

Awareness and Access: Whether Western Himalayan Tribe Knows their Rights Under FRA, 2006

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ABSTRACT

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), was enacted to correct historical injustices faced by forest-dependent communities across India. It aims to provide land tenure, livelihood security, and participatory governance rights to marginalized groups. However, despite its progressive legal framework, the implementation of FRA in the Himalayan region remains fraught with challenges. This ethnographic study explores the levels of awareness, understanding, and practical access to forest rights among the Tharu tribe of Uttarakhand—a community with deep cultural and ecological ties to forest lands.

Based on immersive fieldwork in a tribal village of the district Udham Singh Nagar, the study reveals that most Tharu villagers remain unaware of the FRA and its provisions, particularly the rights to minor forest produce, community governance, and forest conservation. Where knowledge exists, it is often partial or distorted due to complex legal language, bureaucratic neglect, and resistance from the forest department. The required evidence of continuous forest dependence, especially for Other Traditional Forest Dwellers (OTFDs), is difficult to produce in a largely oral society, leading to widespread rejection of claims. Administrative bottlenecks, absence of dedicated implementing bodies, and lack of political will further weaken the realization of forest rights.

This ethnographic study discusses the forest governance and highlights the implementation of FRA, 2006 and its success and failure in India. The paper, taking example of the Tharu Tribe of Uttarakhand, explains the challenges and hindrance in the implementation of the FRA, 2006 in the Western Himalayan region.

Keywords: Forest Rights, Tribals, Livelihood, Displacement, Awareness, Implementation.

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1. Introduction

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006—commonly known as the Forest Rights Act (FRA)—marked a significant milestone in India's legal history. It was enacted as a corrective mechanism to undo the historical injustices suffered by forest-dwelling communities, particularly Indigenous tribes, who were systematically alienated from the forests that had sustained them for generations. These injustices stemmed from the consolidation of state forests during the colonial period and continued in independent India, where traditional rights to forest land were not adequately recognized.¹ The legislation recognizes the forest as more than a natural resource—it is a living space, a sacred geography, and an ecosystem of cultural and economic sustenance for Adivasi communities. The Act also recognizes and vests individual and community forest rights to these communities, providing them with legal entitlements to land and resources. The Act does not limit to land tenures and resource access to tribal communities, but it also empowers women and other forest dependent communities through joint titles and decision-making participation.

Forest and its resources are crucial for the sustenance of marginalized forest-dependent populations, especially tribal communities. These communities rely heavily on forests for their livelihoods, cultural identity, and sustenance. Approximately 147 million villagers live in or around forests, with another 275 million villagers depending heavily on forests for their livelihoods and cultural practices.² Their long-standing relationship with forests has led them to develop sophisticated knowledge systems and practices aimed at sustainability and conservation. However, the access to these resources has been severely restricted due to historical exploitation and legal frameworks that have marginalized these communities.³ The heavy restrictions on access to forestland and resources have resulted in many forest-dependent people becoming some of the most marginalized in the country. Livelihood security for these populations is critically linked to ecological security and access to natural resources, indicating that many forest-dependent people have become marginalized due to restrictions on their access to these resources.⁴ The categorization of forests as "state forests" often leads to conflicts where conservation goals may overshadow

¹ Savyasaachi, "Forest Rights Act 2006: Undermining the Foundational Position of the Forest" *Economic and Political Weekly* 55–62 (2011).

² Ashish Kothari, Neema Pathak and Anuradha Bose, "Forests, Rights and Conservation: FRA Act 2006, India", in H. Scheyvens (ed.), *Critical Review of Selected Forest-Related Regulatory Initiatives: Applying a Rights Perspective* 19–50 (Institute for Global Environmental Strategies, 2011).

³ A. Mishra and P. Tripathi, "Scheduled Tribes and Their Lost Forests: An Analysis of the Implementation of FRA, 2006 in India" 13 *Sodh Drishti* 21–28 (2022).

⁴ *Supra* note 2.



the rights and livelihoods of tribal communities. This tension is evident in the management of forest resources, where the needs of local populations may be side-lined in favour of environmental preservation. The Van Gujjars, for instance, have historically maintained access to forest resources, yet face challenges in asserting their rights against state interests.⁵

The historical experience of forest-dependent tribal and non-tribal communities in India has been marked by persistent exploitation at the hands of various “invading” forces—ranging from pre-colonial rulers and their intermediaries, to traders, colonial administrators, and, in the post-independence era, state agencies and corporate entities.⁶ In the pre-independence era, the colonial government prioritized revenue generation from forests, leading to the exploitation of forest-dependent communities. The management of forests was largely left to local rulers and traders, who were primarily interested in tax collection rather than the welfare of the communities. The colonial restrictions on forest use in India were primarily driven by the British government's revenue and resource extraction goals. The British established a centralized bureaucracy, the Forest Department, to administer forest resources. Forests were categorized as *reserved, protected, or village forests*, with reserved and protected forests under strict state control.⁷ The Indian Forest Act, 1927, India's main forest law, had nothing to do with conservation. It was created to serve the British need for timber. Enacted during British colonial rule, the Indian Forest Act, 1927, was primarily designed to consolidate and control forest resources for commercial exploitation and state revenue generation rather than for community welfare or environmental sustainability. It categorized forests into reserved, protected, and village forests, with the reserved forests receiving the strictest protection and exclusion of local communities. The Act authorized the state forest department to have exclusive ownership and control over forests, severely restricting the traditional rights of indigenous peoples and other forest-dependent communities to use forest land and resources. The law criminalized many customary activities of forest dwellers, such as gathering firewood, grazing livestock, hunting, and accessing minor forest produce without permits. Penal provisions for “illegal” forest access caused widespread alienation and marginalization of tribal communities. The law says that, at the time a “forest” is declared, a single official (the Forest Settlement Officer) is to enquire into and “settle” the land and forest rights people had in that area. These all-powerful officials unsurprisingly either did nothing or recorded only the rights of powerful communities. The Indian Forest Act institutionalized centralized, bureaucratic forest

⁵ P.A. Paquet and E. Kuroyedov, “Everyday Forest Rights: Claiming Territories and Pastoral Livelihoods in Uttar Pradesh and Uttarakhand, India” 19(4) *Conservation & Society* 236–247 (2021).

⁶ *Supra* note 2.

⁷ T. Apte and A. Kothari, *Joint Protected Area Management: A Simple Guide* (Kalpavriksh, Pune, 2000).

management with minimal participation or recognition of community rights. It did not provide any mechanisms for recognizing or protecting the customary rights of forest inhabitants. It was the first and most significant Act which curtails forest dwellers rights to access forest and put restriction if they access any resource. The tyranny started in 1927 continued in future and similar model was subsequently followed into the Wild Life Protection Act, passed in 1972, with similar consequences. Local communities were largely excluded from forest management and use. The colonial government viewed them as encroachers or destroyers of forests, and their rights were either heavily regulated or extinguished altogether.⁸ The colonial government documented privately owned land and took over the rest as state property, ignoring the communal resource management practices of local communities.⁹ Practices like shifting cultivation, hunting, and gathering were curtailed. Shifting cultivation was opposed because it hindered tax collection, and hunting by local communities was restricted to protect commercially valuable species.¹⁰ Large areas were declared game reserves for elite hunting, further restricting access for local communities. Hunting by elites led to the decline of several species, while local hunters were penalized for using traditional methods. Forest fires, used by communities for agriculture or protection from wild animals, were controlled as they were seen as damaging to commercially valuable crops. Forests were cleared aggressively for timber extraction and cultivation to maximize tax revenue. This led to large-scale deforestation and ecological degradation.¹¹

1.1 Forest Governance: India and Western Himalaya

Post-independence forest policies in India have been shaped by a legacy of colonial restrictions and a focus on state control over forest resources. This led to the alienation of forest-dependent communities from their traditional rights and management practices. Joint Forest Management (JFM), Introduced in the 1988 Forest Policy, aimed to involve local communities in the management and protection of forests. However, it often faced criticism for being imposed on existing community management systems and for not granting legal rights or long-term security to communities.¹² The Forest Conservation Act of 1980 was intended to slow down deforestation and protect forest lands. The Act was introduced to regulate the diversion of forest land for non-forest purposes. While aimed at forest

⁸ *Ibid.*

⁹ M. Rangarajan, "Nature, Culture and Empires; Conservation; and Towards Preservation", in V. Saberwal, M. Rangarajan and A. Kothari (eds.), *People, Parks and Wildlife: Towards Coexistence*. (Orient Longman Limited, New Delhi, 2000).

