LIFE PAPERS

A TRIBUNAL FOR FOREST DWELLERS IN INDIA

Forest Rights Appellate Tribunal

Why India needs a dedicated Tribunal for forest dwellers to Implement the Forest Rights Act

Ritwick Dutta

2026

LIFE
Legal Initiative for Forest and Environment

India's forest dwelling communities, presently numbering nearly 200 million, have, since colonial times, lived a life of uncertainty. Considered as 'rank encroachers' on forest land, their lives depended on the whims and fancies of the forest department and other government agencies. In recent decades, the activities of private business entities increasingly decide the fate of forest dependent communities. Their position did not change much post-independence: the forest dwellers were evicted in the interest of the 'larger common good', when forest lands were diverted for mega dams, mines, industries and expanding urban spaces. Even when forests were to be protected in the interest of conservation; it was the forest dwellers who were seen as the greatest threat to the existence of forest and wildlife. Thus, forest dwellers were victims of twin policies: policies for the destruction of forests and policies for the conservation of forests. Even when they lived in forests, as legitimate land holders, the regulatory framework ensured that they were denied basic human necessities – electricity, education, roads and medical facilities. It is no coincidence, that despite being in areas which are rich in natural resources, forest dwellers are part of the lowest economic strata of society. With no land rights and livelihood security, forest dwellers are often left with no option but to migrate to urban centres to work as menial labourers in hazardous occupations.

The plight of forest dwellers has very little to do either with geographical setting or culture, but largely to do with laws and policies, that have failed to recognize the traditional and customary rights of communities over land and resources. A crucial turning point in the lives of India's forest dwellers took place in 2006, when Parliament enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 also commonly referred to as the Forest Rights Act or FRA. The FRA, aimed to undo the 'historical injustice' caused to forest dwelling communities, by treating forest dwellers as rightful claimants with rights and duties, and not illegal occupants of forest land. The FRA, without doubt, marked a fundamental shift in the way the law viewed forest dwellers. The FRA, for the first time, assured them dignity and self-respect, and, rights over the land which is intrinsically linked to their identity and on which their livelihood depends.

THE FOREST RIGHTS ACT

The FRA came into effect in 2008, and conferred four categories of rights on forest dwellers: Individual Forest Right (IFR), Community Rights (CR) , Habitat Rights and Community Forest Resource Rights (CFR). There has been significant progress in the recognition of rights. As per the Ministry of Tribal affairs, the total number of claims (including individual claims and community claims) received till 31.05.2025 was 51,23,104, out of which a total of 25,11,375 titles were distributed and 18,62,056 claims were rejected. An average of 85.37% of claims were disposed of as a proportion of claims received. A total of 7,49,673 claims remain pending.[1]

It is pertinent to note that a significant number of claims are rejected or remain pending awaiting decision. It is a cause of concern that nearly two decades since its enactment, the rights of forest dwellers remain unrecognized, perpetuating historical injustice. While a significant part of the reason for the lack of recognition can be attributed to lack of political and administrative will in implementing this welfare statute, a part of the reason is the shortcoming or inadequacy of the statutory framework – in this case the FRA itself. It is an accepted fact that no legislation is perfect and even with the best of intentions and effort of the law makers, crucial deficiencies remain in the letter of the law, which may not be evident initially, but become pronounced once the law is put into effect. The FRA is no different. The working of the FRA for nearly two decades, allows us to locate some of its key shortcomings, which need to be addressed in order to achieve the objective of the Statute. The identification of the problem is crucial in order to address the problem through changes in the law.

This paper focuses on the institutional mechanism for the recognition of claims – both individual and community and the lacunae in the law which has led to non - recognition of claims. If there is one specific shortcoming of the FRA – it is with respect to 'access to justice' – the FRA does not provide effective access to justice: the institutions it creates – the Sub Divisional Level Committee (SDLC) and the District Level Committees (DLC) – are not independent, inclusive institutions capable of legally adjudicating the claims presented before them – rather they are institutions under the control and authority of civil servants at the district and sub-divisional levels. Unless, the issue of access to justice is addressed, forest dwellers will continue to be deprived of the land that rightfully belongs to them. This paper aims to address this lack of 'access to justice' of forest dwellers despite nearly two decades of the FRA and suggests possible legal and institutional mechanisms that could address these major lacunae.

