

## **Cultural Practices and Forest Rights Act, 2006**

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### **Abstract**

*This research paper tries to analyse the deep link between cultural and traditional practices of forest dwellers which they have been using since time immemorial to preserve the wildlife plants and animals. Though these people are not considered to be scientifically literate, their deep knowledge about the preservation of the environment through their traditional and cultural practices reflects their affection towards the environment. The Forest Rights Act tries to give recognition to their old age practices through different provisions under the Act itself but the problem lies with implementation of the Act in its true spirit.*

**Keywords:** Forest Rights Act, Scheduled Tribes, Individual Forest Rights, Community Forest Rights, Ministry of Tribal Affairs.

### **Traditional Practices And Environment In the Indian Context**

Forest, Wildlife and trees are held in high esteem and have a special place in Hindu dharma. The Vedas, Puranas, Upanishads and other scriptures of the Hindu religion highlighted the importance of trees, wildlife and plants in the life of people. During the Vedic period, cutting of trees was prohibited and punishment was prescribed for such acts. Yajnavalkya Smriti has declared the cutting of trees and forests as a punishable offense and has also prescribed a penalty of 20 to 80 pana.<sup>1</sup> In Srimad Bhagavatam, it has been rightly pointed out that a man who with exclusive devotion offers respect to sky, water, heavenly bodies, living beings, trees, rivers and seas and all created beings and considers them as a part of the body of the Lord attains the state of supreme peace and God's grace.<sup>2</sup> Yajnavalkya Smriti and Charak Samhita gave many instructions for the use of water for maintaining its purity.<sup>3</sup>

“Water is an essential ingredient for human life as it is allied with human's birth and death with water of the river Ganga. Similarly, the various types of tree like Banyan, Peepal (Ficus religiosa), Asoka and Bela (aeglemarmelos) in India are of great significance as the Banyan tree

<sup>1</sup> B.N. Tiwari, "Hindu Culture and Ecology" in Gautam Sharma (ed.), Environment, man and nature (Reliance: New Delhi, 1989) pp. 26

<sup>2</sup> Id. at p. 27

<sup>3</sup> Id. at p. 31



is attributed to their fertility, longevity and the home of Lord Siva and Devi Parvati while Peepal considered as one of the sacred trees in the Hindu religion because it is believed that the ancestors of Hindu live there and the manifestation of Lord Vishnu found in this tree. It gives oxygen for more than twenty hours a day as compared to other trees and each part of this has a medicinal value. Asoka tree has relevance with Sita, she spent much time under this tree in Lanka and as the name indicated it is a pain killer.”<sup>4</sup>

“In the same way, Bela grows up with fruits having medicinal value which heal a large number of diseases and its leaves offered to Lord Shiva. Likewise, Tulsi (Basil) is another sacred plant because the Puja of the Hindu God is incomplete without the leaves of Tulsi. It has also a medicinal implication and assists in improving the fertility of the soil. An Indian scholar named Kautilya developed the concept of forest reserve for the first time in India which shows that the idea of resource management is not new.”<sup>5</sup>

During the pre-British period in India, the main charge of the forests was the needs of the local people for their use only. At that time there were only customary regulations on people's rights over forests and forest produce. The religious-cultural norms and customary regulations were the 'laws' regulating the exploitation of forest resources by the local people. These 'normative laws' are still found in many places in India. In the Western Ghats, temple forests are the finest surviving examples of tropical evergreen forest diversity. They were spared from destruction due to their association with local deities. The practice of conserving natural resources and wildlife is deeply rooted in Indian cultural traditions.

In International and National law it has been stressed that the contribution of indigenous knowledge is beneficial for the protection of Earth's biological diversity. Active resource conservation requires collaboration between the government and citizens. Achieving this goal necessitates political commitment, educational initiatives, the empowerment of local communities, and a shift in public attitudes. The enactment of the FRA came because of an extraordinary grassroots movement by forest-dwelling communities advocating for their rights to forestland. The FRA also aimed to address the historical injustices inflicted upon Adivasis and other traditional forest dwellers during the establishment of forest estates in the colonial period.

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<sup>4</sup> Mehta, Shashi “Role of Traditional Practices in Conserving Environment: A Case of Manesar Village, Gurugram” IOSR Journal of Humanities and Social Science, Volume 22 Issue 11, Ver 10 (Nov 2017) p.10-16

<sup>5</sup> ibid



The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA), 2006 legalized the rights of forest-dwelling communities by law, but there are several traditional practices that the communities have engaged in before the enactment of the FRA. FRA recognizes 14 pre-existing rights of forest dwellers, including Scheduled Tribes (groups of indigenous people officially recognized by the constitution of India), to use, protect, and manage forest resources where they live. These rights are a source of recognition of old age practices of people being adopted for the conservation of natural resources. The only problem with this Act is the lack of will on the part of the government to implement this democratic Act.

