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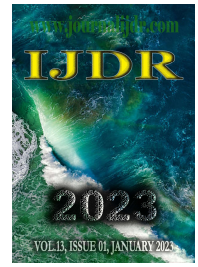
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RESEARCH ARTICLE

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IMPLEMENTATION OF FOREST RIGHTS ACT IN SCHEDULED AREAS: A STUDY OF KORAPUT DISTRICT OF ODISHA

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ABSTRACT

The welfare state in post-colonial India has prioritised the issue of tribal development. But it took many years for people to realise that governmental control over resources and restrictions on tribe usage of forest resources were the result of historical injustice. The Forest Rights Act of 2006 is a recent piece of legislation that guarantees tribal people's access to the forest resources while also attempting to right that historical wrong done to Indian tribes. The Act, 2006 is regarded as a significant turning point in government policy for the restoration of traditional rights of forest dwellers and the preservation of ecological stability with a view to providing scheduled tribes (STs) and other traditional forest dwellers with sustainable livelihood options. Even after more than seven decades of India's independence, the fundamental problem of tribal rights has largely gone unaddressed. The post-independence strategy was quite incoherent because it gave the state monopolistic power over land and forest resources without paying consideration to indigenous peoples' rights to forest resources. The Indian government passed the Forest Rights Act in 2006, and it went into effect in 2008. The Act offers a legal means of redressing the past wrong done to Indian tribal people. The Act made a commitment to protect tribal people's means of subsistence and to establish legal protections for them to stand up for their rights in the future. In Odisha, the Act's implementation procedure got under way in January 2008. Although the 2006 Act was passed with a larger scope in mind to ensure justice for groups that live in forests, the state government of Odisha started putting the Act into practice without conducting a meaningful campaign of sensitization and awareness among the tribal communities. Due to the state government's carelessness in implementing the forest rights legislation, prospective beneficiaries from tribal communities were confused about the proper way to submit an application to the relevant authority in order to get benefit from the act. In this context, the study discovered that the state apparatuses had not implemented suitable regulations to control the efficient application of the Act. It has also been noted that many potential beneficiaries were unable to exercise their rights because they were unaware of the Act's provisions. Further, due to bureaucratic indifference at the governmental level, the tribal people have also been excluded from receiving their rights.

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INTRODUCTION

The words "tribal people" and "forest" are now synonymous. There is no way a tribe could exist apart from the forest. The indigenous people are able to support themselves through the forest's resources while also preserving and guarding the area's diverse eco-system. More significantly, the primitive tribal communities are heavily reliant on the resources found in the forest. Every community, whether it is a part of an old or modern society, is intimately connected to the forest, which is a system of organisms in a natural environment. The traditions, attitudes, conventions, and goals of a civilization have shaped how people and forests interact. Thus, ecology has an impact on social structures, particularly tribals, and there is a close relationship between the ecological system and human

values and character (Chaudhuri, Buddhadeb, 2005). The tribal people have accepted the forest as their abode since ancient time. The social structures, cultural norms, and livelihood systems are all closely related to the natural environment (Sarkar, Amitabha and Samira Dasgupta, 2000). The relationship between tribal people and the forest has been described as symbiotic, meaning that both the forest and the tribes depend on one another. It is obvious that the relationship between the tribe and the forest is a reflection of their dependence on one another for the stability and conservation of each. The indigenous people's socio-religious and economic systems are centred on the forest. Religious mythologies, socio-cultural traditions, and rituals have been developed around the forest to guarantee the preservation of commercially significant trees, the fulfillment of human needs, and the equitable distribution of species that are more readily available. The tribal members have developed a system to