1 Ministry of Tribal Affairs, 'Recognition of Forest Rights for Tribals' 31st July 2025 See <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2150804&reg=3&lang=2>

THE SIGNIFICANCE OF ACCESS TO JUSTICE

The Supreme Court has held that access to justice is part and parcel of the right to life in India and in all civilised societies around the globe.[2] The right is so basic and inalienable that no system of governance can possibly ignore its significance, leave alone deny it to its citizens. The Magna Carta, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, 1966, the ancient Roman jurisprudential maxim ubi jus ibi remedium, the development of fundamental principles of common law by judicial pronouncements of the courts over centuries past have all contributed to the acceptance of access to justice as a basic and inalienable human right which all civilised societies and systems recognise and enforce'. In Imtiyaz Ahmad v. State of U. P[3] the Supreme Court of India observed that "access to justice" is vital for the rule of law, which by implication includes the right of access to an independent judiciary. Under the principle of the rule of law, adequate protection of the law must be given to all persons and to give meaning to it, there must exist an unimpeded right of access to justice. It may not be out of place to highlight that access to justice must not be understood in a purely quantitative sense. Access to justice in an egalitarian democracy must be understood to mean qualitative access to justice as well. Access to justice is, therefore, much more than improving an individual's access to courts, or guaranteeing representation. It must be defined in terms of ensuring that legal and judicial outcomes are just and equitable.

[2] Anita Kushwaha v. Pushap Sudan, (2016) 8 SCC 509
[3] (2012) 2 SCC 688

The Vesting of Forest Rights

The FRA vests rights over forest land on forest dwelling scheduled tribes and other traditional forest dwellers who have been in occupation of the forest land subject to the fulfilment of certain conditions. The process of recognition starts with the Gram Sabha which is the Authority to initiate the process for determining the nature and extent of both individual and community forest rights. The Gram Sabha is required to receive the claims, consolidate and verify them, and prepare a map of the area where claims are made. After completion of this exercise, the Gram Sabha is required to pass a Resolution accepting or rejecting the claims made both at the individual and community level. The Gram Sabha is required to forward the Resolution to the Sub-Divisional Level Committee headed by the Sub Divisional Officer of the concerned revenue sub-division.

The FRA provides that in case any person is aggrieved by the resolution passed by the Gram Sabha, the person so aggrieved, may prefer a petition, to the SDLC, within a period of 60 days from the date of the resolution. It is further stipulated that, the SDLC shall 'consider and dispose of such petition'. **There are several legal issues of concern which strike at the root of justice and equity:**

- The FRA confers a right on an 'aggrieved person' to prefer a petition before the SDLC, in case the person is not satisfied with the decision of the Gram Sabha. However, the law stipulates that such a petition must be preferred within a period of 60 days from the date of the resolution. The Forest Right Rules allow a further period of 30 days at the discretion of the SDLC .[4] There is no provision in the law for condonation of the delay by the SDLC in instances where petitions are preferred after 90 days. Given the fact that the FRA is a welfare statute aiming to undo the historical injustice meted out to forest dwellers, this clause needs to be amended to not only increase the time beyond 90 days, but more importantly, power has to be conferred on the SDLC to extend the time period for preferring the petition, if sufficient cause is shown. It is settled law that welfare statutes must be liberally construed to promote substantive justice, and procedural technicalities should not be allowed to defeat the objective of the statute. The Apex Court[5] has held that –

  "11. ...Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly...it must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the court must show utmost consideration to the suitor..."

- The statute states that the 'Sub- Divisional Committee shall consider and dispose of such petition'. However, this provision is arbitrary in view of the fact that while forest dwellers as 'aggrieved persons' are required to approach the SDLC within 60 days, and a maximum of 90 days, the SDLC is under no obligation to decide the Petition within any stipulated time. All that the statute requires is for the SDLC to 'consider and dispose of such petition'. This has led to a situation, where petitions filed by aggrieved forest dwellers are pending for years and in some extent for decades defeating the very purpose of the legislation.