FRA has given legal and statutory recognition to customary and traditional practices of forest dwellers which they have been using since time immemorial. These cultural practices are deeply rooted in the social life of these people and have been stamped with a legal seal. The cultural and traditional ways to protect and preserve the natural resources reflect their knowledge about fine nuances of science though these people are considered illiterate and primitive.

Present-day global concerns for sustainable development and conservation of natural resources, highlighted between the Stockholm Conference on the Environment in 1972 and the United Nations Conference on Environment and Development (Earth Summit) in Rio de Janeiro in 1992, are relatively recent. In contrast, India has a long-standing tradition and cultural ethos of nature conservation.

This Research Article is an attempt to bring together some of the information available on this aspect of Indian culture from various sources. Recent developments in environmental law form certain principles such as Sustainable Development, Public Trust Doctrine, Intergenerational equity, Intragenerational equity, Polluter Pays Principle, and Precautionary Principle is nothing but recognition of these old age traditional and customary practices.

Many of the rituals which may seem meaningless and superstitious to modern society, are traditional strategies to preserve the intrinsic relationship between man and nature. In Indian tradition, the worship of trees, animals, forests, rivers, and the sun, as well as revering the earth as Mother Goddess, has been prevalent. Many traditional practices that have protected the environment for centuries are based on scientific principles. These practices should be legalized to bolster the confidence of forest-based communities, who have been following them for generations. Some examples of these practices include:

## **Sacred Groves**

“The presence of sacred groves since the time of Rig-Veda shows a relation between traditional practices and the natural environment. Sacred groves refer to small forest areas untouched but conserved by local inhabitants and communities that are of special spiritual significance. It has been noticed that there has been a direct link between resource management and traditional societies with the continuous interaction and dependency of communities on natural resources. It has been seen that most of the forest areas were conserved by traditional societies with their socio-cultural and religious practices.”<sup>6</sup>One of the most notable examples of traditional practices in India, rooted in religious faith that has significantly contributed to nature conservation is the preservation of "sacred groves." These are patches of land or forests dedicated to a deity or village God, meticulously protected and revered through worship. These sacred groves are widespread across India, particularly abundant along the Western Ghats and the West Coast, including regions in Kerala, Karnataka, Tamil Nadu, and Maharashtra. In Kerala, numerous small jungles are devoted to snakes (known as Sarpakavu, where "Sarpa" means snake and "kavu" means jungle). There are also Ayyappan kavus dedicated to Lord Ayyappa, with the most famous being the sacred hill of Sabarimala, annually visited by millions of devotees. In Karnataka, an example includes the mapping of sacred sites by the Soliga community in the Biligiri Rangaswamy Temple Hills, illustrating how communities protect their spaces and boundaries within forests.

According to Madhav Gadgil (1985):

"Sacred groves varied in size from fifty hectares or more to just a few hundred square meters. In regions where networks of sacred groves have remained intact until recent times, such as in the South Kanara district on the west coast, they formed isolated patches of mature vegetation at densities of 2 to 3 groves per square kilometer. These groves ranged in size from small clusters to over a hectare, collectively covering around 5 percent of the land area. This preservation method has proven highly effective in conserving tropical biodiversity, as new plant species continue to be discovered in these groves that have disappeared from elsewhere."

Despite the depletion of forests in many parts of India, some sacred groves remain intact as oases in deserts, conserving rich biological diversity. The maintenance of sacred groves can thus be considered an outstanding example of a traditional practice that has contributed to forest

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<sup>6</sup> ibid



conservation, albeit in a small measure. There are also examples of sacred ponds attached to temples in many parts of India. Some of these have been responsible for the protection of certain endangered species of turtles, crocodiles, and rare freshwater sponge.

### **Sacred Plants and Animals**

Various communities have from historical times considered many plants and animals sacred in India. The most outstanding example is the peepal tree (*Ficus religiosa*). The banyan tree (*Ficus bengalensis*, and Khejri tree (*Prosopis cineraria*), and have been traditionally revered and therefore never cut. In addition to sacred groves, many other trees and plants are considered sacred and are cultivated within temple premises and protected in various localities across India. These include trees like sandalwood, betel nut, palm, neem, coconut palm, juniper, and champa, as well as plants like lotus, tulsi, and pepper. These traditional cultural practices, rooted in religious faith, have played a crucial role in safeguarding and promoting a diverse range of tree and plant species throughout India.

