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CUSTOMARY LAND RIGHTS, INDIGENOUS COMMUNITIES, AND ENVIRONMENTAL JUSTICE: LEGAL CONFLICTS AND POTENTIAL REFORMS UNDER THE FOREST RIGHTS ACT, 2006

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I. ABSTRACT

Indian communities that coexist with forests have been one of the least socio-economically empowered groups and although their rights are being acknowledged under the scheduled tribes and other traditional forest dwellers (Recognition of Forest Rights) Act, 2006, the actual implementation of the rights is still challenging. The resources of forests can only be accessed by communities in a number of regions when the communities are in a position to assert collectively their claims and resist dispossession and this has resulted in long periods of struggle over the control of resources of community forests. The FRA is coupled with the continuous mobilization of communities; forest dwellers can use their rights in full and achieve better results in the cases of acquiring the forest land. On the international scale, the development of conservation zones through international agreements like the CBD and the Paris Agreement has in many cases curtailed the use of local lands and forests undermining not only the preservation of biodiversity but also the livelihood and health of native and forest-reliant communities. This has reinforced the agreement that conservation should be right-based and community-centered in recognition of the key role that the local people play in the ecosystems. The FRA of India offers a potent model of this kind of approach because it guaranteed the tenure, access to resources, and social justice, but the transformative potential of the process needed well-determined institutional mechanisms that would define the roles and responsibilities of all stakeholders. It is on this background conflicts current study will explore the ways in which the FRA has identified forest rights, the ways in which the tension between conservation as well as communal rights gives rise to livelihood and health disabilities, and

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how the conflicts can be resolved with a view of establishing ecological and social integrity through legal reforms.

II. KEYWORDS

Scheduled Tribes, mobilization, ecosystems, transformative potential, Responsibilities.

III. INTRODUCTION

Forests have been the mainstay of tribal communities, or Adivasis, who are the original dwellers of forest regions. Approximately 84 million people in India rely on forests (8.2% of the total population as per Census 2011). Nevertheless, their customary rights to life and livelihood from forests have been historically disregarded, particularly since the colonial period, resulting in displacement, loss of income, and marginalisation. Even after Independence, tribal rights continued to be neglected by forest conservation policies, thereby aggravating their socio-economic conditions. In an effort to address this historical injustice, the Government enacted the Forest Rights Act, 2006 to recognise the rights of forest dwellers and to promote sustainable livelihoods and community empowerment.

However, its implementation across states remains uneven, slow, and inconsistent even after more than a decade. Effective implementation would enable tribal communities to become key stakeholders in forest governance and improve their quality of life. The India State of Forest Report 2023 indicates that the total forest and tree cover is 8,27,357 sq. km, constituting 25.17 percent of the geographical area of the country. The Forest Cover measures 7,15,343 sq. km (21.76%) and the Tree Cover measures 1,12,014 sq. km (3.41%).²

Women empowerment is also a central issue to the Act and women are to be included in Forest Rights Committee and access to forest land, forest resources and interest-generating opportunities. Tribal women have been collectivized, and this has led to confidence, skills, and diversified livelihoods. This research question

² Ministry of Environment, Forest and Climate Change, Union Minister Bhupender Yadav Releases India State of Forest Report 2023

addresses the question of whether the FRA has improved the socio-economic situation and agency of tribal women- determining whether they have resources, whether they are included in decision-making and whether they support sustainable forest use. In general, it is possible to state that the FRA offers a crucial platform of empowerment and sustainable development of tribal women, but additional assessment is required to assess its actual influence.

Under the British Rule, Indian Forest Acts of 1865, 1878 and subsequently of 1927 gave the state control over forests and stripped the tribal people of their traditional rights. The same policy was adopted even after the independence; the government was keen on conserving forests and yet they forgot to acknowledge the interests of local people. India state of forest report Sustainable Development Goals (SDG) the 2030 Agenda for Sustainable Development, which was adopted in 2015 by all members of the United Nations, established 17 global Sustainable Development Goals (SDGs). The SDG 15: "Life on Land" is directly aimed at the conservation, restoration, and sustainable utilization of the on-land ecosystem, including forests. SDG 14 life below water is aimed at preserving and sustainably utilizing the oceans, seas and marine resources in order to develop them sustainably.

