

Forest Rights Act 2006 - Implementation and challenges

Introduction

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 also known as Forest Rights Act is a result of the protracted struggle by the marginal and tribal communities of our country to assert their rights over the forestland over which they were traditionally dependent. It seeks to undo the historical injustice committed against the forest dwelling scheduled tribes and other traditional forest dwellers who have been living in and around the forests for centuries.

Background

A large number of people especially the scheduled tribes are living in and around forests for a long time in a symbiotic relationship. They have been wholly or partly dependent on forest for their existence. They have also been conserving and using the forests resource sustainably.

However, in modern times the focus completely shifted from the forests being used as a resource base for the sustenance of local communities to a State resource for commercial interests and agriculture.

Many acts and policies of central government post-independence led to curtailment of centuries old, customary use rights of local communities and consolidated the government's control over all forests.

Furthermore, after independence, the economic policies of the government led to increase in industries like mining and other development activities which led to large-scale displacement. Thereby further alienating the Scheduled Tribes and other traditional forest dwellers from their age old, symbiotic relationship with forests.

Given the above situation and after various protest movements central government enacted Forest Rights Act in 2006 which came into effect in 2008.

Scope of the act

Forest Right Act was enacted by the parliament in 2006 to recognise the claim of Tribals on forest resources and ownership on land. The act Grants legal recognition to the rights of traditional forest dwelling communities and makes a beginning towards giving communities and the public a voice in forest and wildlife conservation.

The Forest Rights Act, 2006 has the potential to cover over 85.6 million acres of India s forests, thereby empowering over 200 million tribals and other forest dwellers in over 1,70,000 villages. But sadly, till date, only 3% of this potential area has been realised.

Eligibility under the act

Eligibility to claim rights under the Act:

- Primarily residing in forests or forest lands and depending on forests and forest land for a livelihood
- Further, either the claimant must be a member of the Scheduled Tribes in that area or must have been residing in the forest for 75 years.

Rights under the act

There are different rights recognised under the act which can be summarised as following

- **Title rights-** i.e. 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-** to minor forest produce (also including ownership), to grazing areas, to pastoralist routes, etc.
- **Relief and development rights-** to rehabilitation in case of illegal eviction or forced displacement and to basic amenities, subject to restrictions for forest protection
- **Forest management rights-** to protect and conserve forests and wildlife

Who decides?

- Gram Sabha recommends whose rights should be recognized
- Recommendations are screened and approved by a screening committee consisting of 3 government official and 3 elected member of the local body.

Stages in recognition of rights

The provision of the Act has to be implemented in four main steps:-

1. Meeting of Gram Sabha and formation of forest rights committee.
2. Submission of claims to the Gram Sabha.
3. Verification of the claims.
4. Recognition of rights.

These stages have to be implemented in the field according to the procedure given in the Forest Rights Act, 2006 and Rules 2008.

Process of recognition of rights

Section 6 of the Act provides a transparent three-step procedure for deciding on who gets rights.

First, Gram Sabha will initially pass a resolution recommending whose rights to which resources should be recognised (i.e. who has been cultivating land for how long, which minor forest produce is collected, etc.).

This resolution then goes for screening and approval at the taluka (sub-division) and subsequently at the district level. The district level committee makes the final decision. The screening committees have 6 members - three government officials (Forest, Revenue and Tribal Welfare departments) and three elected members of the local body at that level. These committees also hear appeals. At both the taluka and the district levels, any person who believes a claim is false can appeal to the Committees.

Land recognised under this Act cannot be sold or transferred.