Numerous animals hold sacred status and are revered by various Hindu and other communities, ensuring their protection for centuries. The peafowl, revered by followers of Lord Karttikeya, is never hunted. Similarly, the blue rock pigeon, considered sacred to Saint Hazrat Shah Jalal, enjoys protection in the Bengal region. Even rodents are deemed sacred and are permitted to breed freely in the renowned temple of goddess Karni Mata in Rajasthan. Despite their fearsome reputation, tigers and cobras also receive protection due to religious beliefs. According to Asutosh Bhattacharya (1956):

Snake worship has been an established cult among the Nairs of Kerala. Snake groves or kavus abounding in wild trees and creepers housing a cobra's head carved in granite were found near the homes of many Kerala Hindus.

### **TRADITIONAL PRACTICES**

“Moreover, the Bisnoi community of Rajasthan has upheld a longstanding tradition of wildlife and bird conservation. Local knowledge has proven invaluable for forest restoration and management of protected areas in Rajasthan, known for its arid climate and limited rainfall. Cultural landscapes in both rural and urban settings, shaped by a blend of scientific and indigenous knowledge, foster diverse habitats for trees, birds, and other species, thereby

integrating nature with society.”<sup>7</sup>“Similarly, in Chamoli district of Uttarakhand, when a rural girl gets married, the couple must plant a tree seedling at the bride's home. This cultural and traditional practice was adopted by an NGO in the late 1980s and has significantly raised awareness among locals. Another conservation example involves alpine plants protected through local customs and beliefs, where these plants are associated with local deities. In villages like Doonagiri within the Nanda Devi Biosphere Reserve, Uttarakhand, the Bhotia community has long conserved medicinal plants due to their religious beliefs. They believe that touching medicinal plants from their village by outsiders brings great misfortune to the inhabitants, hence prohibiting such acts.”<sup>8</sup>

“The Khasis, Garos, and Jaintias communities of Meghalaya uphold a tradition of conserving natural resources rooted in their religious beliefs. In the Khasi Hills of Meghalaya, the Khasi tribe, central to their practices of nature worship, preserves diverse pockets of biodiversity. This reverence is evident in their protection of trees, forests, groves, and rivers. According to Khasi beliefs, those who disturb the forest face dire consequences, while sacred animals like tigers are seen as bearers of prosperity, happiness, and well-being.”<sup>9</sup>

“In Gujarat, the Bhil community of Rampuri village started a cooperative society, DhariharDungruVrukshUtpadhanSahkari Mandli, as early as 1986, which prevented anyone from entering the forest without permission. A four-member watch group was formed with a monthly payment to protect the forest. In Odisha, at sites like Ranapur and Kandhmal, communities perform rituals such as *Girigobardhan Puja*, *Benguli dance*, and *Dharani Penu Puja* to renew their commitment to protecting forests and livelihoods.”<sup>10</sup>

## CHIPKO MOVEMENT

The Chipko movement in Garhwal emerged from villagers' efforts to protect their forests. While the movement successfully halted commercial logging, the subsequent government intervention designated the area as protected, restricting local use of the forests—an unintended outcome of the protest. This enduring commitment to nature conservation is still evident today. A notable

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<sup>7</sup> ibid

<sup>8</sup> ibid

<sup>9</sup> Id at p.12

<sup>10</sup> Sujit Kumar Mishra, Saumya Vinayan,”Thenga Pali: Forest Vigilance and Traditional Customs, EPW June 11, 2022, Vol LVII No 24 p.





contemporary conservation effort is the Chipko movement led by the women of Gopeshwar village in the Garhwal Himalayas. By embracing trees to prevent their felling by loggers, these women protected 12,000 sq. km. of a crucial water catchment area. Similarly, the Appiko movement in Karnataka saw comparable efforts to conserve forests.

### ***Chipko like Movement***

“In Balrampur village, located in Dhenkanal district, Odisha, a Chipko-like movement emerged when residents opposed the construction of breweries by the Industrial Development Corporation of Odisha. They prevented company officials from entering the forest area. However, in the early hours of 17<sup>th</sup> November 2018, 1000 trees were illegally felled without the villagers' knowledge. In response, women resorted to hugging trees to obstruct further cutting. Despite arrests and attempts to remove villagers from the site, the government eventually yielded to the pressure and halted the project.”<sup>11</sup>