Forest Statistics is specifically related to targets 14.2.1, 14.5.2, 15.1.1, 15.1.2., 15.2.1, 15.2.3, 15.3.2 and 15.4.1. In addition to that, SDG 1 (No Poverty), SDG 2 (Zero Hunger), SDG 3 (Good Health and Well-Being), SDG 6 (Clean Water and Sanitation), and SDG 13 (Climate Action) are related to the Forestry sector.³

A. Research Objectives

This study seeks to achieve the following objectives:

1. To critically examine the legal framework of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act,

³ India state of forest report 2023, page no.4, chapter 1st, point 4
https://fsi.nic.in/uploads/isfr2023/isfr_book_eng-vol-1_2023.pdf#:~:text=26%20million%20hectares%20of%20degraded%20land%20under,our%20commitment%20to%20meet%20the%20NDC%20goals.

2006, with specific focus on the nature and scope of individual and community forest rights.

2. To analyse the structural and institutional conflicts between the Forest Rights Act, 2006 and other forest conservation laws, including the Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980.
3. To evaluate how such legal conflicts contribute to adverse livelihood and health outcomes for forest-dependent communities, particularly in the context of displacement and denial of resource access.
4. To propose legal and policy reforms aimed at harmonizing conservation objectives with community rights, ensuring sustainable development, and strengthening participatory governance through Gram Sabhas.

B. Research Question

1. In what manner does the Forest Rights Act, 2006 recognise and secure the individual and community rights of forest-dwelling Scheduled Tribes and other traditional forest dwellers?
2. What are the structural and legal conflicts between forest conservation laws, particularly the Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980, and the rights framework established under the Forest Rights Act, 2006?
3. How do these legal and institutional conflicts contribute to adverse livelihood conditions, health risks, and socio-economic marginalisation of forest-dependent communities?

C. Research Methodology

This study adopts a descriptive and doctrinal research methodology, focusing on the analysis of legal texts and judicial pronouncements relating to forest governance and the rights of indigenous communities in India. The research is primarily based on the examination of statutory provisions, including the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest

Rights) Act, 2006, the Indian Forest Act, 1927, and the Forest (Conservation) Act, 1980, along with relevant constitutional provisions.

Primary sources such as landmark judgments of the Supreme Court and High Courts have been analysed to understand the evolving judicial approach towards the recognition of forest rights and environmental conservation. In addition, secondary sources including academic commentaries, legal textbooks, government reports, and policy documents have been consulted to provide contextual and analytical insights.

The study follows an analytical approach to evaluate the tensions between conservation laws and community rights, and to assess their implications on livelihood and health outcomes. However, the research is limited to doctrinal analysis and does not incorporate empirical fieldwork or quantitative data, which may be necessary for a more comprehensive assessment of on-ground implementation.

D. Major events that led to the enactment of the FRA, 2006

The Forest Rights Act, 2006 was the trial to address past injustice against the Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs). It did not come out of thin air, but it was the culmination of decades of conflicts, policy failures, people movements and court verdicts that revealed the contradictions in the Indian forest governance system.

IV. HISTORICAL INJUSTICE UNDER COLONIAL-ERA FOREST LAWS (PRE-1950 - 1990S)

The Indian Forest Act, 1927 gave the State the power to create large areas of forest into REGD as Reserved or Protected Forests thus criminalizing the traditional tribal ways of living like farming, grazing and gathering forest products. This led to a years old conflict, and the lakhs of families were considered to be encroachers, despite their centuries of residence. In *Banwasi Seva Ashram v. State of Uttar Pradesh*⁴, the Supreme Court addressed the claims of Adivasi communities whose lands had been

⁴ (1986) 4 SCC 753, environmental law, author- S.C. Shastri, page no. 85

recorded as Reserved Forests and emphasized the obligation of the State to ensure a fair and proper adjudication of such claims before any diversion of land. The Court directed the establishment of appropriate mechanisms for examining tribal land rights and underscored the importance of providing legal aid and procedural safeguards to affected communities. The judgment thus reinforced the principles of natural justice and due process in the recognition of customary land rights of forest dwellers.

*Samata v. State of Andhra Pradesh*⁵, A historic case, when the Supreme Court decided that tribal land in Scheduled Areas is not allowed to be transferred to the possession of the companies. This case demonstrated that powerful legislations are needed to defend the rights of tribes to the land, which had an effect on subsequent policy discussions that led to FRA.