¹⁰ *Ibid.*

¹¹ *Supra* note 2.

¹² *Supra* note 7.



conservation, the Act often led to unintended consequences of further marginalizing forest-dependent communities. It imposed stringent controls that restricted even traditional uses, leading to increased conflict between forest departments and local people. However, it has been criticized for further alienating local communities and for not adequately addressing their rights and needs. The Act reinforced the dominance of the forest bureaucracy and often side-lined or ignored the rights and claims of tribal and other traditional forest dwellers. The policies have often prioritized commercial interests over the livelihoods of forest-dependent communities, leading to increased marginalization. Due to its strict prohibition on forest land diversion, the Act became a tool that forest officials frequently used to deny rights claims under the Forest Rights Act (FRA), treating FRA's community rights provisions as contradictory or subordinate to forest conservation priorities. The heavy restrictions on access to forest resources have resulted in many communities facing hardships. Many of them have been removed from their native homes in the name of forest and biodiversity protection. An estimated 300,000 families have been evicted from protected areas in the past five years, highlighting the significant number of people affected by restrictions on forest access.¹³

The legal framework governing forest management in the Western Himalayas is complex, involving historical and contemporary challenges in enforcement. The region has seen various institutional arrangements over the past 150 years, with local communities often negotiating with the state for rights and responsibilities in forest management. Despite these efforts, enforcement remains problematic due to socio-economic and political factors. This answer explores the legal framework and enforcement challenges in the Western Himalayan forests, drawing insights from various contexts. In the Western Himalayas, historical arrangements involved co-parcenary bodies of cultivators negotiating with the state for rights over forest resources. These arrangements included sharing proceeds from timber sales and managing non-timber forest products.¹⁴ The legal framework has evolved, with attempts to create village-level institutions for co-management, but these efforts often overlook the historical ability of communities to negotiate and manage resources effectively.¹⁵

Enforcement of forest laws is hindered by socio-economic dependencies on illegal

¹³ National Forum for Forest People and Forest Workers, *Forest Rights Act: A Weapon of Struggle* (National Forum for Forest People and Forest Workers, New Delhi, 2007).

¹⁴ A. Chhatre, "Forest Co-Management as if History Mattered: The Case of Western Himalayan Forests in India" *ISB* (2000), available at: <https://eprints.exchange.isb.edu/id/eprint/998/> (last visited on June 18, 2025).

¹⁵ *Ibid.*

activities, limited resources for law enforcement, and external pressures from vested interests. Inconsistencies in legal implementation and a lack of public awareness further exacerbate enforcement challenges, making it difficult to deter illegal activities and protect ecosystems. The political economy of forest use, including patronage networks, complicates enforcement, as laws are often selectively applied to favour dominant interests, marginalizing local communities. The violations of forest management regulations and indigenous peoples' rights are often linked to illegal logging activities. These violations can create a façade of legality, making it difficult for traders and consumers to discern the legality of timber products.¹⁶ Madhu Sarin identifies three main obstacles to sustainable and just forest management: Poor procedures for defining and identifying forests; Dissonance between tribal and conservation laws and Neglect of democratic decentralization of forest governance. In Nepal, similar challenges exist where state-declared protected areas often ignore indigenous management systems, leading to conflicts and undermining local governance.¹⁷ These issues undermine both conservation efforts and social justice for local communities and further explains that there is a significant conflict between conservation laws and the rights of tribal communities. The rigid application of conservation laws often negates communal tenures and the cultural significance of forests for tribal people, violating constitutional provisions meant to protect their rights, which was found to be true in the case of Western Himalaya.¹⁸ There was a need for democratic decentralization in forest governance. Centralized management has been criticised for focusing on revenue generation and failed to meet the objectives of biodiversity conservation and social justice. Existing Legal frameworks tried to support this decentralization, but they were often ignored in practice.¹⁹ It has been found that when traditional knowledge and state policies work hand in hand forest diversity remain intact and maintained.²⁰

¹⁶ M. Colchester, M. Boscolo, A. Contreras-Hermosilla, F. Del Gatto, J. Dempsey, G. Lescuyer, K. Obidzinski, D. Pommier, M. Richards, S. N. Sembiring, L. Tacconi, M. T. V. Rios and A. Wells, "Global Forest Law Enforcement Initiatives: The Context for This Study" *Justice in the Forest: Rural Livelihoods and Forest Law Enforcement* 1–4 (Center for International Forestry Research, 2006), available at: <http://www.jstor.org/stable/resrep02059.7> (last visited on June 18, 2025).

¹⁷ S. Stevens, "National Parks and ICCAs in the High Himalayan Region of Nepal: Challenges and Opportunities" 11(1) *Conservation and Society* 29 (2013).

¹⁸ M. Sarin, "Laws, Lore and Logjams: Critical Issues in Indian Forest Conservation" *International Institute for Environment and Development* (2005), available at: <http://www.jstor.org/stable/resrep01818> (last visited on June 18, 2025).

¹⁹ *Ibid.*

²⁰ *Supra* note 17.



While the Western Himalayan region faces significant challenges in forest governance and enforcement, there are opportunities to learn from indigenous practices and international precedents. Collaborative approaches that involve local communities and respect traditional management systems could enhance the effectiveness of legal frameworks and enforcement strategies. Additionally, regional cooperation and treaty-based frameworks, as seen in other parts of the Himalayas, could provide a more cohesive approach to managing shared environmental resources.²¹

1.2 Forest Policies in India and their Impact on Tribal Communities

The history of forest policies in India is deeply intertwined with the dispossession and marginalization of tribal communities.²² Successive policies—colonial, post-independence, and rights-based—have shaped how forest-dependent groups access and control their ancestral resources. While the Forest Rights Act (FRA), 2006 represents a landmark attempt to correct historical wrongs, its effectiveness must be understood against the background of earlier laws and policies that entrenched state dominance over forests.

The Indian Forest Act of 1865 and its amendment in 1878 created the categories of “Reserved” and “Protected Forests,” vesting control with the colonial state. This criminalized shifting cultivation, grazing, and hunting, thereby eroding tribal livelihoods. The Indian Forest Act, 1927 consolidated these restrictions and empowered the Forest Department to extinguish customary rights. This Act institutionalized the perception of tribals as “encroachers,” while privileging timber extraction for colonial revenue.²³ Thus, far from conserving forests, colonial policy systematically alienated communities from the very ecosystems they had sustainably managed for centuries. Independent India inherited this legacy and largely reproduced it in its early decades. The Forest Policy of 1952 emphasized the economic role of forests in national development, declaring that one-third of the country's geographical area should be under forest cover. Tribal subsistence was acknowledged only as “concessions” rather than legal rights.²⁴ This approach merged with the post-independence development agenda, where large dams, mines, and plantations displaced tribal communities without adequate rehabilitation. The Wildlife Protection Act,

²¹ N. A. Robinson, “Marshalling Environmental Law to Resolve the Himalaya-Ganges Problem” 7(3) *Mountain Research and Development* 305–315 (1987).