Progress so far

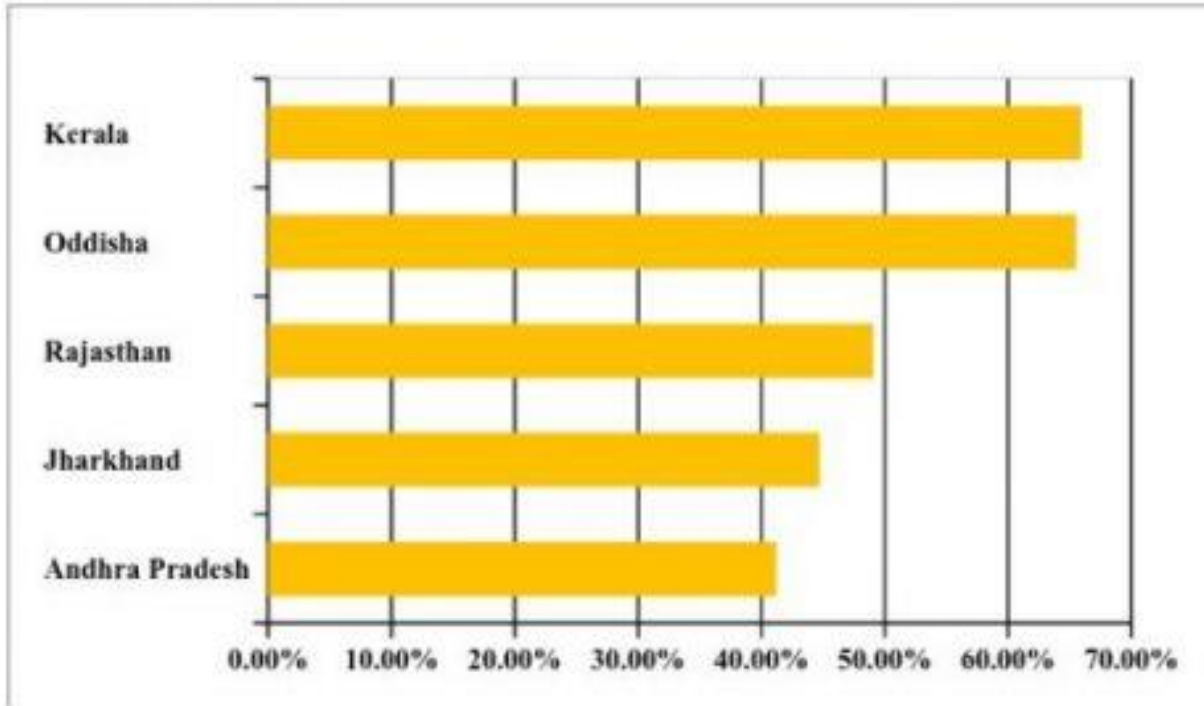
Ministry of Tribal Affairs (MoTA) is the nodal agency for implementing FRA at the National Level. Over the period significant achievements have been made through the efforts of various State Governments under FRA. Since its operationalisation in January 2008, more than fourteen lakhs and eighteen thousand titles have already been distributed to eligible forest dwellers.

(iii) State wise details of claims received, titles distributed and the extent of forest land for which titles distributed (individual and community), as on 29.02.2017, in major States, is indicated below:

S. No.	States	No. of Claims received upto 29.02.2017			No. of Titles Distributed upto 29.02.2017			Extent of Forest land for which titles distributed (in acres)		
		Individual	Community	Total	Individual	Community	Total	Individual	Community	Total
1	Andhra Pradesh	1,68,879	4,711	1,73,590	85,615	1,415	87,030	2,02,261.00	4,41,063.00	6,43,324.00
2	Assam	1,48,965	6,046	1,55,011	57,325	1,477	58,802	NA	NA	NA
3	Bihar	8,022	0	8,022	121	0	121	NA	0.00	NA
4	Chhattisgarh	8,43,539	25,977	8,69,516	3,73,718	12,714	3,86,432	8,06,331.00	13,92,270.45	21,98,601.45
5	Goa	9,372	361	9,733	0	3	3	0.00	4.35	4.35
6	Gujarat	1,82,869	7,187	1,90,056	80,028	3,484	83,512	1,17,736.70	11,42,191.96	12,59,928.66
7	Himachal Pradesh	591	68	659	0	7	7	0.00	4,670.28	4,670.28
8	Jharkhand	99,224	3,286	1,02,510	54,458	1,723	56,181	98,265.22	45,503.71	1,43,768.93
9	Karnataka	2,98,795	5,741	3,04,536	12,421	628	13,049	16,436.60	26,465.31	42,901.91
10	Kerala	36,140	1,395	37,535	24,599	NA	24,599	33,018.12	NA	33,018.12
11	Madhya Pradesh	5,74,902	39,816	6,14,718	2,11,420	27,422	2,38,842	7,93,136.20	13,02,163.57	20,95,299.76
12	Maharashtra	3,52,950	11,408	3,64,358	1,06,898	5,748	1,12,646	5,77,026.20	44,35,944.77	50,12,970.97
13	Odisha	6,12,265	13,433	6,25,698	4,04,726	5,891	4,10,617	6,05,283.13	2,86,497.14	8,91,780.27
14	Rajasthan	70,515	688	71,203	36,183	72	36,255	55,116.12	485.84	55,601.96
15	Tamil Nadu	18,420	3,361	21,781	0	0	0	0.00	0.00	0.00
16	Telangana	1,83,107	3,427	1,86,534	93,494	721	94,215	3,00,092.00	4,54,055.00	7,54,147.00
17	Tripura	1,93,751	277	1,94,028	1,24,541	16	1,24,557	4,34,119.45	27.07	4,34,146.52
18	Uttar Pradesh	92,520	1,124	93,644	17,712	843	18,555	18,854.46	1,20,802.06	1,39,656.53
19	Uttarakhand	182	0	182	0	0	0	0.00	0.00	0.00
20	West Bengal	1,31,962	10,119	1,42,081	44,396	805	45,201	22,065.05	1,052.84	23,117.89
	TOTAL	40,26,970	1,38,425	41,65,395	17,27,655	62,969	17,90,624	40,79,741	96,53,197	137,32,938.61

Source - <https://tribal.nic.in/FRA/data/MPRFeb2017.pdf>

According to the status report of MoTA as of May 2015, the Tripura Government holds the highest percentage of titles distribution against the number of claims received at 65.97 %, other states in this category includes Kerala at 65.54 %, Odisha at 57.24 %, Rajasthan at 49.09 % and Jharkhand at 44.73%.



(Source: Author's compilation from MoTA status report as of May 2015)

Additional reference: for state-wise performance of FRA -
<http://sanhati.com/news/1201/>

Challenges in implementation of FRA

There have been several criticisms against the manner in which the Act has been implemented so far.

- **Deficiency within Gram Sabha** The Gram Sabha (village assembly) is the first tier of decision-making as per the Act. But in most of the states, the Gram Sabha do not have the desired infrastructure and technical know-how to keep these records. In many tribal areas, Gram Sabha is yet to be constituted.
- **Lack of regular elections in panchayats** - In many states the panchayat system is not very strong and in some cases, the panchayat elections are not held regularly. In such areas, the Gram panchayats are not operational up to the desired level necessary for the implementation of the Act.
- **Ambiguity in the formation of Forest Rights Committee** - Each village is to elect a committee of 10-15 people from its residents as a Forest Rights

Committee , which will do the initial verification of claims and place its recommendations before the Gram Sabha. However, in most of the states Gram panchayat responsible for the formation of Forest Rights Committee comprising of these people are not efficient enough to implement the Act in letter and spirit.