In *T.N. Godavarman Thirumulpad v. Union of India*⁶, the Supreme Court clarified that the term “forest” must be understood according to its dictionary meaning, thereby extending protection beyond statutorily notified forests to include all areas recorded as forests in government records, irrespective of ownership. The Court directed States to constitute expert committees to identify such forest areas. Subsequently, certain States operationalised this directive through administrative criteria and notifications, such as the adoption of specific land and tree density thresholds, but these were not standards laid down by the Supreme Court itself. This system of judicial rule made aware the lack of legal recognition of tribal rights and increased national agitation, compelling the government to bring in a rights-based law-FRA, 2006.

A. Tribal Movements & Peoples Resistance (1980s-2000s)

In Odisha, Maharashtra, Chhattisgarh, Jharkhand and North-Eastern part of India, widespread tribal movements and people’s resistance occurred during 1980s-2000s, against forced evictions, denial of minor forest produce rights, police atrocities, construction of dams and mining ventures on tribal land as well as against the lack of legal recognition on customary rights. These movements revealed the past wrongs in

⁵ (1997) 8 SCC 191 environmental law, author – S.C. Shastri, page no. 388 ,389

⁶ (1997) 2 SCC 267, environmental law, author – S.C. Shastri page no. 367

the forest governance and policy practices. These issues were recorded in reports of the National Advisory Council (NAC) and Xaxa Committee and were emphatically suggested to enact total forest rights legislation and the same had later become intellectual and policy basis of the Forest Rights Act, 2006 (FRA).

The Supreme Court in *Orissa Mining Corporation v. Ministry of Environment and Forest (Niyamgiri Case)*⁷ affirmed that the Gram Sabha is the competent authority to determine both individual and community forest rights of forest dwellers, particularly where such rights are linked to religious, cultural, and livelihood interests. These rights such as the religious and spiritual right provided under Article 25 and 26 of the constitution are not obligations to the Gram Sabha but rather the need and duty of the Gram Sabha to protect and preserve the traditions and customs of the traditional forest dwellers and the cultural identity, community resources, etc.

B. Failures of the Forest Department & Policy Contradictions (1990s–2006)

The recent failures of the policies of forest conservation pointed to inconsistencies:

1. JFM committees disregarded tribal autonomy.
2. Forest departments still cut down the access to fuel wood, grazing, bamboo, and MFP.
3. Absence of legal status of community forest resource (CFR) rights.

These setbacks led to parliamentary discussions of the necessity to have a right based legal framework as opposed to a control-based forest regime. *M.C. Mehta v. Union of India (Forest Protection cases; 1990s 2000s)*⁸ contemplating cases on an ongoing chain of problems, including environmental destruction to pollution in India, Mehta established guidelines in the future of legal and policy ventures. It highlighted the value of legal activism in protecting the environment to the generations to come and guaranteeing sustainable development, despite being environmental in nature, these

⁷ (2013) 6 SCC 476, environmental law, author – S.C. Shastri page no. 390

⁸ ENVIRONMENT LAW- ROLE OF M.C MEHTA CASE IN PROTECTION OF ENVIRONMENT POLLUTION, by Parthiv Roychowdhury, Sister Nivedita University, Kolkata, <https://www.jusscriptumlaw.com/post/environment-law-role-of-m-c-mehta-case-in-protection-ofenvironment-pollution>

cases underscored the fact that the forest laws had to be democratically reformed rather than just being restrained.

C. FRA recognizes rights

The Forest Rights Act (FRA), 2006 acknowledges the interests of tribal people who depend on forests and other primitive inhabitants of forests. It recognizes their reliance on forests as their means of livelihood, places of residence and cultural efforts and enhances their traditional knowledge and contributions to the forest conservation. The Act encompasses rights of individuals (or cultivation and habitation) and communities (or grazing, fishing, access to water bodies, utilization of traditional resources, protection of biodiversity and preservation of traditional knowledge).