²² Asmita, Kabra, and Budhaditya Das, “Aye For The Tiger: Hegemony, Authority, and Volition in India's Regime of Dispossession for Conservation” 50 *Oxford Development Studies* 44 (2022).

²³ Madhu Sarin, *Disempowered by Law: FRA and Tribal Rights* (National Centre for Advocacy Studies, Pune, 2005).

²⁴ Madhav Gadgil and Ramachandra Guha, *Ecology and Equity: The Use and Abuse of Nature in Contemporary India* (Penguin Books, New Delhi, 1995).

1972, as discussed above, further exacerbated exclusion by introducing a fortress model of conservation. Protected Areas (PAs), such as sanctuaries and national parks, were established by evicting or restricting tribal access to forest resources. Communities such as the Van Gujjars and Baigas faced eviction, harassment, and criminalization, even though their traditional practices posed minimal ecological threat.²⁵ Similarly, the Forest Conservation Act, 1980 centralized decision-making by requiring central government approval for forest land diversion. While intended to prevent deforestation, the Act side-lined tribal needs and strengthened bureaucratic control.²⁶ A gradual paradigm shift in tribal forest rights occurred in the late 20th century with the implementation of the National Forest Policy of 1988 which explicitly recognized that “the life of tribals and other poor people living within and near forests revolves around forests” and prioritized meeting their subsistence needs.²⁷ It emphasized community participation and ecological balance, signalling a departure from revenue-centric policies. Building on this, the Joint Forest Management (JFM) resolution of 1990 sought to involve communities in protecting forests in return for usufruct rights. However, JFM was criticized for being tokenistic, as forest departments retained ultimate control and community rights remained conditional.²⁸ In effect, communities were co-opted into conservation schemes without genuine empowerment.

The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) represented a stronger step towards tribal self-governance. Amita Bhaviskar found that by extending constitutional recognition to Gram Sabhas in Scheduled Areas, PESA empowered local communities to manage natural resources but its implementation was patchy, with state governments and forest departments often reluctant to cede authority. The most radical corrective, however, came with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA). FRA acknowledged the historical injustices inflicted upon forest dwellers and vested them with Individual Forest Rights (IFRs) and Community Forest Rights (CFRs). Following pages discuss the provision, significance and implementation of FRA in India and its impact on the tribal communities.

1.3 Forest Rights Act, 2006 and its Importance among the Tribal Communities

In 2006, the Parliament of India enacted the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act*, commonly referred to as the *Forest*

²⁵ Ashish Kothari, Neema Singh and Saloni Suri, *People and Protected Areas: Rethinking Conservation in India* (Sage Publications, New Delhi, 1989).

²⁶ Ministry of Environment and Forests, *Forest Conservation Act, 1980* (Government of India, New Delhi, 1980).

²⁷ Ministry of Environment and Forests, *National Forest Policy, 1988* (Government of India, New Delhi, 1988).

²⁸ Nandini Sundar, *Beyond the Boundaries: JFM and Tribal Rights* (Oxford University Press, Delhi, 2001).



Rights Act (FRA), 2006. This landmark legislation was introduced as a corrective measure to address the systemic marginalization and dispossession experienced by tribal and other forest-dependent communities during both colonial rule and the post-independence governance period. For decades, these communities were denied legal recognition of their traditional rights over forest land and resources, resulting in socioeconomic deprivation and cultural dislocation. The Act defines "forest dwelling Scheduled Tribes" as members or communities of Scheduled Tribes who primarily reside in and depend on forests or forest lands for bona fide livelihood needs, including Scheduled Tribe pastoralist communities.²⁹ "Other traditional forest dwellers" are defined as any member or community who has primarily resided in and depended on the forest or forest lands for bona fide livelihood needs for at least three generations prior to 13th December 2005, with each generation comprising twenty-five years. These rights are recognised and vested by the Central Government, provided the Scheduled Tribes or other traditional forest dwellers had occupied the forest land before 13th December 2005. The Act came into effect on 1st January 2008, marking a significant step towards participatory governance, environmental justice, and the recognition of indigenous knowledge systems within India's legal and ecological framework.³⁰

The Forest Rights Act (FRA) was introduced in this context to address the rights of these communities to the land they occupy and the resources they use. It aims to recognize and secure the rights of forest-dwellers, which could lead to greater democratization of forest management and empower communities to manage their resources sustainably. The Act was designed to address the longstanding insecurity of tenure and access rights of these communities, including those displaced due to development interventions. The FRA has been seen as a powerful tool for tenure transition and governance reform in areas where land and user rights have been effectively devolved. However, the implementation of the Act has faced challenges, including irregularities in the recognition of CFRs and a lack of respect for the Act in many regions of India. The FRA aims to regularize the situation of traditional forest dwellers by redistributing land titles. The act places a dual responsibility on forest dwellers: while it acknowledges and secures their rights to reside and use forest land, it also mandates them to conserve and manage these forests sustainably. A key feature of the Act is the role assigned to the Gram Sabha, which is entrusted with the protection of biodiversity, wildlife, and forest resources. Furthermore, the Act facilitates the allocation of forest land for essential development projects, ensuring that basic amenities such as education, roads, and healthcare reach forest-dependent communities.³¹

²⁹ The Scheduled Tribes and Other Traditional Forest Dwellers Act, 2006 (Act 2 of 2007).

³⁰ *Ibid.*

³¹ P. S. Sahoo, S. Bang and G. Sahil, "Forest Conservation and Development in India – An Analysis of the Forest Rights Act, 2006 and Its Impact on the Forest System" 12(2) *JurnalCitaHukum* (2024).

However, the implementation of CFRs has faced challenges, with irregularities reported in granting these rights, particularly for those who are not officially recognized as "tribal status" holders. More than 88% of community-land conflicts stem not from claimant shortcomings but from FRA violations and displacement policies enforced by forest administration and conservation projects. Despite the hopes for swift regularization, many regions still do not respect the provisions of the FRA, leading to disappointment among communities and activists advocating for forest rights. The act also reflects a broader trend in forest tenure reform, where there is a growing recognition of the importance of local communities in forest management. However, the implementation of the act and the security of these rights can be complex, often influenced by the existing bureaucratic structures and regulations that may still favour state control over forest resources.³²

The various types of forest rights secured under this Act, which can be individual, community tenure, or both, include- i) Right to hold and live in forest land which covers individual or common occupation for habitation or self-cultivation for livelihood. The area for self-cultivation is restricted to the actual occupation and cannot exceed four hectares; ii) Community rights includes customary common forest land within traditional village boundaries, or seasonal use of landscape for pastoral communities, encompassing reserved forests, protected forests, Sanctuaries, and National Parks to which the community had traditional access; iii) Right of ownership, access to collect, use, and dispose of minor forest produce traditionally collected within or outside village boundaries. Minor forest produce includes all non-timber forest produce of plant origin, such as bamboo, honey, medicinal plants, and more; iv) Rights to collect fish and other products from water bodies, grazing (both settled or transhumant), and traditional seasonal resource access for nomadic or pastoralist communities; v) Habitat and habitation rights for specific groups include community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities. Here "Habitat" encompasses customary habitats and other habitats in reserved and protected forests vi) Rights over disputed lands rights in or over lands under any nomenclature in any State where claims are disputed; vii) Rights for converting Pattas, leases, or grants issued by any local authority or State Government on forest lands into titles; viii) Rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages, and other villages in forests (whether recorded or notified) into revenue villages. Forest villages are settlements established inside forests for forestry operations or converted through the forest reservation process; ix) Right to protect, regenerate, conserve, or manage community forest resources empowers communities to manage resources they have traditionally protected and conserved for sustainable use; x) Rights recognised under other