[4] Rule 12 A (3) of the Forest Rights Rules. Rule 12A, inserted by G.S.R. 669(E), dated 06.09.2012
[5] (1998) 7 SCC 123

- It is therefore suggested that a timeline be stipulated within which the SDLC is required to decide on the petitions filed by aggrieved persons. For example, the National Green Tribunal Act (NGT), 2010 states that the NGT shall endeavour to decide all Appeals and Applications within a period of 6 months from the day they are filed.

As per the FRA, the SDLC is required to examine the resolution passed by the Gram Sabha and prepare a record for forest rights and forward the same to the District Level Committee for a final decision. The FRA, provides that any person aggrieved by the decision of the SDLC may prefer a petition before the District Level Committee. The relevant provisions of the Rules read as follows:

15. PETITIONS TO DISTRICT LEVEL COMMITTEE [6] ***–***

(1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.

(2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration. (4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee. (5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition

- The aggrieved person can approach the DLC only within a period of 60 days from the date of the decision of the SDLC. However, the DLC, may in its discretion extend the time by a further period of 30 days. There is no power of condonation of delay with the DLC with respect to petitions filed after this extended 30 days are over (total 90 days from the order). As a result, significant number of petitions are rejected, and are liable to be rejected, only because the person aggrieved could not approach the DLC within this short period.

- Similar to the SDLC, the DLC is required to 'consider and dispose of such petition'. There is no mandatory requirement for the DLC to decide a petition within a certain timeline. Given the fact that the DLC is performing a quasi judicial function, it is imperative to amend the law so as to stipulate how such quasi-judicial function should be exercised. Further, similar to the amendment proposed in SDLC, the Act needs to be amended to stipulate the time within which the DLC should decide the petition.

[6] Section 18(3) of the National Green Tribunal Act, 2010

- Similar to the SDLC, the DLC is required to 'consider and dispose of such petition'. There is no mandatory requirement for the DLC to decide a petition within a certain timeline. Given the fact that the DLC is performing a quasi judicial function, it is imperative to amend the law so as to stipulate how such quasi-judicial function should be exercised. Further, similar to the amendment proposed in SDLC, the Act needs to be amended to stipulate the time within which the DLC should decide the petition.

- It is stated in the Act, that the decision of the DLC shall be 'final and binding' [Section 6 (6)]. There is no statutory Appeal provided against the order of the DLC. This implies that the only way an aggrieved person can challenge the decision of the DLC is through a Writ Petition under Article 226 of the Constitution before the High Court of the state.

NEED FOR AN APPELLATE TRIBUNAL

The Supreme Court of India, in Kishan Chand v. Union of India[7] has held -

"Access to justice is a right of constitutional purport which signifies that individuals have effective means to approach legal institutions to seek appropriate legal remedies. The ability to access legal institutions empowers individuals to understand and exercise their legal and constitutional rights. Access to justice enhances the quality of human life and, therefore, is an important facet of right to life under Article 21."

The FRA confers a right to file an appeal against the decision of the Gram Sabha and SDLC. There is no right of Appeal against the decision of the DLC, since the FRA states that the decision of the DLC shall be 'final and binding'. An aggrieved person can only approach the High Court under its Writ Jurisdiction under Article 226 of the Constitution. India has a number of statutory tribunals under different statutes. The principal purpose of having tribunals is speedy access to justice. The need for an Appellate Tribunal becomes important since there is enough evidence that indicates that in many States the implementation of the FRA has resulted in a situation where either a significant number of claims have been rejected or if the claim has been accepted, title over the land has not been conferred. In fact, in May 2020, the Governor of Maharashtra issued a notification providing that any person aggrieved by the order of the District Level Committee may prefer an appeal to a specially constituted Divisional Level Committee.[8] This decision to constitute a Divisional Level Committee as an appellate forum was taken as it was observed that the District Level Committee had rejected a large number of claims [9]. In a study done by the Scheduled Caste and Scheduled Tribes Research and Training Institute in 2020 it was observed that [10] -

"In case of Odisha, the Status Report on progress on FRA indicates that out of 64145 no. of OTFD claims filed at the Gram Sabha level, 30, 938 no. of claims have been forwarded to SDLC and only 5012 no. of OTFD claims have been forwarded to the DLC level. Of the total claims at DLC level 1041 OTFD claims have been approved at the DLC level of which only 73 number of IFR titles have been distributed to the OTFDs."