It also gives communities the right to use forest land to enable them to develop much-needed developmental and infrastructural requirements. The Gram Sabha has the duty of preserving biodiversity, wildlife and environment and can make localized decisions. The FRA shields tribal communities against unlawful eviction and guarantees provision of education and healthcare services, as well as basic amenities.⁹

Section 3 and section 4 of Forest Right Act 2006 provide for the recognized of right of forest dwellers –

Section 3: This section defines the different types of rights that can be recognized for forest dwellers and traditional communities¹⁰, such as:

1. Individual rights (e.g., right to residence and cultivation),
2. Community rights (e.g., grazing, fishing, access to water bodies, use of traditional forest resources),
3. Right to collect and use minor forest produce,
4. Right to conserve biodiversity and traditional knowledge,
5. Right to use forest land for community development and basic infrastructure.

⁹ Ministry of Tribal Affairs and government of India, <https://tribal.nic.in/FRA.aspx>

¹⁰ Forest Right Act 2006, section 3, page no.4

Section 4: The recognition and granting of these rights are explained in this section.¹¹ According to it, the rights are identified by the proposal of the Gram Sabha and by the decision of the District Level Committee. It also makes certain that the exercising of these rights should be in line with the goals of conserving the forest as well as the environment. Its objectives are as follows:

1. To correct the historical injustice done to forest-dependent communities.
2. To ensure land tenure, livelihood, and food security.
3. To promote sustainable forest use and strengthen biodiversity conservation.

V. STRUCTURAL CONFLICT BETWEEN FCA/INDIAN FOREST ACT AND FRA, 2006

The Forest Rights Act, 2006 was passed in an attempt to right historical injustice on Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs). Prior to the enactment of the FRA, the Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980, now renamed as the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 pursuant to the 2023 amendment, governed forest administration by centralizing State control and criminalising traditional practices such as cultivation, grazing, and habitation. FRA opposed this conservation-based approach by registering individual forest rights (IFR), community forest resource (CFR) rights and habitation rights.

The conflict arises from the fact that the FRA devolves authority to Gram Sabhas, whereas the forest administration continues to rely on the Indian Forest Act, 1927 and the amended Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 to regulate land use, restrict access, and in certain cases deny recognition of rights. In this way, conservation laws view dwellers as encroachers but FRA views dwellers as right-holders and this poses an institutional tension.

FRA 2006 reversed this approach by legally recognizing:

¹¹ Forest Right Act 2006.section 4, page no.5

1. **Individual Forest Rights (Section 3(1)(a)):** The right of holding and residing in the forest land under the individual or common occupation, to live or to cultivate self-cultivate to maintain livelihood of a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers.¹²
2. **Community Forest Resource Rights (Section 3(1)(i)):** Rights to protect, regenerate, conserve, or manage any community forest resource which the communities have been traditionally protecting and sustainably using.¹³
3. **Habitation & Rehabilitation Rights (Section 3(1)(m)):** Right to in situ rehabilitation with alternative land where the Scheduled Tribes or other traditional forest dwellers have been in an unauthorized manner evicted or displaced out of forest land of any description without being awarded their legal rights to rehabilitation before the 13th day of December 2005.¹⁴
4. **Section 4 (5):** Save otherwise, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be displaced or dislocated to forest land he is under occupation of till such recognition and verification procedure is fully accomplished.¹⁵
5. **Gram Sabha as the ultimate position of verifying rights (Section 6):** Authorities to transfer forest rights to forest dwelling Scheduled Tribes and other forest dwellers of other traditional dwellers Procedure and so on.¹⁶
6. The conflict arises because the Indian Forest Act, 1927 and the amended Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 vest significant authority in the forest department, while the FRA transfers decision-making power to Gram Sabhas, thereby creating institutional tension between State conservation priorities and community-based rights frameworks.

¹² Forest right act 2006, section (3(1)(a)), page no. 4

¹³ Forest right act 2006, section (3 (1)(i)), page no.4

¹⁴ Forest right act 2006, section (3 (1)(m)), page no.4

¹⁵ Forest right act 2006, section (4(5)), page no.6

¹⁶ Forest right act 2006, section 6, page no.6,7

A. On-ground Conflict: Evictions, Relocation, and Divergent Legal Mandates

The forest inhabitants are usually forced to be evicted or disqualified of land ownership due to the forest officials who are more concerned about the FCA requirements and the preservation of wildlife than the FRA requirements. In the case of *Godavarman Orders on T.N. Godavarman Thirumulpad v. Union of India*, (1997 2 SCC 267) helped to reinforce a strong regime of protectionism, which resulted in efforts to classify numerous occupant families as encroachers despite having valid customary claims. The High Court of Karnataka has repeated that there could be no "deemed forest" where there was no provision of any sort within the Forest Conservation Act, it could only be a forest or a forest land.