³² A. M. Larson and G. R. Dahal, "Introduction: Forest Tenure Reform: New Resource Rights for Forest-Based Communities?" 10 (2) *Conservation and Society* 77 (2012).



laws such as state law, laws of Autonomous District Councils or Regional Councils, or those accepted as tribal rights under any traditional or customary law of the concerned tribes; xi) Rights to access to biodiversity, and community rights to intellectual property and traditional knowledge related to biodiversity and cultural diversity xii) Any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, excluding the traditional right of hunting, trapping, or extracting a part of the body of any wild animal; xiii) Rights to alternative land for Scheduled Tribes and other traditional forest dwellers who were illegally evicted or displaced from forest land without receiving their legal entitlement to rehabilitation prior to 13th December 2005. This also applies where land acquired for State development interventions has not been used for its intended purpose within five years of acquisition.

The Act also specifies that the forest rights recognised are heritable but are not alienable or transferable. They must be registered jointly in the name of both spouses for married persons or in the name of the single head for single-person households, and pass to the next-of-kin in the absence of a direct heir. Holders of these rights cannot be evicted or removed from their occupied forest land until the recognition and verification procedure is complete. These rights are conferred free of encumbrances and procedural requirements, including clearances under the Forest (Conservation) Act, 1980, and the requirement of paying 'net present value' or 'compensatory afforestation' for forest land diversion, unless specifically required by this Act.

Furthermore, the Act permits the diversion of forest land for specific government-managed facilities (like schools, hospitals, roads, etc.), provided the land is less than one hectare and the diversion is recommended by the Gram Sabha. However, this is a provision for land use by the government, distinct from the forest rights vested in the communities themselves.

Holders of forest rights, Gram Sabhas, and village-level institutions also have duties under the Act, including protecting wildlife, forests, and biodiversity, ensuring the protection of sensitive ecological areas and water sources, preserving the habitat of forest dwellers from destructive practices, and ensuring compliance with Gram Sabha decisions to regulate access to community forest resources.

1.4 Socio-legal Provisions of the Forest Rights Act, 2006

The FRA 2006 is designed to correct the historical wrongs done to forest-dwelling communities by recognizing and securing their rights over forest land and resources. The Act recognizes the rights of Scheduled Tribes and other traditional forest dwellers to forest land and resources. These rights include the right to hold and live on forest land, and to

protect, regenerate, conserve, and manage forest resources.^{33,34} FRA distinguishes between individual forest rights (IFR) and community forest rights (CFR). IFRs are granted to families or individuals who have been occupying forest land prior to December 13, 2005, while CFRs are granted to communities for the use, management, and conservation of forest resources.³⁵ The act mandates the Gram Sabha (village assembly) as the authority to initiate the process of recognizing and vesting forest rights. This provision aims to decentralize decision-making and ensure community participation in forest governance.³⁶

The Act emphasizes the importance of sustainable forest management and conservation. It encourages communities to protect and conserve forest resources while ensuring their livelihood needs are met.³⁷

1.5 Process of Reclaiming the Rights

Section 6 of the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006* establishes a robust and participatory framework for determining the rightful claimants of forest rights.³⁸ The procedure is designed to be transparent, inclusive, and community-driven, ensuring that the voices of forest dwellers are central to the decision-making process. This determination follows a structured three-step process:

- i. Initiation at the Gram Sabha Level:* The process begins with the Gram Sabha, the foundational democratic institution at the village level. It is vested with the authority to verify and recommend claims concerning forest rights. This includes identifying individuals and communities based on evidence of cultivation, habitation, collection of minor forest produce, and other traditional practices. The Gram Sabha's recommendation is rooted in community knowledge, historical usage patterns, and customary practices.

³³ S. S. Dayal and D. Sharma, "Tribal Aspiration Regarding Self-Governance: Pathalgadi Movement and Implementation of PESA & Forest Right Act in Jharkhand" 44(3) *Library of Progress – Library Science, Information Technology & Computer* (2024).

³⁴ R. Hebbar, "Undoing Historical Injustice? Critical Reflections on India's Forest Rights Act, 2006" 52(4) *Social Change* 491–504 (2022).

³⁵ A. Khosla and P. Bhattacharya, "Use of Composite Index to Critically Assess the Post Rights Recognition Impact of Forest Rights Act, 2006: A Case Study from the Tribal State of Tripura, India" 2 *Trees, Forests and People* 100023 (2020).

³⁶ *Supra* note 26.

³⁷ *Supra* note 28.

³⁸ *Supra* note 30.



Image 1: Process involve in reclaiming the Forest Rights under FRA, 2006.

- ii. *Scrutiny by Sub-Divisional and District-Level Committees:* The recommendations of the Gram Sabha are forwarded to two successive screening bodies — first at the *Sub-Divisional (Tehsil)* level and subsequently at the *District* level. These committees are tasked with examining the validity of claims based on documentary and oral evidence, ensuring procedural compliance, and addressing any objections raised during the process.
- iii. *Final Determination by the District-Level Committee:* As per Section 6(6) of the Act, the *District-Level Committee* serves as the final adjudicating authority in the recognition process. Its decisions are binding and constitute the formal recognition of forest rights under the Act. Importantly, this committee ensures that the decision-making process upholds principles of natural justice, transparency, and administrative fairness.

Each of these committees is composed of six members — three elected representatives and three government officials — ensuring a balance between administrative oversight and democratic representation. This tripartite structure aims to minimize bureaucratic arbitrariness, foster local accountability, and uphold the integrity of the forest rights recognition process.

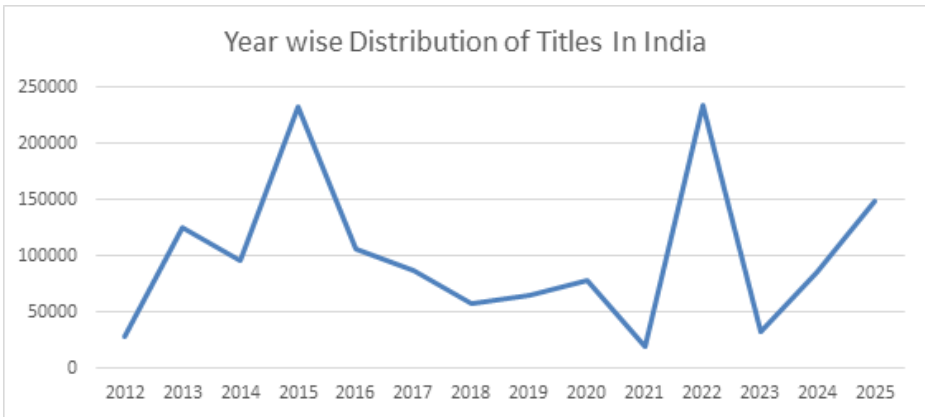
2. The Forest Rights Act, 2006

2.1 Implementation of FRA, 2006

The *Forest Rights Act (FRA), 2006* was envisioned as a transformative legislation to rectify the historical injustices faced by Scheduled Tribes and other traditional forest dwellers, by recognizing their rights over forest land and resources. The graph-1 titled "*Year-wise Distribution of Titles in India*" illustrates the annual progress made in granting these rights, specifically through the distribution of titles from the year 2012 to 2025. A closer look at the data reveals a highly inconsistent pattern of title distribution over the years, reflecting broader systemic issues in the implementation of the FRA. Beginning in 2012, the distribution of titles started at a relatively modest level—around 25,000—but saw a substantial rise in the year 2013, reaching approximately 120,000. This initial surge could be attributed to the momentum generated by early institutional efforts and awareness

campaigns following the 2008 enforcement of the Act. However, this progress could not be sustained, as seen in the dip in the year 2014. Despite this slight decline, the year 2015 marked a major breakthrough with the distribution of over 230,000 titles—the highest in the entire dataset. This sudden spike is indicative of an intensified administrative push, possibly catalyzed by political will, judicial intervention, or civil society mobilization. Yet, what follows this peak is a steady decline over the next three years (2016–2018), suggesting either a saturation in eligible claims, bureaucratic bottlenecks, or a weakening of institutional mechanisms supporting the recognition of rights.