---

7 (2024) 13 SCC 538

8 This committee is to consist of the Divisional Committee- Chairman, Chief Conservator Forests or his representative not below the rank of Deputy Chief Conservator of Forests, Three members of Scheduled Tribes, of whom at least one shall be a woman nominated by the State Government, and an Additional Tribal Commissioner or an officer nominated by the Tribal Development Department. The decision of the Divisional Level Committee, subject to the directions and orders of the State Monitoring Committee is to be final.

9 Notification issued by the Governor of Rajasthan dated 18th May 2020 https://cdnbbsr.s3waas.gov.in/s3c8758b517083196f05ac29810b924aca/uploads/2020/05/2020052187.pdf

10 Study Report on Status of OTFD Entitlement under FRA: An Empirical and Case study based Analysis. https://repository.tribal.gov.in/bitstream/123456789/73977/1/SCST_2020_research_0110.pdf

The fact that only in 0.11% of the claimants actually secured IFR rights in the state of Odisha, paints a dismal picture of the state of the implementation of the FRA.

In **Anitha Kushwaha v. Pushap Sudan**[11], the Supreme Court has held that both the absence of an Adjudicatory mechanism or the inadequacy of such a mechanism constitutes a violation of fundamental rights guaranteed under Article 21 and 14 of the Constitution. It was held:

"31. The citizen's inability to access courts or any other adjudicatory mechanism provided for determination of rights and obligations is bound to result in denial of the guarantee contained in Article 14 both in relation to equality before law as well as equal protection of laws. Absence of any adjudicatory mechanism or the inadequacy of such mechanism, needless to say, is bound to prevent those looking for enforcement of their right to equality before laws and equal protection of the laws from seeking redress and thereby negate the guarantee of equality before laws or equal protection of laws and reduce it to a mere teasing illusion. Article 21 of the Constitution apart, access to justice can be said to be part of the guarantee contained in Article 14 as well.

This necessity for an appellate tribunal is further bolstered by Article 39A of the Constitution, which directs the State to secure that the operation of the legal system promotes justice on a basis of equal opportunity. It is pertinent to note that the current remedial framework is inherently flawed; the Act makes the decision of the District Level Committee (DLC) 'final and binding,' thereby denying any statutory right of appeal to a court of law. Thus, the only remedy against a DLC order is a Writ Petition in the High Court. However, the Writ jurisdiction which in itself under the discretion of High Court, is often complex, procedural, and time-consuming, focusing on errors of law rather than errors of fact. An accessible Appellate Tribunal would provide a far speedier and easier channel for grievance redressal compared to the High Court, ensuring that the constitutional promise of equal justice is practically realizable for forest dwellers rather than remaining a theoretical right.

[11] [(2016) 8 SCC 509]

Appeal versus Writ Remedies

There is a fundamental difference between legal remedies under the Writ Jurisdiction and under Appeal. Under Article 226 and 227, the High Court may consider a writ petition in its discretion and not as a matter of right. Writ Jurisdiction confers the power of 'judicial review' on decisions taken by the executive. However, the power of the High Court under Writ Jurisdiction, though wide, is not without its limitations-the High Court in exercise of its power of Judicial review of administrative action is concerned only with the decision making process and not the merits of the decision. This is a major limitation when it comes to review of claims that are rejected under the FRA. Claims may be rejected by the SDLC or DLC based on any of the evidence submitted in support of the claims: satellite images, statement of elders or proof of occupation of a forest area for three generations. These are questions of fact, which can be adjudicated upon through a merit review, as opposed to judicial review. The ground for interference by the High Court is limited, as opposed to an Appeal. The Supreme Court in **Jagdish Mandal v. State of Orissa**[12] cautioned that a Writ Court should not interfere unless the action of the State is so arbitrary that *"no responsible authority acting reasonably and in accordance with relevant law could have reached it."* It is difficult, for most cases of rejection of claims to meet these standards of unreasonableness. In **Deputy Manager (Appellate Authority) v. Ajai Kumar Srivastava**,[13] the Apex Court has reiterated that judicial interference is justified only where the inquiry violates natural justice or statutory rules, or where findings are based on *"no evidence"*, are perverse or patently erroneous. A merits review is considered appropriate *only* where the statute itself confers an appellate jurisdiction, where the appellate body is empowered to re-examine facts and evidence.