### ***Thenga Pali***

“District of Nayagarh in Odisha faced illegal felling of trees which led to a scarcity of food, drying up of streams and women were worst affected by this negative developments. Then women to check these illegal practices decided to engage in patrolling through Thenga Pali. Thenga means lathi or stick and Pali means rotation. The protecting community patrol in the forest in groups. The thengas at the end of the shift in the evening are placed in front of those houses whose members would undertake patrolling the next day. Work is evenly distributed among villagers with ownership and accountability. This practice was extended to nearby villages also. These practices indicate a lack of effective state mechanisms to protect forests. In Odisha in Dengajhari, women rejuvenated four streams in the forest and were successful in the diversion of water for paddy cultivation every year since 2006.”<sup>12</sup>

### ***Lath Panchayats***

“Forests are the lifeline of the hill economy and people have evolved many traditional systems of forest management in Uttarakhand. One such system is the Lath Panchayat. The Institution of Lath Panchayat has successfully worked with the long-held tradition of the people of

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<sup>11</sup> Supra Note 10 at p.73

<sup>12</sup> Id at p. 73

Uttarakhand. It is based on oral tradition carried on from generation to generation. It is pre-British in origin and deeply rooted in the village system of Uttarakhand. Lath means a stick. Each family in the village adjacent to the forest is responsible for the protection of the forest. In regions like Almora, Tehri, and Chamoli districts, a tradition known as Lath Panchayat involves a rotating system of responsibility where a holy stick moves from one family to another throughout the year. On the day the stick is placed at a family's door, that family takes on the responsibility of protecting the forest for that day. This institution operates informally without written rules or regulations, adapting its practices based on the evolving needs of the village society. Notably, Lath Panchayat does not have a formal Sarpanch or Pradhan overseeing its affairs.”<sup>13</sup>

### ***Pathar Gada***

“Another traditional practice that is being adopted in the Landabaga village of Sundargarh district, in Odisha is the method of self-declaration through Pathar Gada. At the entrance of the village, a big rock is installed on which the main rules and regulations about forest laws are inscribed. This method has resulted in forests becoming more greener. In all these villages, there is a high degree of transparency and visibility of each other's activities, ensuring that people abide by the rules that were collectively decided. Felling of timber for commercial purposes is prohibited and is undertaken only for agriculture or building. For fuel, only those pieces of wood that are dry and have fallen on the ground are collected. Only economically poor families who depend on firewood for their livelihood are allowed to collect and sell dry and fallen wood. Collection of bamboo and date palm leaves for making mats and baskets is allowed. This practice shows community-level solidarity in the social system of these forest communities.”<sup>14</sup>

### **Forest Rights Act, 2006**

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, popularly called the FRA, is justifiably heralded as being one of the most transformative legislations passed in the post-independence era. The legislation was deemed essential for several compelling reasons. Firstly, traditional forest dwellers play a pivotal role in the survival and sustainability of forest ecosystems. Secondly, their ancestral forest rights and habitats were not adequately acknowledged during the consolidation of state forests, spanning both colonial

<sup>13</sup> Rakesh Agrawal, “Lath Panchayats: Fading Away”, EPW, Jan 6, 2001, p.20-22

<sup>14</sup> Supra Note 10 at p.74.



and post-independence India, resulting in significant historical injustices. Thirdly, there was a pressing need to address the enduring insecurity surrounding tenurial and access rights for traditional forest dwellers, particularly those displaced by state development projects. Finally, the legislation aimed to recognize their rights, empowering them with responsibilities and authority for sustainable biodiversity use, maintenance of ecological balance, and bolstering forest conservation efforts. This approach sought to ensure the livelihood and food security of forest dwellers while strengthening the overall conservation regime of forests.”<sup>15</sup>

“Each of these points detailing the *raison d’être* of the FRA is not only important from the policy perspective but also forms a kind of blueprint for conserving the forests as well as enhancing the well-being of the forest dwellers. The FRA conferred both individual and community titles. While the individual titles ensured tenurial security and provided a means of livelihood to the families, the community forest rights (CFRs) encouraged the productive and sustainable utilization of the non-timber forest produce (NTFP) and the right to protect, regenerate, or conserve/manage community forests vide Section 3(1)(i).”<sup>16</sup>

“The FRA grants individual forest rights to tribals and other forest dwellers (eligible if they have resided in the area for over 75 years or three generations) over the land they occupy for dwelling and cultivation. Additionally, it recognizes community tenure/rights over "community forest resources" on common forest land within the village's traditional and customary boundaries. These rights extend to lands within reserved forests, protected forests, and designated protected areas such as sanctuaries and national parks, where the community has historically held access rights (*The Gazette of India Extraordinary* 2007).”<sup>17</sup> “The Forest Rights Act (FRA) acknowledges 14 types of pre-existing rights held by forest dwellers across all categories of forestland, including protected areas. Among the rights recognized by the Forest Rights Act (FRA), several stand out as particularly significant. Firstly, Individual Forest Rights (IFRs) grant individuals the authority to cultivate and establish homesteads within forestlands. Secondly, Community Forest Rights encompass a broad range of privileges, including access to and utilization of forestland and its resources such as firewood, grazing lands, minor forest products,

<sup>15</sup> Milind Bokil, Mohan Hirabai Hiralal, “Wither Justice? The Unfulfilled Promise of Forest Rights Act” EPW, Dec 16, 2023, Vol LVII No 50 p.26.

