

Community Forest Rights recognition in Chhattisgarh State: Progress and Challenges



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1. BACKGROUND

In India, the Scheduled Tribes (STs) and other traditional forest dwellers (OTFDs) have been inhabiting and using forests for generations. During the consolidation of State forests in the colonial period and in independent India, their forest rights on ancestral lands were not adequately recognized. To undo this historical injustice, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (also known as Forest Rights Act or FRA), was enacted in 2006. The FRA mainly recognizes two types of rights: 1) Individual Forest Rights¹ and 2) Community forest rights. The focus of this study is on community forest rights.

The community forest rights i.e. the Community Rights (CR) and Community Forest Resource rights (CFRR) provisions of the FRA, when taken together, have the potential to decentralize and deepen democratic forest governance and bring about a transformative change in the economic and social conditions of the local people, and improve the management of the forests. They can further ensure livelihood security, poverty alleviation and development for the STs and OTFDs. This has been illustrated through its implementation in other states such as Maharashtra and Odisha (Sahu, Paul, and Dethe 2019; Sarangi 2020). FRA also gives high importance to gender equity and creates space for the inclusion of women in forest governance.

The challenge, however, has been getting these rights recognized. In particular, Chhattisgarh is one of the central Indian states where one would expect extensive CFRR recognition. It is home to 78 lakh Adivasis, which constitute 31% of the state population; of these more than 90% are rural. Moreover ~66% of the rural population is below poverty line. Chhattisgarh is also a heavily forested state where the Recorded Forest Area (RFA) in the State is ~ 45% of the state's geographical area and about 50% of the villages in the State are located inside five kilometres radius of forests ("India State of Forest Report 2019" 2019). Thus for inhabitants of these villages, which mainly include STs and OTFDs, forests are the primary source of

¹ Individual forest rights (IFRs) are rights to occupation or cultivation of forest land given to individuals of Scheduled Tribes and Other Traditional Forest Dwellers. These rights are not over a physical forest but over the land that was wrongly categorized as 'forest' but was actually under cultivation/habitation.

livelihood. Unfortunately, the overall implementation of community forest rights provisions is quite poor (“National Research Study on Implementation of Forest Rights Act in Neighboring States of Odisha” 2013).

2. CLARIFYING ‘COMMUNITY RIGHTS’ UNDER THE FRA

Before we describe the objective and methodology and present the findings of the study, we clarify and elaborate upon a few terms that we will be using in this report, and explaining the possible complexities that emerge in government reporting on community forest rights.

2.1 Possible types of community rights

There are several categories of ‘community forest rights’ in the FRA and understanding the distinction between these categories is important for our study.

Community Rights (CRs): These are community forest rights provided under section 3(1)(b) to 3(1)(m) and they include:

- rights such as *nistar* (traditional community use rights recorded in the *nistar patrak*) including those used in erstwhile Princely States, Zamindari or such intermediary regimes, (sec 3(1)(b));
- rights of ownership, access to collect, use, and dispose of minor forest produce (also known as non-timber forests products (NTFP)) which has been traditionally collected within or outside village boundaries (sec 3(1)(c));
- rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities (sec 3(1)(d));
- right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity (sec 3(1)(k)); and any other traditional right (sec 3(1)(l))

These are **rights for the use of forest resources and other natural resources**, and are usually recognized over the traditional use area, which may range from tens to hundreds to sometimes thousands of hectares. **We label them as CR-1 rights for clarity.**

CRs also include rights of customary use of sites or structures such as temples, cemeteries etc. They are therefore rights **to use forest land for traditional (pre-existing) ‘non-forest’ purposes**. The extent of forest land recognized under these types of CRs in a village is therefore likely to be quite small, a few acres at the most. **We label them as CR-2 rights.**

Community Forest Resource Right (CFRR): This right pertains especially to Sec. 3 (1) (i) – “right to protect, regenerate, or conserve or manage any community forest resource, which

they have been traditionally protecting and conserving for sustainable use”. This is the most significant right as it gives the community the right to manage and protect the customary common forest land within its traditional or customary boundaries. Clearly, the extent of CFRR rights would be coterminous with or a subset of CR-1 rights (because it pertains to the accessed and use forest area over which the Gram Sabha also believes it has customary management rights).

Sec 3(2) or Developmental rights (DRs): These are rights that provide for the diversion of forest land for the facilities managed by the Government such as schools, dispensary or hospital, anganwadis, fair price shops, community centers, etc. These rights are also restricted to a maximum of one hectare in each case.

Thus, we see that under the broad rubric of ‘community rights’, there are at least 4 major types of a permanent nature²:

- CR-1 and CFRR, which are on the use and management of **forest resources** on typically **large** parcels of land, whereas
- CR-2 and DRs are rights for **non-forest use** (pre-existing and new uses respectively) on **small** parcels of land.

It is also important to note that CFRRs (management rights) are likely to be on the same land or a subset of the land on which CR-1 (access/use) rights are recognized.

2.2 Confusion in implementation and reporting

Unfortunately, the process of implementation and reporting has shown that there is lack of clarity in the nodal agencies at both central and state levels about these distinctions. The amended FRA Rules of 2012 did create two different forms for claiming of CR and CFRR:

- Form B (claim form for Community Rights) and
- Form C (claim form for Community Forest Resource Rights) respectively.

Correspondingly, two different title formats are also given –

- Title to Community Rights, which lists the rights, describes the nature of the rights, and specifies the area, and
- Title to Community Forest Resource right (CFRR) which specifies the sec 3 (1)(i) right and gives the description of boundaries including customary boundary, by prominent landmarks, and by *khasra* (survey number) or forest compartment number.

² Excluding 3(1)(h)—the right to convert a forest/unsurveyed village into a revenue village—which is more like a one-time right.

However, there is no clear procedure for linking the areas in Form B and C, nor separate forms for CR-2 or DR claims. Nor is there clarity as to whether each right (e.g., grazing, NTFP collection, firewood collection—which may be over the same physical forested area) is to be granted a separate CR title or all rights are to be recognized in a consolidated title (the latter would obviously be much more useful and convenient). This has created much confusion.

Moreover, as we see in the MoTA Monthly Status Reports, *all* community rights recognized are reported in a **single column** and the areas reported are (most likely) the total of all the areas listed in the different titles issued. This results in both **confusion** (whether the rights are CR-1/CFRR, or CR-2/DRs) and **double counting** of area recognized (if two separate titles have been issued for CR and CFRR, or if different types of CR-1 rights are recognized in separate titles). Therefore the total number of titles mentioned in these reports has no relationship with (or is arbitrarily more than) the number of FRA Gram Sabhas in which community rights (especially CFRR) have been recognized.³

Given the significant differences within ‘community rights’, our analysis of community forest rights seeks to clarify the exact nature of rights recognized and areas over which they have been recognized, as this will be crucial to the subsequent exercise of forest ‘management’ under CFRR.

3. OBJECTIVES AND METHODOLOGY

This study was initiated with an effort to understand the nature of community forest rights and the titles which were recognized in Chhattisgarh. The recognition of these rights was in two phases in the state. The first phase was from 2008 to 2018. During this period, the focus was initially on only IFR rights recognition— between 2013 and 2016 there was no information on community forest rights recognized in the Monthly Status Report submitted to the Ministry of Tribal Affairs (MoTA). Subsequent reports suddenly show a large number of community forest rights granted, but it was not clear what kinds of rights they were and reports from the field indicated that a) they were not CFRR (they were either CR-1, CR-2 or DRs), and b) in most cases they were only on paper (Tatpati 2015).

A second phase began in 2019 with the change in governments, with the incoming dispensation having made FRA implementation a key part of their platform. A manual was

³ In Maharashtra state, where the community forest rights provisions were implemented first, single titles detailing the recognized CRs, CFRR and the CFRR area for that village, were distributed in many villages. In those cases, the number of titles distributed corresponded to the number of villages or Gram Sabhas recognized under FRA and the sum of the area indicated the total CFRR area recognized in that region. Unfortunately, this practice was not systematically followed in all of Maharashtra and (as we shall see below) is completely missing in Chhattisgarh.

published in Hindi in early 2020 (and later in English) that contained detailed instructions regarding how CR and CFRR area may be claimed. Following this, the state government appears to have focused on the recognition of CFRR and titles have been distributed in batches since August 2020.

Notwithstanding the differences in the approaches and the quality of implementation in the two phases, however, the Chhattisgarh government has been reporting **all** the rights granted as ‘community forest rights’. The Chhattisgarh government’s recent report (“वन अधिकार नई आशिए” 2020) claims that, by virtue of having recognized a total of 30,941 ‘community forest rights titles’ covering 30,58,873 acres⁴, it is the leading state in the country in FRA rights recognition. Similarly, recent newspaper reports thereby conclude that “**Chhattisgarh leads in recognising forest rights**” (*The Telegraph India* 2020) with “*more than 46,000 community forest rights [covering] more than 41,64,700 acres*” and around 1,300 “community forest conservation rights’ [i.e., CFRR] pertaining to over 5,00,000 hectares’ having been recognized by October 2020.” More recently, in August 2021, the government claimed to have recognized a total of **3,200 CFRRs**, and to have crossed 4,000 CFRRs by October 2021.

The objectives of this study into the recognition of community forest rights in Chhattisgarh are therefore two-fold:

- 1) To understand the manner of implementation of CR-1 (forest use rights) in the first phase and the limitations/lacunae therein, and
- 2) To understand the manner of implementation of CFRR (forest management rights) in the second phase and whether there may be ways to strengthen this process.

When the study began in March 2020, it was meant to include field data collection, including gathering village-level data for multiple districts, and interviewing government officials in those districts, and interviewing forest rights committee members and civil society organizations (CSOs) in sample areas to understand their experiences, rationales and the bottlenecks encountered in CR/CFRR recognition.

However, due to the COVID-19 pandemic and the resulting lockdown and travel restrictions, we had to revise our strategy. We were fortunate that officers in some districts responded to our requests for data over email, and they were also interested in the results of our analyses. We were therefore able to conduct web meetings with officials in two districts (Dhamtari and

⁴ As compared to say Maharashtra government’s report of 7,084 community titles over 28,36,660 acres.

Kondagaon) and also individual conversations with civil society groups working on this issue in several districts. In the case of newly recognized CFRR titles, copies of the claims and titles were shared by supporting CSOs, providing a basis for our analysis. Subsequently, in March 2021 and again in August/September 2021, we were able to conduct additional field visits in Bastar district, collecting and analysing secondary data and carrying out field cross-checks in the few villages.⁵ This revised report draws upon all these datasets.

4. ANALYSIS OF COMMUNITY RIGHTS TITLES GRANTED IN FIRST PHASE

Although the Chhattisgarh government reported that 21,967 community titles had been recognized by the end of 2018, anecdotal information available from various sources hinted at multiple lacunae in these titles:

- a) The titles were only CR titles (recognizing pre-existing *nistar* rights to collect forest products), not CFRR titles (management rights).
- b) In many cases the titles were given in the name of Joint Forest Management committees, not in the name of the Gram Sabahs as the law requires (Misra 2016)
- c) Most of these titles were given *suo motu* by the Forest Department without the involvement of the Forest Rights Committee or Gram sabha.
- d) The area recognized was often insignificant. For instance in Podgaon village in Kanker district, a CFRR title was granted under Section 3(1)(i) some years ago, without the villagers knowledge, over one hectare of forest land. Granting CFRR title over one hectare land, whose location is not specified, is quite pointless (“Forest Dwelling Communities and FRA 2006 - Evidence From 24 Sites” 2019).

