



Adivasi protestors at the country's capital. Source: Gupta 2020

Protecting the Adivasis of Chhattisgarh, India

Unregulated mining and other industrial activity in Chhattisgarh, India has led to rampant deforestation resulting in the displacement of thousands of indigenous Adivasis dependent on the forests for their livelihoods. FRA (Forest Rights Act) 2006, designed to protect Adivasis, has been poorly implemented and needs to be strictly and comprehensively enforced to ensure the protection of Adivasis and thereby the protection of the forests of Chhattisgarh.

Introduction

The government of India, in recognition of the importance of indigenous tribal forest dwellers known as Adivasis, enacted the Forest Rights Act (FRA) in 2006 to give them the right to live on and protect the land that they have been cultivating within forest boundaries for centuries.¹² However, the act has been poorly implemented in the resource rich state of Chhattisgarh where rampant mining and associated industrial activity has resulted in the displacement of over one hundred thousand Adivasis.¹ Claims to secure land title deeds have been arbitrarily rejected, 15% of forest cover lost,¹ soil and water contaminated and the health and livelihoods of 300,000 Adivasis compromised¹²—all in the name of development.

The mistreatment of Adivasis is a pressing Environmental Justice issue requiring swift and decisive action. This brief outlines the key issues faced by Adivasis in Chhattisgarh and proposes recommendations for the consideration of policy-makers at the Ministry of Environment and Forests, India (MoEF).

Highlights

- Rampant mining and other industrial activity in Chhattisgarh have resulted in the widespread displacement of Adivasis due to deforestation, soil and water contamination, water and food insecurity, loss of agricultural land and livelihoods, and poor health outcomes.
- Policies such as FRA, designed to protect Adivasi communities, have been poorly enforced and largely ignored.
- Environmental protections need to necessarily include the protection of indigenous communities that rely on forests for their livelihoods.
- Free legal counsel for Adivasis, the limitation of the state's eminent domain over protected tribal areas, the inclusion of Adivasi leaders in forest governance, just compensation for affected communities, mandatory environment, and social impact assessment, and ensuring free, prior, and informed consent (FPIC) are key in the protection of Adivasis and thereby the protection of forests of Chhattisgarh.

¹ Farha 2019

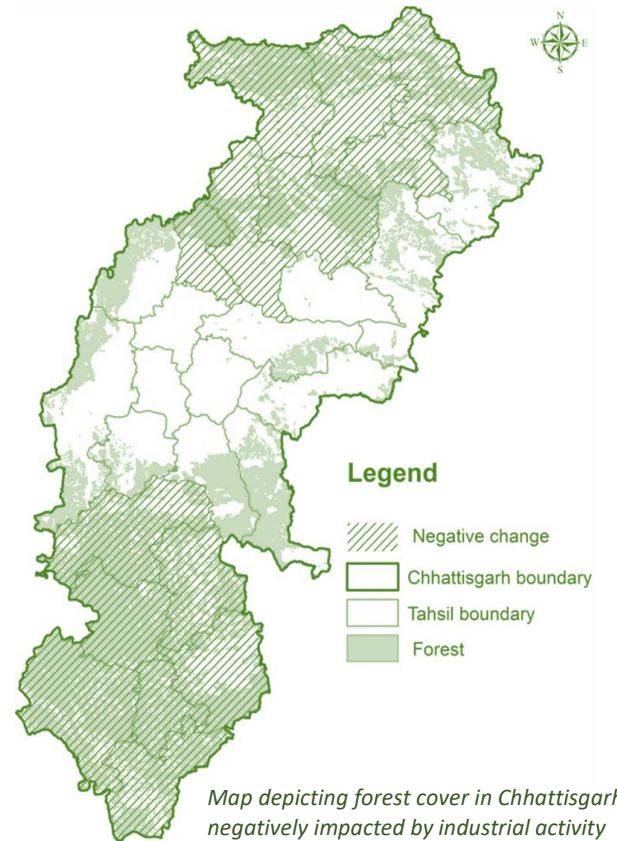
² Gupta 2020

Background

Over 31% of the population of Chhattisgarh (7.4 million people) comprises of indigenous forest dwelling peoples known as Adivasis.¹ The genesis of the state in 2000, was directed by the primary goal of securing effective self-governance for Adivasis who have lived in and protected, the dense natural forests in the region for centuries.