<sup>16</sup> *ibid*

<sup>17</sup> Madhusudan Bandi, “Forest Rights Act, Is there an Underlying Pattern in Implementation?”, EPW, May 7, 2016, Vol LI No 19, P.16.



water bodies, fish, biodiversity, intellectual property, and traditional knowledge. Thirdly, Community Forest Resource (CFR) rights enable communities to actively use, manage, and govern forests within the traditional boundaries of their villages. Lastly, the Act empowers right-holders and gram sabhas (village councils) to participate in the conservation and protection of forests, wildlife, biodiversity, and the natural and cultural heritage of their regions. These provisions are designed to foster sustainable resource management practices while upholding the traditional rights and cultural practices of forest dwellers and local communities.”<sup>18</sup>

### **Community Forest Resource Rights**

The right to "guard, regenerate, preserve, or manage" one's common forest resources is defined by the Forest Rights Act's Section 3(1)(i). This right is known as the Community Forest Resource right. The community may meet its duties indicated in Section 5 of the FRA by developing and enforcing laws controlling forest use. Community Rights (CRs) under Sections 3(1)(b) and 3(1)(c) guarantee the community's ability to live sustainably. These CRs include nistar rights and rights over non-timber forest products. The woodland will no longer belong to the forest department but to the CFRR Gramme Sabha upon community recognition. The Gramme Sabha essentially takes on the role of forest management's central authority. Within the bounds of the community's forest resource, the Gramme Sabha may use these rights to implement long-established methods of forest management and protection. With the recognition of CFR rights inside Kanger Ghati National Park, Chhattisgarh joins the ranks of states that have done so. Odisha made history in 2016 when it was the first state to recognise CFRs in Simlipal National Park.

### **Significance of CFR**

The Forest Rights Act (FRA), implemented in 2008, aims to rectify the historical injustice faced by forest-dependent communities by restoring their customary rights over forests. This legislation is pivotal as it acknowledges the community's entitlement to utilize, manage, and conserve forest resources, and to legally possess forestland that has been traditionally used for

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<sup>18</sup> Kundan Kumar, Neera.M.Singh,Y.Giri.Rao,”Promise and Performance of the Forest Rights Act, A Ten Year Review”EPW, June 24,2017,Vol LII Nos 25 & 26, p.40.

cultivation and habitation. Moreover, the FRA emphasizes the essential role of forest dwellers in ensuring forest sustainability and biodiversity conservation. Particularly within protected areas like national parks, sanctuaries, and tiger reserves, the act is of utmost importance as it integrates traditional forest dwellers into the management framework, leveraging their indigenous knowledge and practices for effective conservation and sustainable forest management.

### **Implementation of the FRA**

“While the FRA came with a lot of promise, in actual practice, its progress has not been encouraging. Although the act was passed in 2006, the rules were made only in 2008 and were further modified in 2012. In the initial years, the focus was on granting only individual rights. As for CFRs, initially, only a few states like Maharashtra, Gujarat, and Kerala took the initiative. Other states followed suit rather reluctantly. The monthly progress report (MPR) compiled by the Ministry of Tribal Affairs (MoTA) indicated that 22,01,842 individual and 1,10,1990 community titles were distributed till 30 June 2023, covering an area of 47,56,040.40 and 1,30,34,016.43 acres respectively—total 1,77,90,056.83 acres (MoTA 2023). The absolute figures may look impressive but if one compares them with the CFR potential available in the country, the discouraging picture immediately becomes apparent.”<sup>19</sup>

“Only about 15% of the CFR potential has been realized 17 years after the enactment of the FRA. The state of Chhattisgarh has the best performance record with 66% of the potential realized, followed by Gujarat (39%), Kerala (35%), Maharashtra (27%), Andhra Pradesh (19%), Madhya Pradesh (9%), Odisha and Uttar Pradesh (6% each) and Jharkhand (2%). Other states have virtually done nothing, although substantial CFR potential exists therein. The situation in the North Eastern states has been exceptional. The 2023 MoTA report informs us that in Arunachal Pradesh, Manipur, Meghalaya, Mizoram, and Nagaland, most of the lands are ancestral lands owned by the tribes. Hence, separate CFR titles have not been accorded. However, some beginning is made in Tripura where 101 CFRs have been granted by 30 June 2023, covering a total area of 552.40 acres (an average of 5.2 acres that is quite insignificant). In

<sup>19</sup> Milind Bokil, Mohan Hirabai Hiralal, “Wither Justice? The Unfulfilled Promise of Forest Rights Act” EPW, Dec 16, 2023, Vol LVII No 50 p.26.