On the other hand, the number of titles distributed (21,967) and the area covered (20,38,146 acres)⁶ looked very impressive, which seemed to contradict the anecdotal information. Hence, we decided to investigate (within the limits imposed by COVID-19) the actual nature of titles and areas recognized. Our findings indicate serious shortcomings/lacunae in these titles. The three districts for which we were able to obtain data indicate different types of shortcomings in the recognition process.

4.1 Dhamtari District: Repeat entries, multiple entries, inflating area numbers

Dhamtari district is situated in the plains region of Chhattisgarh state and comprises of four blocks viz. Dhamtari, Kurud, Nagari and Magarlod. Out of the total area of 4084 Sq.km. of the district, 2131 Sq.km. is forest land. The tribal population is 25% of the districts population i.e.

⁵ This work was carried out after the end of the Oxfam grant and was supported by internal ATREE funds.

⁶ December 2018 data

around 2 lakh. Thus, Dhamtari is one of the potential districts for FRA implementation. A list titled as 'Recognized Community Forest Rights title distribution status' in Dhamtari district was obtained from the Tribal Welfare Department in Dhamtari. The list had a total of 1378 entries. A recent report, वन अधिकार नई आशाए released by Chhattisgarh government, Department of tribal and Scheduled caste in August 2020 quotes that 1378 titles have been distributed in Dhamtari district over an area of about 1,46,688 ha. But Dhamtari district has a total of only 649⁷ villages. Then how can 1378 titles be distributed? Analysing the list we came across two main issues- the first corresponded to the number of community forest titles recognized in the Dhamtari district and the other regarding the area recognized under community forests rights.

A. Misleading number of titles distributed:

1. Close examination of the list revealed **that instead of one entry for each village/Gram Sabha which has received the community forest right title, each row corresponded to a community right** and the corresponding area recognized in that village. Thus each entry described the right recognized in a village such as NTFP collection, firewood collection, grazing, temples, cemeteries, schools, etc. For instance, see below the community rights recognized in Basikhai village. Thus the list is actually of community rights, but has been **wrongly quoted as CR/CFRR title list.**

Entry no.	Block	Gram Panchayat	Village	Community right	Area (ha)
636	Kurud	Basikhai	Basikhai	Village	0.04
635	Kurud	Basikhai	Basikhai	Anganwadi	0.21
634	Kurud	Basikhai	Basikhai	School	0.21
637	Kurud	Basikhai	Basikhai	Cemetery	0.25
641	Kurud	Basikhai	Basikhai	NTFP collection	1
633	Kurud	Basikhai	Basikhai	Playground	1
639	Kurud	Basikhai	Basikhai	Grazing	20
640	Kurud	Basikhai	Basikhai	Grazing	20
638	Kurud	Basikhai	Basikhai	NTFP collection	794.80

2. In the data sheet there were numerous **repeated entries of the same claim (with different entry numbers)**. For instance: In village Gorsanala, 205 ha of land has been recognized for grazing twice – the first one is at entry number 280 and other the entry is at 1335. Similarly, in Ghotgaon, 2 ha area has been recognized as cemetery, but this has been repeated 4 times more at different entry numbers. Thus **around 287**

⁷ <https://dhamtari.gov.in/about-district/administrative-setup/>

such repeated entries were found in the list. When these repeated entries were removed from the list the total number of entries came to about **1091**.

Entry no.	Block	Gram Panchayat	Village	Community right	Area (ha)
280	Nagri	Tangapani	Gorsanala	Grazing	205
1335	Nagri	Tangapani	Gorsanala	Grazing	205

Entry no.	Block	Gram Panchayat	Village	Community right	Area (ha)
1030	Nagri	Ghotgaon	Ghotgaon	Cemetery	2
1162	Nagri	Ghotgaon	Ghotgaon	Cemetery	2
1224	Nagri	Ghotgaon	Ghotgaon	Cemetery	2
1260	Nagri	Ghotgaon	Ghotgaon	Cemetery	2
1332	Nagri	Ghotgaon	Ghotgaon	Cemetery	2

3. **Number of entries corresponding to DR and CR-2 rights:** Out of **1091** entries, the type of right could not be determined in 3 entries. Of the remaining **1088** entries, around **670** entries were given either as developmental rights i.e. DRs (Sec. 3(2) rights) or CR-2 rights. These rights seem to be given for facilities managed by the Government such as schools, dispensary or hospital, anganwadis, fair price shops, community centres or for customary use of sites or structures such as temples, cemeteries etc. which are on forest land. Thus, **only 418** entries corresponded to forest use rights i.e. CR-1 such as NTFP collection, grazing etc.
4. Even out of these **418 entries**, in **84 entries** CR-1 area recognized was 20 ha or less than that. So only **334** entries had substantive CR-1 rights.
5. As indicated above, each row corresponded to the community right recognized in the villages. As a result there were **multiple entries for a single village**, as seen in the example above. The number of entries per villages varied drastically. For instance, some villages such as Baniyatora in Kurud block had only one entry for CR-1 (grazing) whereas villages such as Kauhabahra and Bhadseona village in Nagri block had 28 and 31 entries of community rights (CR-1, CR-2, and DRs) recognized in the village, respectively. So when analysed, **the total number of villages where these rights were recognized came to about just 243 villages. Thus the total number of Gram Sabhas that received community rights is actually 243 and not 1378.**

6. Moreover, out of the 243 villages, around **96 villages** had received only CR-2 and DRs. These 96 villages had not received any CR-1 rights for NTFP collection, grazing etc. So **only 147 villages had received substantial CR-1 rights.**

B. Exaggerated Estimate of Area Recognized under community forest rights (CR-1)

There were numerous issues with the area recognized under community rights especially those concerning CR-1 rights. As the report indicated, 1378 titles were distributed in Dhamtari district over an area of about **1,46,688 ha** (*“वन अधिकार नई आशा”* 2020). When we calculated the sum of the areas of the 1378 entries it came to about **1,43,674 ha**, which is lower by 3000 ha from the official figure quoted.

1. As we saw in the first part, there were numerous repeat entries in the list. These repeat entries were not only inflating the number of titles distributed but also the adding to the community forest rights area recognized. For instance, for Farsiya village there were multiple repeat entries. Addition of area of these entries came to about **10,370 ha**. But the highest area that has been recognized as CFRR area is for village Jabbara i.e. **5352 ha**.

Entry no.	Block	Gram Panchayat	Village	Community right	Area (ha)
1042	Nagri	Farsiya	Farsiya	Firewood collection, Nistar	218
1174	Nagri	Farsiya	Farsiya	Firewood collection, Nistar	218
1236	Nagri	Farsiya	Farsiya	Firewood collection, Nistar	218
1271	Nagri	Farsiya	Farsiya	Firewood collection, Nistar	218
1317	Nagri	Farsiya	Farsiya	Firewood collection, Nistar	218
1043	Nagri	Farsiya	Farsiya	Grazing	393
1175	Nagri	Farsiya	Farsiya	Grazing	393
1237	Nagri	Farsiya	Farsiya	Grazing	393
1272	Nagri	Farsiya	Farsiya	Grazing	393
1318	Nagri	Farsiya	Farsiya	Grazing	393
1041	Nagri	Farsiya	Farsiya	NTFP collection	1463
1173	Nagri	Farsiya	Farsiya	NTFP collection	1463
1235	Nagri	Farsiya	Farsiya	NTFP collection	1463
1270	Nagri	Farsiya	Farsiya	NTFP collection	1463
1316	Nagri	Farsiya	Farsiya	NTFP collection	1463
				Total	10370

Hence a simple addition of all the entries is not a true representative of the total community forest area recognized in the village and Dhamtari district.

The 287 repeated entries we found in the earlier analysis were adding a total of **49,223 ha** superfluous area.

2. **Same area given for different types of rights:** In cases where same area is given for different type of rights, it was difficult to determine whether those rights are to be practiced in the same area or are two different areas allotted for these rights, as compartment numbers/Khasra no. are not specified. This is especially the case for firewood collection, NTFP collection and grazing rights. For instance, in Mategahan village the community rights were to be exercised on the same land parcel of 50 ha or three different areas of 50 ha each have been recognized (thus making it 150 ha) could not be ascertained.

Entry no.	Block	Gram Panchayat	Village	Community right	Area (ha)
1012	Dhamtari	Chikhali	Mategahan	NTFP collection	50
1013	Dhamtari	Chikhali	Mategahan	Grazing	50
1014	Dhamtari	Chikhali	Mategahan	Firewood collection	50

3. For some villages **different areas are recognized for the same type of right.** For instance in Bhadseona village, area recognized for fuelwood collection is **26 ha and 250 ha**. Similarly for grazing **300 ha and 38 ha** are recognized, and for NTFP purposes **300 and 526 ha** of area are recognized. As a result it is difficult to determine if these areas overlap or are they separate.

Entry no.	Block	Gram Panchayat	Village	Community right	Area (ha)
302	Nagri	Bhadseona	Bhadseona	Firewood collection	26
1355	Nagri	Bhadseona	Bhadseona	Firewood collection	250
301	Nagri	Bhadseona	Bhadseona	Grazing	38
1353	Nagri	Bhadseona	Bhadseona	Grazing	300
299	Nagri	Bhadseona	Bhadseona	NTFP collection	300
1358	Nagri	Bhadseona	Bhadseona	NTFP collection	526

So this indicates that summing up of areas will not yield the actual CR/CFRR area recognized in the district. So this number is erroneous. And even the remaining **94,451 ha** is inflated because same area is given for different types of rights as seen in point 3 and 4.

4.2 Example of Gross Errors in forests allocated: Kondagaon District

In Kondagaon district we were not able to get the entire community forest rights dataset for the district. Instead we got the list of titles which were recognized in the Keshkal tehsil of Kondagaon district. In addition to the details of the village and the rights recognized, the list also included the forest compartments which were recognized under community forest rights, thus giving us a better idea of the spread of the recognized area.

There were a total of 92 entries for community rights in the list. But the actual number of unique villages which had received the titles was **37**. Most of the rights were of CR-1 type such as grazing and NTFP collection along with a few CR-2 and DRs. The following are the issues encountered in the recognized community rights title.

1. The same area and compartments were given for NTFP collection and grazing in maximum cases. This indicates that most of these **rights are over the same area but separate entries have been made**. For instance see the case of Mahurbeda village-

Entry No.	Tehsil	Compartment no.	Village	Community right	Area (ha)
91	Keshkal	P 2786, RF 2799	Mahurbeda	Grazing	190
92	Keshkal	P 2786, RF 2799	Mahurbeda	NTFP collection	190

2. **Negligible area recognized - case of Pipra village:** Pipra is the largest village by population (11728 out of which 8700 are STs) and the total geographical area (TGA) is also quite large (6761 ha). Similarly it also has a **2702 ha** area indicated as forest in the census. But the total area recognized as community forest area is compartment number OA 2954 which is barely 12 ha. (grazing and NTFP rights are over same area in compartment number 2954).

Entry No.	Tehsil	Compartment no.	Village	Community right	Area (ha)
13	Keshkal	OA 2954	Pipra	Grazing	11
14	Keshkal	OA 2954	Pipra	Cemetery	0.9
15	Keshkal	OA 2954	Pipra	NTFP collection	11

3. **Haphazard/Irregular community forest area recognition: Case of 3 neighbouring villages:** Gourgaon (Chikhaladih), Kohkameta, and Sidhawand. We took an example of three neighboring villages to understand which area has been recognized as the CR area of these villages.

