

IMPLEMENTATION OF FOREST RIGHTS ACT: UNDERSTANDING THE DETERMINANTS

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INTRODUCTION

The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 or Forest Rights Act (FRA) as it is commonly known, came into force in India on December 31, 2007. The significance of the legislation was that it carried the promise to correct the historical injustices meted out to the forest dwelling tribal communities. The Act is in harmony with the policy of the International Union for Conservation of Nature (IUCN) on conservation and human rights for sustainable development (IUCN, 2012), which upholds the rights of the most vulnerable people like those living in forests. The FRA provides for cultivation and residing rights to both tribal communities and Other Traditional Forest Dwellers (OTFD) over the lands under their occupation. This enables them to claim ownership rights over Minor Forest Produce (MFP) and management and protection of forest resources. The claim extends to protected areas such as national parks, reserved forests and wildlife sanctuaries where the tribal communities were traditionally enjoying access (MoTA, 2014). There are distinct eligibility criteria to claim land under FRA. The tribal claimants should have primarily resided in the forest land prior to December 13, 2005, while the OTFDs have to prove that they have been living and depending on forest land for their livelihoods for at least three generations or 75 years prior to the same cut-off date.

By 2008, most of the state governments framed suitable rules for implementing the FRA. The Ministry of Tribal Affairs, Government of India acts as the nodal agency. At the state level different departments like tribal welfare department, department of social welfare, backward classes welfare department (as is case in West Bengal) shoulder the responsibility of the Act's implementation.

RESEARCH PROBLEM

This policy brief is intended to draw some critical lessons for policy thinking and action based on state level experiences, especially, when the provisions of the Act come in to conflict with other development concerns. The empirical core of the brief is culled out from a larger research study¹ conducted in the state of Karnataka in 2022. Situated in the southern peninsula, Karnataka is rich in forest cover and has a reasonable size of tribal or indigenous populations (Forest Survey of India, 2021; Census of India, 2011). The forest cover of 20.19 percent in the state is close to the national average of 21.71 percent. As for the demography, Karnataka has 6.95 percent of tribal population which is just below the national average of 8.61 percent.

OBJECTIVES

The main objective of the research has been to understand the implementation of FRA and its impact on the Forest Dependent People (FDP) at the ground level under different situations. The study also probed the causes that are holding back community participation to its full potential. The specific objectives of the study undertaken were:

- To examine the livelihood impact on the FDPs after the implementation of FRA.
- To identify the nature of contestation between the FDPs and conservation groups in the context of the claims made on forestlands.
- To analyse the issues of inter-departmental coordination working in the forest jurisdiction and identify the emerging conflicts between the various stakeholders.
- To offer policy relevant recommendations to enable the conditions suitable for implementing FRA in fulfilling the objective of availing rights to the FDPs and conservation of forest at the same time.

¹The research study titled "Tribals, Forest Rights and Heritage Conservation: A Study of Western Ghats in Karnataka" was sponsored by the Indian Council of Social Science Research, New Delhi.

METHODOLOGY

Quantitative information was collected through a structured schedule from the main stakeholders at household level. Focus Group Discussions were conducted at village level for gathering qualitative data (table 1). The five districts covered for the study were Chikmagaluru, Kodagu, Shivamogga, Udupi and Uttara Kannada. Among these districts, except for the study villages in Uttara Kannada, the remaining locations were declared as 'World Heritage Sites (WHS) (UNESCO, 2012). The villages covered in Uttara Kannada were also significant habitats recognised by the state FD. the respondents included both tribal people and the OTFDs in a ratio of 3:1.

Table 1: Total Number of Households and Focus Group Discussion Information Gathered for the Study

No. of Districts	No. of Talukas	No. of Gram Panchayats	No. of Villages	No. of Households	No. of FGDs Conducted
5	11	19	40	462	19

Keys: No.-Number; FGD-Focus Group Discussion; Ref.-Reference

Besides, a structured personal interview schedule was used to gather information from various stakeholders viz., ground-level staff of FD and Revenue Department, Panchayat Development Officers/ Gram Panchayat (GP) secretaries, Taluka-level officials of the Department of Social Welfare, Tribal Welfare Department staff members, elected representatives of GPs, Taluka Panchayats and District Panchayats, individual activists, Non-Government Organisation (NGO) members, heads of caste organisations and local cooperative/entrepreneurs (buyers of products from the forest dwellers). However, those respondents holding government positions preferred to remain anonymous.

Table 2: Status of IFR at the time of Undertaking the Study in February 2022

	No. of Claims Received	No. of Titles Distributed	Percentage of Titles Distributed over No. of Claims Received ⁺
Karnataka	2,88,313	14,650	5.08 %
India ^Δ	42,60,190	21,32,172	50.04 %

Source: Ministry of Tribal Affairs (undated)

Note: ^Δ-20 states in the country are implementing FRA.

