



# Implementation and Outcomes of Forest Rights Act: A Critical Assessment of Two States in India



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The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, popularly known as the Forests Rights Act (FRA), was enacted in 2007 through the Ministry of Tribal Affairs (MoTA) to correct the 'historic injustice done to forest-dwelling communities'. The act (interchangeably used for FRA henceforth in the text) gives individual property rights to the tribals and other forest dwellers over the forest lands under their occupation for cultivation, dwelling and other forest uses. Besides, it provides for total ownership rights over Non-Timber Forest Produce (NTFP) / Minor Forest Produce (MFP), along side community rights. The significance of this act is that all these rights are also applicable to the Protected Areas (Sanctuaries and National Parks) as well.

The enactment of this act for the Forest Dependent People (FDP) was not an easy development; in fact, from the passing of the act in December 2006 to its enforcement in January 2008, many apprehensions were expressed by conservationists and environmentalists on the ground that the act was a welfare measure under which rights would be magnanimously granted to the tribals. However, pro tribal rights scholars and activists were able to convince the FRA critics to the 'historical injustice' meted out towards the tribals over the years and that the issue was to be understood in a broader context, i.e., as the restoration of the pre-existing rights rather than as the State largesse.

Following the FRA, the respective states made suitable provisions in accordance to the rules of the act to monitor and implement the act. Implementing agency at the national level is Department of Tribal Affairs, Government of India. At the state level, this responsibility is vested with the SC and ST Development

Department in most of the states.

Ever since the implementation of the FRA in 2008, there has been a fair degree of ambiguity surrounding several clauses/ issues. Hence, from time to time, the state governments have been seeking clarifications from the MoTA following which, the ministry also has been issuing clarifications through circulars to the respective state and union territory authorities and circulars to all other states.

## Objectives of the Study

The overall objective of this research was to understand the implementation process of FRA alongside the implications for the FDP at the ground level under different action situations, and also to locate the lacunae that are hindering its successful implementation. The study also probes the causes that are holding back community participation to its full potential. The specific objectives of this study were as follows:

1. To examine the awareness level of the FDP regarding FRA
2. To look into the implementation Process of FRA.
3. To examine the livelihood Impact on the FDP post FRA

## Research Area and Methodology

Chhattisgarh and Gujarat are the two states selected for this study. The rationale behind the selection of these two states is that Chhattisgarh is a developing state as compared to Gujarat, generally considered a developed state in India. Chhattisgarh, on the other hand, is plagued by governance-related challenges due to insurgency activities in the very areas where the act is being implemented. With respect to Human Development Index (HDI), Chhattisgarh, with an HDI value at 0.358, has the dubious distinction of being an





Indian state with the lowest HDI value, while Gujarat at 0.621, is considered medium as against the national average HDI value at 0.47. However, Chhattisgarh accounts 7.7 percent of the country's forest cover, while Gujarat for barely 0.46 percent. A look at the proportion of forest cover relative to the geographical area of the respective states shows that Chhattisgarh is way ahead; accounting for a whopping 41.18 percent, while Gujarat for only about 7.45 percent. The tribal population in Chhattisgarh constitutes 32.5 percent of the total population, while in Gujarat, it accounts for 14.9 percent. Tribal communities in Chhattisgarh and Gujarat are poor besides being mainly landless. They are basically into small scale farming, pastoralism, and nomadic herding. The tribals, especially in Chhattisgarh, live mostly in the forest villages set up by the FD with some being as old as 80-90 years. Chhattisgarh has 425 such villages, while Gujarat only 199. The natural differences in terms of forest cover, population, and human contributed factors, viz., economic infrastructure, governance, etc., are expected to make the study interesting to understand how the two states, that are so contrasting in many ways, deal with a sensitive act such as the FRA.