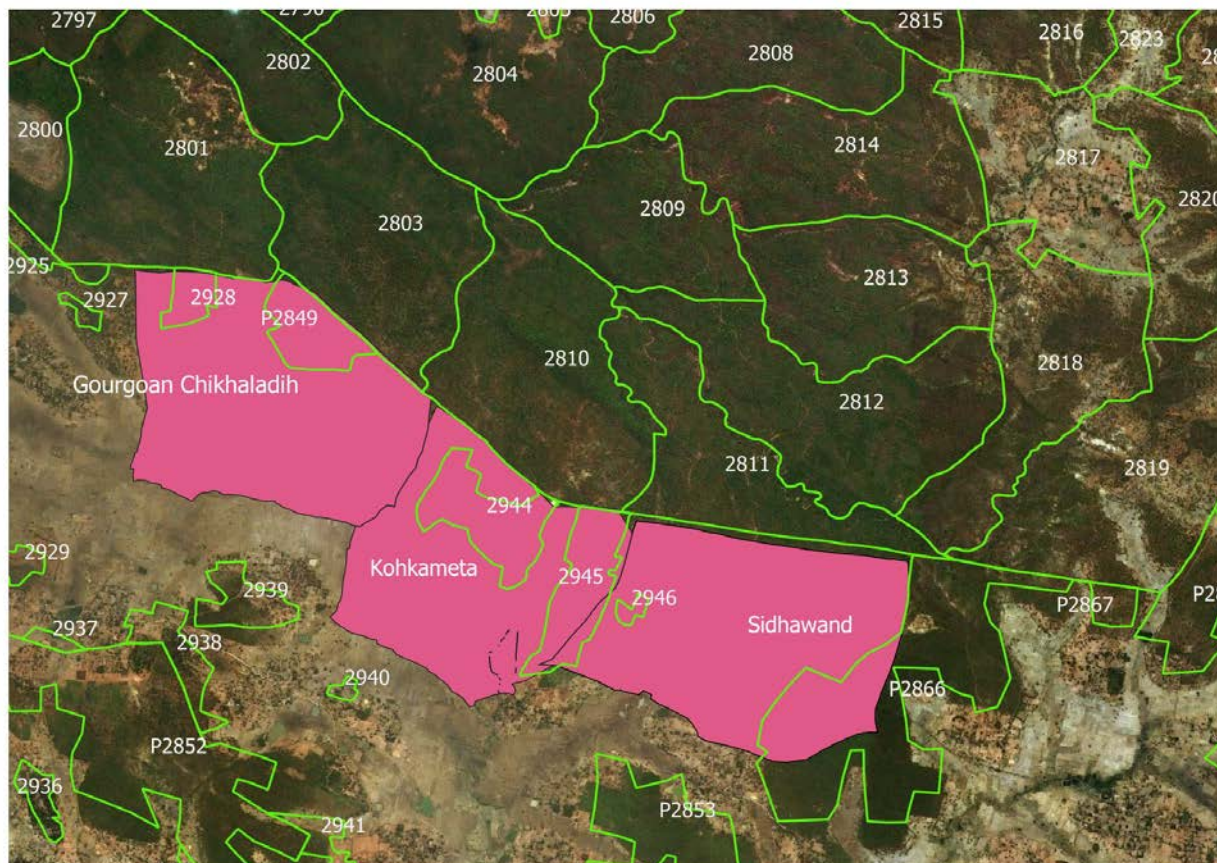


Figure 2: Placement of Gourgaon, Kohkameta and Sidhawand (pink) with respect to neighbouring forest compartments (outline green).

a) Gourgaon

Gourgaon village had its community forest area recognized over compartments RF 2802, 2896, and P 2849. The below figure shows the location of the village and the recognized CR area. The compartment 2896 is approximately 20 km to the south-west of the village in Dhanora RA circle. There is no other 2896 compartment. Compartment 2896 seems like a case of **mistaken entry**. But then it is difficult to ascertain which other compartment has been recognized as Gourgaon's CR area (It may be 2928). Further the compartment 2802 is not adjacent to the village but at a distance of nearly 2 kms from the village.

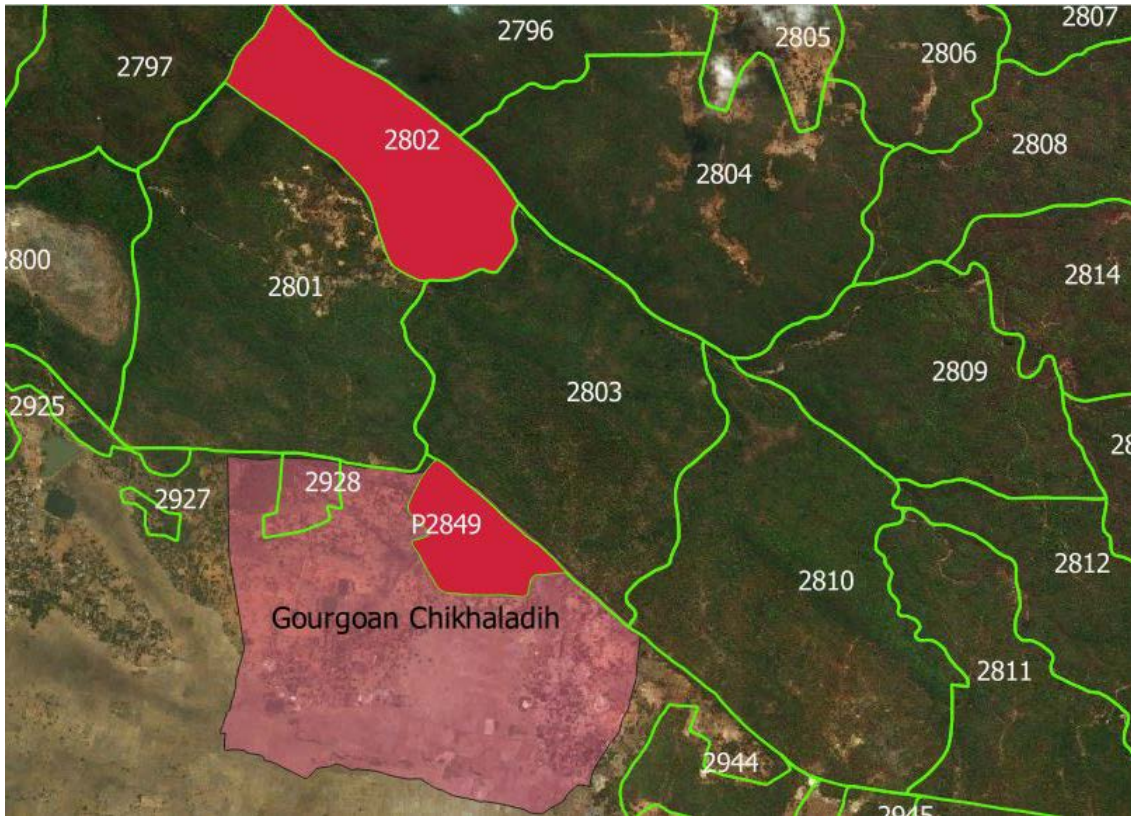


Figure 3: Gourgaon village (pink) and the compartments given under CR title (red).

b) Kohkameta:

There is only one entry for grazing for Kohkameta for an area of **1071 ha** over the compartments OA 2954, 2945, 2809, 2804. The total geographic area of the village is 436 ha. Here too, compartment OA 2954 is approximately 15 km to the south of the village. (This could be a case of mistaken entry for 2944 which is within the revenue boundary). Additionally the other two compartments 2809 and 2804 are not adjacent to the village boundary, instead are at a distance of more than 2 km from the village as shown in the figure below.

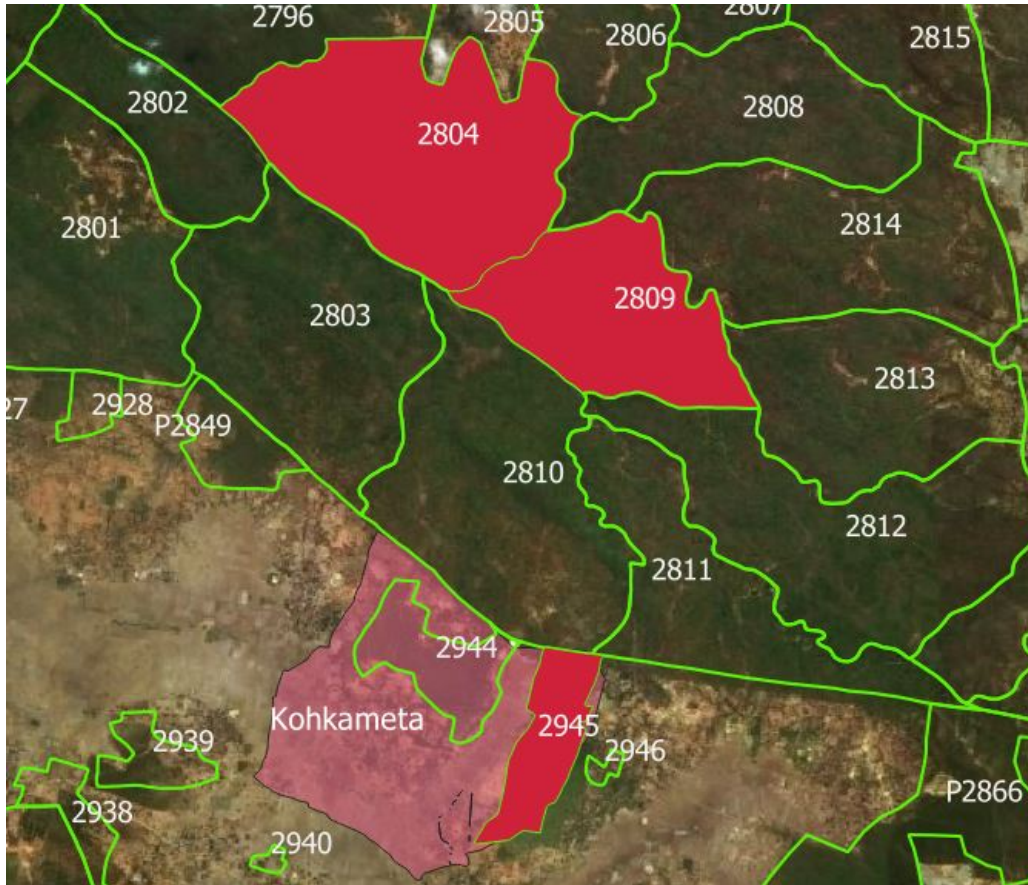


Figure 4: Kohkameta village (pink) and the compartments (red) given under CR title.

c) Sidhawand

On the other hand, the community forest area of Sidhawand village was recognized over 4 compartments RF 2811, 2812, 2813, 2814. Where compartment RF 2811 was adjacent to village boundary and the others were subsequent adjacent compartments as shown in the figure below.

