



# Forest and Tribal Rights

**SG-12**

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# Plan of presentation

- Why forest rights?
- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) **Act** 2006
- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) **Rules** 2007
- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) **Amendment Rules**, 2012
- **Current Status** of Implementation and **Challenges**

# Why this an issue ?

- Tribes have developed a symbiotic relationship with forests over centuries which has helped them to survive and gave them security
- Forest is their religion, their gods are there
- They are born there, their food and medicines are in the forests, and they finally die there
- It is a fact that tribal people do not destroy forests, but in some areas they have been forced to become agents of those who destroy forests for their own gain

# An eternal dilemma...?

- Why no policy ?
- Approach
  - Isolation
  - Assimilation
  - Integration
- Conservation vs Development – tribals vs forest dept/ govt
- Diversity
- Economic liberalism, crony capitalism
- Jal – Jungle – Zameen

The background of the slide is a stylized illustration of a forest. It features several tall, thin trees with dense, rounded green canopies. The ground is covered in a light green field with scattered tufts of grass. The overall color palette is various shades of green, creating a natural and serene atmosphere.

Scheduled Tribes and Other Traditional Forest  
Dwellers (Recognition of Forest Rights) Act 2006  
*-Rules 2007*

# Policy Evolution

- Forest landscapes cover over 23% of the country
- Schedules Tribe and other Traditional Forest Dwellers had no legal rights to *their homes, lands and livelihoods*
- **Results:** Both People and Forests were suffering
- In 2006, Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights ) Act was passed which granted legal recognition to the rights of traditional forest dwelling communities.

# What does the Forest Rights Act do?

- Grants legal recognition to the rights of traditional forest dwelling communities, partially correcting the injustice caused by the forest laws
- Makes a beginning towards giving communities and the public a voice in forest and wildlife conservation

# Objectives of community Rights

- Traditional knowledge + modern science for management and governance of forest
- Ensure livelihood security
- Influencing decision making on developmental project
- Provide means for finance mobilization to community
- Minimize displacement
- Promotes the harmonious co-existence



# Who gets rights?

## Eligibility

- To those who "primarily reside in forests" and who depend on forests and forest land for a livelihood.
- Further, either the claimant must be a member of the Scheduled Tribes scheduled in that area or must have been residing in the forest for 75 years

# Rights as per Section (3) of the Act

- *Title rights* - i.e. ownership - to land that is being farmed by tribals or forest dwellers subject to a maximum of 4 hectares (*No one gets rights to any land that they have not been cultivating prior to December 13, 2005*)
- *Use rights* - to minor forest produce like tendu patta, herbs, medicinal plants etc “that has been traditionally collected. *This does not include timber.*
- *Relief and development rights* - to rehabilitation in case of illegal eviction or forced displacement
- *Forest management rights* - to protect forests and wildlife

# Community Forest Rights Under the Act (Sec 3)

- Right to **hold and live** in the forest land
- For the Habitation
- **Self Cultivation** for livelihood
- Right over **Minor Forest Produce**
- Right over **water bodies**: Fish and other Products
- Right of **grazing**
- Right to protect, generate or conserve or manage **community forest reserve**
- Right to access Biodiversity
- Community right to **intellectual property**
- Right to **Traditional Knowledge**
- Biodiversity and cultural Diversity
- Right to *in situ* rehabilitation

# Duties of Communities (Sec 5)

- Protection of Biodiversity
- Protection of wildlife
- Preserve forest from any form of destructive practices
- Protection of area as a whole
- Compliance with decisions taken under the act

# Recognition of Forest Rights Rules, 2007

- Gram Sabha has been given very important role
- State Government will constitute committees
  - Sub-Divisional Level Committee
  - District Level Committee
  - State Level Monitoring Committee

# Role of Gram Sabha (2007 rules)

- Initiate the process of **determining** the nature and extent of **forest rights, receive and hear the claims**
- **Prepare a list of claimants** of forests rights and maintain a register containing such details of claimants
- Pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee
- **Constitute Committees for the protection** of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act

# Process of recognition of rights (Sec 6)

Gram  
Sabha

Sub-  
Divisional  
Level  
Committee

District  
Level  
Committee

State  
Level  
Monitoring  
Committee

# Process of recognition of rights (Sec 6)

Gram  
Sabha

Sub-  
Divisional  
Level  
Committee

District  
Level  
Committee

State  
Level  
Monitoring  
Committee

Recommends- who has been cultivating land for how long, which minor forest produce is collected, etc.



