

## FOREST RIGHTS ACT, 2006: 'A RUBBER BULLET'

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### INTRODUCTION

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Dehumanization is a part of human society since the emergence of human civilization. Human policies have thwarted other humans by injustice, exploitation, and operation. In spite of the protection provided by the various articles of the constitution the tribal are exploited and identified as the most valuable vulnerable and backward ethnic group in India. And the forest is the epicenter of the life of tribal culture and economy. Their life revolves around the forest and its resources from life to death and is very much dictated by forest rights. The Indian forest act (IFA) was enacted by the British in 1895 for controlling the forest and to meet the needs of timber. This Act had nothing to do with the conservation of forests. Being unaware of these forest laws and their implications the innocent tribes were severely affected, later on, Forest Right Act 2006 was enacted. Regrettably, the good idea failed to work. This paper deals with the attributes and loopholes of this act and suggests some forward ways to make the best out of this act.

### BACKDROP

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For a long period, backward tribes are in a symbiotic relationship. Customary rules emerged as a result of this relationship. Laws of usage and processing were also regulated by moral traditions and behaviors that meant that perhaps the method of forest grading mostly Modern Era/Colonial era, the focus moved from the woods to the government production capacity of the indigenous residents for business reasons and the production of agri-property. So many statutes and measures, including the IFA 1865, 1894, and 1927, and certain other State Acts, also restricted the decades-old, traditional and equal privileges of local people. The withdrawal occurred until the promulgation of the Law on S.T and Other Traditional Foresters in 2006.

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**ATTRIBUTES OF THE FOREST RIGHTS ACT**

These actions recognize and secure forestry privileges and tree land ownership in the possession of Forest Dwelling S.T and Other Indigenous Rural Communities who have been living in certain forms for centuries. The Law lays down the duties and jurisdiction for productive usage, the protection of habitats, and the preservation of the natural ecosystems. It enhances forestry management and guarantees the lifeline of theirs.

**RIGHTS RECOGNIZE UNDER THIS ACT**

<b>Right regarding ownership and title</b>	<b>Right of use</b>	<b>Right to protection</b>	<b>Right to manage the forest.</b>
<ul style="list-style-type: none"> <li>• They shall be granted the right of possession of land cultivated by tribe citizens or woodland inhabitants restricted to a limit of 4 acres.</li> </ul>	<ul style="list-style-type: none"> <li>• Citizens' allowances apply to the extraction of Small Timber Production, pasture fields, plantation roads, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Restoration, pursuant to forestal conservation limitations, in the event of unlawful relocation or coerced resettlement and to necessary infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>• Requires the duty to preserve, restore or maintain any neighborhood land asset that has historically been saved and conserved for productive usage.</li> </ul>

**PROCEDURE TO CLAIM THESE RIGHTS**

The power to begin a procedure to decide the existence and scope of these privileges (IFR<sup>2</sup> or CFR<sup>3</sup> or both) to be granted shall rest with G.S. Until the representations have been submitted,

<sup>2</sup>Individual Forest Rights

consolidated and checked and a map prepared, the G.S shall then enact a law and put forth a replica to the committee.

### **IF FRA WAS A TURNING POINT, WHERE AND WHAT WENT WRONG?**

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The implementation of this act is not proved to be as effective as it promises to be. Due to this ineffective implementation, several evictions and wrongful displacements of the people who were promised to be protected under this act are still in action.

“Even if we cannot come up with a precise, reliable number, to the question ‘How many tribal have been involuntarily displaced by the policies of the Government of India’, the answer must be: ‘Too many’.”<sup>4</sup>

The several loopholes which contribute to the improper implementation of this act include:

#### **LACK OF TRANSPARENCY**

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The recognition of the right is based upon a long procedure and which has to be approved by three committees in order or it will be said to be rejected. Adding to this problem the claimants have no way otherwise. They are unaware at which step their claim was rejected so they can file a petition for an appeal process.

#### **THE DIFFERENT CRITERIA FOR TWO EQUALLY DESERVING COMMUNITIES**

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OTFDs have to show consistent residency or dependency in the region stated over 3 centuries, i.e. 75 yrs., and if we look back to the time when much of the territories were still under the jurisdiction of posed by zamindars' governed places, and hence there was no census. They are unable to produce documentary evidence and although oral testimonials.