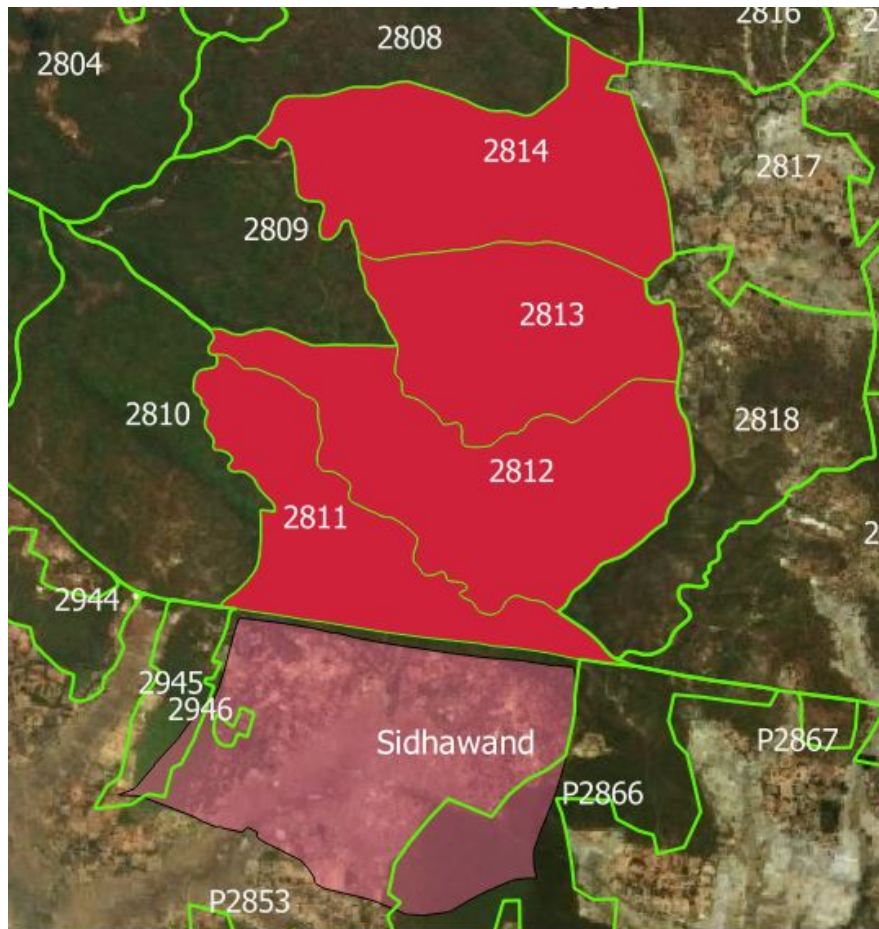


Figure 5: Sidhawand village (pink) and the compartments given under CR title (red).

It can be seen from Figure 6 that Sidhawand village has been given its neighbouring forest compartment i.e. 2811 under CR title but villages Kohkameta and Gourgaon have not received their neighbouring forest compartments as CR area i.e. **2810 for Kohkameta and 2803 & 2801 for Gourgaon.**

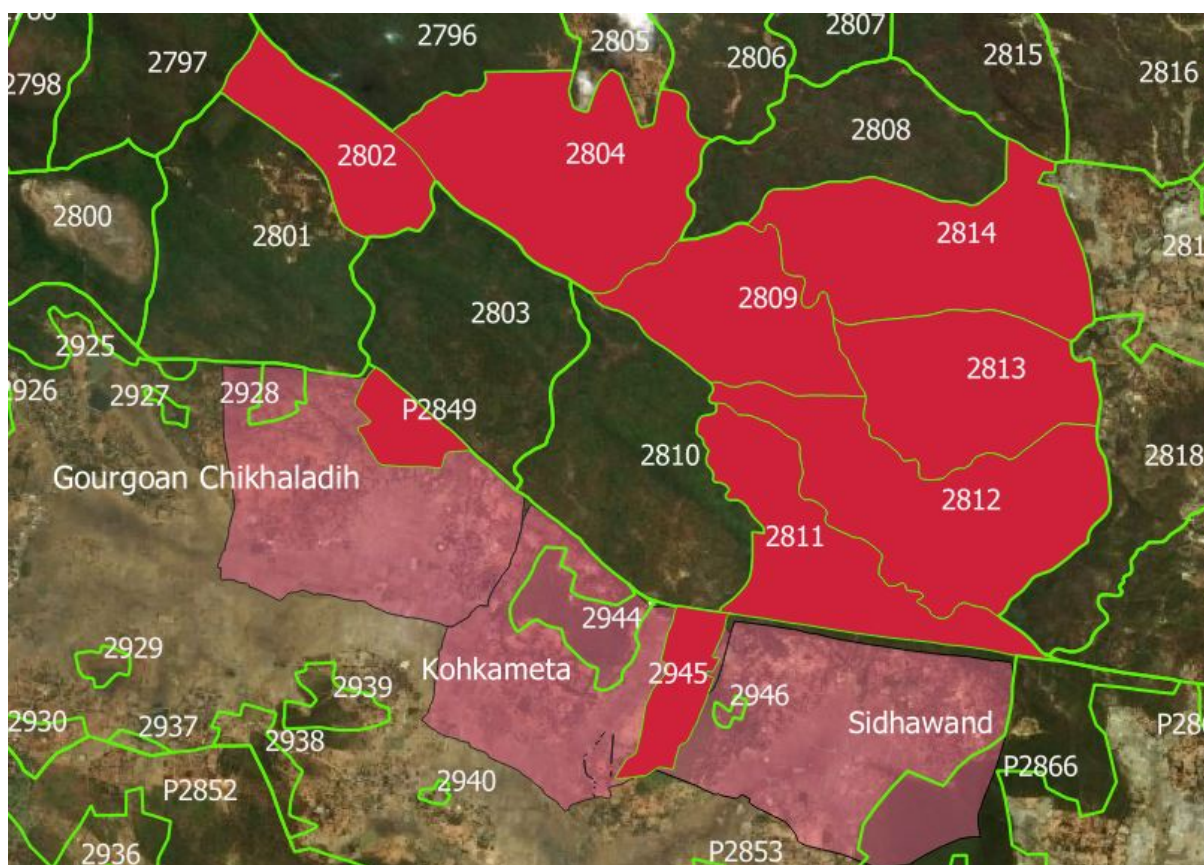


Figure 6. Gourgoan, Kohkameta, and Sidhawand (pink) and the compartments (red) given under CR title.

4. **Forest of one village recognized as CR area of other: Case of Nawagarh and Nayanar:** Nawagarh and Nayanar are neighboring villages. They are predominantly ST. They also have substantial forest area within their revenue boundary as shown in the table below.

Village	TGA (ha)	Total households	Total population	SC	ST	Forest (ha)
Nawagarh	455	178	888	65	745	150
Nayanar	572	143	750	0	731	300

According to the CR title Nawagarh and Nayanar are sharing a compartment i.e. 23. The total area of compartment 23 is 47 ha, so technically the same area is recognized for grazing and NTFP collection for Nawagarh. While the Nayanar has got only 1 ha for cemetery and 18 ha for NTFP collection in compartment 22.

Entry No.	Tehsil	Compartment no.	Village	Community right	Area (ha)
16	Keshkal	P 23	Nawagarh	Grazing	41
17	Keshkal	P 23	Nawagarh	NTFP collection	41
18	Keshkal	P 23	Nayanar	Cemetery	1
24	Keshkal	P 22	Nayanar	NTFP collection	18

But compartment 23 is actually located within the revenue boundary of Nayanar, as seen in the figure below. Then how was it recognized as a CR area for Nawagarh village? Further, there is no mention of the forest which is located within the boundaries of these two villages (according to census).

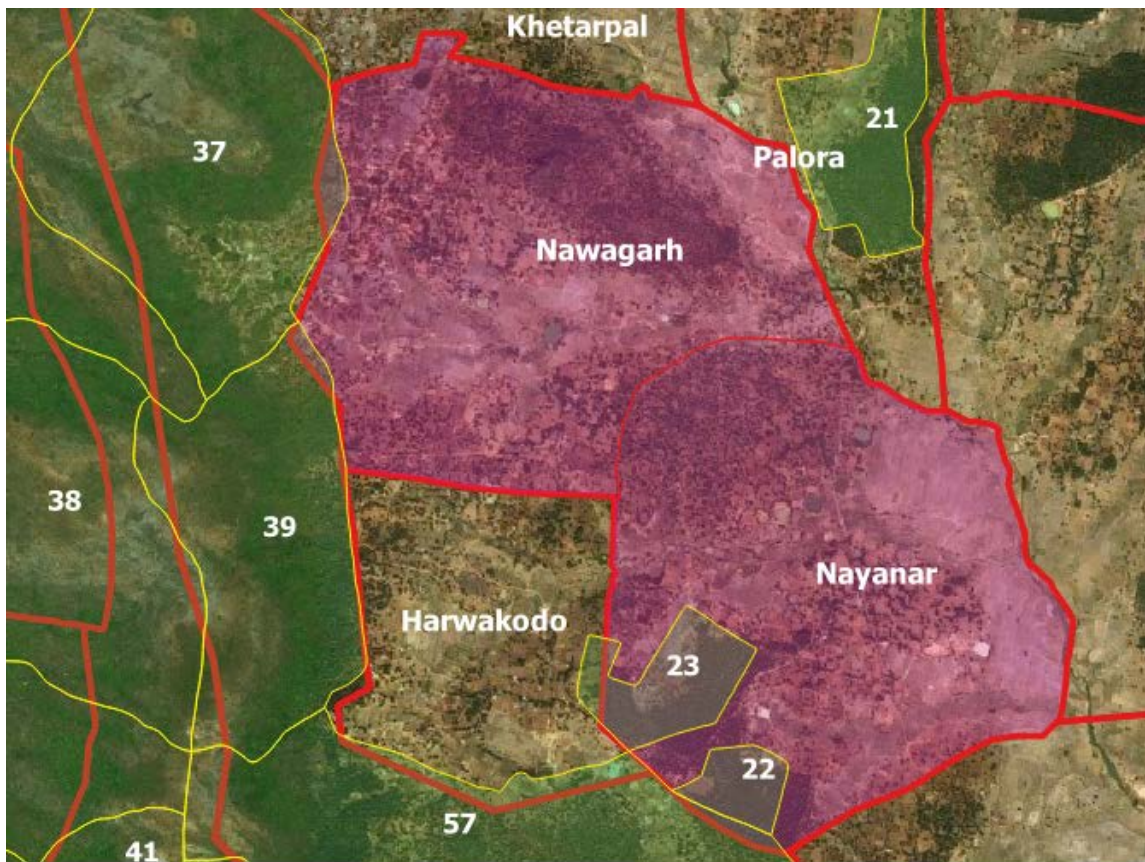


Figure 7: Nawagarh and Nayanar village (pink) and forest compartment according to CR title – 23 and 22.

Village Harwakodo, located to the south of Nawagarh and east of Nayanar, is not in the list at all. Nawagarh village shares its village boundary with compartment 37 and 39. Even Harwakodo and Nayanar share boundary with compartment 39 and 57 respectively. But these compartments have not been recognized.

5. Selective recognition of CR area: Case of Raobeda village

Raobeda is a small village of just 48 households (229 total population) which is predominantly ST. As regards CR area recognition many compartments have been recognized for the following community rights which are shown in the figure 8.