Additionally, the Constitution of India, under its Fifth Schedule, contains special provisions for the administration and control of “Scheduled Areas” defined as areas with a high concentration of Adivasi population to protect their autonomy and culture.¹ In Chhattisgarh, 7 districts have been fully recognized as Scheduled Areas.¹ In addition to the protections afforded by the Fifth Schedule, the forests and their Adivasis are further protected by the Forest Rights Act 2006 which ‘substantiates and recognizes the land claims of forest dwellers’.³

However, all of these protections have been undermined by the State government of Chhattisgarh, due to the forests’ abundant mineral wealth—the state contains 17.4% of coal reserves, 18.7% of iron ore (hematite) reserves, 37.7% of tin ore reserves and 28.3% of diamond reserves of India.⁴ This has led to the state rampantly transferring protected land and forests, essential for the survival of Adivasis, to corporations to allow for environmentally destructive mineral mining and associated industries.



Map depicting forest cover in Chhattisgarh negatively impacted by industrial activity and climate change ('negative change'). (Source: Ahmad, Uddin & Goparaju 2019)

Key Issues

- **FRA 2006 widely ignored and Adivasi claims to land title deeds arbitrarily rejected without due process:** To date, no CFR claims (Collective Forest Rights to govern and manage forests) have been formally recognized in the state. CFR claims of 80 Adivasi villages have remained pending for several years, and those briefly recognized have been revoked to accommodate mining projects. Additionally, only 5% of the Adivasi population has claimed IFR (Individual Forest Rights over plots of habitation and cultivation), of which 44% have been recognized after modification severely reducing plot size and imposing illegal use restrictions. 56% of IFR claims have been rejected without due process, particularly in areas with proposed mining and other development projects.⁵ In all the reported cases, not a single Adivasi was given a state appointed lawyer.⁶ Environmental justice necessitates the protection of all and not just individuals or groups who can afford lawyers, lobbyists, and experts.⁷

³ Forest Rights Act 2006, <https://tribal.nic.in/FRA/data/FRARulesBook.pdf>

⁴ 'District wise Mineral Resources,' Mineral Resources Department, Government of Chhattisgarh, available at <http://chhattisgarhmines.gov.in/PDF/District%20wise%20Mineral%20Resources.pdf>

⁵ Ministry of Tribal Affairs, Monthly Update on Status of Implementation of FRA, August 2018, available at <https://tribal.gov.in/FRA/data/MPRAug2018.pdf>

⁶ Thekaekara 2019

⁷ Bullard & Johnson 2000

- **FPIC principle (Free, Prior and Informed Consent) and Adivasi autonomy routinely subverted to allow illegal transfer of protected forest land:** Government owned mines located in Adivasi forests has been transferred to private mining companies without the approval of Gram Sabhas (local village governments) as is mandated by the Panchayat Extension in Scheduled Area's Act 1996 (PESA). FPIC is an important tool for indigenous people to exercise their right of self- governance. The 2007 UN Declaration on the Rights of Indigenous People requires governments to consult and receive the approval of indigenous peoples before adopting any projects related to their lands and resources or adopting any legislative or administrative measure that affects them.⁸ Even in the rare occasion when Gram Sabhas are consulted, they prove to be ineffective in protecting tribal autonomy over land due to excessive State interference in their constitution and functioning and the Governor's non-exercise of the Fifth Schedule.¹
- **Rich state, impoverished Adivasis and poisoned soil and water:** While affluent communities living outside Chhattisgarh's forests have enjoyed widespread development due to the forests' exploitation, infrastructural development is yet to reach the impoverished Adivasi communities that have had to sacrifice their forest homes. In 2010-2011, Chhattisgarh had nearly half of its population below the poverty line and some of the highest Infant Mortality Rates, Maternal Mortality Ratios, and malnourishment levels among children in the country.¹²⁶ This poverty and poor health are concentrated in the state's Adivasi population¹ and are a result of state directed environmental racism. Mineral mining and associated industries have pumped worrisome levels of toxic heavy metals into the air, water and soil making adjoining swathes of forest land unproductive and uninhabitable¹—thereby worsening displacement.
- **Inadequate or no compensation given to affected Adivasi communities:** The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 necessitates that compensation be given to those whose lands have been acquired for developmental projects.⁹ However, compensation has rarely been given to affected Adivasis when displaced by mining projects.¹⁰ For example, in the Northern Coalfields Limited (NCL) Mining Project in Bastar (2001), out of the 303 displaced Adivasis, only 100 were given jobs by 2002, and the remaining 200 got jobs in 2010 only after 9 years of protesting. In both 2001 and 2010, women were excluded from job registration.¹¹

