



## Beyond the Forest Rights Act

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**(Mains GS 2 : Government policies and interventions aimed at development in various sectors and issues arising out of their design and implementation.)**

### Context:

- As of April 30, 2020, the Ministry of Tribal Affairs had received 42,50,602 claims (individual and community) under the Forest Rights Act (FRA) , of which titles were distributed to 46% of the applicants.
- According to the Forest Department's the implementation process is more or less over but the supporters of tribal rights allege that the Department is overlooking the genuine claims of the tribal people.

### Genesis of the law:

- In the colonial era, the British diverted the abundant forest wealth of the nation to meet their economic needs by having procedures for settlement of rights provided under statutes such as the Indian Forest Act, 1927, which were hardly followed.
- As a result, tribal and forest-dwelling communities, who had been living within the forests in harmony with the environment and the ecosystem, continued to live inside the forests in tenurial insecurity, a situation which continued even after independence as they were marginalised.
- The symbiotic relationship between forests and forest-dwelling communities found recognition in the National Forest Policy, 1988 which called for the need to associate tribal people in the protection, regeneration and development of forests.
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, was enacted to protect the marginalised socio-economic class of citizens and balance the right to the environment with their right to life and livelihood.

## **About FRA, 2006:**

- The Forest Rights Act (FRA), 2006 recognizes the rights of the forest dwelling tribal communities and other traditional forest dwellers to forest resources, on which these communities were dependent for a variety of needs, including livelihood, habitation and other socio-cultural needs.
- The Act encompasses Rights of Self-cultivation and Habitation which are usually regarded as Individual rights; and Community Rights as Grazing, Fishing and access to Water bodies in forests, Habitat Rights for PVTGs, Traditional Seasonal Resource access of Nomadic and Pastoral communities.
- The Act also provides access to biodiversity, community right to intellectual property and traditional knowledge, recognition of traditional customary rights and right to protect, regenerate or conserve or manage any community forest resource for sustainable use.
- In conjunction with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013, FRA protects the tribal population from eviction without rehabilitation and settlement.
- The Act further enjoins upon the Gram Sabha and rights holders the responsibility of conservation and protection of bio-diversity, wildlife, forests, adjoining catchment areas, water sources and other ecologically sensitive areas as well as to stop any destructive practices affecting these resources or cultural and natural heritage of the tribals.
- The Gram Sabha is also a highly empowered body under the Act, enabling the tribal population to have a decisive say in the determination of local policies and schemes impacting them.

## **Objective of the law:**

- To undo the historical injustice occurred to the forest dwelling communities
- To ensure land tenure, livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers
- To strengthen the conservation regime of the forests by including the responsibilities and authority on Forest Rights holders for sustainable use, conservation of biodiversity and maintenance of ecological balance.

## **Implementation process:**

- Despite the Ministry being the implementing agency, the role of the Forest Department in granting titles is crucial because the lands claimed are under its jurisdiction.
- The Act provides for democratic tenets in the implementation process as it requires the constitution of a Forest Rights Committee comprising members from within the village by conducting a Gram Sabha with two-thirds of the members present at the meeting.
- However, the process was not followed in many places and committees were mostly constituted by the Panchayat Secretaries upon the directives received from District Magistrates at short notice.

- The contribution of women to the forest economy is well known; thus, the FRA provides for equal rights in titles issued under the Act for women and provides the equitable role at every stage of decision-making. However, on the ground, the women were hardly visible in this regard.

#### **Grave ignorance:**

- It was disappointing that in the initial stages of implementation, there was insistence on satellite images as evidence while other admissible proofs were ignored which resulted in mass rejections of claims by the authorities.
- In some villages around Bastar, Chhattisgarh, the plots claimed and the documents confirming the award did not match.
- Besides, the extent of land that was awarded was far smaller than what was claimed within the ceiling, the claimants did not protest anticipating that whatever little they had received could be taken back by the authorities.
- Further, various welfare and developmental schemes of the Rural Department were not extended everywhere to the tribal people who received documents of land possession under the FRA despite the directives issued by the Ministry to treat them on a par with others.

#### **Lack of awareness:**

- Overall, poor awareness levels among the tribal people proved to be a handicap, especially in the scheduled areas which are remotely located as for effectively presenting claims, a fair understanding of the Act and its implementation process is necessary.
- Some NGOs, like in Dang district of Gujarat, made a difference by hand-holding the beneficiaries at every step, however, the involvement of NGOs was missing in some interior areas in States like Chhattisgarh where insurgency was affecting the lives of the people.
- Evidence suggests that implementation was better in areas which were fairly close to urban settings or where accessibility was easy.
- In these places, most Central and State government schemes and programmes such as Deendayal Upadhyaya Gram Jyoti Yojana, Janani Shishu Suraksha Karyakram, Mahatma Gandhi National Rural Employment Guarantee Scheme, National Food Security Act, National Health Mission; Pradhan Mantri Awas Yojana; and Pradhan Mantri Gram Sadak Yojana were implemented, empowering the people to assert their positions.

#### **Livelihood issue:**

- Many tribal areas are witnessing a decline in the quality of forest produce in their vicinity, thus forcing them to look for other sources of livelihood.

- In Chhattisgarh, in many villages, earnings from activities such as collection of tendu leaves for rolling local cigars were affected when there was an influx of labourers from Bihar who were willing to work for low wages.
- Poor market and exploitation by local traders/middlemen were also demoralising tribal peoples.

### **Psychological boost:**

- The recognition given to their lands under the FRA gave the tribal people a psychological boost.
- However, they possess lands (including the lands recognised under the FRA) that are small, of poor quality (particularly lands located on hill slopes) and are not very fertile thus, lack of irrigation facilities forces them to depend only on rainfall.
- To enhance their income, they migrate to work as construction or road-laying labourers as in their opinion, this will continue until the wages earned through any source in the villages matches with the wages in urban areas.

### **Skill-based education:**

- NGO representatives working in the tribal areas believe that the livelihoods of the locals would improve if horticulture practices are promoted in addition to bamboo and aloe vera plantations with an assured market.
- On the other hand, given the quality of education received by the youth in the remote districts, the possibility of acquiring meaningful jobs remains thin.
- Those accustomed to urban culture do not feel like going back to their villages therefore, civil society believe that providing skill-based education with assured jobs on a large scale in proportion to the demand would do wonders in these areas.

### **Poor and landless:**

- A majority of the tribal communities in India are poor and landless as they practise small-scale farming, pastoralism, and nomadic herding; thus on the Human Development Index, the tribal-populated States always rank lower than the national average.
- Not long ago, a tragic news article was published about a tribal man walking 12 km in Odisha carrying his dead wife on his shoulder all night.
- A Chhattisgarh tribesman who had led the members of his village in a march to Delhi in 2004 to demand forest rights said that the lives of the tribal people are insignificant for our leaders.
- He said the Central government in the 1970s generously welcomed refugees from Bangladesh into forests and provided them a house and a land to farm, whereas natives were still being denied the same.

### **The way forward**

- The FRA was never going to be a panacea to address all the issues of the tribal people, but it is important to examine whether due process was followed by the gram sabhas and the States under the Forest Rights Act before the claims were rejected.
- To improve the condition of the tribal people, especially those living in remote areas, there needs to be a push on every possible aspect of their socioeconomic life.
- This can be attained if schemes and programmes already drafted for the tribal people are implemented in letter and spirit across the country.
- With protective laws like the Panchayats (Extension to Scheduled Areas) Act, 1996, in place, it is only a matter of will.
- Government should also induct people who are sensitive to the cause of tribal people in the decision-making process at every stage.