Entry No.	Tehsil	Compartment no.	Village	Community right	Area (ha)
53	Keshkal	P 2747	Raobeda	Grazing	337
54	Keshkal	P 2744, 2747	Raobeda	NTFP collection	412
55	Keshkal	P 2746	Raobeda	Cemetery	1
56	Keshkal	P 2725, 2749, 2748	Raobeda	Grazing	885
57	Keshkal	P 2746, 2726, 2725, 2749, 2748	Raobeda	NTFP collection	1564

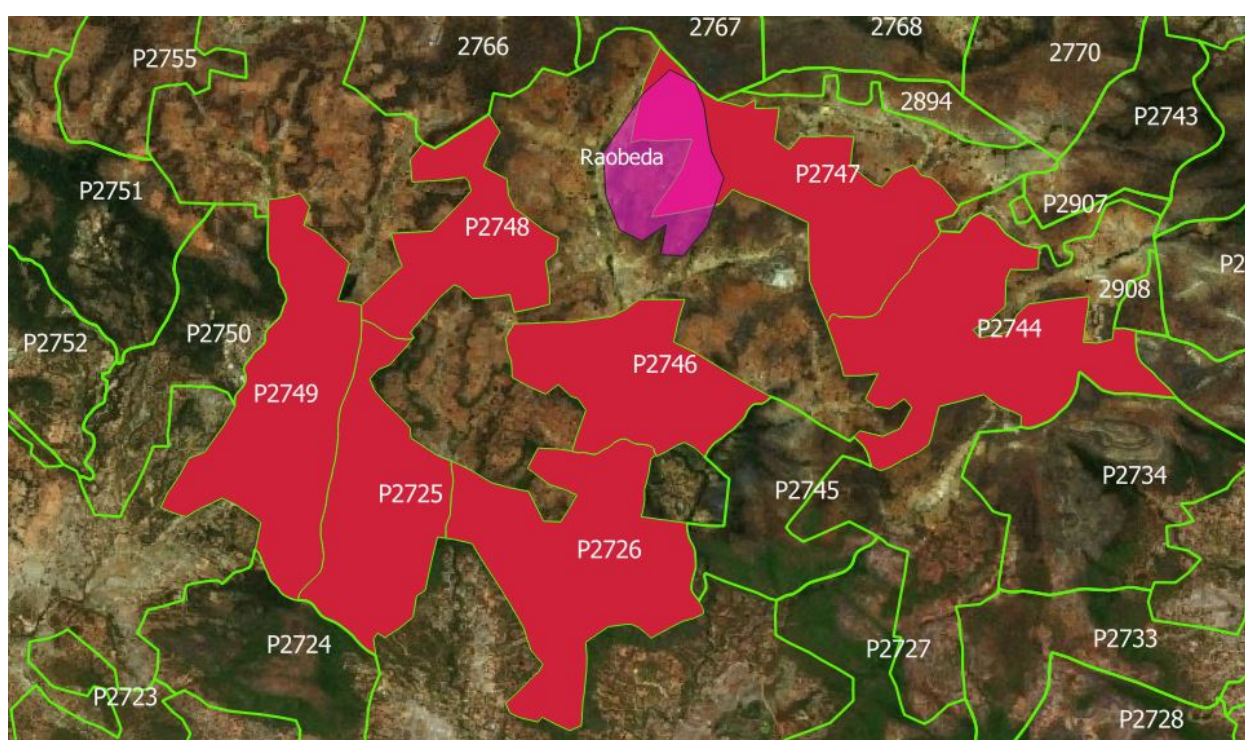


Figure 8: Raobeda (pink) and compartments under CR title (red).

As evident only one compartment is adjacent to the village boundary of Raobeda i.e. P2747. The other compartments are not adjacent to the village, while some of them are quite far. The CR-1 area may traditionally extend to these other compartments but the main issue here is that these other compartments recognized for Raobeda fall in the revenue boundaries of other villages and could well be within the CR area of these other villages (as shown in figure below). But these villages around Raobeda haven't received any CR title.

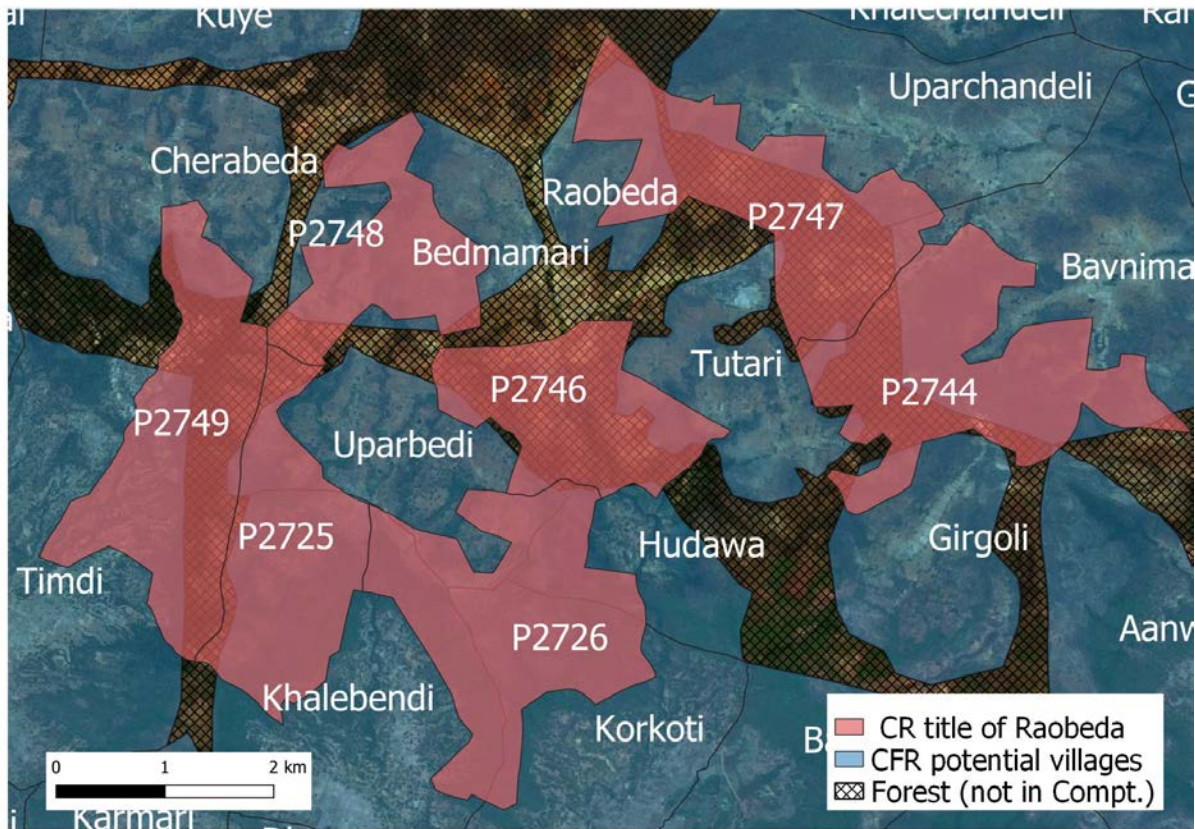


Figure 9: Compartments given under CR title to Raobeda (pink) and other neighboring CFRR potential villages (blue) around these compartments

4.3 Mungeli District: No forest area granted to Forest Villages

Mungeli district is located in the north-western part of the state and encompasses an area of 2750 km², comprising of three tehsils, viz., Mungeli, Lormi and Pathariya. The district has a substantial forest area (1,100 km²), most of it falling in Lormi block.⁸ The state level data (submitted to MoTA) state that in Mungeli district 295 community forest rights titles have been recognized over an area of 325 ha. This indicates that each village has received barely more than 1 ha of CR area. Upon obtaining and examining the village-wise list for Mungeli district as of 2016, we find that there were 232 entries of different types of community rights recognized, but these 232 community right titles were assigned to only **37 unique villages**. Most of these villages were located in the Lormi tehsil, in and around the Achanakmar Wild Life Sanctuary which was declared a Tiger Reserve in 2009. The spread of the villages can be seen in the figure below. All the villages seem to be forest villages.

⁸ Source: <https://mungeli.gov.in/en/demography/>

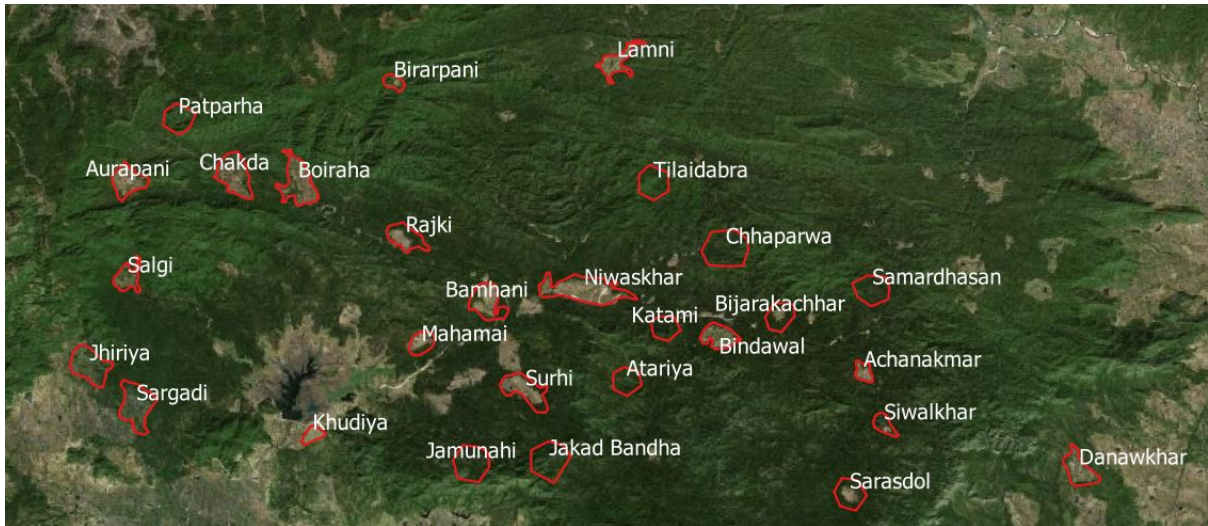


Figure 10: Spread of villages near Achanakmar sactuary

According to census 2011, the population in majority of these villages is 100% ST, mostly Baiga. So there is no doubt that these Gram Sabhas are eligible for CR/CFRR, and given their composition they are also likely to be heavily forest dependent and hence keen on such rights. But examination of the title list reveals that these villages have received only sec 3(2) DRs for schools, community halls, community centres, and CR-2 for temples, cemeteries, etc.

These villages have substantial forest area adjacent to their boundaries. For instance, as seen in Figure 11 below, Chakda and Boiraha villages are fully surrounded by forests and so should have their community forest rights recognized on the adjacent forest areas. But they have received only 14.77 ha and 6.76 ha respectively as CR area and it appears to pertain to non-forests uses (CR-2). None of these village communities' CR-1 (forest use rights) were recognized in the first round, even though they are traditionally dependent on the forests for their livelihood.



Figure 11. Chakda and Boiraha villages and neighboring forest area

In short, the pre-2019 phase of community forest rights recognition, although showing massive achievements in numerical terms, was highly faulty and did not translate into any meaningful rights to communities on the ground.

5. RECOGNIZING CFRR: PROGRESS AND CHALLENGES

In this section, we focus on the process of community forest rights recognition during the second phase, i.e., after 2019. As mentioned earlier, while the first phase was focused almost entirely on recognition of CR and DR titles, the second phase (which is still ongoing) has focused entirely on the recognition of CFRRs. Towards this, the state government has implemented several positive steps, including:

- a) the preparation and publication of a detailed step-by-step manual with instructions on how CR and CFRR may be claimed, in Hindi in early 2020 and later in English as well;
- b) conducting multiple training programs for higher and mid-level officials (state, district and block level) from revenue, forest and tribal welfare department;
- c) getting the forest department to place most of the working plans and kml files of compartment boundaries in the public domain, which now can be easily accessed and used by the people for filing claims;
- d) setting up an FRA related team in the CM's office and more recently an FRA cell with UNDP support in the Tribal Welfare department; and
- e) in general, providing a strong push from the CM's office for recognition of CFRR claims.

The above measures, in combination with the work of a large number of grassroots organizations and NGOs, have resulted in a large number of CFRR claims being filed and recognized, beginning from mid-2019. By August 2020, about 1,200 CFRRs had been recognized; this number rose to 3,300 titles by August 2021, and as of October 2021, it is supposed to have crossed 4,000 titles. This achievement is remarkable. Moreover, the titles usually include maps of the claimed areas or at least mention the compartment and khasra numbers, and are issued in the name of the Gram Sabha, thereby redressing some of the errors that occurred in the previous phase.