maintain and safeguard the forest in a manner that is consistent with their social, cultural, and economic system (Deeney, John and Walter Fernandes, 1992). The tribes had coexisted peacefully with the forests for centuries. The people who lived in the forests were free to use the resources according to their requirements. In relation to forest resources, they possessed customary rights (Chaudhuri, Buddhadeb, 1997). Due to the large areas of forest and sparse population, the rights did not cause any issues for the communities. Because they used to refer to the forest as Devaranya (God's groves) and believed it to be sacred and protected, the customs of the forest dwellers forbade the cutting down of particular trees (Kulkarni, Sharad, 1983). With the introduction of scientific forestry by colonial rulers in India, this harmonious relationship between the forest and tribal people has been disrupted (Lall, J.B., 1989). On the other hand, the way that Europeans used forest resources caused significant changes in the nation's ecological system. Additionally, the colonial forest regulations prohibited tribal members and people who lived in forests from accessing those forests and using the resources as per their customary rights. As a result, local residents were no longer solely responsible for maintaining community sovereignty over the forest lands and resources (Gadgil, Madhav and RamachandraGuha, 1999). Therefore, it is important to talk about the numerous forest policies that the state used during the colonial and post-colonial periods to manage and revoke indigenous rights to forest resources.

Forest Polices and Tribals' Forest Rights: An Analysis: Since the colonial authority started enforcing control over forest resources through various forest regulations, tribes have historically been barred from freely accessing the forest region and its resources. In 1855, the British government introduced the Forest Policy for the first time in India, which limited the rights of tribals and forest dwellers to resources (Chaudhuri, Buddhadeb, 1997). Treating forests as state property and limiting the rights of forest inhabitants over the resources in those forests was the primary goal of the British administration in India. The British government made two significant pronouncements in 1894: "i) the conservation of forest was the primary concern, and ii) the public benefit was the sole object of British forest administration" (Lal, J.B. 1989). However, it had explicitly declared that because the state was the only entity in charge of governing the forest, the government might put limitations on the rights of those who lived there. The Indian Forest Act of 1927 was a new piece of forest law that formalised individual rights to forestland and forest products. In this Act, the government permitted the export of valuable forest resources to further the interests of their empire rather than protecting the forest for the benefit of the tribal community. Forests were included to the list of provincial laws by the British Parliament's 1935 Government of India Act. The tribal people became the true victims of the economic exploitation of the forests under the parliamentary polity (Chaudhuri, B., 1997). Although many forest policies were implemented during the British era, they all served to limit tribe community's rights and increase administrative authority over the forest, which led to increased commercial exploitation of the resources.

In 1952, India's first forest policy was formulated in post independence era. According to the policy, local people's concerns and interests were prioritized for overall national interest. In relation to this the Indian government utilized the forest for defence, communications and essential wood-based businesses in the name of national interests. Although it did not increase government revenue, larger-scale forest resources were degraded as a result (Kannan, K.P., 1983). The important Forest Policy 1988 emphasised the interdependence of tribal people and forests. The policy placed a strong emphasis on maintaining environmental stability, catering to tribal requirements, supporting effective use of forest produce, and encouraging afforestation. The policy acknowledged that industrial requirements were a national need even though it was more people-oriented and explicitly stated that the state owned the forests (Chaudhary, Buddhadeb, 2005). In 1990s, the idea of Joint Forest Management (JFM) programme quickly gained popularity after a lengthy history of forest policy. The main goal of the new system of forest management was to move away from the top-down,

bureaucratic, centralized system that was first implemented during colonial control and adopted the system of decentralized, participative, locally driven resource management (Sarin, Madhu, 1996). The JFM initiative came about as a result of the awareness that without the active involvement of local people, it would be impossible to slow down the rapid loss of forest cover and restore previously damaged forests. JFM's main mission was to make sure that the country's forests were used sustainably to fairly meet local needs and advance India's larger environmental goals. However, because they have been in control of the forest for more than a century, the forest department is hesitant to give forest preservation rights to local people.