It is also a settled position in Indian jurisprudence that functions which are essentially judicial in nature cannot be discharged solely by executive authorities without judicial oversight. The current structure of the FRA, where the District Level Committee (headed by the District Collector) is the final authority on questions of title and evidence, arguably violates the doctrine of Separation of Powers. It is pertinent to note that the adjudication of land rights is a judicial function. The Supreme Court in **Union of India v. R. Gandhi, President, Madras Bar Association (2010)**[14] held that where a Tribunal is constituted to adjudicate disputes and rights, it must possess the same independence as a Court. Since the determination of forest rights involves complex questions of evidence, customary law, and possession (akin to a civil suit), leaving this determination solely to administrative officers (SDLC and DLC) without an appellate judicial forum renders the process vulnerable to constitutional challenge. A separate tribunal, manned by judicial members, would bring the FRA mechanism in compliance with the constitutional mandate of an independent judiciary as envisioned in **L. Chandra Kumar v. Union of India (1997)**[15] as well.

[12] (2007) 14 SCC 517.
[13] [(2021) 1 S.C.R 51]
[14] (2010) 11 SCC 1
[15] 1997 (3) SCC 261

JUSTIFICATION OF AN APPELLATE TRIBUNAL

A right of an Appeal is provided under different statutes, in order to provide a route by which aggrieved persons can challenge a decision of the administrative authorities. An Appeal confers a statutory right on the aggrieved person to question the decision on merits. The Parliament in India has conferred a right of appeal under various statutes and has created dedicated Tribunals to adjudicate on such appeals. The Tribunals are headed by either serving or retired members of the judiciary and in terms of their powers and functions, have all the trappings of a Court. To illustrate, the following are some of the major Tribunals which specifically deal with claims, compensations and faulty assessments:

• Railway Claims Appellate Tribunal

The Railway Claims Tribunal was established by way of the Railway Claims Tribunal Act, 1987. Section 4 of the Act provides that the claims tribunal is to consist of a Chairman, four Vice-Chairmen and such number of judicial and technical members as the Central Government may deem fit. Regarding limitation, Section 17(2) provides that an application may be entertained after the period specified if the applicant satisfies the Claims Tribunal that he had sufficient cause for not making the application within such period. While introducing the Act in Parliament it had been observed that it was necessary for the tribunal to have judicial members *"to help in quicker understanding of facts and the judicious application of law"*.[16]

• Motor Accident Claims Tribunal

Section 165 of the Motor Vehicles Act, 1988 provides that the State Government may, by notification in the Official Gazette constitute one or more Motor Accident Claims Tribunals to *"adjudicate upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles..."*

A claims tribunal is to consist of such number of members that a State Government may think fit. However, each member must be either a judge of a High Court or a District Court or is qualified for appointment as a judge of a High Court. There is no limitation within which a person is required to approach the claims tribunal.

[16] 8th Lok Sabha Debates, Winter Session, November 26th 1987

• Appellate Tribunal for Electricity

Section 110 of The Electricity Act, 2003 establishes an Appellate Tribunal to be known as the Appellate Tribunal for Electricity to hear appeals against the orders of the adjudicating officer. The Appellate Tribunal is empowered to entertain an appeal beyond the expiry of the specified period if satisfied that there was sufficient cause for not filing within that period. Section 111(5) provides that an appeal filed before the Appellate Tribunal is to be dealt with as expeditiously as possible and an endeavour must be made to dispose of the appeal within one hundred and eighty days from the date of receipt of the appeal. It also provides that where an appeal cannot be disposed of within a hundred and eighty days the tribunal must record its reasons in writing for not disposing of the appeal within the said period.

• Income Tax Appellate Tribunal

Section 252 of the Income Tax Act provides for the establishment of an Appellate Tribunal to consist of judicial and accountant members. The Appellate Tribunal is permitted to admit an appeal if it is satisfied that there was sufficient cause for not presenting it within that specified period.