This focus on and pace of CFRR recognition is highly commendable. At the same time, our cross-checks of a sample of the titles issued and subsequent field visits to cross-check apparently discrepant titles in certain villages in southern Chhattisgarh indicate that several issues or lacunae. These lacunae need to be addressed early to ensure CFRR recognition in a rigorous manner such that there is an empowerment of the Gram Sabha for community forest resource management and future conflicts are avoided.

5.1 Incorrect inclusion of non-forest revenue lands in CFRR area

It appears that villagers are interpreting the process outlined in the Chhattisgarh FRA Manual of mapping the village's 'customary boundary' (पारंपरिक गाँव सीमा) to include the entire area of the village, i.e., the agricultural fields, settlement, common facilities and the customarily used forest area. But most of the agricultural land, settlement and common facilities are not on forest land but on private revenue land or public revenue lands not classifiable as forests. Not only is the FRA inapplicable in such cases, but calling such lands (privately cultivated lands, etc.) as CFRR area would be hugely problematic in the future. Unfortunately, the SDLC/DLCs are not always alert to this problem. We illustrate this phenomenon with the example of Mandri village from Kanker block of Kanker district.

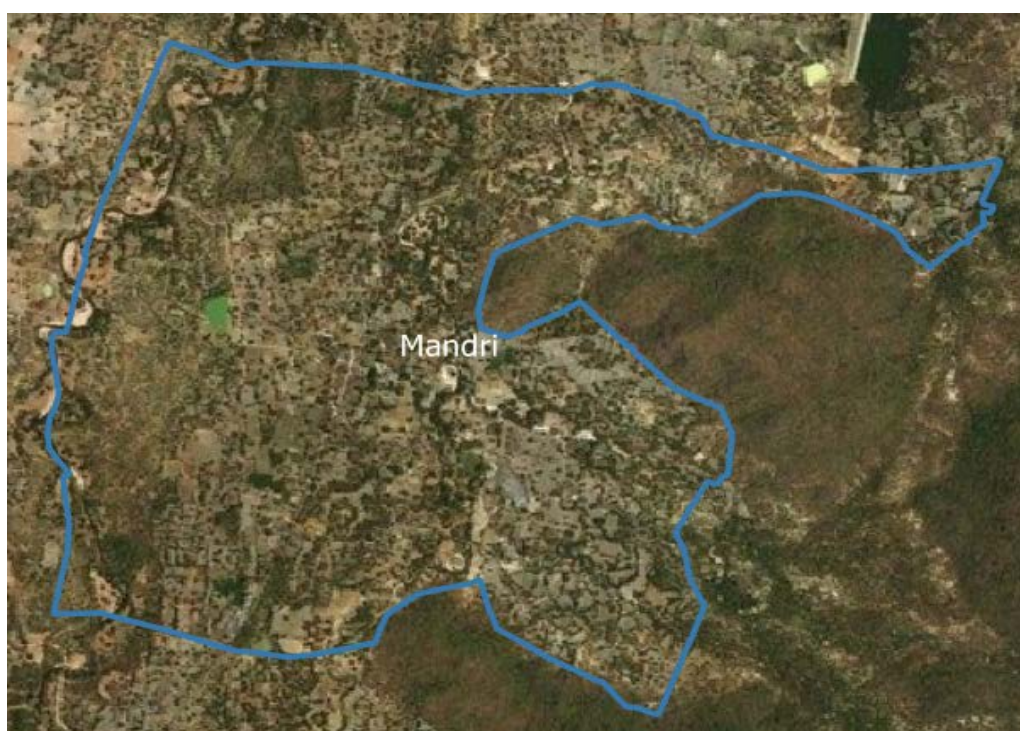


Figure 12. Revenue boundary of Mandri village (blue).

According to census (2011), the total geographical area (TGA) of the village is 515 ha out of which, protected forests/orange areas cover 115 ha (Census data). This is confirmed by the village revenue boundary (Figure 12) and cadastral map overlay (Figure 13). The cadastral map in Figure 13 shows that most of the land within the revenue boundary is either agricultural fields or settlements, but there are two forested patches (khasra numbers 8 and 87) which add up to the forest area given in the census forest column (forest land within revenue boundary of the village). So the non-forest land within the revenue boundary of the village is about 400 ha.

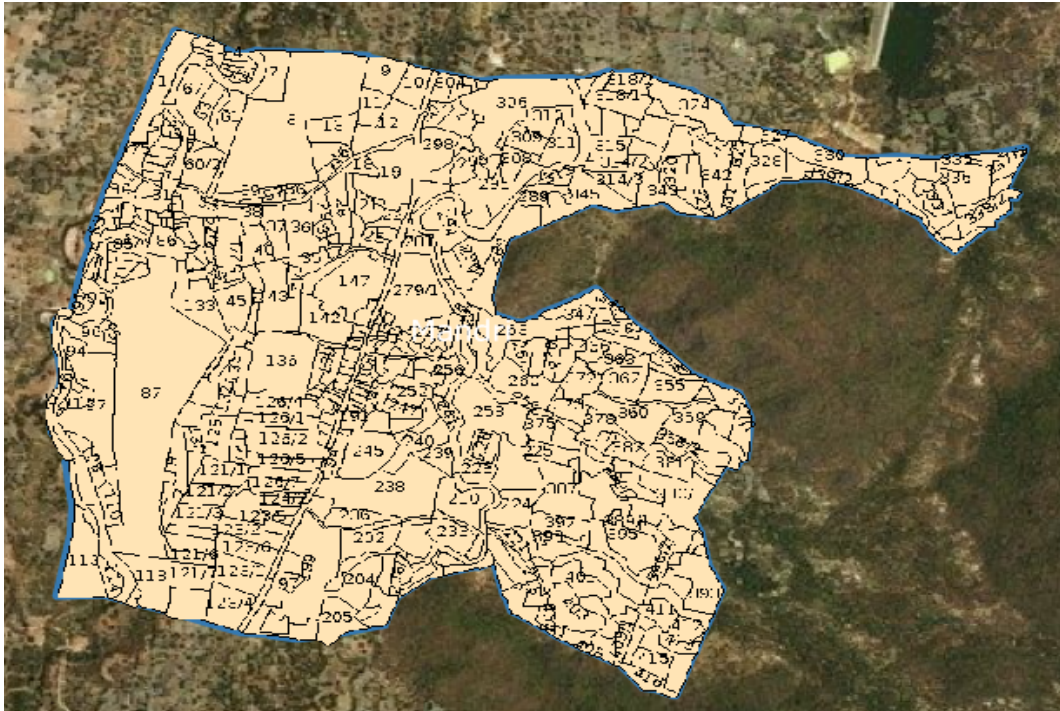


Figure 13. Mandri village: Cadastral map overlaid on village boundary



Figure 14. Demarcated CFRR boundary of Mandri village (red line).

However, the claimed and recognized CFRR area of the village (as per the title issued) is 1154 ha (see Figure 14). When the boundary depicted in the title (and also obtained from the GPS) is overlaid on the map, we find that the total area within the red line in Figure 14 is indeed 1154 ha, but that includes the entire revenue area of the village (including 400 ha of non-forest land) and about 639 ha within the RF outside the village revenue boundary. So the **correct** CFRR area would be 1154 - 400, i.e., 754 ha. In fact, this area might be further reduced if there are any IFRs recognized in this village.

We have observed this pattern in many other CFRR titles issued. Conversely, since villagers also believe that the CFRR extends over the *entire* traditional land of the village (not just forest land), when DLCs *have* been alert and deducted the non-forest revenue land (and the IFR recognized area) from the claimed CFRR area, villagers have (wrongly) expressed dissatisfaction and anger at the government having recognized 'less' than their claimed area.

5.2 Recognized CFRR area less than claimed or plausible CFRR area

In several other cases, the recognized CFRR area is less than the claimed area. Consider the case of Balenga village, located in Baderajpur tehsil of Kondagaon district. It has its CFRR recognized over an area of 598 ha comprising of compartments PF 314, PF 316, PF 313 (yellow) (see Figure 15). However, the total CFRR area claimed by the village was 1699 ha. Even the census 2011 indicates that the total forest area inside the revenue boundary of the village is 1483 ha. The forest within the revenue boundary is usually considered that village's traditional/customary forest. Compartments 318 and 321 (completely) and 305 and 317 (partially) fall within the revenue boundary of the village (red) (see Figure 15). These compartments may also be the traditional use areas, but they have not been recognized. No reason has been communicated to the Gram Sabha as to why a lesser area was recognized, nor have they been given an opportunity to modify their claim or appeal the decision of the DLC.

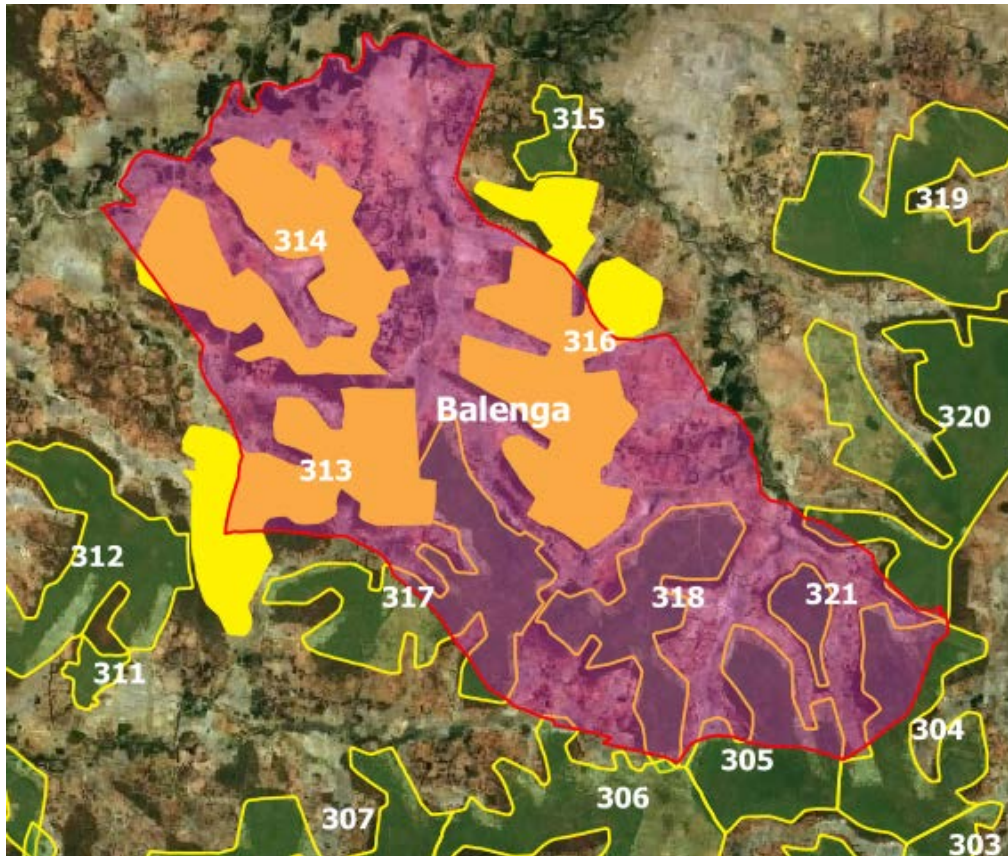


Figure 15: Balenga village (pink) and recognized CFRR area compartments (yellow)

The case of Chitapur village of Darbha block, Bastar district, is even more peculiar. The TGA of the village as per revenue records is 2305 ha and the forest area within this boundary according to Census 2011 is 792 ha. A perusal of Google Earth imagery confirms that there is several hundred hectares of forested area in the village (Figure 16) and the forest compartment map (not shown) also confirms this. However, only 22 ha was recognized as their CFRR area.