Scheduled Areas and Scheduled Tribes: In contrast to other communities, the Scheduled Tribes are predominantly located close together in the forest cover areas. The Fifth Schedule has a number of measures that safeguard the interests of Scheduled Tribes with relation to land and other social issues. Provisions addressing the governance of Scheduled Areas outside of Northeast India are found in the Fifth Schedule under Article 244(1) of the Constitution (Annual Report 2018-19). The tribal have historically suffered at the hands of people from the "mainland," including the colonisers, and require special protections at a constitutional level to ensure that these historical wrongs are not repeated and are reversed. The constitutional provision creates a distinct dispensation for tribal homelands which have been recognised as such through the process of scheduling of such areas (Land and Governance under the Fifth Schedule, Government of India). To extend the panchayati raj system to the Fifth Scheduled areas, the Parliament passed the Panchayats Extension to Scheduled Areas Act (PESA) in 1996. In addition to extending panchayati raj institutions to designated areas, PESA specifies the legal exclusions and adjustments that must be made to both Constitutional provisions and state panchayati raj legislation. The Act mandated that within a year of PESA's approval in the parliament, the states with Scheduled Areas must enact state legislation. The PESA Act recognised the primacy of customary law, conventional means of managing communal resources, and conventional processes for resolving disputes in Scheduled Areas. The "provision of the Act states that (i) a state legislation on the panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources and (ii) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution" (Ibid., P. 25). The law governing forests and their governance has undergone a significant transformation since the Scheduled and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, was passed. The past wrongs done to indigenous groups and other populations who live in the forest have been acknowledged by this new legislation, which also guarantees rights to forest resources.

Forest Rights Act: A Historical Justice

After eight decades, the Scheduled Tribes received the justice they deserved about the forest. The notification of rules on January 1, 2008 for the implementation of the "Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006" was seen as a landmark day for thousands of Scheduled Tribes and other forest dwellers in India. This cleared the path for the injustice done to tribal people and other forest residents to ultimately be rectified (Paty, Ripple Kyndiah, 2009). The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, is an important emancipatory law with the potential to drastically alter the lives and livelihoods of more than 150 million forest-dependent people, was passed by the Indian Parliament in 2006. The law grants Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) who rely on forests a variety of rights over those lands, including individual rights over those lands, community rights, and the right to safeguard and manage Community Forest Resources within the traditional or customary boundaries of the village (Promise and Performance of the Forest Rights Act, 2006). For

decades, tribes have lived on forest land, growing and gathering forest products for their subsistence and socio-cultural existence. However, the designation of forest areas throughout colonial and independent India was done without taking into account the rights and means of subsistence of indigenous populations. After the Forest (Conservation) Act of 1980 was passed, the issues in these communities were made worse when even the development projects undertaken by indigenous people in their homes were classified as non-forestry operations. The tribal groups were perceived as encroachers or unlawful occupants in the eyes of the state because they lacked any formal documentation proving that they were the land's traditional owners. Simply because the land had been taken from their forefathers in numerous wrong ways and many tribal groups were left without taking into their rights over forest land They lost their sense of self and encroached on the soil that served as the foundation of their existence. These people have been continuously uprooted for "development" projects, leaving them with no viable options for rehabilitation or a means of subsistence. As a result, the risk of unsustainable use of forest resources and eventual destruction has arisen. The Forest Rights Act's passage is considered as a step toward rectifying the historical error committed by the British and left unaddressed by succeeding administrations in independent India. The Forest Rights Act was passed to grant these indigenous people and other communities who live close to forests the authority to possess, gather, use, and dispose of minor forest products.

Implementation of Forest Rights Act in Odisha: The rule is particularly important for Odisha, where legally recorded forest make up to 37.34 per cent of the total land area. In Odisha, there are 62 Scheduled Tribes communities make up more than 22.8 per cent of the population of the state. Odisha's Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs) are both utterly reliant on forest lands for both their survival and means of subsistence. The history of the establishment of legal forests in Odisha is rife with historical injustices committed against tribal people and other forest inhabitants, including the denial of both individual and collective rights (Ibid., p. 7). The Forest Rights Act's implementation has been taken place with the primary goal of securing tribal ownership of the forest. But because the state government restricted the Act's implementation, as a result thousands of potential beneficiaries were prevented from receiving benefits. The status of the Forest Rights Act's implementation is shown in the table below.