# Process of recognition of rights (Sec 6)

Gram  
Sabha

Sub-  
Divisional  
Level  
Committee

District  
Level  
Committee

State  
Level  
Monitoring  
Committee

2 stages of screening  
committees at the Sub  
Division and district levels

# Process of recognition of rights (Sec 6)

Gram  
Sabha

Sub-  
Divisional  
Level  
Committee

District  
Level  
Committee

State  
Level  
Monitoring  
Committee

- Takes final decision
- 6 member committee
  - 3 Govt
  - 3 Elected

# Process of recognition of rights (Sec 6)

Gram  
Sabha

Sub-  
Divisional  
Level  
Committee

District  
Level  
Committee

State Level  
Monitoring  
Committee

**Land recognized under this Act cannot be sold or transferred. It can be passed within a family.**

# Committee Functions as per 2007 rules

## Sub-Divisional Level Committee

- Examine the Resolution of Gram Sabha
- Hear Petitions on the decision of Gram Sabha

## District Level Committee

- Consider and Approve the claims
- Hear petitions on the decision of Sub-Divisional Level Committee

## State Level Monitoring Committee

- Devise criteria and indicators for monitoring the process
- Furnish six monthly reports

# Composition of Committees

## Subdivision Level Committee

- Sub divisional Officer or equivalent
- Forest Officer
- Officer from Tribal Welfare Department
- Three Members of Block Level Panchayat

## District Level Committee

- District Collector or equivalent
- Forest Officer
- Officer from Tribal Welfare Department
- Three Members of District Level Panchayat

## State Level Monitoring Committee

- Chief Secretary
- Secretary: Revenue Department, Tribal Welfare Department, Panchayat Raj, Forest Department,
- Principal Chief Conservator of Forest
- Three Schedule Tribe members
- Commissioner, Tribal Welfare

# Forest Right Committee (Section 3 of the 2007 rules)

- Consisting of not less than ten but not exceeding fifteen persons as members
  - least one-third members shall be the STs.

## **Role:**

1. *Protect wild life, Forest and Bio-Diversity*
2. *Ensure that decision taken at the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects forest are complied with*

# Forest Right Committee (Section 11 of 2007 Rules)

- The Forest Rights Committee shall assist the Gram Sabha in its functions to
  - **Receive, acknowledge and retain the claims** in the specified form and evidence in support of such claims
  - **Prepare the record** of claims and evidence including maps
  - Prepare a **list of claimants** on forest rights
  - **Verify** claims as provided in these rules
  - **Present their findings** on the nature and extent of the claim before the Gram Sabha for its consideration



**Scheduled Tribes and Other Traditional Forest  
Dwellers (Recognition of Forest Rights)  
Amendment Rules, 2012**  
*-Based on Implementation Issues*

**Ministry of Tribal notified amendment to the FRA Rules  
in September 2012 in order to develop further clarity on  
the interpretation of the Act and to streamline its  
implementation**



## **Will issuance of transit permits by the Gram Sabha lead to over exploitation of the MFPs?**

- Committee to prepare a conservation and management plan
  - Sustainably and equitably manage resources
  - Integrate conservation and management plan with Forest Department.
- Gram Sabha to ensure that the transit permits are issued in conformity with the above plan to avoid over exploitation of MFP
- Gram Sabha impose restrictions in case of over exploitation of MFP
- Gram Sabha empowered to stop any activity that adversely affects forest, wildlife, and biodiversity

# Forest Land Records Maintenance

- Forest Department
  - Land under direct administration of forest department
- Revenue Department
  - Land under direct administration of Revenue department
  - Records of the titles for individual land rights

# What are the documentary evidences required in case of community rights?

- Rule 12A(11) specifies that the DLC cannot insist on a particular evidence in support of the claim
- Physical and oral evidence is also admissible under Rule 13.
- Official documents such as working plans, gazetteers, forest settlement reports, etc. may be considered.
- Government records or earlier or current practice of traditional agriculture have been added as evidence for “community forest resource”.
- Classification of evidence
  - For rights over community forest resource
  - For other forest rights including individual rights

# After recognition of rights under FRA can the forest rights holders get any support for development of the forest land and community forest resources?

- Post-claim support to the forest rights holders by State Government departments
  - tribal and social welfare, environment and forest, revenue, rural development, Panchayati raj, etc.
  - to provide support for land improvement, land productivity, basic amenities and other livelihood measures under existing government schemes

A stylized illustration of a forest. The scene features several tall, thin trees with dense, rounded green canopies. The ground is a light green field with scattered tufts of darker green grass. The overall style is clean and modern, with a soft, hazy background.

# **Current Status and Challenges**

# Implementation so far

- Till Jan 2015, approx 30 lacs hectares of Forests have been recognized as belonging to Forest Dwelling Communities
- Almost 16 lacs titles have been issued (3.8% of the total Forest Land and 10% of the recognized land)

# Challenges in Implementation

- Improper Constitution of Gram Sabha
- By-passing of Gram Sabhas by giving powers to Officials, Forest Department and Joint Forest Management Committee in violation of law
- Interference by Forest Department in the Rights Recognition Process
- Ignoring Non-land Community rights (Govts. merely looking at the Act as if it is a land Titles Distribution Scheme)
- Not following due democratic procedure while rejecting a claim
- Undue haste in implementation without providing information or awareness creation and proper training



**THANK YOU**