Recommendations

It is imperative that FRA 2006 be implemented in a comprehensive and effective manner so that Adivasi autonomy and right to land is protected, thereby also ensuring the protection of Chhattisgarh's forests, and ensuring sustainable development. The following recommendations would ensure effective FRA implementation:

- **An independent body to protect Adivasi rights and include Adivasis in forest governance needs to be constituted within the Ministry of Environment and Forests, India (MoEF).**

⁸ <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

⁹ <https://legislative.gov.in/sites/default/files/A2013-30.pdf>

¹⁰ <https://economictimes.indiatimes.com/news/politics-and-nation/how-central-and-state-governments-have-diluted-the-historic-land-legislation-of-2013/articleshow/63764378.cms>

¹¹ <https://cgbasket.in/httpcgbasket-inwp-adminpost-phppost8575actionedit/>

Racial/ethnic minorities and the poor face a disproportionate risk of exposure to environmental hazards.⁷¹² Grassroots activism by Adivasis has helped empower their communities, preserve their cultures, and achieve racial, ethnic, and gender equality, in addition to conserving the environment. However, the onus for protecting Adivasi rights cannot lie entirely on the affected community itself. Principle 22 of the Rio Declaration recognises the important role that indigenous people play in environmental management, and directs governments to recognise and support indigenous culture and interests as means of protecting the environment.¹³ The constitution of an independent body at the national level, with representation from Adivasi leaders, would ensure that Adivasi autonomy and wellbeing is not subverted by State powers.

- **Free legal counsel needs to be provided to ensure due process is followed with respect to land title deed applications and mine ownership transfers.** Legal representation for Adivasis is important to ensure the State does not illegally reject applications and transfer land, as it has in the past.
- **Limitations needs to be placed on the State's power of eminent domain as it pertains to Adivasi land, and transparent records need to be maintained to ensure the FPIC principle.** Adivasi lands should be acquired for development purposes only in the rarest of cases, following due process under domestic and international human rights law. Indigenous peoples have a right to free, prior, and informed consent (FPIC) with guarantees against evictions and forced relocations. Online or otherwise easily accessible public records of state sponsored land transfers should be maintained to ensure free and informed consent and prevent misinformation and illegal transfers.
- **Submitting Social Impact Assessment and Environmental Impact Assessment studies for change in forest land use needs to be made mandatory by law.** These may require the setting up of additional institutions and processes to monitor, review and hold accountable actors involved in the transfer of forest land for industrial use. This is especially important when it comes to protected forest lands inhabited by Adivasis.

Conclusion

Chhattisgarh's forests have a historical relationship with the indigenous Adivasi populations that have helped maintain and protect them for centuries. The Indian government has introduced numerous policies and acts, most importantly the Forest Rights Act 2006 and Schedule 5, to protect these populations and the rich traditions and livelihoods that the forests support. These instruments have largely failed in Chhattisgarh, due to the lack of comprehensive framing and the absence of legislative infrastructure to ensure their effective enforcement. As a result, the FRA and Schedule 5 have been repeatedly undermined by the State to facilitate rapacious corporate land grab, rampant mineral mining and the development of environmentally destructive industries. This has led to large scale Adivasi displacement and loss of livelihoods due to deforestation and environmental contamination.

This brief proposes recommendations such as free legal counsel for Adivasis and an independent authority for overseeing Adivasi protection within the MoEF, in the hopes of ensuring environmental justice in Chhattisgarh. In this era of sustainable development, it is imperative that the environment is not seen in isolation to the communities that live in and depend on it. The dream of a sustainable Chhattisgarh rests on realizing that Adivasi protection *is* environmental protection.

¹² Prindeville 2004

¹³https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CON F.151_26_Vol.I_Declaration.pdf