No Rights to Live in the Forest

Van Gujjars in Rajaji National Park
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Victims of ill-conceived policies governing forest resources and environmental conservation, the Van Gujjars, a pastoral nomadic community residing in the Rajaji National Park, are struggling to get their forest rights and entitlements under the FRA Act, 2006.

India is a green country. According to the Forest Survey of India, forestland occupies a little over 21% of the country’s total geographical area with moderately dense to very dense forests covering approximately 13% of the landmass. (Forest Survey of India: 2011). 95% of this land is owned by the state, a practice dating back to the British rule, when the colonial regime viewed forests as a reservoir of colossal wealth, and the state had a monopoly over its resources.

Forests may be a source of wealth for the state, but for more than 10 crore forest dependents, as the Ninth Five-Year Plan noted in its mid-term appraisal, (Planning Commission: 2002) it is a source of livelihood and sustenance, fodder, fuel-wood, small timber, honey, wax and fruits. More than 6 crore of these people are adivasis, and as most of forests are located in dry and deciduous regions these people live a very hard life.

The forest dependent communities, irrespective of castes, depend on forests for their livelihood and have had a symbiotic relationship with forests for centuries. They have their own model of forest management with customary rules for harvesting biomass – extracting only as much as they need – and also rules which prohibit hunting and extraction of resources during certain times of the year.

Government Policy

The forest dependent communities were considered as enemies of forests by the colonial regime. To promote “scientific forestry”, the British established the Forest Department in 1868, which was basically a tool to bring all the forests of India under government control. It divided the forests into reserved and protected categories, making them inaccessible to these communities.

The government of independent India continued with the same colonial policy, albeit under
the garb of sustainable forest management. The Forest Policy Resolution of 1952 paved the way for the forest department to keep India’s forests firmly under its control and people out of them. Between 1951 and 1988, measures were undertaken to increase the national forest area from 41 million to 67 million hectares. ([Ministry of Environment and Forests: 2011](https://example.com)). This exercise paid no attention either to determine the ecological status of these forests or to the rights of the existing occupants or its uses as required by law. Today 60% of the state forests are in 187 tribal districts. Maoist insurgency has taken deep root in these districts, and often the Maoists have taken advantage of the dictatorial and despotic attitude of the forest department to lure the forest dependent adivasis into their fold. Finally the government of India in order to undo the “historical injustice” done to the forest dwellers, passed the [Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA) in 2006. ([Ministry of Tribal Affairs: 2006](https://example.com))]

**FRA and its Implementation**

Today, seven years after the promulgation of the Act, there is a pressing need to assess its implementation, as this will affect the lives and livelihoods of more than 100 million people living on land classified as public forest. ([Fisher, RJ, Srimongkontip, Somjai and Veer, Cor: 1997](https://example.com))

As was expected, the forest department –controlling almost one-fourth area of the country– has not let its authority get undermined so easily and has used all its arsenal at its disposal to sabotage the basic features of the Act, rejecting an overwhelming majority of claims filed all across the country. In 2010, the Council for Social Development presented a summary report on the implementation of the FRA. The report stated that:

"key features of this legislation have been undermined by a combination of apathy and sabotage during the process of implementation. In the current situation the rights of the majority of tribals and other traditional forest dwellers (OTFDs) are being denied, and the purpose of the legislation is being defeated. Unless immediate remedial measures are taken, instead of undoing the historical injustice to tribal and OTFDs, the Act will have the opposite outcome of making them even more vulnerable to eviction and denial of their customary access to forests. The testimonies made it clear that this is not merely a result of bureaucratic failure; both the Central and the State governments have actively pursued policies that are in direct violation of the spirit and letter of the Act". ([Council for Social Development: 2010](https://example.com))

In many Naxal dominated regions like in Andhra Pradesh, the implementation of the FRA remains poor. ([Reddy, Gopinath M: 2011](https://example.com)) The implementation of the Act has not yet
conferred any meaningful benefits on forest dependent communities, and the situation on the ground largely remains unchanged. More than half of the claims put forward by the forest dwellers under the FRA had been rejected by the forest department. (Srivastava, Kumar Sambhav: 2012) A recent article in Down to Earth recently reported that over “1.3 million tribals and OTFDs have got rights over the land they had been using for years under the FRA”, but “not one state has initiated concrete steps to officially register the title holders in the state land records. Without this they remain what they used to be—officially non-existent”. (Srivastava, Kumar Sambhav, Pallavi, Aparna, Suchitra, M & Mahapatra: 2012)

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In Uttarakhand where more than 64% of the state’s geographical area is under the control of the forest department, (Forest Department, Uttarakhand: 2012) and an overwhelming majority of people are forest dependents, the implementation of the Act has been tardy. According to the deputy director of the Scheduled Tribe Welfare Department, all claims submitted by OTFDs under the Act until June 2012 had been rejected, as they could not provide proof of their stay in the forestland for the last 75 years. (Secretary, Tribal Affairs: 2012) It should be noted here that the government of Uttarakhand notified the Act in the state in November 2008 and issued an order for the establishment of state district level committees and block district level committees. Since then, though institutions like Forest Right Committees have been constituted, no awareness and training programmes have been conducted by the government (Ministry of Environment and Forests and Ministry of Tribal Affairs: 2012) or by any non-governmental organisation (NGO).