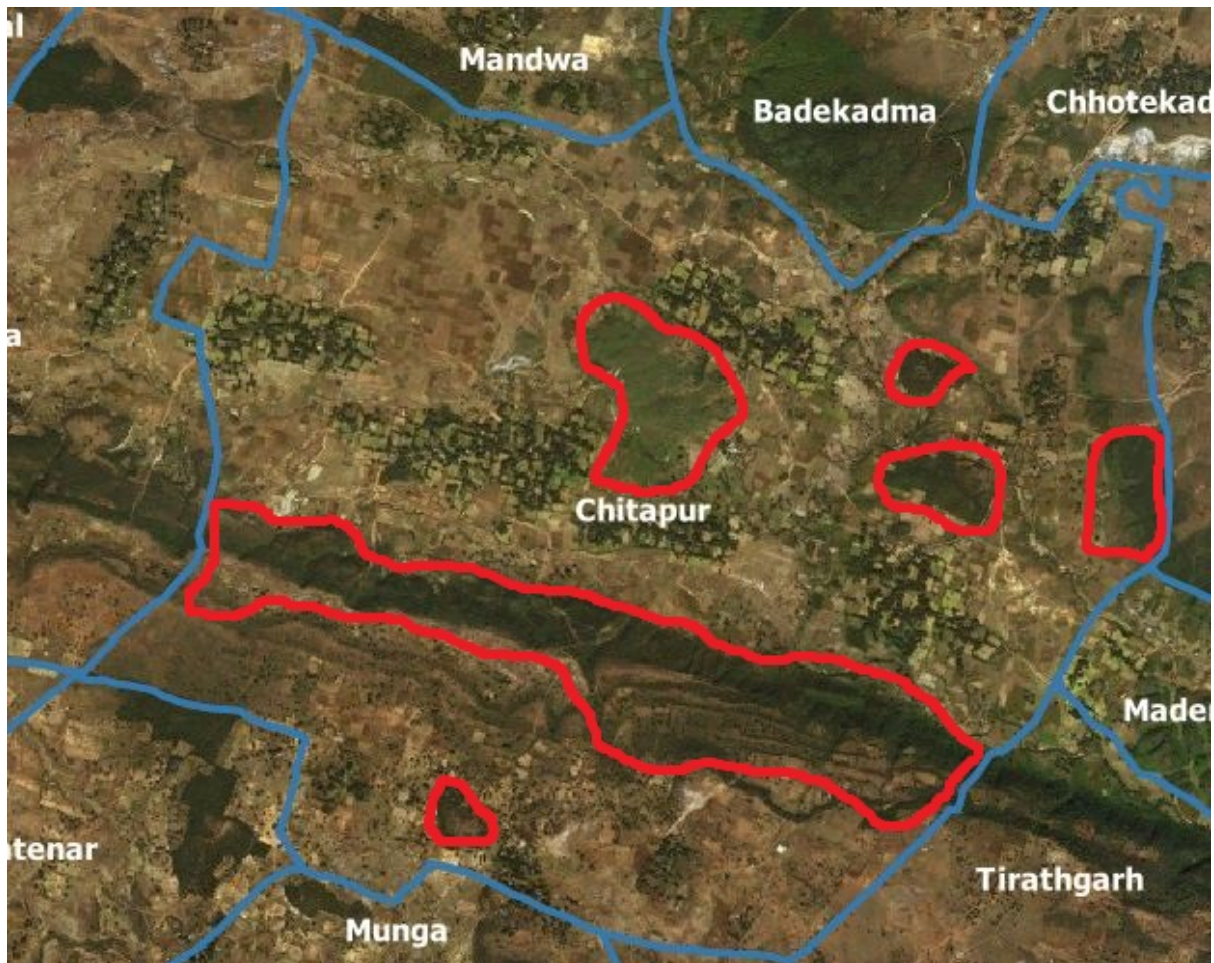


Figure 16. Chitapur village revenue boundary (blue) and forest areas inside the village boundary indicated by red.

Upon visiting the village, we were told by the villagers that in fact the village had not filed a CFRR claim, because there was a conflict within the village as a result of splitting of the revenue village into 2 Gram Panchayats recently, and one Gram Panchayat getting most of the forested area of the original (revenue) village. It appears that the 'claim' was filled out by some officials under pressure to show progress on CFRR recognition. Many similar cases have been identified by us later on, where CFRR claims have been filed without following any due process within the village for arbitrary (typically small) areas, and have been recognized by the DLC.

5.3 Allocation of CFRR area from neighbouring village's customary boundary

In some cases, wrong allocation of CFRR area has resulted in inter-village conflict. This is the case in Sodhma and Karagaon villages of Farasgaon block, Kondagaon district. In the second round of CFRR recognition, village Sodhma got its CFRR area recognized over an area of 713 ha. According to the data provided to us, the compartment numbers assigned are 106, 107 and 217. To begin with, as Figure 17 shows, the compartment numbers are wrong: 106 and

107 must actually be 206 and 207 (compartments 106 and 107 are ~15 kms away from the village). This was confirmed with the villagers.

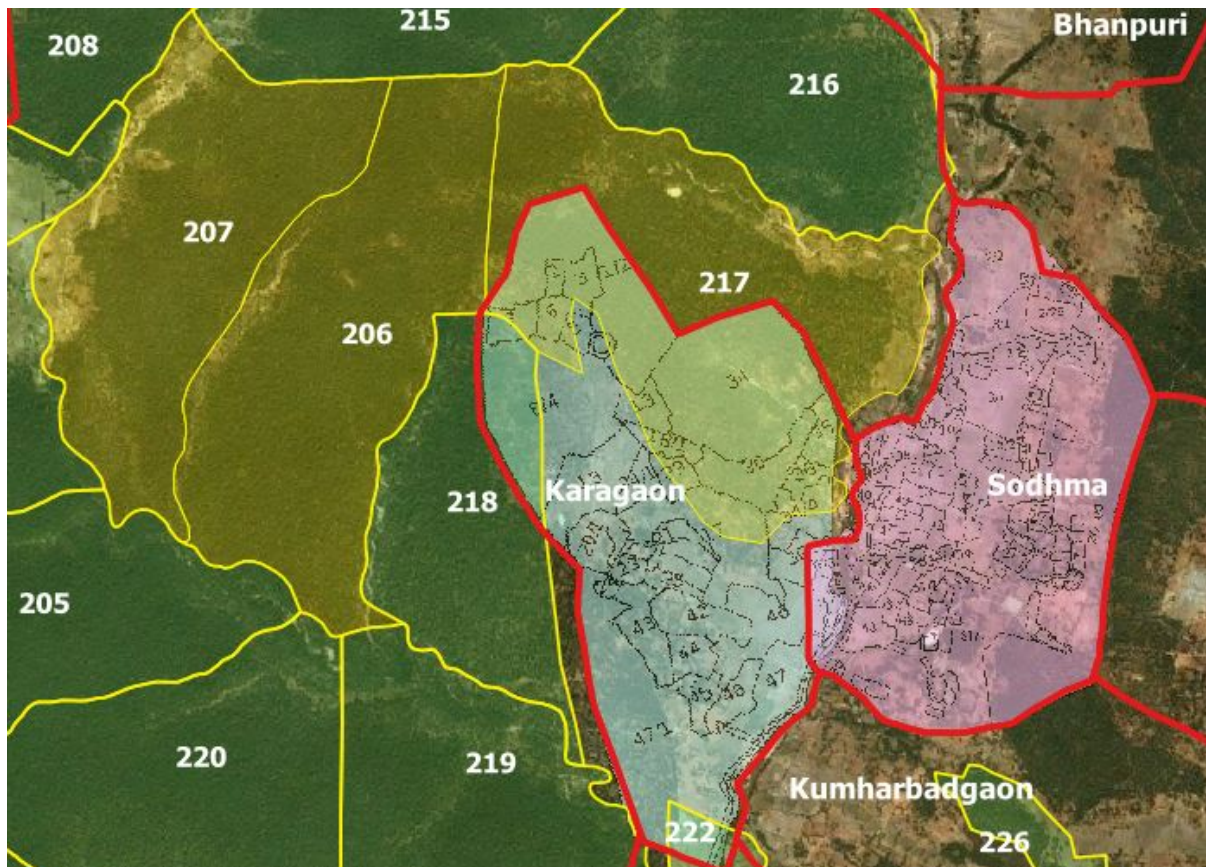


Figure 17: Sodhma village (pink), Karagaon village (blue), compartments recognized as Sodhma's CFRR area (yellow)

The main issue, however, is that (again as seen from Figure 17), Sodhma village shares only a small boundary with compartment number 217 and the other two compartments are 2-4 kms away from the Sodhma village. Whereas Karagaon village has more than half of compartment 217 within its revenue boundary as seen above and is closer to compartment number 206 and 207. Granting these compartments to Sodhma has created a dispute within these two villages, with Karagaon being at a disadvantage.

Additionally all the other neighbouring compartments except 218 have been recognized as CFRR area of other villages (See Figure 18), leaving only compartment 218 and compartment 216 (which is not adjacent) to be claimed by Karagaon village. Careful examination of the claim documents and visit to the field site is needed. This also raises questions over the claiming and recognition process. Wasn't Karagaon's NOC obtained while claiming 217 and the other compartments for Sodhma? What happens if Karagaon has community rights claims on these compartments? We were told by some sources that this issue has its roots in compartments assigned arbitrarily for JFM. This needs to be investigated and resolved.

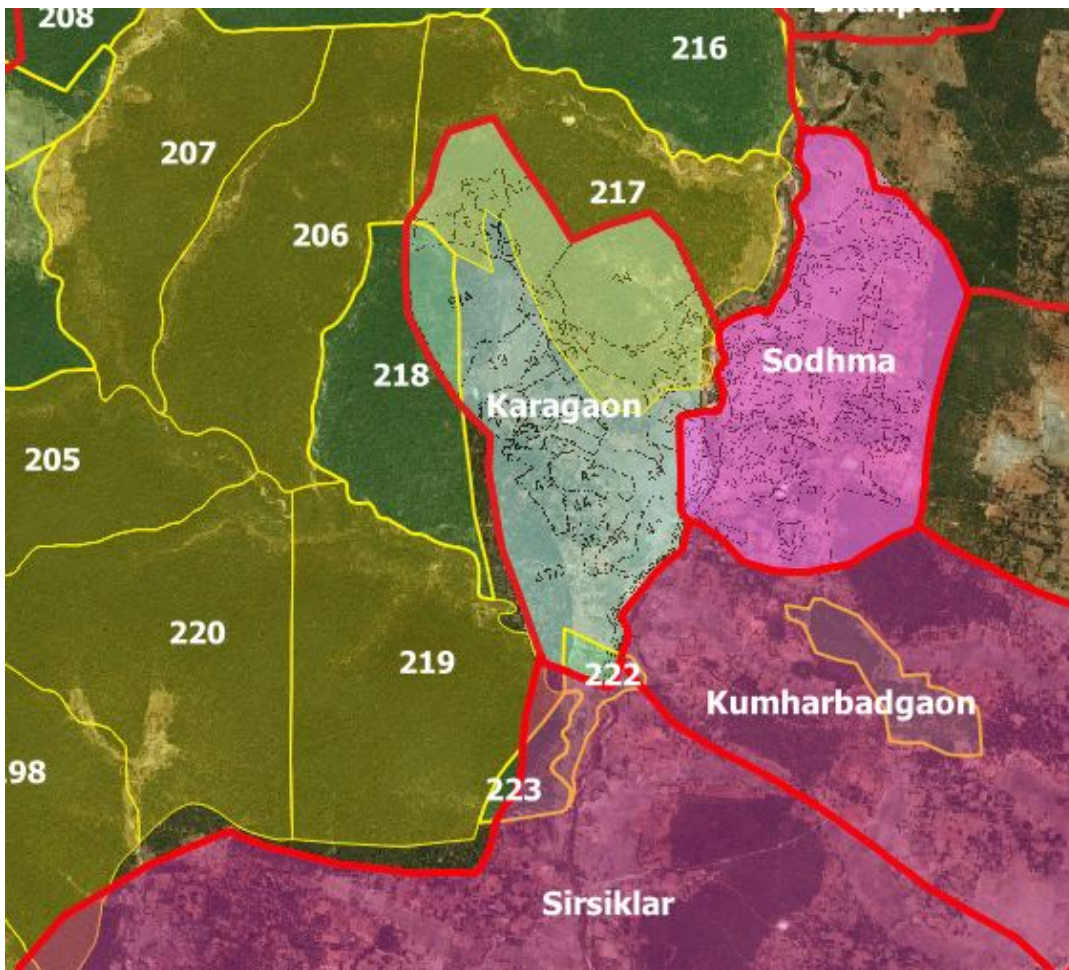


Figure 18: CFRR recognized villages (pink) and their compartments (yellow)