For sampling, 9 GPs from 3 different *talukas* from the regions of North Chhattisgarh, Central Chhattisgarh and South Chhattisgarh in Chhattisgarh and similarly from North Gujarat, East Gujarat and South Gujarat were purposefully selected where at least 30 claims had been made under a given GP. The basic reason for selecting these three regions across two states was to explore the functional dynamics of governance having varied and disparate effects on the physical situation of the forests in these areas and also to identify ethnic differences among the tribal communities, if any, in the context of the implementation of FRA. Besides, it was also an effort to record such areas where, community claims had also been made in addition to the individual claims. The chosen 18 GPs in their respective 18 *talukas* are spread across 14 districts, representing 45 villages or hamlets.

For an empirical enquiry, a total of 18 GP-level FGD schedules were moderated in each village with the respondents representing FRC Members including the president of the respective GP (in some instances, there were FRC Presidents for individual hamlets). In addition, 540 members (forest right claimants) were also individually interviewed at the household level. A large number of Non-Government Organisation (NGO) members working in various capacities in the proximity of the study villages, FD officials, tribal department officials

from *taluka* level rank to divisional/ district levels were also interviewed for a broader understanding of the FRA implementation.

## Key Findings and Discussion

### *Stakeholder's Awareness Level and Implementation Process of FRA*

Coming to the main issues associated with FRA implementation, the research reveals that the tribals are still very naive and lack awareness not only regarding FRA but also about the outside world around them, barring a handful of semi-educated youth or those having been exposed to working with NGOs at one point of time or the other. The story is identical in respect of both the states.

FRCs to be constituted duly through conducting of GS with 2/3rds of the eligible members present in the meetings (that too at their hamlet or block level and not at the *panchayat* level) has not proved to be so successful. Both these requirements are found to have been overlooked in a majority of the study GP villages. The reason given out by the *panchayat* secretaries is that they got the directive from the district magistrate to form FRCs at a very short notice.

At the stage of overseeing the applications, it was the *panchayat* secretary and FD officials who dominated the entire proceedings with respect to act. In a good development in Gujarat, it was FRC secretary who completed the obligations, but in Chhattisgarh it was not so.

### *Issues in Implementation*

A majority of the applicants did not face problems while applying nor were they discouraged at the village level with regard to claiming their lands under FRA. However, in some villages, *sarpanches* in Chhattisgarh were accused of deliberately concealing this information by way of not distributing application forms to all the people. The reason - they being their opponents had not voted for the *sarpanch* in the election, Thus clearly indicating that in such villages, GS may never have been conducted for the constitution of FRCs.

The claimants who got their lands were informed by the *panchayat* office following the GP having received the circular from the higher authorities regarding granting of the lands to the claimants. However, there was no clear mention about which land exactly was theirs according to new documents because, for many awardees, the plots they claimed and the plots that were allotted did not match with each other.



The land that was allotted was far less than what was demanded. The claimants also did not protest saying that whatever little they got was enough even as they were threatened that this land too could be taken back by the government, if they showed signs of 'greed' (?).

When it comes to the verification of claims, many claims are found to have been rejected in Gujarat as compared to Chhattisgarh. It is because; the authorities in Gujarat went by single point agenda of entertaining the claims only if they matched with the satellite imagery. However, after filing writ petitions in the High Court by the civil society members, the government in the state responded by reconsidering all the rejected claims through a physical verification at the sites.

Every village in both the states had a demand for 'community land' but the authorities as well as the people themselves overlooked it because they gave more priority to their own individual claims. Even wherever they are claiming now, the purpose is to get land for schools, crematoriums, roads, grazing grounds etc., but very rarely have they asked for such forest lands that could be significant to their livelihoods. Except in a case in Valsad in Gujarat, where PTGs were given a stretch of bamboo plantation land under community claim.

### *Land and Livelihoods*

Mere distributing the land rights does not serve the purpose of enhancing the economic conditions of the FDP because not all of these have irrigation facility. The main source of irrigation among the majority of the study HHs is dug-wells and tube wells. In fact, now those small numbers of FDP who got recognition with respect to their lands are exploring the options of developing their lands with investments on irrigating and other agricultural implements.