The downward trend continued moderately until 2020, when a slight recovery was observed, potentially pointing toward renewed efforts to streamline the FRA's implementation. However, the year 2021 witnessed the most dramatic fall in title distribution, dropping to around 20,000. This sharp decline can plausibly be linked to the socio-political disruptions caused by the COVID-19 pandemic, which significantly hampered Gram Sabha meetings, field verifications, and public administrative functioning—all essential steps in the FRA recognition process. In stark contrast, year 2022 witnessed a near-restoration to the 2015 peak, again surpassing 230,000 title distributions. Such sharp fluctuations imply that the implementation of FRA has often been campaign-driven rather than institutionalised. This peak likely resulted from post-pandemic recovery efforts and government pressure to meet forest rights targets. However, the year 2023 saw another sudden plunge, reinforcing the cyclical and episodic nature of FRA implementation. Interestingly, the data for 2024 and 2025 indicates a promising upward trajectory, suggesting that there might be more sustained policy attention or structural improvements being undertaken. These trends reveal the need for a paradigm shift from episodic implementation to an integrated, continuous, and community-led approach. The FRA's success cannot be measured merely by aggregate numbers in isolated years; rather, it demands a framework that ensures constant community participation, bureaucratic accountability, and regular monitoring mechanisms. As the graph makes visually evident, the fluctuating pace of title distribution reflects the broader political, administrative, and socio-economic dynamics that govern the state's relationship with its forest-dwelling citizens. The Act, if implemented in letter and spirit, holds transformative potential—not just for forest rights, but for participatory forest governance and sustainable development. Hence, policymakers must learn from the uneven distribution patterns, institutionalise Gram Sabha capacities, minimize bureaucratic delays, and promote transparency in the title recognition process to ensure the enduring success of the Forest Rights Act.



Graph 1: Distribution of land titles in India since 2012

(Source: Ministry of Tribal Affairs)

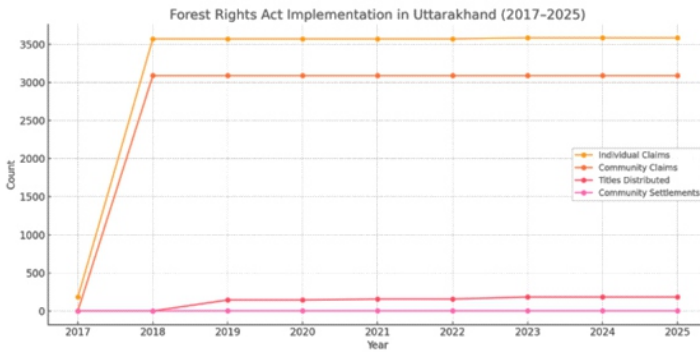
2.2 Implementation of the Forest Rights Act (FRA) in the Uttarakhand State

The implementation of the Forest Rights Act (FRA), 2006, in Uttarakhand presents a troubling picture when analysed through year-wise data from 2017 to 2025. The figures indicate persistent administrative inertia, systemic neglect, and a lack of political will in upholding the rights of forest-dwelling and tribal communities. The data tracks four key indicators: individual claims, community claims, title distribution, and community rights settlements. Taken together, they paint a grim picture of how far the state is from realizing the objectives of the FRA.

In 2017, only 182 individual claims were filed, and there were no community claims, title distributions, or community rights settlements. This reveals that either the FRA was yet to be meaningfully introduced in the state or that awareness among eligible beneficiaries was virtually non-existent. By 2018, however, there was a sudden increase in filings—individual claims jumped to 3,574, and 3,091 community claims were recorded. This may indicate the beginning of outreach or mobilisation efforts. Yet, no titles were distributed in 2018, which suggests that while applications were being collected, the processing machinery was non-functional or not ready.

In 2019, there was a slight improvement. Title distribution began with 144 individual titles being granted, and one community right was officially settled. However, this minimal progress remained largely unchanged over the next two years. The number of distributed titles stayed static at 144 until 2020, with no additional community settlements. In 2021, the number of titles distributed increased marginally to 156, but the number of community rights remained unchanged. This stagnant performance signals either bureaucratic resistance or a lack of urgency in operationalizing the Act.

From 2022 to 2025, some further, though minimal, progress was observed. By 2023, the number of individual claims slightly increased to 3,587. Titles distributed rose to 184 and remained static at that number through 2024 and 2025. Importantly, only one community right was settled throughout this entire period, a deeply concerning sign considering over 3,000 community claims were submitted. Despite the volume of claims and the passage of time, the state failed to scale up its capacity or streamline its processes to address the backlog. With more than 6,600 total claims (3,587 individual and 3,091 community) and only 184 titles distributed, the settlement rate is a mere 2.75%. For community rights, the recognition rate is just 0.03%. The consequences of this failure are severe and multifaceted. Denial of forest rights means that forest-dwelling communities continue to face insecurity over their land and livelihoods. These communities are unable to access or manage resources that are legally theirs, and women—who are often central to forest-based economies—are particularly affected. With rights unrecognized, tribal populations cannot claim access to benefits, support, or autonomy in forest governance, effectively excluding them from conservation and development frameworks.



Graph 2: Distribution of land tenures among the claimants in Uttarakhand from 2017 to 2025 (Source, Ministry of Tribal Affairs)

There are several factors responsible for this dismal record. One of the most critical is the *bureaucratic neglect* that characterizes the process. In Uttarakhand, the Social Welfare Department, which is already overburdened and understaffed, is the nodal agency for implementing the FRA. This choice of department demonstrates a misalignment, as it neither has the capacity nor the field network needed for effective implementation. Moreover, the Forest Department continues to dominate decision-making and forest governance, often resisting the empowerment of local communities. This bureaucratic conflict between the Forest Rights Act and the Forest Conservation Act further complicates matters, with the latter often being used to override the former.



Another significant issue is the lack of awareness among tribal communities about the provisions and procedures of the FRA. In many villages, especially in remote areas, people are unaware of their rights under the Act. There are no functional Van Samitis or FRA Committees, and those that were initially formed became defunct after the rejection of claims. The requirement of written documents proving land occupation for the last 75 years becomes an insurmountable hurdle for most forest dwellers. Due to low literacy levels, many tribal people cannot navigate the bureaucratic processes, and officials often use this as a reason to reject their claims outright.

Civil society organisations working in the region have consistently highlighted these shortcomings. They have pointed out that the FRA is not being implemented in its true spirit in Uttarakhand. Claims are often rejected at the block level without adequate verification or opportunities for applicants to provide oral evidence, which the Act permits. There is no regular training for officials on FRA procedures, nor are there independent monitoring mechanisms to ensure transparency. In many cases, the rights that forest dwellers historically held—such as *Haq-Hakook* (traditional rights), access to grazing lands, or the ability to collect timber and sand—have been restricted rather than restored, further alienating them from their traditional livelihoods.