Table 1. Status on Implementation of FRA in Odisha (As on 31.1.2022)

Activities	Individual Rights	Community Rights	Community Forest Resources Rights	Total of Community	Grant Total
Claims Received	627923	9214	6068	15282	643205
Claims Approved	457552	5595	4050	9649	467201
Titles Distributed	451778	4182	3345	7527	459305
Area Involved (In Acres)	665449	85712	242191	327903	993352
Claims Rejected	121053	869	135	1004	122057
Claims Pending	55092	4163	2588	6751	61843

Source: Annual Activity Report-2021-22, ST & SC Development, Minorities & Backward Classes Welfare Department, Government of Odisha, P. 84.

Table 2. Classification of Forest Area by Legal Status in Koraput district

Sl. No.	Classification of Forest	Area in Sq. KMs.
1	Reserve Forests	478.86
2	Demarcated Protected Forests	984.58
3	Un-demarcated Forests	--
4	Un Classified Forests	0.68
5	Other Forests	415.41
6	Total Forest	1879.53
7	Total Geographical Area	8807.00
8	Percentage of Forest area to Geographical Area	21.34

Source: District Statistical Handbook, Koraput, Directorate of Economics & Statistics, Odisha, Bhubaneswar, 2011, p. 33.

According to table no. 1 above, 122057 claims applications have been rejected, and 61843 claims are still pending in order to transfer rights to tribe members and other forest inhabitants in accordance with the Act's provisions. The situation was particularly dire in the tribal districts, where legal forests were established without taking into account the rights of tribal populations to their ancestral territories.

Both the effects on indigenous groups and the forests have been devastating. The FRA's implementation in Odisha is still being hampered by a number of other forest policies. The Koraput district of Odisha has been chosen in this connection to map the implementation FRA on a local level. Two factors led to the selection of the Koraput area for the study: first, it is a tribal dominant district; and second, it is a Fifth Schedule Area. In 1992, the once-undivided district of Koraput was split into four separate districts: Koraput, Rayagada, Malkangiri, and Nowrangapur (Census of India 2011).

Study Area: Koraput District: On April 1st, 1936, the southern region of Odisha state's Koraput district was created. The territory is heavily forested and greatly influenced by nature's exceptional gifts, which have drawn certain indigenous peoples, such the Gadabas, Kandha, Paraja, and Bondas. The district bounded by Rayagada in east, the Bastar district of Chhattisgarh in the west, Nabarangapur in the north, the Srikakulam district of Andhra Pradesh, and Malkangiri district in the southern borders respectively. The name Koraput comes from the district's administrative centre, which is the current town of Koraput (Odisha District Gazetteers, Koraput, 2019). After district was restructured in 1992, the Koraput district has an area of 8807 square kilometres. The district has a land area of 8807 sq. km. and a population of 13.80 lakhs as per the 2011 census. The district, which accounts up 5.66 percent of the state's total area, is home to 3.29 percent of the state's population. The district's population density is lower than the state's, which consists 270 persons per square kilometre. There are 2028 villages in the district, including 106 are uninhabited, and they are spread over across 14 blocks, 14 tahasils, and 2 subdivisions. The social group wise population of the district shows that as per the 2011 Census the Scheduled Tribes population is 697583 and Scheduled Caste population is 196540. Koraput is tribal concentrated district. The district's literacy rate is 49.2 per cent compared to the state's figure of 72.9. The native tongues of the people who live in this district are Tribal, Oriya, Telugu, Hindi, and English (District Statistical Handbook, Koraput, 2011)

METHODOLOGY

The empirical research methodology was used for this research. The field study was conducted for the research in the Laxmipur block of the Koraput district primarily because it is home to a substantial

number of tribal people, many of whom are dependent on the forest for their subsistence. This study used both primary and secondary sources to gather its data. To conduct the field inquiry at the block level, a structured questionnaire was designed to take interview from the respondents. In light of the field conditions, the questionnaire underwent pre-testing and revision. Additionally, information from

