



Decoding FRA 2006: Justice, Conservation, and Challenges

This editorial is based on [“An uphill struggle to grow the Forest Rights Act”](#) which was published in The Hindu on 18/12/2023. The article talks about the challenges and gaps in the implementation of the Forest Rights Act in India.

For Prelims: [Forest Rights Act](#), [Minor Forest Produce](#), [FCA Amendment 2023](#), [Indian Forest Act, 1878](#), [Wildlife \(Protection\) Act 1972](#), [Forest \(Conservation\) Act 1980 \(FCA\)](#)

For Mains: FRA and its provisions, Rationale behind its implementation, Injustices faced by Forest Dwellers, Issues in Implementation of the Forest Rights Act and Way Forward

On December 18, 2006, the Rajya Sabha endorsed the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, enacted by the Lok Sabha. This Act, commonly known as the [Forest Rights Act](#), or FRA, marks a watershed in India's socio-environmental legislation, as it attempts to put an end to the long-drawn conflict over supposed 'forest encroachments'. Simultaneously, it seeks to create a much more democratic, bottom-up forest governance.

Hence, **17 years after it was enacted**, the FRA has barely begun to deliver on its promise of freeing forest-dwellers from historic injustices and democratising forest governance.

What is Forest Rights Act, 2006 and its Provisions?

- The Act recognizes and vests the forest rights and occupation in Forest land in **Forest Dwelling Scheduled Tribes (FDST)** and **Other Traditional Forest Dwellers (OTFD)** who have been residing in such forests for generations.
- Forest rights can also be claimed by any member or community who has **for at least three generations (75 years) prior to the 13th day of December, 2005 primarily resided in forest** land for bona fide livelihood needs.
- It strengthens the conservation regime of the forests while ensuring livelihood and food security of the FDST and OTFD.
- The **Gram Sabha** is the authority to initiate the process for determining the nature and extent of **Individual Forest Rights (IFR)** or **Community Forest Rights (CFR)** or both that may be given to FDST and OTFD.
- The Act identifies **four types of rights**:
 - **Title rights:** It gives FDST and OTFD the **right to ownership** to land farmed by tribals or forest dwellers subject to a maximum of **4 hectares**. Ownership is only for land that is actually being cultivated by the concerned family and no new lands will be granted.
 - **Use rights:** The rights of the dwellers extend to **extracting [Minor Forest Produce](#), grazing areas etc.**
 - **Relief and development rights:** To **rehabilitate** in case of illegal eviction or forced

displacement and to basic amenities, subject to restrictions for forest protection.

- **Forest management rights:** It includes the right to **protect, regenerate or conserve** or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use.

What was the Rationale behind the Implementation of FRA, 2006?

- The FRA, 2006 was implemented to **recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers** who have been residing in such forests for generations but whose rights could not be recorded.
- The Act also aimed to **undo the historical injustice occurred to the forest dwelling communities due to the forest management policies of colonial and post-colonial India**, which did not acknowledge their symbiotic relationship with the forests.
- The Act further intended to **empower the forest dwellers to access and use the forest resources in a sustainable manner**, to conserve the biodiversity and ecological balance, and to protect them from unlawful evictions and displacement.

What were the Injustices faced by the Forest Dweller Communities?

- **Pre Colonial Era:** Before colonialism, local communities had traditional rights over forests in their area or even a wider region. Even if kings or chieftains claimed hunting rights in specific forests, local communities still had access to all other benefits from the forests.
- **Colonial Era:** The colonial government introduced [Indian Forest Act, 1878](#) which was based on the idea of '**eminent domain**' (that the ruler always owns all property),.
 - The **Imperial Forest Department** was established to harvest and transform the forest to maximise timber and revenue.
 - It was also **tasked with protecting 'state' property against local communities**, now deemed trespassers.
 - **The injustices imposed by this colonial forest policy took multiple forms. Viz:**
 - Now that forests were seen as primarily a timber resource, **shifting cultivation was banned**.
 - The so-called **survey and settlement of agricultural lands was incomplete** and biased in favour of the state.
 - '**Forest Villages**' were created to ensure labour for forestry operations, wherein forest land was leased for agriculture to households (mostly Adivasis) in return for compulsory labour (virtually bonded).
 - Since **forests were now state property**, all access to forest produce was limited, temporary and chargeable, and always at the mercy of the forest bureaucracy that was armed with police powers.
 - Any concessions to local livelihood needs were termed 'privileges' that could be modified or withdrawn any time.
 - Even where access was permitted, the **local community had no right to manage the forest**, as the state logged valuable forests and made heavily used forest de facto open-access.
- **Post Independence Era:**
 - After Independence, things didn't change much. When the **government hurriedly brought princely States and zamindari estates into the Union**, they declared their forest areas as state property without checking who was living there.
 - People who had been living there for generations suddenly became 'encroachers.'
 - The government then leased out forest lands under various campaigns such as 'Grow More Food' to meet the needs of a growing population, but they were never properly regulated.
 - People displaced by dams **were not given alternative lands** and ended up 'encroaching' on forest land elsewhere.
 - The [Wildlife \(Protection\) Act 1972](#) and the [Forest \(Conservation\) Act 1980 \(FCA\)](#), again conceived within the framework of eminent domain.
 - Many communities were moved forcefully to establish sanctuaries and national parks.
 - When using forests for development, the **opinions of local people weren't considered**, and despite charging significant fees, they **weren't adequately compensated** for the

impact on their lives.

How Forest Rights Act, 2006 helps Address these Historical Injustices?