To improve the situation, a set of targeted interventions is necessary. A dedicated department or FRA cell must be established with trained personnel who are exclusively responsible for awareness-building, verification of claims, and facilitation of settlements. Regular and systematic training programs for government officials, PRI members, and community leaders are essential. Satellite imagery, oral testimonies, and community maps should be accepted as valid evidence in line with the Act's provisions. Additionally, Gram Sabhas must be strengthened, empowered, and involved as primary decision-makers in the verification and approval of claims.

In conclusion, the analysis of FRA data in Uttarakhand from 2017 to 2025 reveals a systemic failure to implement the law in both letter and spirit. The slow pace of title distribution, the near-total neglect of community claims, and the lack of institutional accountability suggest a crisis of governance. Forest rights are not just legal entitlements; they are tools for justice, conservation, and community empowerment. If the government of Uttarakhand truly intends to respect the constitutional and ecological rights of its indigenous communities, urgent and corrective action is needed. Until then, the promise of the Forest Rights Act will remain a distant and unfulfilled ideal for the forest dwellers of the state.

3. Methodology and Study Area

The present study was carried out on the Tharu tribe of the village Biriya Majhola located in the Khatima Tehsil of Udham Singh Nagar district in Uttarakhand. Nestled within the administrative framework of Biriya Gram Panchayat, the village spans an area of approximately 174.14 hectares. It lies about 22 kilometres from the nearest town, Khatima, and functions under the Panchayati Raj system with a locally elected Sarpanch overseeing governance. According to the 2011 Census,³⁹ Majhola has a population of 1,567 residents living in 311 households. The gender distribution is fairly balanced, with 777 males and 790 females, reflecting a sex ratio of 1,017 females per 1,000 males—an impressive figure that surpasses the state average. The number of children aged 0–6 is 190, and the child sex ratio stands at 863, which is slightly below the Uttarakhand average.

Literacy in Majhola is relatively high, with an overall literacy rate of 77.20%. Male literacy is significantly higher at 86.22%, while female literacy stands at 68.52%, indicating a gender gap that still needs addressing. Socially, the village is home to a diverse population, including 83 individuals belonging to Scheduled Castes (SC) and 387 individuals from Scheduled Tribes (ST), the latter forming a significant 24.7% of the population. The economy of Majhola is largely agrarian. Out of the total population, 884 individuals are engaged in work-related activities. However, only 321 of them are main workers (employed for more than six months), while the remaining 563 are marginal workers with less consistent employment. Among the main workers, 146 are cultivators owning or co-owning land, and 114 individuals work as agricultural laborers, pointing to a strong dependence on agriculture for livelihoods.

The village makes use of most of its arable land, with around 151.66 hectares under cultivation and supported by irrigation from wells and tube-wells. A smaller portion, approximately 18.86 hectares, is used for non-agricultural purposes, and 3.62 hectares lie fallow. In terms of education infrastructure, Majhola hosts two government primary schools, but lacks middle, secondary, or higher secondary institutions, requiring students to travel to nearby villages such as Biriya and Shripur Bichwa for further education. There are no degree colleges within the village, which limits access to higher education. Health care facilities within the village are not explicitly documented, but nearby Beria Majhola host reputable hospitals such as Sparsh Hospital and Prayas Hospital, which serve the medical needs of the region.⁴⁰ In the absence of proper health infrastructure in the village, villagers rely on the traditional medicines to cure their health issues.

³⁹ Majhola, 2011 Census Data, *available at*: <https://myroots.euttaranchal.com/village-majhola-udham-singh-nagar-56219.html> (last visited on June 16, 2025).

⁴⁰ *Supra* note 39.



The present study was carried out during 2022-23 and approximately heads of 50 households were randomly selected and interviewed. Gram Pradhan, Mukhiya, elder men and women were also interviewed to understand their traditional practices and dependency on the forest and its resources. An interaction with Samaj Kalyan Adhikari, SDM, Khatima, and Forest officers were also carried out to understand different perspectives on the forest rights.

4. Discussion and Analysis

The ethnographic study suggested that the tribals and OTFDs have heard about this, but they are not aware about the rights provided by the act. They have never informed through any medium about their rights and processes to claim these rights. Some of them who have heard about the Act in 'court-kutchehari' or in the SDM office, have submitted their claims but they were rejected due to inadequate information or evidences. Even their community rights were not accepted. Following points highlights the real picture of the implementation of the FRA in the studied Tharu Village.

4.1 Lack of Awareness and Access to Rights

Despite being one of the most significant legislative milestones for forest dwellers, the FRA remains a little-known legal provision among many Tharu communities in the Terai region of Uttarakhand. Most tribal members interviewed in this ethnographic study have never heard of the Act or are only vaguely familiar with it. Only a few politically active or literate individuals have some knowledge of the law, and even they are often unaware of the full range of rights the act promises—particularly the crucial *management rights* over forest resources. The focus among the few aware individuals remains limited to *individual and community rights*, with negligible understanding or claim over *governance and management rights*, which are central to participatory forest management. This is a crucial gap, because the transformative potential of FRA lies not merely in redistributing land titles, but in enabling forest-dependent communities to collectively manage, conserve, and govern forests through the Gram Sabha. Without this awareness, the Act's promise of participatory forest management risks being reduced to a symbolic recognition of land claims rather than a substantive shift in forest governance.

This lack of awareness is not unique to the Tharu community. Other study also suggests that many indigenous communities, particularly in remote areas, lack awareness about their rights under the FRA. This has hindered their ability to claim and utilize the provisions effectively.⁴¹ Across India, research has consistently shown that tribal and other

⁴¹ D. Chatterjee, "Forest Rights, Livelihood and Nature Conservation in Buxa Tiger Reserve, India: A Critical Appraisal" 27(4) *Contemporary Social Sciences* 50 (2018).

forest-dwelling communities remain poorly informed about their rights under FRA. For example, Sarin (2010) documents how communities in Chhattisgarh and Odisha often remain unaware of their entitlement to Community Forest Resource (CFR) rights, even when individual claims have been processed.⁴² This ignorance is not accidental, but symptomatic of a systemic failure in state-led awareness campaigns and legal literacy initiatives. In practice, the dissemination of FRA provisions has been minimal, irregular, and often deliberately obscured by the forest bureaucracy, which views the Act as a threat to its control.

The promise of FRA—to democratize forest governance, correct historical injustices, and empower tribals as custodians of forests—cannot be fulfilled unless communities themselves understand and assert these rights. This call for urgent measures: legal literacy campaigns in local languages, capacity-building workshops for Gram Sabhas, and active involvement of civil society organizations in spreading awareness. Until such steps are institutionalized, FRA will remain what Amita Baviskar calls a form of “symbolic justice”—a law that exists in principle but fails in practice.⁴³ The Tharu case illustrates how the absence of knowledge sustains the very power asymmetries FRA sought to dismantle, leaving indigenous communities once again at the margins of forest governance.