⁺-Percentages prepared by the author from the same source

Karnataka has one of the poorest record among 20 other states in the country for having just about 5.08 percent claims recognized under FRA until February 28, 2022. According to Murthy (2019), only 17.5 percent of applicants in Karnataka were from tribal communities and the remaining 82.5 were OTFDs. Hence, he argues that the rights of tribals are more or less settled and the remaining applications have failed the scrutiny for want of valid evidence. However, this view was not found to be completely true in the field.

KEY FINDINGS

- o From a livelihood perspective, most of the stretches of land claimed by FDPs were located on hill slopes and hence not productive. In the absence of irrigation facilities, agriculture was not going to be helpful. For cultivating their lands, they relied on gravity-flow water supply system, dug wells and tube wells. However, the recognition given to their lands under the FRA served as a psychological boost to the FDPs in general and tribals in particular. Now they feel assured that their lands would not be taken back by the authorities.

- o The dependence on the forest exclusively for livelihood has been reducing over some time in majority of the villages. The reason given by the FDPs was that they found going into the jungle to collect minor forest produce to be a tiresome job. Besides, selling the produce was no longer lucrative given the volatile market and also rampant exploitation by middlemen. This bitter experience led them to believe that for the same effort, they would get better wages if they worked as labour. Hence, working as daily labour (casual or agriculture) is now the primary occupation alongside farming on the land under their occupation.

- o A good number of respondents migrate to the nearby and far off cities to work as construction or road-laying labour. In their opinion, this will continue until the wages earned through any source including Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) in the villages match the wage earnings in urban areas.

- o The beneficiaries of the Act are not given the 'Records of Rights, Tenancy and Crops' (RTC) document required to avail the benefits associated with the land defeating the very purpose of the Act.

- o Similarly, in places where the FDPs received documents of land possessed under FRA, the welfare and developmental schemes of the respective departments (revenue, rural development, forest, irrigation, etc.) were not extended despite the September 6, 2012 amendment to rules issued by the Ministry of Tribal Affairs (2012).

- o Overall, the reasons for rejection of claims were attributed to: (a) members in a single family making multiple applications; (b) claims made on non-forest or revenue lands; and (c) applicants not living on claimed lands and fresh encroachments; (d) claims falling under wild life sanctuaries or parks; and (e) the number of claims made by the 'OTFDs' being considerably high. The last reason of claims from OTFDs outnumbering those from tribal communities was prominently observed in majority of the villages in the study. This phenomenon has been emphasised by important stakeholders like the FD and environmentalists who oppose ceding the forest land for extending rights to the people fearing it would affect conservation of forest.

- o It was only in four villages in the study the approval of 'Community Forest Rights (CFR)' was reported. However, the dependency on the forest was not very significant. About half of the respondents depended on the forest for collecting fuelwood and dried leaves.

- o The factors like remoteness, lack of education, and poor gender parity differentiated the better-implemented villages from the poorly-implemented villages as far as the FRA is concerned.

SUGGESTIONS FOR POLICY CONSIDERATION

- o The government must address the concerns of the forest dwellers by issuing documents like RTCs where the recognition over the claimed lands are successful to lend meaning to the Act on the ground.

- o The need of the hour is to shift the paradigm from bestowing land ownership as the only way of solving the problems of tribal communities, particularly when the farmers elsewhere in the country are looking beyond 'agriculture' as source of their livelihood. Same tendency is observed among the tribal communities too.

- o NGO representatives working in the tribal areas believe that the livelihoods of the locals would improve if horticulture practices are promoted in addition to bamboo and aloe vera plantations with an assured market. A popular recommendation coming from the 'better aware' respondents was promotion of market for medicinal plants collected by the FDPs.

- o Not much emphasis is observed from both the communities and authorities to avail CFR in the study. These rights help not only in conservation but also in sustaining livelihood through MFP collection and sale. Hence, measures must be taken to extend CFRs wherever possible.

- o The conservation of biodiversity requires special attention. Yet, forest dwellers willing to live in the forest must be allowed to stay. Many of them comply with the norms of the Eco-Sensitive Zone because they do not depend on modern development practices such as the use of fertilizers and mobile phones. Using the same logic, those wanting to experience the fruits of development must be relocated according to their choice to a new place with a suitable monetary and land package. This can be possible only when the areas declared as ‘protected’ are arrived at after consultations with the local population which did not take place in a transparent way in many villages in the study. Hence, people sensitive to the cause of indigenous forest-dwellers need to be inducted at every stage in the decision-making process to avert such situations.
- o The FRA can never be a panacea to address all the issues of the tribal people, but it is important to improve their condition, especially those living in remote areas. Hence, it needs a push on every possible aspect of their socioeconomic life. This can be attained if schemes and programmes already drafted for the tribal people are implemented in letter and spirit across the country.
- o Finally, to end the ongoing mistrust between the FDPs and the FD, the Act could be revisited to review the populist clauses that have allegedly emerged dramatically in the last stages of the legislation process leading to an increase in the number of claimants over the forest land according to the FD and environmentalists.

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