FRA stipulates that no forest land should be diverted (to mining, dams, tourism etc) without Gram Sabha consent (Section 5, Section 6), however, in reality, this step of community-consent is frequently disregarded in FCA procedures. This leads to conflict directly when it comes to Protected Areas where Wildlife Protection Act, 1972 has given precedence to relocation of people to Tiger reserves and FRA to their rights to habitation and livelihood. *Orissa Mining Corporation v. MoEF (Niyamgiri Case)*, The Gram Sabha is the qualified body to guard and safeguard community resources, customs and lives in the promoting of FRA.

B. Judicial Approach: Balancing Conservation with FRA Rights

Orissa Mining Corporation v. Ministry of Environment and Forest, (2013) 6 SCC 476 (Niyamgiri Case), In the context of the Forest Rights Act, the Supreme Court held that the determination of forest rights, including religious and cultural rights of forest-dwelling communities, must be decided by the Gram Sabha. The judgment affirms the central role of Gram Sabha in safeguarding the rights of tribal communities and highlights the importance of procedural compliance in matters involving diversion of forest land.

*Wildlife First v. Wp (Civil) 109/ 2008 (Supreme Court) union of India*¹⁷ In 2008, the Supreme Court was approached by Wildlife First, Nature Conservation Society and

¹⁷ Constitutionality of the FRA, <https://www.scobserver.in/cases/constitutionality-of-the-frawildlife-first-v-ministry-of-forest-and-environment-eviction-of-forest-dwellers-background/>

the Tiger Research and Conservation Trust in a writ petition, challenging the constitutionality of the FRA. They claimed that due to the Act, there has been deforestation and intrusion into forested areas amongst other things. This petition was clubbed with another Writ Petition filed by Wildlife Trust and three other parties. *Samatha v. State of Andhra Pradesh*¹⁸, the part pronouncement of the Supreme Court to determine and identify the entitlement of indigenous people. This legislation was also driven by national forest policy of 1988, draft national policy on resettlement and rehabilitation of project affected families on 17 February 2004, Draft national development, Displacement, Rehabilitation policy of 2005 and draft of national policy on tribal in 2004. In 2004, the draft of national policy on tribal acknowledged the fact that in general the scheduled tribes are repository of indigenous knowledge and wisdom that should be safeguarded.

The Indian Constitution also have proved provision for the administration of scheduled tribe areas and to protect their rights.¹⁹ The part pronouncement of the Supreme Court to determine and identify the entitlement of indigenous people. This legislation was also driven by national forest policy of 1988, draft national policy on resettlement and rehabilitation of project affected families on 17 February 2004, Draft national development, Displacement, Rehabilitation policy of 2005 and draft of national policy on tribal in 2004. In 2004, the draft of national policy on tribal acknowledged the fact that in general the scheduled tribes are repository of indigenous knowledge and wisdom that should be safeguarded.

VI. LEGAL CONFLICTS LEAD TO HEALTH & LIVELIHOOD HARMS

Forced evictions and the deprivation of access to forest resources can have great health and nutrition effects on communities living in forests. Laws dealing with forest conservation like the Forest (Conservation) Act, 1980 (FCA) and the Wildlife (Protection) Act, 1972 (WLPA) are usually propagating the eviction of human settlements in forests and especially in the Protected Areas like tiger reserves and

¹⁸ (1997) 8 SCC 191, environmental law, author – S.C. Shastri, page no.388

¹⁹ Article 29(1), 164(1), 244, 244-A, 275(1) and 388-A, also see, schedules 5 and 6 of the Indian Constitution.

national parks in the name of conservation. Nevertheless, under Forest Rights Act, 2006 (FRA) the rights of forest dwellers to habitation, cultivation and to access minor forest produce (MFP) are acknowledged and in terms of Section 4(5), the eviction of any forest-dwelling community cannot be done until their rights are adequately acknowledged and substantiated.

Even with this legal protection, forest departments constantly refer to the forest residents as encroachers and keep on with eviction campaigns and this limits their access to important forest resources which limits their food security, their traditional livelihoods, and their health and nutritional status in general.

