

# We Need to Lose Our Elitist Perspective on Forest Rights



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*Pinning their hope on only islands of protected areas, some conservationists and foresters are trapped in an obsolete paradigm.*

One of the great misfortunes in India's effort towards socially just forest conservation is the false dichotomy between conservation and the forest dwellers' rights created by some hardline conservationists.

A recent article by Praveen Bhargav in *The New Indian Express* titled **"Forest Rights Act: Triggering the apocalypse of forest loss and fragmentation"** attempts to widen this divide by grossly misreading and misinforming conservationists about the Forest Rights Act (FRA). Nearly 19 years after the promulgation of the landmark law, the author spins spurious tales claiming the law has hollowed out India's forests, instead of acknowledging its gains.

## Misreading individual forest rights claims

At the outset, Bhargav confounds individual forest rights (IFR) and community forest rights (CFR) claims, insidiously suggesting that there has been widespread conversion of forest land to cultivation by forest dwellers. In fact, studies of forest department managed lands have time and again shown pre-existing habitation and cultivation areas spread across lakhs of hectares prior to the state takeover of forests in India. The historical unrecognition of such pre-existing cultivation and habitation undermined the rights of forest dwellers and enabled their callous displacement spurring the movement for the forest rights legislation.

Despite this, the government itself has been complicit in misrepresenting legitimate IFR areas as forest loss, as in the case of a **recent affidavit** of the environment ministry to the National Green Tribunal which conflated it with all forms of forest encroachment. Such misreading continues the historical injustice. IFRs are a means to recognise pre-existing land-holdings only and any 'loss of forests' attributed to the FRA is a fundamentally flawed assertion as these areas are under non-forest use anyway. CFR claims are meant to recognise gram sabhas' right to access, use, conserve and manage forest areas as-is, and does not allow their diversion. Clearly, the FRA does not allow any conversion of forest land in its intent or in its implementation.

It may be reasonable to suggest that in some pockets of India's forests, additional carving of cultivation in forests has taken place after the 2005 cut-off date prescribed in the FRA for rights recognition due to localised political pressures. However, the author himself notes that such unlawful IFR claims are routinely rejected. Bhargav further goes on to disingenuously extrapolate a study by the Forest Survey of India to make a bogus estimate of the forest area encroached, without stating that the study was conducted through a sampling strategy biased to a particular state, Telangana.

On the other hand, the laggard and shoddy implementation of the FRA has led to under-recognition of IFR claims. The rate of claim rejection is so alarmingly high, and procedural compliance so inadequate, that the Supreme Court had previously ordered state governments a thorough reexamination of all rejected claims. Nevertheless, rightful claimants are often left waiting for years to get their IFR titles. The stringent conditions laid down for non-tribal communities primarily residing in and dependent on forests to claim forest rights have led to a bias against the recognition of their IFR claims. In special cases such as 'forest villages', which are villages settled within forest areas by the colonial government, partial recognition of IFR claims is rampant.

### **Disregarding grams sabhas' conservation efforts**

CFRs are conservatively estimated to cover nearly 35 million hectares across India. By exercising these rights, forest-dependent communities can benefit from commercially-valuable forest produce like bamboo, mahua, chironji, tendu leaves and sal seeds. An IIFM report in 2019 showed that gram sabhas in Gadchiroli, despite lacking appropriate training and support, have economically benefited from the sustainable harvest and efficient marketing of bamboo. There are many such examples of protection and restoration efforts by gram sabhas which have shown great willingness to undertake such efforts by leveraging available government support. A recent central scheme that provides financial support to gram sabhas for preparing locally-led, locally-oriented forest management plans is a clear recognition of these efforts, but much more remains to be done.

Instead, Bhargav tries to paint this harvest of non-timber forest produce (NTFP) which provides basic livelihoods to forest-dwellers as 'commercial exploitation' while brazenly ignoring the large-scale, unabated timber harvest conducted by the forest departments across the country. Gram sabhas have steadfastly worked against all odds from illegal timber harvest and wildlife poaching to the government's own felling operations and



weak scrutiny of forest diversions. Indeed, studies have shown that the government's rate of rejection of forest diversion proposals for mines and development projects is as low as 1%, whereas it is often the gram sabhas that raise any challenge against this alarming trend despite their systemic disempowerment. It is disappointing that conservationists and foresters continue to disregard these realities instead of extending the necessary support to strengthen gram sabhas' efforts.

### **Evidentiary burden for critical wildlife habitats**

Large swathes of common lands and grasslands outside protected areas (PA), often occupied by wildlife, are being privatised and converted to other uses. Even within PAs, there is increasing commercially and ecologically exploitative wildlife tourism, and yet Bhargav maintains an eerie silence on the matter. Instead, he calls for the recognition of critical wildlife habitats (CWH), a provision of the FRA that enables exclusionary conservation. However, identifying a CWH requires all forest rights in such areas to be recognised and the government to prove that the coexistence of forest dwellers and wildlife is not possible. In most existing and proposed PAs, CFR claims remain pending and unrecognised. No studies on the feasibility of coexistence or co-management have been conducted, even as additional PAs and tiger conservation sites are illegally notified each year, pressuring the forest dwellers to relocate.

Bhargav suggests that forest dwellers aspire for relocation while overlooking their abject marginalisation, both historical and ongoing through illegal restrictions on NTFP rights, denial of basic services and land grabs even where rights have been recognised. This misreading of the forested landscape and the forest dwellers' realities has led the author to suggest that there is no shortage of livelihood opportunities for the forest dwelling youth outside of the forests, despite the high general unemployment rates.

### **Bridging the divide**

Year after year, laws protecting the environment, forests, and forest dwellers have been weakened. Forest conservation requires urban conservationists to join hands with forest dwellers, who have the biggest personal stake in these landscapes. Preventing the continued diversion of forests under the garb of development would require a united struggle that works towards socially and ecologically just conservation.

Pinning their hope on only islands of PAs, some conservationists and foresters are trapped in an obsolete paradigm. Unhinged passion for wildlife conservation leads such scholars and wildlife activists to obfuscate the reality around the implementation and impacts of the FRA. Questions raised on gram sabhas and the collective wisdom of lakhs of traditional forest-dwellers, inadvertently strike at the democratic foundations of the institution. It reveals a starkly colonial and elitist perspective of many such people. Scholarship on conservation in the Global South has alerted us against such thinking as well as against the pitfalls of alienating local communities in conservation efforts.

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