

Before eviction: on SC verdict on forest-dwellers

This article is related to
General Studies-Paper-I (Social
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The Hindu

26 Feb, 2019

States must quickly determine if procedural lapses deprived forest-dwellers of their rights.

The Supreme Court's order to evict, over the next five months, occupants of forest lands who failed to make a successful claim for tenure under the Forest Rights Act, 2006, has once again highlighted the dilemma of reconciling inalienable tribal rights with biodiversity conservation. When the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act was passed, it was with the wholly welfarist goal of making these communities partners in conservation. They would be stewards of forests that have shrunk and become fragmented over the decades. It was another landmark, therefore, when the Forest Rights Act protected possession and conferred heritability of land to over 23 lakh out of 44 lakh claimants who are either specified Scheduled Tribes, or people who have lived in forests traditionally, relying on forest produce for at least 75 years prior to the cut-off year of 2005. But over 20 lakh other applicants who could not establish their claim through gram sabhas and appellate authorities have now been ordered to be evicted by July 12. The 17 State governments which have been asked to carry out the evictions must respond by quickly determining whether there were procedural lapses that deprived applicants of due process, notably in making appeals. This process may take time, more so in an election year, and the sheer scale of action required would necessitate an extension of the eviction date.

In the ideal scheme, as the Forest Rights Act envisages, forested areas and their biodiversity will be protected by communities, with individuals taking forest produce only for sustenance and livelihood. Such an approach is at odds with the colonial paradigm of forests being treated as a resource run by an opaque bureaucracy that replaced precious old-growth trees with monocultures such as teak. Today, forests have shrunk to about 5% of the land in terms of protected areas, while human pressures are growing: landscapes are alienated for resource exploitation, road and dam building, and a lot of wildlife is lost to poaching. Man-animal conflict is growing. Claims for tenure under the Forest Rights Act must therefore satisfy the primary test of whether they are legally unimpeachable, and even if they are, whether they would impose additional pressures on forests and wildlife. The answer in many areas may lie in resettlement. In some well-documented cases, such as in the Western Ghats, alternative land and cash compensation convinced tribals to move out of core areas. One example is that of the Nagarhole National Park, where the outcome has been good for both people and wildlife, as evidenced by the recovery of tiger density over three decades. State governments need to pursue such programmes in a humane and vigorous fashion. They must also come forward to declare critical wildlife habitats under the Act. This will aid in formulating resettlement schemes for tribal residents.

Scheduled Tribes and other traditional forest dwellers (Recognition of Forest Rights Act - 2016)

Why in the discussion?

- The Supreme Court has ordered that the illegal occupants who failed to prove themselves as residents of the forest to be evicted from the forests.
- With this order of the Supreme Court, around 10 lakh people across the country may have to evacuate the forest.
- These residents were to prove their claims under 'Scheduled Tribes and other traditional forest dwellers (Recognition of Forest Rights) Act - 2006'.
- The highest encroachment on forest land is in the forests of Madhya Pradesh and Odisha, where the rights of three and a half lakhs and 1.5 lakh people respectively have been rejected.

What is it?

- The historical law of Scheduled Castes and Other Traditional Forest Residents Act, 2006 has been brought into force to overcome the asymmetrical life situation of many tribal families living in forests.
- This law has been implemented to provide the Scheduled Castes and other traditional forest dwellers living in the forests their legitimate provide right, since generations, but who have been deprived of forest rights and livelihood in forest land.
- Under the section 3 (1) (h) of Scheduled Tribes and other traditional forest area residents (Forest Rights Recognition) Act 2006, wild villages, old populated areas, villages without survey and other villages of forest area, Whether they are notified in the form revenue of a village or not, their right to set up and change will be given to all Scheduled Tribes and other traditional forest dwellers living here.

Forest Rights Act, 2006

What is it?

- The Forest Rights Act (2006) is an important document of Forest Rules which has passed on December 18, 2006.
- This law is linked to the rights of land and natural resources of the people living in the forests, who have been denied from the colonial period.
- Its purpose is to conserve forests on the one hand and on the other hand it is also an attempt to compensate the people living in the forests against the injustice done to them for centuries.

The main provisions of this law are as follows: -

- It protects the rights of Scheduled Tribes dependent for their livelihood or those living in forests.
- The people and tribals living in the forests are empowered the right of the land they are using.
- Gives them the right to animal grazing and use water resources.
- In the event of displacement, it provides for reinstatement.
- Ensures local partnership in forest management.
- Displacement of people living in the forest can be done only for the purpose of wildlife conservation. This should also be based on the consent of the local community.
- The Forest Conservation Act (2006) promotes forest conservation by giving rights to local people on land.
- This prevents illegal occupation of land in forest and considers the displacement of locals as the last resort for forest conservation. In the event of displacement, it also provides the right to rehabilitate people.

Expected Questions (Prelims Exams)

1. Consider the following statements regarding the Forest Right Act, 2006-

1. It is an important document of forest related laws, which was passed on 18th December, 2006.
2. This law is attached to the rights of the forest dwelling peoples on land and natural resources, which had deprived them since the colonial period.

Which of the above statements is/are incorrect?

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Expected Questions (Mains Exams)

Q. Recently the Supreme Court had deprived several forest dwellers of their rights. If this happens, then what strong steps should the concerned states need to take to deal with these challenges. Discuss.

(250 Words)

Note: Answer of Prelims Expected Question given on 25 Feb. is 1(c)