In *Subhash Kumar v. State of Bihar*²⁰ the Supreme Court observed right to life is a fundamental right under article 21²¹ it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life in derogation of laws, a citizen has right to have recourse to article 32 of the constitution for removing the pollution of water or air which may be detrimental to the equality of life.²²

*Olga Tellis v. Bombay Municipal Corporation*²³ concerned the eviction of pavement and slum dwellers in Bombay, where the petitioners challenged the action of the State on the ground that it violated their fundamental rights. The Supreme Court held that the right to life under Article 21 of the Constitution includes the right to livelihood, as no person can live without the means of subsistence. The Court further observed that any deprivation of livelihood through eviction must follow a procedure that is fair, just, and reasonable. While recognising the State's authority to regulate encroachments, the judgment emphasized its obligation to act with sensitivity towards marginalised communities and to ensure procedural safeguards in the enforcement of such actions.

²⁰ (1991) 1 SCC 598, environmental law, author – S.C. Shastri page no 150

²¹ Right to life under article 21 of the Indian constitution.

²² Article 32 of the Indian constitution

²³ (1985) 3 SCC 545, environmental law, author – S.C. Shastri page no. 64

In *Centre for Environmental Law, WWF-India v. Union of India*²⁴, the Supreme Court dealt with the issue of translocation of the Asiatic lion from Gir National Park in Gujarat to Kuno Wildlife Sanctuary in Madhya Pradesh. The Court emphasized the principle of eco-centrism, recognising that wildlife species have an intrinsic right to exist, independent of human interests. It held that Article 21 of the Constitution extends to the protection and preservation of endangered species, thereby imposing a duty on the State to prevent their extinction. The Court further ruled that the recommendations of the National Board for Wildlife must be given due primacy in matters of wildlife conservation and directed the translocation of Asiatic lions in furtherance of ecological balance and species survival.

A. Denial of Gram Sabha Consent in Development Projects → Displacement, Disease Burden & Cultural Breakdown

Under the Forest Rights Act, 2006 (Sections 5 and 6), the consent of the Gram Sabha is mandatory before any diversion of forest land for development projects. However, in practice, procedures under the Forest (Conservation) Act, 1980 and state-level clearance mechanisms often bypass this requirement. As a result, projects such as mining, dams, roads, and even tiger reserves are implemented without proper community approval, leading to large-scale displacement of forest dwellers. This displacement not only disrupts their traditional livelihoods but also increases their vulnerability to diseases due to poor rehabilitation conditions and loss of access to natural resources. Moreover, it causes a breakdown of cultural practices and social structures that are closely tied to forests, thereby undermining both community well-being and the objectives of inclusive and sustainable development.

The Supreme Court had determined that exile without adequately rehabilitating exposes people to health risks that are severe and contravenes Article 21. This principle, applied in relation to the conflicts of the FRA, demonstrates that the forest eviction carried out by the FCA or WLPA (which is frequently conducted without the due resettlement) is not constitutional. This displacement disconnects communities with food, water, shelter and culturally significant landscapes that negatively affect

²⁴ (2013) 8 SCC 234, environmental law, author – S.C. Shastri page no. 403

physical and mental health. Thus, any displacement of forest dwellers is not only against the right to live but also against the provisions provided in FRA, 2006.

In *N.D. Jayal v. Union of India (Tehri Dam Case)*²⁵, the Supreme Court made broad interpretation of right to life. It proclaimed that the right to environmental right was a fundamental right, on the other hand there is also the right to development. Sustainable development cannot be identified as a single right here. Thus, the concept of sustainable development should be regarded as an inseparable component of life in the article 21. It was also evident that this right to development goes beyond economic well beings by large and involves in its definition the assurance of basic human right. In this instance the petitioner asked the court to give the relevant direction in order to carry out additional safety test to ascertain the safety of the dam at Tehri to generate hydel power and investigate the rehabilitation factor of the migrants. The court made it clear that the right to health, clean and healthy environment is a fundamental right as provided in article 21 of the constitution.

*Wildlife First v Union of India*²⁶ the piece of legislation was however criticized by the wildlife conservationists and other animal rights activists. They stated that forests should be preserved not to save the people but wildlife. They believed that the FRA was in open opposition to other forest and wildlife protection laws such as the Wildlife (Protection) Act of 1972 and the Forest Conservation Act of 1980. The Court found that the forest officials are not allowed to intervene in the rights of the communities when their rights to forest are established. The case observed that the ongoing blocking by the forest department contravenes the livelihood and well-being of the forest people, which is an expression of administrative opposition, which is toxic to health and freedom.