PROPOSED STRUCTURE AND FUNCTION

In **DK Basu v. State of W.B, the Supreme Court of India** has held -[17]

'One of the most fundamental requirements for providing to the citizens access to justice is to set up an adjudicatory mechanism whether described as a court, tribunal, commission or authority or called by any other name whatsoever, where a citizen can agitate his grievance and seek adjudication of what he may perceive as a breach of his right by another citizen or by the State or any one of its instrumentalities. In order that the right of a citizen to access justice is protected, the mechanism so provided must not only be effective but must also be just, fair and objective in its approach. So also, the procedure which the court, tribunal or authority may adopt for adjudication, must, in itself be just and fair and in keeping with the well-recognised principles of natural justice'.

The forum/mechanism so provided must, having regard to the hierarchy of courts/tribunals, be reasonably accessible in terms of distance for access to justice since so much depends upon the ability of the litigant to place his/her grievance effectively before the court/tribunal/court/competent authority to grant such a relief.

The Supreme Court has held that there are **four main facets which constitute the essence of access to justice:**

(i) the State must provide an effective adjudicatory mechanism;

(ii) the mechanism so provided must be reasonably accessible in terms of distance;

(iii) the process of adjudication must be speedy; and

(iv) the litigant's access to the adjudicatory process must be affordable.

It is thus recommended that an Amendment be made in the FRA to constitute a **Forest Rights Appellate Tribunal – FORAT** - ideally at the District Level or at the very least at the level of Division i.e. more than one district. A FORAT may be set up in any of the two following ways -

[17] [(2015) 8 SCC 744]

First, a dedicated Tribunal may be constituted in districts or divisions where forest dwellers reside, upon amending the FRA.

Second, given the dismal record of the Central Government in filling up vacancies in Tribunals, it may be years before a dedicated Tribunal will see the light of the day. Therefore, it is suggested that to begin with, a Special Tribunal within the existing District Court be constituted, which will hear only FRA related Appeals on specified days of the week. The expert member can join the serving District Judge on the specified days and hear the Appeals. The numbers of days can be decided based on the number of Appeals that are preferred.

The following may be the *structure and function of FORAT*:

- The FORAT should be headed by a serving District Judge assisted by an Expert member well versed in revenue, tribal and forest laws. Furthermore, it should be part of the regular Court set up and should not provide for the appointment of a retired Judge.

- The FORAT should have Appellate Jurisdiction over the decision of the DLC. The FRA should be amended to provide for an appeal against the decision of the DLC.

- An Appeal against the decision of FORAT should lie before the jurisdictional High Court. A similar provision exists in the National Green Tribunal Act, 2010 wherein the first Appeal against the grant of a forest or environment clearance lies with the NGT; while the second Appeal on substantial questions of law lies with the Supreme Court under Section 22 of the NGT Act, 2010.

- It should also have original jurisdiction with respect to matters concerning claims filed before SDLC and DLC, since, there may be situations, where the DLC does not pass any orders despite lapse of time.

- The Ministry of Tribal Affairs, should frame detailed Rules, with respect to the functioning of the FORAT. It should be made clear that the FORAT will not be bound by the Code of Civil Procedure but will follow principles of natural justice (Similar provisions exists in the National Green Tribunal Act, 2010). The Rules should be simple and should encourage Claimants to appear in person, should they decide not to engage any Advocate.

- The Rules should provide for a suggested format for filing a Petition before the SDLC and DLC. It should also provide for a suggested format for filing an Appeal before the FORAT. However, it should be made clear in the Rules that no Appeal should be rejected on the grounds of the Appeal not being in the specified format.

- The process of adjudication must be speedy "**Access to justice**" as a constitutional value will be a mere illusion if justice is not speedy. Justice delayed, it is famously said, is justice denied. If the process of administration of justice is so time-consuming, laborious, indolent and frustrating for those who seek justice that it dissuades or deters them from even considering approaching courts, it would tantamount to denial of not only access to justice but justice itself.

