘pattas’, as the forest rights certificates are locally called, for the land that they are cultivating and/or occupying have several hurdles to overcome before they can be successful.

The application process is complex due to the requirements of specific documents and verification at several levels, including village, panchayat, sub-divisional, and district. While the Act sought to empower the village forest rights committee (FRC), it also assumed the capabilities of the FRC members in documenting and following through on the verification process. In many villages in Chhattisgarh’s Surguja district, FRC members are not even aware that they are part of the committee. Further, the panchayat and other authorities spend negligible time informing and building their capacities about the claims process.
This gap can be illustrated through the case of Sukhsay Kanwar, president of the forest rights committee in the Mareya panchayat of Surguja’s Udaipur block. Kanwar has occupied over 10 acres of land but had filed claims for 2 acres in 2017. He received an ownership certificate for 0.1 acres. He alleges that he had also paid Rs 500 to forest officials, but no spot inspection was conducted for his application.

Other loopholes manifest after the claims process is completed. In many cases, one of two situations play out: (1) The applicant’s claim has been rejected but they have not been intimated hence missing the deadline by which they can appeal against the rejection, (2) The applicant’s claim has been passed but they have not been notified and have not received the certificate.

Among the proofs accepted to attest an individual’s claim are testimonies of village elders (as witness to the applicant’s occupation of the land before December 13, 2005), and proof of residence. Additionally, satellite imagery and a preliminary offence report (POR) can also be accepted. A POR used to be issued by the forest or revenue department when a person was accused of cutting trees or clearing forest land for agricultural use before the FRA was enacted. In September 2012, the law was amended to read down the stringent proofs required in an application. Authorities were directed to accept the elders’ testimonies and residence documents as adequate proof to verify an application. Non-Adivasi forest-dwellers have to prove occupation for 75 according to the law.

“IT SEEMS LIKE THE LAND APPROVED IS BASED ON THE AREA THAT THE CLAIMANT IS FARMING ON AT THAT MOMENT, REGARDLESS OF THE AREA CLAIMED.”
EMERGING ISSUES
THE IMPACT OF POLICIES ON THE GROUND

Beneficiaries who have received an ownership certificate for less than an acre are excluded from the ambit of certain governmental schemes like the purchase of their paddy yield for the Public Distribution System (PDS), etc.

The fear of eviction from their land or pressure from the forest department to scale down their cultivation is constant.

In the potential situation that a person might receive inadequate compensation due to losing their land to a project, that person might have to depend more on daily wage labour in farms or in MGNREGA.

Their children stand to lose out on getting a sufficient share of land in their inheritance.
RECOMMENDATIONS

- There is an urgent need for transparent and monitored capacity-building of village forest rights committees with regards to their roles and responsibilities, their powers within the FRA, and the Act as a whole.
- An independent district-level committee should be instituted to conduct quarterly audits on the process of the individual’s claims.
- Under Chhattisgarh’s new PESA rules, the gram sabha president is to be elected for a year’s tenure. It should be ensured that the gram sabha president too is capable to understand, manage, and steer the FRA claims process.

REFERENCES

[i] Ministry of Tribal Affairs, Government of India (https://tribal.nic.in/FRA.aspx)