Sikkim, it is noted that there are no forest-dwelling Scheduled Tribes (STs) and Other Traditional Forest Dwellers in the conventional sense of these terms. The majority of the Scheduled Tribes in Sikkim hold revenue land registered under their names, and their livelihoods are not exclusively reliant on forest resources.” (MoTA 2023)”<sup>20</sup>

“This and the apathetic treatment by states like Jharkhand, Uttarakhand, Odisha, Uttar Pradesh, Madhya Pradesh, Tamil Nadu, and Karnataka, which have good forests and substantial forest-dwelling populations, is extremely unjust and lamentable.”<sup>21</sup>

“The Forest Rights Act (FRA) holds significant potential in advancing goals of sustainable development, conservation, and democratization of India's forests. Central to realizing this potential is the granting of Community Forest Rights (CFR) alongside conservation and protection rights. These rights represent a crucial opportunity to establish community-based forest governance, which we view as essential for harmonizing the objectives of forest conservation with local well-being. Community-based forest governance ensures that forests utilized by forest dwellers are managed in a manner that aligns with their livelihood needs, rather than solely according to the objectives of government forest departments. This approach is more likely to promote forest conservation and sustainable use because forest dwellers have a stake in the long-term health of the forests. Their deep-rooted connection to the land, coupled with their traditional knowledge and proximity, uniquely positions them to effectively protect and manage forest resources. Thus, empowering local communities through CFR rights not only enhances forest governance but also strengthens the conservation efforts while supporting sustainable development initiatives.”<sup>22</sup>

“The Forest Rights Act (FRA) is known to be a contentious legislation. It was debated widely in the Parliament as well as outside before being enacted during the Congress-led United Progressive Alliance regime (Bose 2010). It is projected as a landmark legislation concerning tribal, one of the most deprived sections in the country on multiple counts (GoI 2014). Justifying the importance of the legislation, the act acknowledges in its preamble the “historical injustices”

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<sup>20</sup> Id at p.27.

<sup>21</sup> ibid

<sup>22</sup> Kundan Kumar, Neera.M.Singh,Y.Giri.Rao,”Promise and Performance of the Forest Rights Act, A Ten Year Review”EPW, June 24,2017,Vol LII Nos 25 & 26, p.40.

suffered by the tribals (*The Gazette of India Extraordinary* 2007). However, when it was enacted, the bill received criticism from several quarters, including the Ministry of Environment and Forests, conservationists, wildlife activists and non-governmental organisations. The forest department's opposition was mainly on grounds of the inevitable destruction of forest cover and wildlife (Bhullar 2008). Nevertheless, it came into force by 2008 across states.”<sup>23</sup>

“The issues you've highlighted regarding the implementation of the Forest Rights Act are indeed significant. The challenges in granting and ensuring CFR rights as per the provisions of the FRA have been well-documented. The discrepancies you mentioned, such as delays in processing claims, improper rejections, and inadequate area allocations, reflect the complexities and shortcomings in the implementation process. Are you looking to explore potential solutions or further discuss the implications of these challenges?”<sup>24</sup>

“From a political economy standpoint, three simultaneous factors contribute to the inadequate implementation of the FRA: constraints within central and state tribal welfare departments, resistance from forest departments and their central ministry, and influence exerted by various non-state entities.”<sup>25</sup>

One of the primary reasons for the non-implementation of the FRA is a significant lack of awareness among both the beneficiaries and the officials responsible for its implementation. Another key factor contributing to the poor execution of the act is the rejection of claims made by tribal communities and "other forest dwellers" due to insufficient documentation. Thirdly, local political dynamics have not helped the tribal in reaping the benefits of the FRA.

“The forest department views the FRA as a biased legislation that could significantly harm the environment. Additionally, it is seen as a rushed political initiative by the ruling alliance at the time. Both the Joint Parliamentary Committee (JPC) and the Group of Ministers (GoM) have faced criticism for their roles. The JPC, formed to mediate between supporters and opponents of the bill, did not adequately address conservation and livelihood issues. The Group of Ministers (GoM), on their part, failed to achieve a balanced approach in the legislation (Hindu 2006). In

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<sup>23</sup> Madhusudan Bandi, "Forest Rights Act, Is there an Underlying Pattern in Implementation?", EPW, May 7, 2016, Vol LI No 19, P.16.