- In **Sheela Barse v. Union of India**[18] the Supreme Court declared speedy trial as a facet of right to life, for if the trial of a citizen goes on endlessly his right to life itself is violated. There is jurisprudentially no qualitative difference between denial of speedy trial in a criminal case, on the one hand, and civil suit, appeal or other proceedings, on the other, for it is well known that civil disputes can at times have an equally, if not more, severe impact on a citizen's life or the quality of it. Access to justice would, therefore, be a constitutional value of any significance and utility only if the delivery of justice to the citizen is speedy, for otherwise, the right to access to justice is no more than a hollow slogan of no use or inspiration for the citizen.

  A timeline should also be stipulated for the SDLC and DLC to decide on the petitions filed before it through suitable amendment in the Rules.

- The Appellate Authority should be required to pass detailed reasoned order. A clause similar to Section 250(6) of the Income Tax Act, 1961 may be provided in the law. Section 250(6) of the Income Tax Act, 1961 provides that –

  "The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reason for the decision".

[18] [(1988) 4 SCC 226]

CONCLUSION

The enactment and coming into force of the FRA nearly two decades back, marked an historic step to correct the injustice to forest dwelling communities which originated with the enactment of the forest laws in the late 1800's. The FRA, since its enactment, has ushered in a sense of dignity for forest dwelling communities. No longer treated as 'rank encroachers' and holders of 'privileges' and 'concessions' which could be taken away at the whims and fancies of the state; the FRA made forest dwellers truly citizens of the nation. Yet, since, no law is perfect, the FRA, too, has its own shortcomings. The lack of access to justice and the overall dominance of bureaucrats in the SDLC and DLC has unfortunately ensured that the FRA as a law is yet to achieve its full potential. The super structure of dominance of the bureaucracy and the lack of access to independent judicial tribunals, has led to a situation where the forest dwellers, in significant numbers across the country, are yet to secure their rights over the land which they have occupied for generations. The historic injustice has been undone, to a large extent, only in the statute, for a large number, the injustice continues.

India has the world's largest number of forest dwellers. The State is under a Constitutional duty to ensure access to justice for its citizens, especially those who are marginalized. The full potential of the FRA is yet to be realised: despite nearly two decades of its implementation. In many areas, the implementation of the law has reached a deadlock – with forest dwellers uncertain about their fate and the cycle of historical injustice continues. This insecurity not only impacts forest dwellers but also the conservation and sustainability of the forest ecosystem. It has been observed across the country, and globally, that secured land tenure leads to communities investing in the protection and conservation of the environment long-term. The enactment of the FRA marked a fundamental shift from a state-centric conservation model to a community led model. However, evidence across the country suggests that the lack of recognition of community rights has not led to any significant shift of power and authority from the forest department to the community led Gram Sabhas.

From a social justice perspective, an independent Forest Rights Appellate Tribunal will be vital to correct inherent 'institutional bias.' Administrative bodies, by their very nature, often operate with a focus on state revenue and regulation, creating a power asymmetry

where the individual forest dweller feels unheard against the might of the State machinery. A judicial Tribunal provides a 'neutral space' distinct from the executive hierarchy. This neutrality is essential to bridge the 'trust deficit' between the tribal community and the State, transforming the forest dweller from a passive 'subject' of administration into an active 'citizen' with equal standing before the law. The setting up of the FORAT will surely not be the solution to all the problems facing forest dwellers, so far as undoing the historical injustice is concerned; It may not assure them speedy access to justice – given the slow pace at which the judicial process works; It may not even assure them that the land they claim belongs to them. However, what it will do, is to provide them a dedicated independent Judicial forum which they will have a statutory right to approach. The tribunal will be bound to hear them and pass orders. It will be better than the present system, where the SDLC and DLC, both led by bureaucrats, are not statutorily bound to even provide a fair hearing or give a decision in a time bound manner.

FORAT will definitely be one step forward in undoing the historical injustice on forest dwelling communities across India.

Acknowledgments:

The Author would like to thank
Kaustav Dhar, Namrata Caleb, Riddhi Dey for their contribution

Photographs Credit: Ritwick Dutta

Design and Layout: Subhashis Roy

LIFE
Legal Initiative for Forest and Environment

https://thelifeindia.org.in/