



Forest Rights Act, 2006

 drishtias.com/printpdf/forest-rights-act-2006

Why in News?

- Recently Supreme Court asked states to free tracts of forest land in possession of people whose claims have been rejected under the Forest Rights Act (FRA), 2006.
- The judgement has triggered protests from forest rights groups, who contended that wildlife conservation cannot overcome natural justice goals.

Historical Background

- A large number of people especially the scheduled tribes have lived in and around forests for a long period in symbiotic relationship.
- This relationship has led to formalized or informal customary rules of use and extraction, often governed by ethical beliefs and practices that have ensured that forests are not too degraded.
- During the colonial time the focus shifted from the forests being used as a resource base for sustenance of local communities to a State resource for commercial interests and development of land for agriculture.
- Several Acts and policies such as the 3 Indian Forest Acts of 1865, 1894 and 1927 of Central Govt and some state forest Acts curtailed centuries-old, customary-use rights of local communities.
- This continued even after independence till much later until enactment of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Related Acts and Provisions

- **Wildlife protection Act 1972**
 - This act prohibits the capturing, killing, poisoning or trapping of wild animals.
 - It extends to the whole of India except the State of Jammu and Kashmir
 - It also regulates and controls trade in parts and products derived from wildlife.

- **1988 National Forest Policy**
 - The policy aims at maintaining of environmental stability.
 - It looks at conserving the natural heritage of the country by preserving the remaining natural forests.
 - Increasing forest/tree cover in the country through massive afforestation and social forestry programmes.
 - Creating a massive people's movement for achieving these objectives and to minimise pressure on existing forests.
- **The Provisions of the Panchayats (Extension to the Schedule Areas) Act 1996 (PESA)**
 - It safeguards and preserves the traditions and customs of the people, and their cultural identity, community resources, customary mode of dispute resolution.
 - PESA empowers Gram Sabha/Panchayat at appropriate level with right to mandatory consultation in land acquisition, resettlement and rehabilitation of displaced persons.
 - PESA seeks to reduce alienation in tribal areas as they will have better control over the utilisation of public resources.
 - It will help minimise exploitation of tribal population as they will be able to control and manage money lending, consumption and sale of liquor and also village markets.
 - PESA looks to promote cultural heritage through preservation of traditions, customs and cultural identity of tribal population.

Features of the Act

- The act recognize and vest the forest rights and occupation in Forest land in forest Dwelling Scheduled Tribes (FDST) and Other Traditional Forest Dwellers (OTFD) who have been residing in such forests for generations.
- The act also establishes the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance of FDST and OTFD.
- It strengthens the conservation regime of the forests while ensuring livelihood and food security of the FDST and OTFD.
- It seeks to rectify colonial injustice to the FDST and OTFD who are integral to the very survival and sustainability of the forest ecosystem.

- The act identify four types of rights:
 - **Title rights**
 - It gives FDST and OTFD the right to ownership to land farmed by tribals or forest dwellers subject to a maximum of 4 hectares.
 - Ownership is only for land that is actually being cultivated by the concerned family and no new lands will be granted.
 - **Use rights**

The rights of the dwellers extend to extracting Minor Forest Produce, grazing areas, to pastoralist routes, etc.
 - **Relief and development rights**

To rehabilitation in case of illegal eviction or forced displacement and to basic amenities, subject to restrictions for forest protection
 - **Forest management rights**

It includes the right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use.

Who can claim these Rights?