<sup>24</sup> Geetanjoy Sahu, Tushar Dash, Sanghmitra Dubey, "Political Economy of Community Forest Rights" EPW, June 24, 2017, Vol LII Nos 25 & 26, p.44.

<sup>25</sup> *ibid*

essence, the forest bureaucracy's approach to managing forest resources appears to conflict with the political dynamics of competitive democracy.”<sup>26</sup>

“Only Maharashtra, Odisha, Gujarat, and Kerala have substantially recognized CFR rights under the FRA. Another significant category of rights provided by the FRA is Individual Forest Rights (IFRs). However, in many states, the implementation has focused more on IFRs, often treating the FRA primarily as a land distribution scheme rather than recognizing pre-existing rights.”<sup>27</sup>

“However, numerous reports and on-ground feedback highlight several issues with these rights recognitions. Problems include the illegal rejection of land claims, refusal to accept valid claims, under-recognition of rightful claims, and errors in the titling process. Additionally, in many instances, the correct procedures for recognizing rights were not followed, and decisions were made by local officials instead of by the gram sabhas as mandated.”<sup>28</sup>

“IFRs give forest dwellers a sense of security against future evictions. Bureaucratically, the granting of IFRs meets little resistance because these areas by definition were already under cultivation or habitation. Politically, the “handing out” of IFRs as if it is a land grant programme, even if misguided, can create the impression of a pro-Adivasi government. But in fact, CFR rights are the most critical for going the whole way in terms of both forest conservation and sustainable livelihood enhancement.”<sup>29</sup>

“Granting community management rights over large tracts of forests means the FRA has the potential to finally decolonise most of India’s forests and forest governance, and restore local rights over forests. The FRA, thus, opens up the possibility of bringing in much-needed public land reform. Research from around the world, including India, shows that communities can be good stewards of local forest resources and can be more efficient and effective in managing, protecting and conserving forests as compared to private entities or governments (Ostrom 1990; Somanathan et al 2009; Stevens et al 2014). Also, in the process of “caring for their forest,” local communities can regenerate their communities, cultural heritage, and relations with the forest (Singh 2013)”<sup>30</sup>

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<sup>26</sup> Madhusudan Bandi, “Forest Rights Act, Is there an Underlying Pattern in Implementation?”, EPW, May 7, 2016, Vol LI No 19, P.17.

<sup>27</sup> Kundan Kumar, Neera.M.Singh, Y.Giri.Rao, “Promise and Performance of the Forest Rights Act, A Ten Year Review” EPW, June 24, 2017, Vol LII Nos 25 & 26, p.41.

<sup>28</sup> Id at p.42

<sup>29</sup> Id at p.43

<sup>30</sup> ibid



“CFR rights could potentially be the most cost-effective method for India to meet its Intended Nationally Determined Contributions (INDC) by sequestering an additional 2.5 billion tonnes of carbon (MoEF 2015)”. Communities in different parts of the country have successfully used the FRA to protect forests and their biocultural habitats as illustrated in different traditional practices adopted by forest dwellers for example the Dongria Kondhs’ campaign to protect Niyamgiri (Shrivastava 2013). Thus, FRA promises a grass-roots democratization of forest governance, empowering the weakest and most marginalized sections of India’s rural populations, and allowing these communities to conserve and protect forests effectively.”<sup>31</sup>

“At the same time, secure rights over CFRs can help alleviate poverty in the forested heartlands of India by ensuring that benefits from forest product harvests and enterprises, and reforestation, carbon sequestration, and provision of ecological services, go directly to the right-holding gram sabhas and their members. For instance, several tribal and OTFD gram sabhas in Gadchiroli district of Maharashtra and Narmada district of Gujarat have earned tens of lakhs of rupees from the sale of bamboo and tendu leaves from their CFRs (Aiyar 2013). The FRA can also strengthen food security from forests and tree-based systems in forested areas (Bhaskar et al 2015) through secure rights over forestland and forest products (Blackie et al 2014).”<sup>32</sup>