However, the present study is limited to the evaluation of the impact of the FRA on the Van Gujjars who live in the Rajaji National Park (RNP), which straddles the states of Uttarakhand and Uttar Pradesh.

Covering an area of 820 sq km, the RNP is home to the Van Gujjars in winters, and the tribe considers the forest to be their veritable lifeline. It is the only Muslim forest dwelling community in the country. The author has been studying this area and has been interacting with this community for more than five years. This nomadic tribe resides in the RNP, located along the Shivalik foothills. At the beginning of summer, the Van Gujjars migrate to the bugyals (grasslands) located in the upper Himalayas with their herds of buffaloes, and at the end of monsoon they return to their makeshift humble huts called deras in the foothills. This well-planned and finely tuned transhumance helps to regenerate vegetation in the upper Himalayan stretches.

Traditionally the Van Gujjars have practiced buffalo husbandry, and on an average, a family owns up to 25 heads of buffaloes, who are considered sacred and are treated with utmost care and affection. The high quality pesticide free milk and dairy products produced fetch a good price in the urban centres of Uttarakhand and Uttar Pradesh. Sustainable use of forest
resources is a significant feature of their trade, as the forest caters to the fodder needs of the animals, and the agricultural land is left free for producing food crops. This fodder imparts a special flavour to the milk, thereby enhancing its quality.

While Van Gujjars have been granted the scheduled tribe (ST) status in Jammu and Kashmir and Himachal Pradesh, in Uttarakhand and Uttar Pradesh they are still classified under Other Backward Classes. This proves to be a big stumbling block in claiming their forest rights. The RNP officials want to evict them from the park in the name of conservation, denying them their rights and proper rehabilitation due to them.

A Struggle to Live with Dignity

Faced with eviction notices and harassment from the park authorities, who refused to recognise their traditional rights, the Van Gujjars, under the banner of Ban Gujjar Kalyan Samiti (BGKS), approached the Uttarakhand High Court in Nanital in 2005. A legal battle ensued over the next few years, and the director of the RNP was served a notice of contempt by the High Court in September 2008 for trying to resettle the community against their will outside the park; a move in clear violation of the previous court orders, which had ordered the director to acknowledge the rights of the community under the FRA, 2006. The High Court also ordered the state government to form committees under the rules of the Act and establish the process for filing claims within a period of two months.

According to a joint report of the Ministry of Environment and Ministry of Tribal Affairs, the total number of claims filed by the Van Gujjars residing in the RNP up to the year 2010 were 485 (MoEF/MoTA Committee on Forest Rights Act: 2010). The forest department rejected all claims filed by the Van Gujjars –who have not been accorded the scheduled tribe status and fall under the category of OTFDs– because they were unable to provide two proofs of the occupation of land by three generations (75 years) in that area. One of these proofs could also be in the form of a testimony of an elder. (Ministry of Law and Justice: 2007) In 2013 (the fifth anniversary of the Act’s notification in the state), after immense pressure from the activists, media and researchers (including the author), the officials accepted 797 claims, out of which only 41 were disposed of and rejected because of the lack of evidence, according to information from sources in the Ministry of Social Welfare, Government of Uttarakhand.

Over the last few years, approximately 1,390 families have been relocated, though not rehabilitated, in squalid one-room makeshift huts – far removed from their social, cultural and environmental milieu – in Pathri and Gaindikhata in Haridwar district. (Joshi, Ritesh and Singh, Rambir: 2009) However, the families remaining in the forest are continuously being harassed and beaten by the RNP officials and police and their deras are being destroyed. Noorjamal, a Van Gujar from the park and a member the BGKS, was detained in Bihargarh police station, in Saharanpur district, on 28 June, 2011 on false charges filed by the forest department and was released only after strong protests by the Van Gujjars. On
26 November 2013, an order was passed by the Uttarakhand government, to move 228 Van Gujjar families residing in the Chillawali range of the RNP to Shahmansur locality of Bandarjud area, in the Haridwar district. (Pioneer News Service: 2013) After this recent relocation, about 215 Van Gujjar households, residing in in the Ramgarh and Gauhri ranges, will be left in the park.

A well thought out plan is needed to secure the forest rights and entitlements of the Van Gujjars and their right to live with dignity in their traditional forest surroundings. In the last few years some OTFDs have waged a successful struggle and secured their rights; for example the forest village of Dafadaar Gaurhi in Behraich district of Uttar Pradesh “became one of the first villages in the country to get land and forest rights under the FRA Act, 2006”. (Agarwal, Rakesh: 2012a). The Kunao village in the Pauri district of Uttarakhand perhaps becomes the first village in the state where the process to grant forest rights under FRA to the OTFDs has been initiated due to the efforts of the villagers. (Agarwal, Rakesh: 2012b) If no action is taken, then this politically powerless and socially disadvantaged community, not equipped to earn a living outside the forest environment, will continue to be harassed and intimidated by the forest authorities.

References:


A meeting through video conferencing was organised by Secretary, Tribal Affairs on 6 May 2012 to review the status of the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the States of Bihar, Goa, Himachal Pradesh, Jharkhand, Karnataka and Uttarakhand, available at http://trifed.nic.in/writereaddata/linkimages/MinutesoftheVideoConferenceheldon66079886038.pdf.