5.4 CFRR recognition in Protected Areas

Recognition of CFRRs in Protected Areas has always been the most difficult. In that context, the progress in Chhattisgarh in the second phase is notable. In Sitanadi-Udant Tiger Reserve in Dhamtari district, villages in the core and buffer areas of this Protected Area had been pressing for rights recognition for several years. Initially, only village Karka got its CFR right recognised in 2020. More recently, CFRRs were recognized in the core area for 5 villages i.e. for Masulkhoi (975.58 ha), for Karhi (984.92 ha), for Joratarai (551.42 ha), for Bahigaon (1651.725 ha), and for Baroli (1389.615 ha).

In the Achanakmar sanctuary in Mungeli district, however, there has been no progress. Local activists tried filing CFRR claims for some of the villages (mentioned in section 4.3) during 2019-20. But these claims are not being accepted saying that the villages are located in a Tiger reserve and rights cannot be recognized there. Approaching the Tribal Department has also been of no avail as they are deferring it to the Forest Department (“whatever the Forest

Department says”). Presently no community forest rights have been recognized in this area. Only a few IFR claims have been accepted.⁹

5.5 CFRR recognition in Urban areas

The second phase of community forest right recognition in Chhattisgarh also marks the first ever recognition of CFRR in urban areas in the country. In August 2021 three wards in Nagri nagar panchayat of Dhamtari district were recognised: 707.41 ha for ward sabha Nagri, 678.18 hectares for ward sabha Churiyara and 2,746.742 hectares for ward sabha Tumbahara (Mishra 2021).

Our analysis shows that there are around 58 urban areas in Chhattisgarh that have some forest area adjoining them and therefore have the potential to claim CFRR areas. Steps now need to be taken for their recognition as well.

5.6 CFRR recognition: Actual and Potential

As seen in the earlier sections, the reporting of area claimed under CR and CFRR is quite erroneous. So to determine the extent of area recognized under the CFRR till now, we will be considering only those villages which were taken up during the second phase of the process. We compiled a list of villages per district which had received their CFRR titles till August 2021 and compared this with the community forest rights potential data from our study (Lele, Khare, and Mokashi 2020).

	District	No. of Titles Issued	CFRR potential villages	Percent of villages recognized
1	Balod	9	261	3.4%
2	Balodabazar	60	286	21.0%
3	Balrampur	354	596	59.4%
4	Bastar	216	394	54.8%
5	Bemetara	No data	5	0%
6	Bijapur	297	565	52.6%
7	Bilaspur	34	245	13.9%
8	Dantewada	77	179	43.0%
9	Dhamtari	110	346	31.8%
10	Durg	No data	6	0%
11	Gariaband	94	495	19.0%
12	Gaurela-Pendra-Marwahi	59	200	29.5%
13	Janjgir-Champa	18	217	8.3%
14	Jashpur	12	602	2.0%
15	Kabirdham	14	402	3.5%

⁹ Personal communication with Mr. Naresh Bunkar

	District	No. of Titles Issued	CFRR potential villages	Percent of villages recognized
16	Kanker	345	955	36.1%
17	Kondagaon	166	534	31.1%
18	Korba	135	597	22.6%
19	Koriya	98	581	16.9%
20	Mahasamund	54	708	7.6%
21	Mungeli	9	75	12.0%
22	Narayanpur	0	368	0.0%
23	Raigarh	295	800	36.9%
24	Raipur	no data	36	0%
25	Rajnandgaon	116	769	15.1%
26	Sukma	216	367	58.9%
27	Surajpur	277	462	60.0%
28	Surguja	238	399	59.7%
	Grand Total	3,303	11,450	28.9%

The comparison shows that, in numerical terms, districts such as Surguja and Surajpur in the north and Sukma and Bijapur in the south have crossed the 50% mark in terms of the fraction of CFRR potential villages that have received rights.¹⁰ On the other hand, progress in districts such as Kabirdham, Jashpur, Balod and Mahasamundh has been very slow, with barely 1-8% of their CFRR potential villages getting rights recognized.

6. SUMMARY AND RECOMMENDATIONS

Chhattisgarh state reports and newspaper reports claim that Chhattisgarh is the leading state in the country in the implementation of the community forest rights. Numbers in excess of 40,000 have been touted. These numbers primarily refer to **CRs recognized**, mostly in the first phase. **But there are many problems with this claim.**

- a) Firstly, the number is completely misleading. Given that there are only around 11,000 villages having forest within, adjacent to or around their boundaries,¹¹ the claimed 40,000+ CRs are spurious. Our analysis shows duplicate entries, multiple community forest use rights (grazing, firewood collection, NTFP collection: what we call CR-1) and non-forest use rights (what we call CR-2, and possibly DRs) in the same village being considered as separate titles, multiple rights on the same piece of land, and so on. The

¹⁰ This assumes that each CFRR title corresponds to a census/revenue village and different hamlets in a revenue village have not claimed separate titles.

¹¹ See Lele, Khare and Mokashi (2020).

actual number of villages covered in this process is even less than the villages that are forest-dependent.

- b) Secondly, the process of assigning these CRs has been highly problematic, with titles assigned to the wrong entity and clearly in a top-down manner, with the rights assigned being unrelated to the actual patterns of forest use in the villages, and many cases of forest compartments being assigned quite arbitrarily. The fact that villagers know nothing about the CRs recognized for their village shows the pointlessness of the numbers-focused CR recognition exercise.
- c) Thirdly, mis-assignment of rights across villages even has the potential to create conflict at a later stage.

In this context, we **recommend** that the state should:

- i) consider the entire CR process in the first phase as unreliable;
- ii) put all the details of all the CRs in the public domain;
- iii) rigorously recompile the statistics by separating CR-1 (forest use), CR-2 (non-forest use) and DR (forest diversion) rights and reporting them on a village-wise basis, acknowledging that it is the number of villages covered that matters (and the rigorous of coverage), not the number of titles;
- iv) hold the operation of these CRs in abeyance till the second phase (CFRR recognition) is completed; and then
- v) consider how best these CRs can (if at all) be corrected and made to complement the CFRRs (possibly by correcting the CR titles during the CFRR recognition itself).

The **real achievement** in Chhattisgarh has been the CFRR recognition process launched 2019 onwards. This process carries much more hope of being **meaningful** and **relevant** to the spirit of the FRA's community rights provisions. It is firstly focused on the most important rights (section 3(1)(i)), i.e., the conservation, protection and management rights. Moreover, the process is based upon a detailed and systematic manual and there are many examples of a rigorous bottom-up claim-making process having been followed. The state government now claims to have recognized more than **4,000 CFRRs** in this phase (corresponding to that many villages), which is a **very substantial number** (again keeping in mind that the full CFRR potential is about 10,500-11,000 villages). Important steps in terms of recognizing CFRRs in a Tiger Reserve and for a town ward have been taken to achieve the full potential of this provision in the FRA.

While the focus on CFRRs and several of the steps taken towards rigorous recognition are laudable, lacunae have crept into this phase again.

- a) A minor problem is that, when the villagers map the CFRR claim area, the area claimed (and recognized) is often the area of the entire customary boundary of the village, including agricultural and other (non-forest) lands on which forest rights recognition is neither necessary nor possible. This has inflated the area being shown as CFRR area and has the potential of creating problems later in community forest resource area management.
- b) A much bigger problem is that, it appears even this phase has fallen prey to the dangers of an excessive focus on numbers: the pressure on the bureaucracy to recognize rights rapidly has led again to a top-down process. In many such cases, **the area recognized appears to be far less** than what the village's customary use might be. Moreover, even if the forest area recognized is somewhat correct, the lack of a bottom-up process means that the villagers have not been mobilized, are unaware of the significance of the rights recognized (often **unaware that a title has been issued at all** in their name) and therefore this rights recognition is unlikely to translate into **any meaningful community-led forest management**, enabling which is the purpose of CFRR recognition.

In this context, we recommend that the state government should:

- i) step back from a target-oriented approach, and maintain its original focus on rigorous, bottom-up mobilization and claim-making which will in turn lead long-term community-led forest management;
- ii) put all the information (including GPS files of claim boundaries) on the CFRR titles recognized so far in the public domain,
- iii) form an expert committee to identify potential faulty titles which can be subjected to field verification and correction if required;
- iv) clarify that the 'customary area' to be claimed as CFRR only pertains to forest land as defined in the FRA and not to already recognized private or public non-forest land (as in the Mandri case), and correct such faulty titles,
- v) strengthen the grassroots level process of claim-making by
 - providing financial support to genuine grassroots NGOs and organizations, and by
 - appointing their own full-time block-level FRA Coordinators, training them and then giving them time and technical support to hand-hold and build the capacity of village communities through the process;
- vi) re-train SDLC and DLC members to rigorously screen CFRR claims for both accuracy and due process to avoid future difficulties,

- vii) acknowledge that recent division of single revenue villages (often longstanding customary villages) into two Gram panchayats (as in the Chitapur case) is counter-productive when it comes to the management of community forests and encourage the filing of claims by the older (customary) Gram sabhas if they so wish,
- viii) use the CFRR process to also correct the CR titles by:
- identifying customary forest use areas correctly,
 - keeping in mind the distinction between the two rights (and the possibility that CR-1 rights (forest use rights) could extend over an area greater than CFRR area (forest management rights area),
 - and that the CR-1 rights of one village may overlap with the CFRR of another village, and therefore these access rights of neighbouring villages have to be mentioned clearly in the CFRR title of each village where applicable.
- ix) Ensure that the recognition of CFRR in PAs and for town wards continues beyond the two cases so far and extends to all PAs and all town wards that contain or are adjacent to forests,
- x) In general, ensure that the CFRR recognition process rigorously reaches its full potential number and area.

Finally, much more research, discussion, piloting and policy development will be required:

- to develop proper models or templates for community forest resource management,
- to ensure livelihood enhancement after CFRR recognition by making pre-existing NTFP programmes downwardly accountable to community forest rights Gram Sabhas,
- to ensure rigorous implementation of the Critical Wildlife Habitat provisions of the FRA (See (Lele et al. 2020)
- to clarify the roles, responsibilities and accountabilities of the key line departments, especially the Forest Department, in the post-recognition scenario.

Chhattisgarh state has, in the last few years, shown a laudable commitment to the spirit of the community rights provisions of the Forest Rights Act. Greater support and attention to detail, rather than a focus on numbers, will yield much greater dividends in the long run in terms of the welfare of forest-dwelling communities and forests themselves.

7. ACKNOWLEDGEMENTS

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