“Only about 3% of the estimated potential for CFR rights recognition, which amounts to 2.7 million acres out of 35.6 million acres, has been achieved. In comparison, the recognition of IFRs has progressed better, with an estimated 3.84 million acres recognized, although this process has also faced significant shortcomings. Despite these implementation challenges, the FRA has already become one of the largest land reforms in India’s history. Its potential to drive development, empowerment, poverty alleviation, and conservation through CFR rights has been realized only in a few areas, such as Gadchiroli, Narmada, and Mayurbhanj. These instances underscore the potential of the FRA to reshape India's forested areas and empower communities dependent on forests through sustainable development and conservation via democratic forest governance. However, unlocking the FRA's full potential and addressing historical injustices against forest dwellers will necessitate enhanced political resolve and coordinated action at both central and state levels.”<sup>33</sup>

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<sup>31</sup> ibid

<sup>32</sup> ibid

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## CONCLUSIONS AND SUGGESTIONS

Different practices like celebrating festivals commemorating changing seasons and other nature-related rituals as well as practices such as Thenga Pali or Pathar Gada for forest vigilance are not only instruments of solidarity but also symbols of ownership. These have become significant in the wake of the acquisition of forests and settlements of forest-dwelling communities for development projects. When people share a sense of ownership while preserving the forests, the resultant outcome is seen in the form of forests becoming greener, people are moving to better economic conditions. The FRA can inculcate this sense of ownership by granting rights in forest areas. Filibusters, policy inconsistencies, and lawsuits contesting FRA's constitutionality show the breadth and depth of resistance from both the state and non-state players in the forest bureaucracy. Though it presents a once-in-a-generation chance for democratic control of India's forests, the absence of backing for its implementation shows that the political system is unwilling to seize the chance. Serious consequences for the well-being of forest inhabitants and for forest conservation are at stake in the present implementation scenario, which implies that the government has failed to recognise the increasing alienation of forest dwellers from their forest resources. In doing so, the legislation gives the country's political elite and bureaucracy a chance to see how FRA might help bring about democratic rule and protect the rights of the country's millions of forest residents. If the government and other parties are serious about implementing the CFRs and learning from previous mistakes, then forest preservation, regeneration, and conservation efforts and access to resource rights will be successful in the long term.

Because competing claims are being made on India's forests by various interests like mining, infrastructure, wildlife protection, and so on, there is an urgent need to settle the community forest rights of traditional forest dwellers. The efficacy of the FRA in reducing the discontent in the tribal areas and enhancing livelihoods is proven beyond doubt. Not just the respective district administrations but many civil society initiatives (social organizations, corporate social responsibility funds, charities, academic institutions) have been active in extending the benefits of the FRA. There is an urgent need that the task of recognizing and settling the rights to be undertaken on a war footing and the full potential of the CFRs ought to be realised. Local communities are the best custodians of our forests and biodiversity. They could even become rightful stakeholders in safe and sustainable mining, forest-based industry, wildlife protection,



infrastructure development, and earning carbon credits. Fulfilling the CFR potential is not only the ideal way to redress the historic injustice faced by forest dwellers but also to usher in a process of inclusive development for all. The MoTA should urgently publish the list of potential CFR gram sabhas (with calculated potential forest area) on their website and develop a monitoring system based on this list.

In conclusion, states have shown more inclination towards recognition of individual rights because these rights are given keeping in mind the political motive. Forest departments are not opposed to recognition of IFR as these lands are already under cultivation. However, the granting of CFR has faced a problem. Once CFRs are recognised, ownership of forest passes to gram sabha then forest bureaucracy loses its control over forests therefore forest bureaucracy does not favour recognition of CFRs. Even to divert the forest land for infrastructure and industrial purposes state government has to take permission from gram sabha, therefore state governments are also reluctant to recognise CFRs. It is through civil society actors and local mobilisation CFRs can be implemented effectively. The involvement of non-governmental groups is crucial for effective communication with indigenous communities. Furthermore, it is critical to educate and prepare local and state officials engaged in this matter to respect and understand the traditional practices of indigenous communities and to work in harmony with them. There has to be an open dialogue between scientists and locals on the benefits, drawbacks, and opportunities of preserving and sharing traditional knowledge. It is crucial to include the community in decision-making in order to effectively implement plans and policies in this area. Considering the seriousness of the issues surrounding the possible damage to wildlife and forest cover, it is imperative to propose suitable amendments to the provisions of the act to make them more robust and, ultimately, to assist the forest department and tribal communities in overcoming their mutual mistrust. Sustainable resource conservation requires an in-depth familiarity with the connection between traditional values grounded in religion and the protection of natural resources. Consequently, preserving ancient knowledge and customs is of the utmost importance for both society and the environment. To save any remaining traditional ways of living, the state had to enact regulations to preserve and share knowledge, both culturally and academically, and to provide financial backing for relevant academic pursuits.