governmental agencies and academic institutions was obtained to allow for a more thorough analysis of the data. The well-known symbiotic relationship between tribal and forest has a long history in India. Tribal people inhabit the forest and rely greatly on it for their survival. In terms of their traditional way of life, ceremonies, customs, beliefs, and activities, tribal people have a very close relationship with the forest. The well-known symbiotic relationship between tribal and forest has a long history in India. Tribal people inhabit the forest and rely greatly on it for their survival. In terms of their traditional way of life, ceremonies, customs, beliefs, and activities, tribal people have a very close relationship with the forest. The socioeconomic and cultural dependence of the tribal people on the forest is shown in table no. 3 below. All responders (61.66 percent) stated that indigenous people reside in the forest. According to 77.5 percent of respondents forest products are a major source of income for tribal people, and 78.33 percent of respondents believe that the socio-cultural existence of tribal people is closely related to the forest. To implement the Forest Rights Act, the state administration has formed a number of committees at the district and block levels without notifying in the tribal villages. The table no. 4 indicates that 58.33 per cent of respondents claimed to be unaware of the committees. Whereas, 15.88 per cent of those respondents acknowledged that committees had been established but the members of the committees were uncertain of their precise duties with regard to forest rights.

village and panchayat levels, 72.5 per cent of respondents stated about the procedural delays. The sluggish implementation of the act was also cited by 82.5 per cent of the respondents as being due to a lack of documentation resources at the panchayat level committee. The executive bodies' recommendations for how the Forest Rights Act ought to be implemented at the village level are shown in table no. 6. The respondents' assertion of procedural limitations in this circumstance led to the legislation's implementation. The lack of appropriate infrastructure at the Gram Sabha level, according to 68.33 per cent of respondents, made it difficult for the relevant authorities to carry out the act successfully. Additionally, recipients who lack literacy are unable to follow instructions which slow down the implementation process from finishing on time stated by 85.83 percent of respondents. Furthermore, 78.33 percent of respondents admitted that because there was no valid record, the beneficiaries did not have the right to access resources or forest land under the terms of the legislation. Table No. 7 of the report illustrates the state's inadequate application of the Forest Rights Act. The severe eligibility requirements with legal document validation, according to the data, are one of the main barriers keeping potential beneficiaries from acquiring the forest land entitlement (*Patta*) in the suitable forest areas stated by 84.16 per cent beneficiaries. Claims from people who are entitled to forest resources have been turned down because indigenous people have lived in forested areas for generations without possessing official documents.

Table 3. Importance of Forest for Scheduled Tribes

Villages*#	Place of Inhabitation	Source of livelihood	Socio-Cultural Life
Chelibeda	10	13	17
Gadikhal	14	16	11
Birijodi	12	17	13
Kusumguda	11	09	18
Kurmuli	13	18	16
Phooljodi	14	20	19
Total	74 (61.66%)	93 (77.5%)	94 (78.33%)

Note: * The total number of respondents in each village was 20.

As some respondents had given multiple answers to a single question the addition of the total number of responses is not the same as the number of respondents interviewed i.e., 20.

Table 4. Awareness of respondents about the formation of committees under FRA

Villages	Yes	No	Don't know
Chelibeda	05	03	12
Gadikhal	04	05	11
Birijodi	02	04	14
Kusumguda	03	08	09
Kurmuli	02	07	11
Phooljodi	03	04	13
Total	19 (15.88 %)	31 (25.83 %)	70 (58.33 %)

Note: * The total number of respondents in each village was 20.

As some respondents had given multiple answers to a single question the addition of the total number of responses is not the same as the number of respondents interviewed i.e., 20.

Table 5. Challenges in implementation FRA

Villages*#	Lack of Awareness Campaign for Claiming Forest Patta	Procedural delay due to poor knowledge about FRA at Village level/ Panchayat level Committees	Poor documentation at Panchayat level committee
Chelibeda	18	17	19
Gadikhal	19	12	20
Birijodi	14	16	13
Kusumguda	15	14	15
Kurmuli	17	13	18
Phooljodi	13	15	14
Total	96 (80 %)	87 (72.5 %)	99 (82.5 %)

Note: * The total number of respondents in each village was 20.

As some respondents had given multiple answers to a single question the addition of the total number of responses is not the same as the number of respondents interviewed i.e., 20.