4.2 Absence of Institutional Mechanisms

The interaction with the tribals suggests that the implementation of FRA requires robust grassroots institutions like *Van Samitis* (Forest Committees) or *FRA Committees*. While these were initially constituted in some regions, they were soon disbanded or became defunct—especially after widespread rejection of claims by district and block-level committees. Disillusioned by these rejections, many community members no longer see any merit in pursuing their claims or reviving these local bodies. This institutional vacuum severely hampers community engagement and implementation at the grassroots. Many Tharu respondents stated that they no longer see any merit in pursuing recognition under FRA or reviving defunct committees, as the process has come to symbolize frustration rather than empowerment. This institutional vacuum has severely hampered both community engagement and the grassroots implementation of FRA, undermining the Act's core philosophy of participatory governance. Moreover, *Other Traditional Forest Dwellers* (OTFDs)—usually Bhat who are residing with Tharus—often fail to provide the legally required proof of 75 years of continuous residence or resource use. While this provision was intended to prevent fraudulent claims, in practice it imposes an impossible evidentiary

⁴² *Supra* note 18.

⁴³ Amita Baviskar, *In the Belly of the River: Tribal Conflicts over Development in the Narmada Valley* (Oxford University Press, Delhi, 2001).

burden on communities that rely on oral traditions rather than written records. Given the lack of formal documentation and reliance on oral traditions, their legitimate claims are often dismissed by authorities. This reflects a broader bureaucratic bias toward documentary rationality, privileging state archives over indigenous memory and tradition. The consequence of these dynamics is a double marginalization: Scheduled Tribes like the Tharus face rejection due to bureaucratic resistance, while OTFDs such as the Bhat are excluded due to structural evidentiary hurdles.

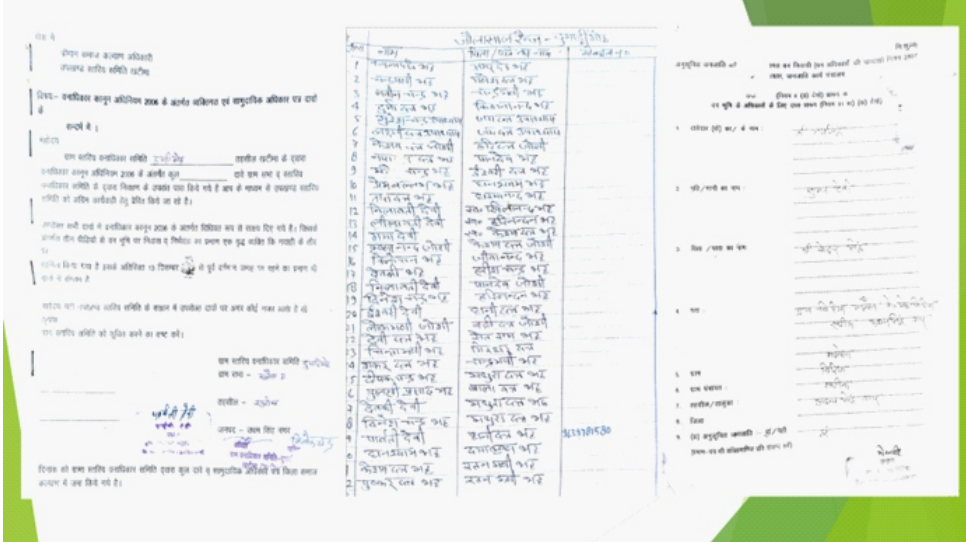


Image 2: Claims made by the villagers, both Tribals and OTFDs which were not entertained so far.

4.3 Dominance of Forest Bureaucracy and Legal Overlap

A core reason for FRA's poor implementation in Uttarakhand lies in the *continued dominance of the Forest Department*. In practice, the *Forest Conservation Act (FCA), 1980*, and the *Indian Forest Act, 1927*, often override the provisions of FRA. Forest officials, sometimes unaware and sometimes unwilling, continue to exercise unilateral control over forest lands, often treating FRA as a challenge to their authority. The process of recognizing and vesting forest rights has been slow and cumbersome in many regions. The FRA has often come into conflict with conservation efforts, particularly in tiger reserves and other protected areas. Indigenous communities have faced harassment and eviction by forest officials, undermining their rights.⁴⁴ Procedural dispossession, bureaucratic interpretations and lack of

⁴⁴ R. Melissa, “These Rights Have No Use? Forest Land Rights and the Economic and Subjective Wellbeing of Indigenous People in India” (2017) (Unpublished Ph.D. thesis).

awareness among implementing agencies have limited the Act's effectiveness.⁴⁵ The legal recognition of rights exists on paper but the very procedures of implementation—claims verification, evidence submission, and committee functioning—become tools of denial.

The Tharu and OTDFs have reported being prohibited from making even semi-permanent structures within forests. Traditional activities such as grazing cattle, collecting firewood, building cattle shelters, or extracting minor forest produce like sand and timber have been systematically curtailed—despite being guaranteed under the FRA. Such restrictions have not only disrupted the socio-cultural and economic practices of the Tharus but also led to serious *livelihood losses*. Families have lost traditional agricultural tools and cattle due to lack of shelter, and financial pressures have increased as they now need to purchase what they once sustainably sourced from forests.

4.4 Bureaucratic Apathy and Administrative Failures

One of the biggest hurdles in FRA implementation in studied area is the absence of a *dedicated nodal department*. Unlike many other states where the Tribal Welfare Department oversees implementation, in Khatima block the *Social Welfare Department* has been assigned the role during the time of the study. Already overburdened and short-staffed, this department has failed to conduct regular training, awareness campaigns, or monitoring of the implementation process. Most claim applications are rejected at the *block level*, often citing lack of documentary evidence. Tribal applicants, many of whom are illiterate or semi-literate, are unable to fulfill the bureaucratic paperwork and procedural requirements. Officials frequently take this as an excuse to reject applications rather than offering support or suggesting alternative forms of evidence as permitted under the FRA.⁴⁶ There has been *no large-scale awareness campaign* about the FRA in Uttarakhand. Consequently, even community-level leaders remain unaware of procedures or the role they could play in mobilizing claims. A critical comparison with other states underscores how institutional strength shapes FRA outcomes. In states like Maharashtra, active Gram Sabhas and FRA Committees have enabled successful recognition of Community Forest Resource (CFR) rights. For example, Pachgaon village managed to secure collective rights over bamboo forests through well-organized local institutions, supported by civil society mobilization.⁴⁷ In contrast, Uttarakhand illustrates how the absence of functional grassroots bodies,

⁴⁵ R. Kutty, A. Kodiveri, S. Lele and S. Setty, "India's Forest Rights Act, 2006: Stuck in a Maze of Bureaucratic Interpretations?" 80(4) *Social Work* (2019).

⁴⁶ *Supra* note 36.

⁴⁷ Roli Srivastava, "Bamboo Bonanza: How a Village in India Used its Forest to go from Poverty to Prosperity", *available at*: <https://www.theguardian.com/global-development/2024/dec/17/india-advansi-tribal-village-pachgaon-forest-law-traditional-rights>(last visited on June 9, 2025).



combined with bureaucratic dominance, results in near-total failure of FRA implementation, with less than 3% of claims being recognized.⁴⁸ The contrast suggests that the law's success hinges not merely on legal provisions but on institutional vitality at the village level.

4.5 Voices from the Ground: Civil Society Concerns

Civil society organizations operating in the region—such as the Rural Litigation and Entitlement Kendra (RLEK), the Van Gujjar Tribal YuvaSangathan, and others—have repeatedly pointed out that the FRA is being *grossly neglected* in Uttarakhand. Reports submitted by these groups indicate that many FRA claims remain pending for years, and there is almost no effort to train block and district-level officials. A 2021 report by the *Ministry of Tribal Affairs (MoTA)* revealed that Uttarakhand had some of the lowest numbers of claims filed and approved under the FRA, compared to other states with significant forest-dwelling populations. Even where claims are accepted, the area of land allotted is far smaller than claimed, and community forest rights are rarely recognized. If the Act is to realize its transformative promise, urgent steps must be taken to revive and strengthen these institutions through capacity-building, legal literacy, and independent monitoring mechanisms. Civil Societies has very significant role to play. They facilitate the Gram Sabhas and FRA Committees in empowering and insulating from bureaucratic interference, to stop FRA to remain a hollow instrument, perpetuating rather than correcting the historical injustices it was meant to redress.