#### **VIOLATION OF THE PROVISIONS OF FRA BY THE AUTHORITIES**

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There are constant delays information of Village- level forest rights Committee, District level committees reject the proof of the forest used by communities and hence rejecting their claims, obstruct community rights, approval of smaller tracts of land than what is claimed, and exclusion of certain communities of forest inhabitants by the authorities which are

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<sup>3</sup> Community Forest Rights

<sup>4</sup> Ramachandra Guha in his paper August 2007 *Adivasi, Naxalites and Indian Democracy*.

responsible for the proper implementation of the provisions of forest rights act. The violation is best seen in Orissa and Andhra Pradesh. In Orissa after hearing several appeals has rejected more than 10,000 claims. At least 45000 forest dwellers' livelihood is at risk, but the state does not seem to have followed the process of appealing against rejection of claims.

## **INADEQUATE PENALTY FOR THE CONTRAVENTION OF PROVISION OF THE ACT**

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Punishment of thousand rupees was given, which is very less in comparison with the consequence of their offences. Moreover, if they prove that they had exercised due diligence they are free from the entire penalty.<sup>5</sup>

## **WHO ENCROACHED WHOM?**

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Tribal lands and areas have been exploited for various purposes which include the purpose of mining and industrial development also. The Act of **Mines and Minerals (Regulation & Development) Act, 1957** is proved to be severe and cruel for tribal as there is no provision for consent, compensation, or even consultation with the Gram Sabha before undertaking such operations in their area. For maintaining at least 1/3<sup>rd</sup> of the country's land under forest, thousands of kilometers of the land of tribal people were encroached upon by the forest department. The power of a state to reserve any forest land under the Indian Forests Act has given them this immense power which results in thousands of lives being homeless and vulnerable. The lands are encroached by the government but the tribal people are called encroachers and are being evicted from their land. This signifies the concept of '**The pot calling the kettle black**'.

Another reason for the exploitation of the tribal people is the power of Forest officials to arrest without a warrant. On the ground of suspicion, the forest officials can arrest any person which has resulted in several cases of wrongful arrest. In fear of this bureaucratic discretion of Forest official people choose to be silent on their rights.<sup>6</sup>

In this way, tribal are forced to leave their birth land and travel across the country as migrants who directly link to the growing no. of migrants in the country. These migrants work for small wages in unorganized sectors with no rights and securities.

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<sup>5</sup>Section 7, Indian Forests Right Act, 2006.

<sup>6</sup>Section 64, Indian Forest Act, 1927.

## PELL-MELL WORK OF THE AUTHORITIES

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People were sleeping in hope for tomorrow when their land will be restored to them; they will get the document of their land in their hand. But what came was a nightmare to them.

On Feb 13, the Supreme Court ordered the eviction of more than 1 Million Adivasi and other forest dwellers. This order was given by the court hearing petitions challenging the constitutional validity of the Forest Rights Act, 2006. The petitioners had demanded the evictions of those whose claims had been rejected. How far is it true that the claims rejected are bogus or can be said they are the unheard claims which were ignored by the states? And it is not clear whether the due process of law was observed before the claims were rejected and how many claims were had been taken into consideration vigilantly before declaring them rejected.

On 28Feb, the Court stayed its order and decided to examine whether due process was followed by the Gram Sabha and the states under the Forest Rights Act before the claims were rejected, which brought a slight of relief in the life of the Adivasi and other forest dwellers.

## CONCLUSION

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These wrongful evictions cause the increase in migrants which further multiply the number of unemployed workers of the unorganized sector with no permanent residence, no standard of living, and so the poverty ultimately rises. The epidemic year of 2020 is a clear glance of this process where a huge number of lives were on the road, crushed under the train or knocked by an accident, and lots of dying out of hunger and thirst. These Tribes are the glimpse of the diversity of Indian culture, they are the building blocks of the society; their rights must be restored; their lives must be saved and the principle of '**Sabka Sath Sabka Vikas**' should not remain in the words only but must be implemented through the actions. As development comes with all and if any pillar of the nation is weak, the whole nation will falter.

## SUGGESTIONS

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Transparency must be applied in the process of recognition; duration must be given to the claimants whose claims are being rejected and the information of rejection must be given so that they can appeal within the provided period. A detailed training and capability building

program for the proper implementation of FRA for Panchayat to lay emphasis more on this act that could change the lives of millions. The responsibility for the conservation of forest land must be given to the forest people, as this will provide them a sense of guardian for this forest and they will invest their time protecting the degradation of the forest, as well as they, will have their source of resources for livelihood. By this, the tribal culture of India can be restored.