From livelihood point of view, it could be assumed that, the relationship between the FDP and forests is tapering-off. This is because the study HHs appear to be behaving more like 'farmers', for their livelihoods i.e., they seem to depend on agriculture. Whatever produce they collect from forests is mostly meant for HH consumption and not for making an exclusive living out of forest produce. Quite a small percentage of the study HHs, however, is found engaged in selling fuel wood to nearby small time hoteliers for money. Similarly during seasons, they engage themselves in plucking

*tendu* leaves for a month (in Chhattisgarh) which is also now being threatened by the influx of labour force from Bihar willing to work for low wages.

A decline in dependency on forest produce can be attributed to two reasons: one, degeneration of forests and as a result, the available produce in the forest cannot sustain all the families living in the forest areas if they depend entirely on them; two, a very poor market and exploitation by local '*kachias*' (traders/ middlemen in Chhattisgarh).

### *Gender Issue*

A majority of the sample HHs in both the states have no special stories to tell of deprivation with regard to their women folk. This is because, the condition of their men folk to begin with has to be good. But, men or women, the social standard of their living is equally poor. Further, they claim that it is only when they receive complete ownership rights on the land they have demanded that the specific issue of women's rights becomes relevant and meaningful. Although, it is an issue for concern, that the study could come out with the facts that women representation in FRCs is dismal and that they mostly get nominated to fulfill the quota. It is not surprising that many of the women despite their names being associated with in the FRC are not aware of it. As for the voice of women, not a hint of it has been found in the study areas concerning their forest land rights.

### **Some of the important policy interventions for effective implementation of FRA :**

- ◆ For local and political reasons some of the HHs in the interior forest villages were denied from applying for their claims on the forest land. Such HHs need to be identified and their claims settled once for all for the good of larger society. NGOs need to come forward in attaining this objective.
- ◆ A complete relook is required in Chhattisgarh, particularly in the Bastar region, where the distribution of land has been simply ridiculous because 'available land' was grossly totalled-up and distributed more or less equally among the claimants irrespective of how much land they had claimed and on which plot.
- ◆ Decades old Forest Offense Reports (FORs) that helped the FDPs as documents of evidence to claim lands need to be scrapped irrespective of these unaware tribals make representation for it or not.



- ◆ Provision should be made to grant '*pattas*' to the beneficiaries so soon as official circulars are released to the revenue departments about their ownership to discourage politicians from taking advantage at the cost of FDPs.
- ◆ FDPs need to be educated and encouraged to claim 'community lands' vigorously wherever they are available and capable of enhancing 'livelihoods' instead of getting lost in claiming lands for unproductive purposes even if claimed under community claim.
- ◆ Lucky villages blessed with compassionate and sensitive officers' right from Magistrate to FD officials have comparatively fared better in the implementation of FRA. Hence a great deal of moral responsibility lies on these officers to take this act to a logical conclusion.
- ◆ Land improvement and irrigation needs to be given top priority as a follow-up to with the act to boost quality of the land to enable these beneficiaries to benefit at optimum level. For this to happen, the concerned agencies need to be informed about the ownership of the FDPs.
- ◆ From a political or administrative point of view, an immediate implementation of PESA would serve the overall purpose as the act has touched upon all the issues concerning tribals including the preservation of indigenous culture, their local dialects and language.
- ◆ From livelihood point of view, dairy farming, horticulture, growing and selling of medicinal plants, setting up of small cottage industries like incense stick making leaf-plate making is highly recommended. Eco and medical tourism also needs exploration without being hijacked by big business houses.
- ◆ Special skill development programmes carried out by the government for tribal youth in Bastar region has worked well. These youngsters are now getting suitable jobs. They were trained in 'tally software, hotel management course, sewing etc. This can be emulated in tribal areas in the country.
- ◆ Bamboo plantation needs promotion in a big way because 4th year onwards after plantation, bamboo wood starts giving returns of Rs.1.5 lakh per acre. Aloe vera plantation and incense sticks making are other avenues. However, the mantra for the success of these plantations lies in providing a consistently good price; this will also encourage the locals to think in terms of changing their old cropping pattern.
- ◆ In brief, to improve the condition of the FDPs, they need push on all counts i.e., **education**, provision of infrastructure, employment, regulated markets for their produce including MFPs.

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