- **A deliberate focus on individual rather than community rights**community forest management is the most sustainable and democratic model of forest governance. Still, the administrative machinery is found to be concentrating more on claims for individual user rights rather than community rights. So far, very few claims are filed under community rights and most of them have been neglected.
- **Lack of awareness and Illiteracy** - The main target beneficiaries of this act are mostly illiterate and therefore filling and submission of forms regarding the claims becomes very difficult. In this case, many intermediaries with vested interests try to take advantage of the situation. Also, there is severe lack of awareness about the provisions of the act not only among the beneficiaries but also among the officials in charge of implementing it.
- **Lack of land records as proof** - As per the provision in Act it is the responsibility of the officials to provide required documents to the individual & communities as proof but it is not taken up by the concerned departments. In the absence of authentic records, actual eligible people have to face serious problems in claiming their rights.
- **Non-recognition of rights in Protected Areas (PA)** - In protected areas, the process of settling the claims is extremely slow and also there are efforts to relocate the beneficiaries illegally.
- **Other Traditional Forest Dwellerstheir claims are not recognized** in most states, partly due to wrong interpretation that they required to have occupied land for three generation. No documentary evidence is available to prove that they are living in the area for 75 years.
- **Primitive Tribal Groups** - The provision for community/habitat right of Primitive Tribal Group, pre-agricultural communities is not appropriately implemented so far. There is lack of clarity on the mechanism for claiming right. Such communities are mostly interested in habitats right as it gives them a permanent settlement.

- **Lack of inter-departmental coordination-** The tribal department has been declared as the nodal department for the enactment of this Act, but the records for the forest lands are in possession of either forest department or the revenue department. Involvement of three departments - the tribal welfare department, the revenue department and the forest department makes it difficult to have a good liaison between them.
- **Harassment by forest officials** under Indian Forest Act 1927 government has arbitrary power to take over forest land without proper rehabilitation of tribals and other forest dwellers, putting them at the risk of harassment by local forest officials, especially in Naxal affected areas. It also results in large-scale rejection of claims in Naxal affected areas.
- **Attempts to dilute the provisions of the act** - Now through various legislations and rules the FRA is sought to be violated by side-stepping the Gram Sabha in the name of ease of doing business and wildlife conservation. The Ministries of Tribal Affairs and Environment have been at loggerheads with each other over the need to acquire land, including forest land, for industries.
- **Diverting forest lands for non-forest purposes-** There is apprehension that Land Acquisition Act, Mines and Mineral development Act and Compensatory Afforestation Fund Act will make it possible for the government to take away rights given under Forest Rights Act, 2006.

Way forward and Recommendations

Forest rights act is seen by many as a panacea against all ills of forest governance and management as well as tribal rights. The Act goes beyond recognising individual forest rights to forest land. It also intends to empower the community and grants the right to protect forests, wildlife and biodiversity. However, due to lack of political will and apathy of the bureaucracy, the implementation of the act is suffering.

In view of the above-mentioned gaps in implementation, following recommendation can help to achieve the objectives of the act and to ensure justice for tribals and other forest dwelling communities

- **Awareness campaigns** large-scale awareness and information dissemination campaigns should be organised to reach out to the people through radio,

television and other media to ensure that people receive the necessary information related to the act.

- **Collaboration with NGOs-** there is a need to identify NGOs working in the area to provide backup support to poor tribals and assist them in filing applications, identification and measurement of land (individual or community) and negotiating with the officials.
- **Capacity building-** It is important to develop a detailed strategy of training and capacity building of people responsible for implementing the FRA, such as Panchayats, Gram Sabha, village level Forest Rights committee etc.
- **Maintain village maps at the Panchayat level** - The relevant maps and documents should be made available to the Forest rights committee and claimants to simplify the task of the Gram Sabha in identifying and filing claims for individual and community rights.
- **Inter departmental coordination** - Steps should be taken to ensure better coordination between revenues department and forest department officials to facilitate the verification of claims within a time frame.
- **Providing clarity on the time limit for settling claims** the act does not specify any time limit for resolving claims. In most of the areas, both the officials and beneficiaries are unaware of this fact. Clarity on the time frame can go a long way in improving settlement process of claims.

Conclusion

It is sad to see that there have been deliberate attempts to thwart FRA and dilute its provisions by administrative machinery. However, despite various challenges being faced by FRA, it has been one of the most powerful tools to protect the rights and dignity of tribals and other forest-dwelling communities. It has become a weapon of democracy in forest governance. Therefore, it is the responsibility of the government to protect the tribals group and ensure that they get their rightful entitlements.

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