# Forest Rights Act - Report Card

## Why in news?

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On the tenth anniversary of the historic passage of the Forest Rights Act, tribal resistance to defend their rights is growing even as government after government tries to dilute its provisions

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## What are the provisions of the Act?

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- The Scheduled Tribes (Recognition of Forest Rights) Act, 2005 seeks to recognise forest rights of forest dwelling Scheduled Tribes (FDSTs) who have been occupying the land before October 25, 1980. 
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- An FDST nuclear family would be entitled to the land currently occupied subject to a maximum of 2.5 hectares. The land may be allocated in all forests including core areas of National Parks and Sanctuaries. 
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- In core areas, an FDST would be given provisional land rights for five years, within which period he would be relocated and compensated. If the relocation does not take place within five years, he gets permanent right over the land. 
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- The Act outlines 12 forest rights which include the right to live in the forest, to self-cultivate, and to use minor forest produce. Activities such as hunting and trapping are prohibited. 
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- The Gram Sabha is empowered to initiate the process of determining the extent of forest rights that may be given to each eligible individual or family.
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## What were the initial shortcomings?

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- The initial bill was diluted of some important recommendations of the Parliamentary Select Committee on community forest rights, access to minor forest produce etc.
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- The clause that Non-tribal Traditional Forest Dwellers would have to show evidence of their occupation of the land for 75 years virtually negated the inclusion of these largely poorer sections, many of them Dalits, in the law. Later the government brought in the three generation or 75-year clause.
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- The Bill with these obnoxious clauses was circulated and listed for immediate discussion and passage.
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- The Bill became law, but without the amendments promised. After much discussion and pressure, some of them were included in the Rules. It included giving prime importance to the role of the gram sabhas.
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- In spite of its inadequacies, there can be little doubt that the Forest Rights Act (FRA) stands as a powerful instrument to protect the rights of tribal communities. It is a hindrance to corporate interests to their free loot and plunder of India’s mineral resources, its forests, its water.
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## What are the latest moves against the act?

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- **New legislations** - A series of new legislations undermine the rights and protections given to tribals in the FRA, including the condition of “free informed consent” from gram sabhas for any government plans to remove tribals from the forests and for the resettlement or rehabilitation package.
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- Several laws were pushed without any consultation with tribal communities. They include the amendments to the Mines and Minerals (Development and Regulation) Act, the Compensatory Afforestation Fund Act and a host of amendments to the Rules to the FRA which undermine the FRA.
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- The requirement of public hearings and gram sabha consent has been done away with for mid-sized coal mines. In Telangana the government has illegalised traditional methods of forest land cultivation. The Jharkhand government has brought amendments to the Chotanagpur and also the Santhal Pargana Tenancy Acts which eliminate rights of gram sabhas and

permit tribal land to be taken over by corporates, real estate players, private educational and medical institutions without tribal consent.
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- In Maharashtra the government has issued a notification of “Village Rules” which gives all rights of forest management to government-promoted committees as opposed to the gram sabha.
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- **Change in Policy** - The commitment to ensure “ease of business” is of late being translated into clearing all private sector-sponsored projects in tribal-inhabited forest areas. The National Board for Wildlife, with the Prime Minister as Chairperson, was reconstituted, slashing the number of independent experts from 15 members to three, packing it with subservient officials.
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- In last two years the clearances for projects have included “diversion” to the extent of 1.34 lakh hectares of forest land. In many areas this will lead to massive displacement of tribal communities.
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- In the multipurpose Polavaram project in Andhra Pradesh alone, now given a national status by the Central government, 2 lakh hectares of forest land will be submerged affecting around 85,000 families, more than half tribals, including 100 habitations of particularly vulnerable tribal communities. In almost all these projects, the affected tribal families have not yet received their pattas (land ownership documents), one of the conditions set by the FRA.
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- **Freeze of the actual implementation** - Neither individual pattas nor pattas for community forest resources are being given. According to one analysis, between May 2015 and April 2016, eight out of every 10 claims were rejected.
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- Gujarat has one of the worst records in implementation of the FRA. Although 98 per cent of the approximately 1.9 lakh tribal claims had been approved by the gram sabhas, the bureaucrats in the sub-divisional committee and above brought the acceptance down to just 38 per cent.
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## What is the role of Judiciary?

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- The same institution, which gave tribals hope through the Samata judgment,

the historic Niyamgiri judgment, has also clubbed together a number of hostile petitions to the FRA and is giving them a sympathetic hearing.
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- In January last year the court in an ominous intervention in a writ petition filed by Wildlife Trust of India and others issued notice to all State governments to “file an affidavit giving data regarding the number of claims rejected within the territory of the State and the extent of land over which such claims were made and rejected and the consequent action taken up by the State after rejection of the claims”.
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- This has rightly been taken by tribal communities and their organisations as a prelude to mass evictions. Maharashtra issued a notification dated April 23, 2015, directing the police to take action against “identified encroachers”, namely those whose claims have been rejected.
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- Till 1985, the department of “Tribal Affairs” was under the Home Ministry. Tribal rights and struggles for justice were viewed as a “law and order issue, always a problem”.
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- Under the present dispensation this retrograde approach seems to have been resurrected, which has to be overturned.
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**Source: The Hindu**

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