- The FRA is remarkable because it first of all **acknowledges these historical (colonial) injustices** and their continuation post-Independence. Redress then takes three broad forms.
- The issue of so-called 'encroachments' is addressed through **recognising individual forest rights (IFRs)** to continue habitation and cultivation or other activities that existed before December 2005.
- **Forest villages are to be converted into revenue villages** after full rights recognition.
- The **issue of access and control is addressed by recognising the rights of village communities** to access and use forests and to **own and sell minor forest produce**, and, most importantly, to **manage forests within their customary boundaries**, including in sanctuaries and national parks.
- It ensures **decentralised forest governance**, linking management authority and responsibility to community rights.
 - The Act lays down a democratic procedure for identifying whether and where wildlife conservation may require curtailing or extinguishing community rights.
 - When a community has rights to a forest, it means they automatically **get a say in any changes to the forest and can even stop them**. They also have the right to be compensated if any changes do happen.
 - This right was reaffirmed by the Supreme Court in the Niyamgiri case, and
- Although the **Forest Conservation Rules 2022** and [FCA Amendment 2023](#) seek to bypass this right, States can still put in place such consent mechanisms.

What are the Issues in Implementation of the Forest Rights Act?

- **Individual Rights vs. Community Rights:** Politicians in some states have **predominantly focused on individual rights, turning the Act into an 'encroachment regularization' scheme**. This approach neglects the recognition and protection of community rights, which are essential for sustainable forest management.
- **Poor Recognition of Individual Forest Rights (IFRs):** The recognition of **Individual Forest Rights has been done poorly, often compromised by resistance from the Forest Department**, apathy from other departments, and misuse of technology. Claimants face hardship during the filing process, encountering faulty and non-transparent rejections and arbitrary partial recognitions.
- **Digital Processes in Areas with Poor Connectivity:** Implementation of digital processes, such as the **VanMitra software in Madhya Pradesh, has posed challenges in areas with poor connectivity and low literacy rates**. This exacerbates existing injustices and hinders the effective filing and processing of claims.
- **Incomplete Recognition of Community Forest Rights (CFRs):** The slow and **incomplete recognition of community rights to access and manage forests (CFRs) is a significant lacuna in FRA implementation**. The forest bureaucracy is resistant to these rights, potentially impeding the empowerment of local communities in managing their forests.
- **Limited Recognition of CFRs in Most States:** While Maharashtra, Odisha, and Chhattisgarh have made some progress in recognizing CFRs, this has not been the case in most states. Maharashtra's activation of CFRs through de-nationalizing minor forest produce is a positive example, but challenges persist, especially in potential mining areas.
- **Convenient for Conservationists and Development Lobby:** Non-recognition of community rights serves the interests of hardline conservationists and the development lobby. Communities in protected areas become vulnerable to **'voluntary rehabilitation'**, and forests may be exploited for mining or dams without obtaining community consent.
- **Forest Villages Not Addressed:** The issue of 'forest villages' has not been adequately addressed in most states, indicating a lack of comprehensive implementation.

What should be the Way Forward?

- **Empowerment of Gram Sabha:** Ensure that the Gram Sabha, the local self-government in

villages, is actively involved in decision-making processes related to forest management.

- **Inclusive Decision Making:** Encourage the inclusion of rights holders in the decision-making processes to ensure that their perspectives and needs are considered.
- **Education and Training:** Conduct awareness programs and training sessions for forest dwellers to inform them about their rights under the FRA.
- **Capacity Building:** Strengthen the capacity of civil society organizations to support and advocate for the rights of forest dwellers.
- **Monitoring Mechanisms:** Establish monitoring systems to ensure that the Forest Department and other relevant authorities adhere to the provisions and objectives of the FRA.
- **Accountability Measures:** Implement accountability measures for any violations or non-compliance with the FRA, ensuring that responsible authorities are held accountable.
- **Integrated Planning:** Develop integrated plans that consider both the development and conservation needs of forests while respecting the rights and interests of forest dwellers.
- **Consultative Processes:** Engage in consultative processes that involve all stakeholders to find a balance between development and conservation goals.

Conclusion

Certain states aim to promptly acknowledge rights, but in areas like Chhattisgarh, **swift implementation often advantages the Forest Department, distorting rights and granting excessive control to bureaucrats.** To address this issue, it's crucial for political leaders, bureaucrats, and environmentalists to comprehend and endorse the essence of the FRA. Otherwise, past injustices will endure, forest governance will lack democracy, and the opportunity for community-led conservation and sustainable livelihoods will remain unrealized.

Drishti Mains Question:

Examine the key provisions of the Forest Rights Act, 2006, and analyze how it aims to address historical injustices faced by forest-dwelling communities in India.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. Consider the following statements: (2021)

1. Moringa (drumstick tree) is a leguminous evergreen tree.
2. Tamarind tree is endemic to South Asia.
3. In India, most of the tamarind is collected as minor forest produce.
4. India exports tamarind and seeds of moringa.
5. Seeds of moringa and tamarind can be used in the production of biofuels.

Which of the statements given above are correct?

- (a) 1, 2, 4 and 5
- (b) 3, 4, and 5
- (c) 1, 3 and 4
- (d) 1, 2, 3 and 5

Ans: (b)

Q. At the national level, which ministry is the nodal agency to ensure effective implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006?

- (a) Ministry of Environment, Forest and Climate Change
- (b) Ministry of Panchayati Raj

(c) Ministry of Rural Development
(d) Ministry of Tribal Affairs

Ans: (d)

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