- Members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs.
- It can also be claimed by any member or community who has for at least three generations (**75 years**) prior to the **13th day of December, 2005** primarily resided in forests land for bona fide livelihood needs.
- The Gram Sabha is the authority to initiate the process for determining the nature and extent of Individual Forest Rights (IFR) or Community Forest Rights (CFR) or both that may be given to FDST and OTFD.
- **Procedure**
 - First, the gram sabha (full village assembly, NOT the gram panchayat) makes a recommendation – i.e who has been cultivating land for how long, which minor forest produce is collected, etc. The gram sabha plays this role because it is a public body where all people participate, and hence is fully democratic and transparent.
 - The gram sabha's recommendation goes through two stages of screening committees at the taluka and district levels.
 - The district level committee makes the final decision (see section 6(6)). The Committees have six members – three government officers and three elected persons.
 - At both the taluka and the district levels, any person who believes a claim is false can appeal to the Committees, and if they prove their case the right is denied (sections 6(2) and 6(4)).
 - Finally, land recognised under this Act cannot be sold or transferred.

Importance

- The act looks to right the wrongs of government policies in both colonial and independent India toward forest-dwelling communities, whose claims over their resources were taken away during 1850s.
- The act also has potential of sustainably protecting forest through traditional ways along with providing tribes means of livelihood.
- It expands the mandate of the **Fifth and the Sixth Schedules** of the Constitution that protect the claims of indigenous communities over tracts of land or forests they inhabit.
- The alienation of tribes was one of the factors behind the Naxal movement, which affects states like Chhattisgarh, Odisha and Jharkhand. The act through identifying IFR and CFR tries to provide inclusion to tribes.
- It has the potential to democratise forest governance by recognising community forest resource rights over an estimated 85.6 million acres, thereby empowering over 200 million forest dwellers in over 1,70,000 villages.
- The act will ensure that people get to manage their forest on their own which will regulate exploitation of forest resources by officials, forest governance and management as well as tribal rights etc.

Challenges

- **Administrative Apathy**
 - Implementation of the act remains the biggest challenge as acts related to the environment are not entirely compliant with the law, illegal encroachments have happened as much as that claims have been unfairly rejected.
 - As tribals are not a big vote bank in most states, governments find it convenient to subvert FRA or not bother about it at all in favour of monetary gains.
- **Lack of Awareness**
 - Unawareness at the Lower level of forest officials who are supposed to help process forest rights claims is high and majority of the aggrieved population too remains in the dark regarding their rights.
 - The forest bureaucracy has misinterpreted the FRA as an instrument to regularise encroachment instead of a welfare measure for tribals.
- **Dilution of Act**
 - Certain sections of environmentalist raise the concern that FRA bend more in the favour of individual rights, giving lesser scope for community rights.
 - Community Rights effectively gives the local people the control over forest resources which remains a significant portion of forest revenue making states wary of vesting forest rights to Gram Sabha.

- **Reluctance of the forest bureaucracy to give up control**
 - There has been deliberate sabotage by the forest bureaucracy, both at the Centre and the states, and to some extent by big corporates.
 - The forest bureaucracy fears that it will lose the enormous power over land and people that it currently enjoys, while the corporates fear they may lose the cheap access to valuable natural resources.
- **Institutional Roadblock**
 - **Rough maps** of community and individual claims are prepared by Gram Sabha which at times often lack technical knowhow and suffers from educational incapacity.
 - **Intensive process of documenting communities' claims** under the FRA makes the process both cumbersome and harrowing for illiterate tribals.

Way Forward

- The government of India views MFP rights as a means to curb Naxalism since the states most affected by Naxalism are also home to the maximum number of people dependent on forest produce.
- The recognition of CFR rights would shift forest governance in India towards a community conservation regime that is more food security and livelihood oriented.
- Large-scale awareness and information dissemination campaigns are required at local level informing both tribal and lower level officials.
- It is important to develop a detailed strategy of training and capacity building of people responsible for implementing the FRA, such as Panchayats, Gram Sabha, village level Forest Rights committee etc.
- The relevant maps and documents should be made available to the Forest rights committee and claimants to simplify the task of the Gram Sabha in identifying and filing claims for individual and community rights.
- Providing clarity on the time limit for settling claims the act does not specify any time limit for resolving claims. In most of the areas, both the officials and beneficiaries are unaware of this fact.
- Centre should take more proactive role in pushing states to honour a law that could change the lives of millions.

