

'Joint Communication' on Forest Rights Act 2006

July 12, 2021

A few days ago, a "Joint Communication" was signed between the Ministry of Environment and Forest and Climate Change (MoEF) and Ministry of Tribal Affairs to secure the rights of traditional forest dwellers and proper implementation of the Forest Rights Act, 2006. In this context let us understand the issues surrounding FRA and its implementation.

In news: 'Joint Communication' signed to secure rights of forest dwellers

Placing it in syllabus: Governance

Dimensions

- Brief on Forest Rights Act 2006
- Status of implementation
- Issues in implementation of the FRA 2006
- Key Highlights of the Joint Communication

Content:

Brief on Forest Rights Act 2006:

- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a result of the protracted struggle by the marginal and tribal communities to assert their rights over the forest land over which they were traditionally dependent.
- The Act empowers the forest dwellers to access and use the forest resources in the manner that they were traditionally accustomed to.
- The forest management policies in both colonial and post-colonial India, did not, till the enactment of this

Act, recognize the symbiotic relationship of the STs with the forests, reflected in their dependence on the forest as well as in their traditional wisdom regarding the conservation of the forests.

- The act has finally paved the way to undo the 'historic injustice' done to the tribals and other forest dwellers.

Features of the act:

The Forest Rights Act (FRA), 2006 recognizes the rights of the forest-dwelling tribal communities and other traditional forest dwellers to forest resources, on which these communities were dependent for a variety of needs, including livelihood, habitation, and other socio-cultural needs.

The act identifies the following types of rights:

Title rights:

- It gives the 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.

Land Use rights:

- The rights of the dwellers extend to extracting Minor Forest Produce, grazing areas, pastoralist routes, etc.
- **Rights of Self-cultivation and Habitation** which are usually regarded as Individual rights
- **Community Rights or rights over common property resources** such as Grazing, Fishing and access to Water bodies in forests
- Traditional Seasonal Resource access of Nomadic and Pastoral community

Relief and development rights:

- To rehabilitation in case of illegal eviction or forced displacement and basic amenities, subject to restrictions for forest protection
- Rights in and over disputed land
- Rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests into revenue villages
- Rights to the allocation of forest land for developmental purposes to fulfill the basic infrastructural needs of the community.

Forest management rights:

- It includes the **right to protect, regenerate or conserve or manage any community forest resource** which they have been traditionally protecting and conserving for sustainable use.
- Recognition of traditional customary rights
- Right to intellectual property and traditional knowledge related to biodiversity and cultural diversity.

The Act enjoins upon the Gram Sabha and rights holders the responsibility of:

- Conservation and protection of biodiversity, wildlife, forests, adjoining catchment areas, water sources, and other ecologically sensitive areas
- To stop any destructive practices affecting these resources or the cultural and natural heritage of the tribals.

Status of implementation:

- The **rate of implementation varies across states** as the lands on which **forests are situated is a state subject.**
- The total number of community claims that have been received till 31st January 2020 are 1,48,913 of which 76,377 titles have been distributed (which amounts to 51% of the total claims) over 88,05,304 acres of forest

land.

- A 2017 report by CFR-LA showed that only three per cent of minimum potential of Community Forest Rights had been achieved in India 10 years since enactment of the law.
- States like Madhya Pradesh, Maharashtra, Chhattisgarh and Odisha report a consistent rise in the number of claims being received

Issues in implementation of the FRA 2006:

Encroachments and Frequent violations of the act:

- Implementation of the act remains the biggest challenge. Illegal encroachments have happened on a large scale.
- The forest bureaucracy has misinterpreted the FRA as an instrument to regularise encroachment instead of a welfare measure for tribals.
- In Chhattisgarh, the land had been diverted for the project in 2012 without completion of the FRA process and seeking the gram sabha's approval.

Lapses in following due process of law

- Rejection of claims is particularly high in the States hit by Left-Wing Extremism, where the tribal population is high.
- The forest land claims of these tribes and forest-dwellers are mostly rejected by the States.
- Being poor and illiterate, living in remote areas, they do not know the appropriate procedure for filing claims.
- The gram sabhas, which initiate the verification of their claims, are low on awareness of how to deal with them.
- The rejection orders are not even communicated to these communities.

Denial of claims and eviction

- Chhattisgarh, where tribals account for a third of the

population compared with the national average of 8.6%, has so far denied more than a half of individual rights claims and more than a third of community rights claims.

- In 2019, the Supreme Court ordered the eviction of lakhs belonging to the Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) categories across 16 States, whose claim as forest-dwellers has been rejected under the Forest Rights Act.

Diluting powers of Gram Sabha

- One of the biggest hurdles for FRA is that states like Maharashtra, among the better performers, and Odisha are introducing policies that will help the forest department retain control of forest resources through joint forest management committees or similar bodies, which will dilute the powers of the gram sabha.
- There has been deliberate sabotage by the forest bureaucracy, both at the Centre and the states and to some extent by big corporates.
- The forest bureaucracy fears that it will lose the enormous power over land and people that it currently enjoys, while the corporates fear they may lose the cheap access to valuable natural resources.

Concerns of wildlife activists

- They claim that this act further encourages encroachment of forests in the name of tribal rights.
- Because forests can be converted into revenue villages and the development activities can take place in forests.
- Certain sections of environmentalists raise the concern that FRA bends more in the favour of individual rights, giving lesser scope for community rights.
- Community Rights effectively gives the local people control over forest resources which remains a significant portion of forest revenue-making states wary

of vesting forest rights to Gram Sabha.

Key Highlights of the Joint Communication:

- The “Joint Communication” communication has been addressed to all Chief Secretaries of States and Union Territories specifically looking at harnessing the potential for livelihood improvement of the **Forest Dwelling Scheduled Tribes (FDSTs)** and **other Traditional Forest Dwellers (OTFDs)** as well as community participation in forest conservation
- The joint communication seeks to shift the government departments from one of working in silos to achieving convergence between Ministries and Departments.

Highlights:

- The joint communication acknowledges that the traditional rights and interests of FDSTs and OTFDs on forest lands were left unrecognized and unrecorded during consolidation of State forests in the past
- This lack of recognition, says the communication, had left tribal and forest dwelling communities across the country insecure of tenure and fear of eviction from lands that they have historically occupied, a “historical injustice that needed correction”
- Forest Departments of state governments have been **directed to carry out verification of claims for forest rights**, mapping of forest lands involved and provision of necessary evidence as required, authentication of records, joint field inspections, awareness generation etc.
- State forest departments have also been **asked to undertake projects for value chain addition** including capacity building of primary collectors, new harvesting methods, storage, processing and marketing of NTFP under schemes implemented by MoTA as well as designate a nodal agency for specific non-timber forest products as supply

chain platforms in collaboration with TRIFED, NSTFDC, Ministry of Ayush, MFP Federations, TDCCs, Van Dhan Kendras etc.

- State tribal welfare departments along with forest departments are also to work out strategies to extend MGNREGA and NRLM to forest dwellers as well as initiate skill development programs and give impetus to agro-forestry and horticulture projects.

Mould your thought: What are the significant features of FRA Act 2006? Critically evaluate the implementation of this act.

Approach to the answer:

- Introduction
- Discuss the need for FRA
- Mention the major provisions of the act
- Write about the issues in its implementation
- Conclusion