The Forest Rights Act's implementation has been rigorously regulated by the state of Odisha. Table No. 5 below shows that 80 per cent of respondents believed that the state government had not sufficiently informed the public about the applicability of the Forest Rights Act in this context. The implementation of the Forest Rights Act at the

According to 80.83 percent of respondents, the concerned officials reportedly failed to demarcate the forest areas and transfer title of the forest land to the recipients. According to 81.66 percent of respondents, the under-representation of women on forest rights committees at the district, sub-division, and gram panchayat levels

Table 6. Response from Executive Bodies in Implementing FRA

Villages *#	Non availability of adequate infrastructure at Gram Sabha and Forest Rights Committee	Illiteracy is major challenges for beneficiaries to follow bureaucratic procedures	Bureaucratic harassments due to absence of authentic documents/records
Chelibeda	15	17	20
Gadikhal	13	18	17
Birijodi	13	14	10
Kusumguda	14	19	13
Kurmulu	12	16	16
Phooljodi	15	19	18
Total	82 (68.33 %)	103 (85.83 %)	94 (78.33 %)

Note: * The total number of respondents in each village was 20.

As some respondents had given multiple answers to a single question the addition of the total number of responses is not the same as the number of respondents interviewed i.e., 20.

Table 7. Beneficiaries views on effective implementation of Forest Rights Act

Villages *#	Stringent eligibility criteria with authentic document proof is major challenge for beneficiaries	Absence of concrete demarcation of forest areas for beneficiaries	Poor representation of women in Forest Right Committee, Su-Divisional Level Committee and District Level Committee	Contradiction between Panchayats Extension to the Scheduled Area Act and Forest Right Act
Chelibeda	20	17	18	16
Gadikhal	13	20	16	11
Birijodi	14	12	17	12
Kusumguda	18	16	13	18
Kurmulu	19	14	15	11
Phooljodi	17	18	19	13
Total	101 (84.16%)	97 (80.83%)	98(81.66%)	81 (67.5 %)

Note: * The total number of respondents in each village was 20.

As some respondents had given multiple answers to a single question the addition of the total number of responses is not the same as the number of respondents interviewed i.e., 20.

also prevents women from benefiting from forest rights. Further, 67.5 per cent respondents expressed that the PESA Act and the Forest Rights Act are in contradiction in the context of protection of tribal forest rights. It has been found that due to a disagreement between the two statutes, the state has not been able to guarantee forest rights to potential tribe beneficiaries under the Forest Rights Act.

CONCLUSION

The Community forest rights are recognised and safeguarded under the Forest Rights Act of 2006 for both individuals and groups. In 2008, the implementation of the Act was enforced following the FRA rule. In the context of Odisha, the state has established a number of organisations, such as the State Level Monitoring Committee (SLMC) and the Forest Rights Committee (FRC), to recognise the rights of communities they live in forests over their land, those rights are only upheld on paper. Many places it has also been reported that recognition of individual rights and community rights are very minimal. The study found that the forest is the indigenous people's main source of food. The Forest Rights Act has been implemented successfully, but there hasn't been enough outreach to local stakeholders to inform or sensitise them. Due to this, prospective beneficiaries are currently unsure of how to file an application to receive benefits through the FRA. The data analysis shows that the official procedural delay unable to address issues impacting traditional forest dwellers and tribal peoples in the process of benefiting tribal people. Many prospective recipients have claimed that they were turned away from the concerned offices due to inability of showing proper documents to the concerned authority. There is also a danger that many honest claims will be rejected on spurious grounds by the implementing authorities. The state's forest bureaucracy has long been in command of the woods and the forest products derived from them by restricting the rights of forest residents. The forest management has incorrectly interpreted the FRA as a means of legalising encroachment. A excellent illustration of this is its emphasis on recognising individual claims while ignoring collective claims. The field verification clearly shows that there are lack grievance redressal mechanism in place both at SDLC and DLC levels. According to the Scheduled Area clause, the Gram Sabha's empowerment is necessary for the FRA to be implemented correctly. The numerous governmental organisations and the Gram Panchayat must work together.

The PESA Act should be strengthened in order to protect the customary rights of indigenous inhabitants while implementing FRA in Scheduled Areas.

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