

HOME / SCI-TECH / ENVIRONMENT

What community forest resources say about India's forest plans | Explained

PREMIUM

FRA is the world's first such law, but its success depends on the government getting other laws to play along

November 20, 2023 12:00 pm | Updated 12:00 pm IST

C.R. BIJOY

COMMENTS

SHARE

🔖 READ LATER



A gram sabha meeting in progress at a village in Thoothukudi district, Tamil Nadu, on October 9, 2023. | Photo Credit: Special arrangement/The Hindu

Seventeen years ago, the Parliament enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act – a.k.a. Forest Rights Act (FRA) – 2006. **FRA was designed** “to address the long-standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions”.

It recognised the fact that “forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem”.

FRA is the first such law enacted anywhere in the world. Hailed as a beacon for forest conservation by conservationists and forest-dwellers alike, FRA was to finally usher in forest dwellers’ conservation-centred democratic forest governance. It prescribes a transparent procedure to record and issue titles to pre-existing rights that the Act recognised and vested on forest dwellers in 2006.

These rights are individual for homestead and cultivation, and can only be inherited, not transferred; access and use rights of community for common purposes; a set of 13 development rights for basic public utilities; and governance rights over community forest resources.

The habitation-level Gram Sabha – and not the Gram Panchayat level Gram Sabha – is the primary authority to determine and approve these rights.

How did FRA change forest conservation?

It took democratic India 58 years to enact a law to free the forests, almost a quarter of the country, and all its residents from a brutal colonial occupation and governance. But it also

only enacted the law after being forced by a nationwide uprising of Adivasis, promoted by widespread illegal evictions.

The Ministry of Environment, Forests and Climate Change (MoEFCC) reported to the Lok Sabha on September 16, 2004, that people had been evicted from 1.52 lakh hectares of forest land between May 2002 and March 2004 alone. This added to the more than 2.13 crore development-induced internally displaced people, who include those displaced by dams (1.64 crore), mines (25.5 lakh), industrial development (12.5 lakh), and wildlife sanctuaries and national parks (6 lakh) during the five-decade pre-FRA period. About 40% of them were Adivasis.

The MoEFCC – the keeper of all forests – whether notified or not was to ensure the forests were used judiciously to subserve the larger interests of the people of India. Instead, the historical injustices were compounded by increased repression and extortion that transformed most forests into conflict zones.

In its 2009 ‘India Forestry Outlook Study’, under the Asia-Pacific Forestry Sector Outlook Study coordinated by the U.N. Food and Agriculture Organisation, the MoEFCC noted that the FRA “assigned rights to protect around [4 crore] hectares of community forest resources to village level democratic institutions. The fine tuning of other forest-related legislations is needed with respect to the said Act.”

More than half the recorded forest area, of 7.75 crore hectares, ought to have come under the habitation-level Gram Sabhas by now.

What is a community forest resource?

A community forest resource (CFR) in FRA means the “customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities ... to which the community had traditional access”.

This includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, wildlife sanctuaries, national parks, and tiger reserves. FRA requires the Gram Sabha “to protect, regenerate or conserve or manage” its CFR.

To this end, the rights holders, the Gram Sabha, and its institutions are empowered to “protect the wild life, forest and biodiversity”, and ensure that “adjoining catchments area, water sources and other ecological sensitive areas are adequately protected”, that their habitat “is preserved from any form of destructive practices affecting their cultural and natural heritage”, and “decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with”.

So all forest diversions for non-forestry purposes under the Forest (Conservation) Act 1980 are required to obtain the Gram Sabhas’ consent. In *Orissa Mining Corporation Ltd. v. Ministry of Environment & Forest & Others*, the Supreme Court ruled in 2013 that Gram Sabhas’ consent for forest diversion was mandatory for forest diversion proposals. However, this requirement has today been downgraded such that the State governments need to obtain it only after the MoEFCC has actually granted the forest clearance.

Replacing the legally enforceable directive of 2015, the Ministry of Tribal Affairs guidelines of September 12, 2023, require that every habitation has a CFR. If not, the Secretary of the District-level Committee of FRA, led by the District Collector, is to record the reasons for its absence. The CFR of each village needs to be recorded in the forest and revenue records as the CFR of that village.

The Gram Sabhas are to constitute the Community Forest Management Resource Committee to execute their decisions. Their conservation and management plans are to be integrated with the working plans of the forest department.

As such, Gram Sabhas are the statutory implementing authority for conservation in the CFR area.

What is the status of CFRs today?

The Ministry of Tribal Affairs has reported that it has issued titles in 18% of forest land under various categories of forest rights (19.24 lakh hectares individual and 52.74 lakh hectares community rights) as of June 2023. Most of this falls within CFR areas. However, neither the Ministry nor any State governments have divulged how much of these lands are titled to the Gram Sabha as CFR, which is notable because the latter is effectively the

most powerful legal instrument for forest conservation in the country. The bureaucracy has been averse to generating CFR claims and recognising them.

The Indian Forest Act 1927 and its State-level clones, and the Wildlife (Protection) Act 1972, the Forest (Conservation) Act 1980, the National Biodiversity Act 2002 and the Compensatory Afforestation Fund Act 2016 have not been fine-tuned with FRA.

However, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 was amended in 2016 to incorporate violation of forest rights under FRA as atrocities. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 includes both individual and community forest rights under FRA as requiring fair compensation, rehabilitation, and resettlement when forest land is acquired – but these provisions are seldom honored.

FRA has finally transferred, at least in law, most of India's forest back to the people and to peoples' democracy from a recalcitrant and often hostile State institutions in this era of climate change and the systemic dispossession of forest dwellers. The onus, it seems, is on the forest dwellers, numbering some 15 crore in numerous habitations in over 1.7 lakh villages, to defend the FRA at all cost, just as they fought to have the law enacted.

The author examines natural resource conflicts and governance issues.

COMMENTS

SHARE

Related Topics

The Hindu Explains / forests / conservation / tribals