²⁵ (2004) 9 SCC 362, environmental law, author – S.C. Shastri, page no.61

²⁶ SCO Supreme court observe, <https://www.scobserver.in/cases/constitutionality-of-the-frawildlife-first-v-ministry-of-forest-and-environment-eviction-of-forest-dwellers-background/#:~:text=Case%20Description,clubbed%20together%20with%20this%20petition.>

VII. SUGGESTIONS

- 1. Effective institutional coordination:** The solution to the issue of conflict between the FCA and the WLPA and the FRA is legislation - the problem that lies in the conflicting nature of the three laws (FCA 1980, WLPA 1972, and FRA 2006). To address this, Parliament or the Environment Ministry must come up with clear harmonization rules, and state that in a case where the rights of livelihood and habitat are involved, the FRA will have the upper hand.
- 2. Grams in:** The gram Sabha is the most powerful organ of the FRA; it is disregarded by the Forest Department. The answer is to provide the Gram Sabha with the statutory capacity to provide obligatory consent particularly in the mining, tiger reserves, tourism and linear endeavors. Both, West and Niyam acknowledge the basis of livelihoods and environmental security on the community participation- hence a decision-making system based on Gram Sabha should be implemented in both social and ecological contexts.
- 3. Livelihood security and health protection rehabilitation policy that is FRA compliant:** The answer to this is to ensure that before any relocation, the communities will be given alternative security in land, food resources, MFP rights, water, and cultural sites, which will comply with the FRA. This practically renders Section 3(1)(m) (rehabilitation rights) of the FRA effective.
- 4. Forest Department Reforms:** Accountability, Training, and Community- filing false cases, withholding CFR and withholding MFP - as the key barriers. To remedy this, the department officials should be mandated to undergo training on the FRA, legal enforcement by Gram Sabha as well as devising a model of partnership in managing community forests (CFR).
- 5. Making the Rights-Based Conservation National policy:** A permanent solution to the conservation versus rights dilemma will only succeed when India takes a rights-based conservation policy according to the global standards, conservation involves people, but not against people. The CFR model by the FRA, the process such as the Niyamgiri, and the NGT decision in Western Ghats confirm that the best guardian of environmental protection is the local communities. Consequently, conservation in Tiger Reserves, ESZs and

Protected Areas have to also be undertaken without violating the rights of communities.

VIII. CONCLUSION AND FINDINGS

The study confirms that the Forest Rights Act, 2006(FRA) is a revolutionary legal intervention that seeks to redress the historical historical injustice that was formed through colonial and post-colonial forest regimes. Although almost 84 million forest-dependent individuals (8.2% of the Indian population) depend on forests and the nation has 25.17 percent forest and tree area (ISFR 2023) the previous legislation (the Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980) centralized the control and deprived the indigenous people of their customary right over forests. The FRA upsets this exclusionary model by acknowledging the individual, community, and habitation rights (Sections 3 and 4) and entrenching the Gram Sabha as the central authority (Section 6), in which the inclusion of participatory governance is entrenched in the management of forests. Nevertheless, the paper indicates that this rights-based approach is functioning in a structurally incompatible legal context, in which conservation laws still consider forest inhabitants to be encroachers. This legal dualism undermines implementation in addition to depicting more ideological contention between state-cantered conservation and community-based ecological custodianship.

More so, the paper critically shows that such legal and institutional contradictions are rendered into real socio-economic and health injustices. Loss of Community Forest Resource (CFR) rights, forcible evictions and the routine avoidance of Gram Sabha consent in development and conservation projects discredit livelihood security, interfere with traditional knowledge, and amplify malnutrition, susceptibility to disease and cultural fragmentation of forest communities. Article 21 judicial evolutions strengthen the right to live to include livelihood, access to the environment and dignity but the reality on the ground shows that there is still a gap between the constitutional provisions and administrative realities.

This paper has thus concluded that it is not only legal recognition that can transform the FRA to achieve its potential but a successful institutional convergence,

accountability, and a paradigm shift in conservation based on rights. To realize ecological sustainability and social justice, it is critical to reframing the governance of forests to put communities as the main guardians of biodiversity, particularly in ensuring that the domestic legal systems are close to the international obligation of inclusive and sustainable development.

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