4.6 Way Forward: Structural and Policy Interventions Needed

The Forest Rights Act, 2006 was designed to remedy “historic injustice” suffered by tribal and traditional forest-dwelling communities. This situates the FRA, 2006, as part of a broader continuum of exploitation, state control, and eventual attempts at corrective justice, however it has been continued in the tribal areas in India. It sought to recognize both individual and community rights over forest land and resources, empower Gram Sabhas (village councils), and promote conservation through local management rather than centralized state authority. The paper explores various parameters such as lack of awareness, institutional mechanisms, bureaucratic resistance, and civil society interventions systematically and also links macro-level policies with micro-level failures, making the analysis both policy-relevant and community-specific. It is found that in the studied area FRA implementation appeared markedly underwhelming when compared to Odisha, Chhattisgarh and Maharashtra, where CFR recognition is tangible and enabled economic

⁴⁸ Ishan Kukreti, Uttarakhand District Violates Forest Rights Act for Pancheshwar Dam Project, *available at*: <https://www.downtoearth.org.in/governance/uttarakhand-district-violates-forest-rights-act-for-pancheshwar-dam-project-59314> (last visited on June 11, 2025).

transformation in these states.⁴⁹ These examples underscore that strong Gram Sabha mobilization and gender-inclusive governance, combined with political will, can translate the FRA from paper to practice. Forest departments resist ceding control over forest resources, often enforcing working plans or bureaucratic conditions that contravene FRA's premise of community autonomy.⁵⁰ Implementation inertia is not accidental—it reflects a structural inertia rooted in forest departments' reluctance to relinquish authority and resources. Resistance manifests via procedural hurdles, refusal to recognize community management norms, and selective implementation. The result is a de facto conservation paradigm that prioritizes bureaucratic control over statutory justice and community welfare. The villagers have reiterated and alleged that claim rejections frequently violate procedural safeguards (e.g., ignoring Gram Sabha testimony), and the forest bureaucracy actively “sabotages” implementation in key regions. The historical dominance of the Indian Forest Act, 1927, and the Forest Conservation Act, 1980, underscores the urgent need for policy harmonization and reconciliation with the Forest Rights Act, 2006. These older laws, rooted in a colonial legacy, emphasize centralized control and often marginalize indigenous and forest-dependent communities by restricting their traditional rights. To ensure effective and equitable forest governance, it is critical to interpret and implement these laws in a complementary manner that simultaneously respects community rights and upholds conservation objectives. This requires dismantling the hierarchical and exclusionary forest management regime established during colonial times and transitioning towards a decentralized, participatory approach that acknowledges the essential role of indigenous knowledge and community stewardship in biodiversity conservation. Policy reforms should explicitly clarify that the community rights recognized under the Forest Rights Act override any conflicting provisions in the earlier statutes. Equally important is the capacity-building of forest officials and administrators to understand and embrace this integrated legal framework. Such reforms are indispensable to resolving the ongoing tensions that currently obstruct sustainable forest management, social justice for tribal and forest-dependent populations, and effective environmental protection, paving the way for a more inclusive and resilient forest governance system.

Most of the disposed cases of FRA Claims were not because of the shortcomings of the claimant form but improper implementation of the FRA in the region. To ensure effective implementation of the FRA in Uttarakhand—especially among communities like the Tharu—the state must establish a *dedicated FRA Implementation Cell* under a more

⁴⁹ Himanshu Nitnaware, “FRA Implementation: 16 Years after Its Inception, Just 3 States Recognise Community Forest Resource Rights” *Down to Earth* (February 12, 2025).

⁵⁰ Sarthak Kwatra, “Forest Rights Act: Implementation Across States” *Spontaneous Order* (June 29, 2002).



appropriate nodal department (preferably the Tribal Welfare Department). Regular *training workshops, awareness camps, and legal literacy drives* must be organized, particularly in tribal-dominated blocks of Udham Singh Nagar. Village-level institutions such as Gram Sabhas must be strengthened and educated about their role in claim verification and forest management. Local officials should be trained in the FRA's intent and procedures, with strict accountability for delays or wrongful rejections. Furthermore, oral testimonies, community knowledge, and traditional practices must be accepted as valid evidence—as per the provisions of the law itself.

5. Conclusion

The Forest Rights Act 2006 represents a significant step towards addressing the historical injustices faced by indigenous communities in India. Its socio-legal provisions have empowered these communities by recognizing their rights to forest land and resources. However, the implementation of the Act has been uneven, with challenges such as bureaucratic hurdles, limited awareness, and inter-community conflicts undermining its effectiveness. To fully realize the potential of the FRA, it is essential to address these challenges through improved awareness, capacity building, and stronger institutional mechanisms for implementation.

The present study of the Tharu tribe in Uttarakhand shows how the Forest Rights Act of 2006 (FRA)—a law meant to restore justice to forest-dwelling communities—has remained more a promise on paper than a reality on the ground. What was envisioned as a progressive step toward recognizing both individual and community rights over forests has, in practice, failed to protect the very people it was designed for: the Tharu and other forest-dwelling groups. Four core problems stand out: most villagers are unaware of what the Act guarantees; government institutions are indifferent or even openly resistant; the demand for strict documentary proof excludes many communities, especially those with oral traditions; and grassroots bodies like Van Samitis and FRA Committees, meant to act as vehicles of local governance, have either collapsed or never functioned properly. The result is a cruel paradox—tribes who have lived in these forests for generations are still treated as “encroachers,” rather than their rightful custodians. A major roadblock remains the entrenched power of the Forest Department, which continues to operate under older colonial-style laws, such as the Forest Conservation Act of 1980 and the Wildlife Protection Act of 1972. By prioritizing conservation and state control over community rights, officials systematically weaken FRA's democratic spirit. This bias is worsened by the absence of legal awareness programs or administrative support, meaning most people don't even know how to claim their rights. For “Other Traditional Forest Dwellers” (OTFDs) like the Bhat, the

requirement to prove 75 years of continuous residence through documents is simply unrealistic. How can oral societies, whose histories are remembered through stories rather than paperwork, meet such exclusionary standards?

The situation in Uttarakhand also exposes a deeper weakness—the erosion of local democratic institutions. The FRA imagined Gram Sabhas as the heart of forest governance, but in practice, these bodies are often sidelined or dysfunctional. In contrast, states like Maharashtra present a more hopeful picture, where active Gram Sabhas have successfully claimed community forest rights and even managed resources sustainably, as seen in the bamboo forests of Pachgaon village. These examples show that where local institutions are strong, the Act can succeed; where they are weak, it falters. At its core, Uttarakhand's story reflects the ongoing clash between two ways of seeing forests: one that treats them as state-controlled zones for conservation and revenue, and another that sees them as shared commons where communities live, sustain themselves, and preserve culture. Unfortunately, the first vision still dominates, leaving the constitutional rights of marginalized groups pushed aside. The Tharu experience makes it clear that legal reforms alone are not enough to undo centuries of marginalization. What's needed is a genuine shift in priorities—from symbolic recognition to real devolution of power, from rigid evidentiary demands to inclusive processes, and from bureaucratic control to true grassroots democracy. Without such changes, the FRA risks going down in history not as a law that healed old wounds, but as one that repeated the same injustices under a new name.