

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act – A Literature Review

Dr. J.A. Raja and Dr. Shashidhar

Associate Professor, Department of Management Studies, The Oxford College of Business Management, Bengaluru

Associate Professor, Department of Social Work, The Oxford College of Arts, Bengaluru

Abstract

India, the sub continental landscape for different geography and traditions has been a herald for many diplomatic and democratic rights to the global nations. Gifted with rich natural sources, resources and heritage, the nation have strongly build its infrastructure that coincides with the growth towards globalization. The nation towards super power focuses on urbanization through technological advancements and strong defense systems. Simultaneously, the natural resources also have been safeguarded and the concept of sustainability always to be considered when there is advancement in any sector. Safeguarding natural resources is not merely protecting the forest alone but also the communities who were the part of the forests and its future. Constitutional acts and other newly enacted acts like Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 abide with the rights of the scheduled tribes who were also the major factors of forest conservation and forest management systems. This paper is a collection of literatures and studies on the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 that focuses on the rights of the Scheduled tribes as forest dwellers, cultivators and the marginalised people who were in need of empowerment.

Keywords: Forest Rights, Forest Dwellers, Scheduled Tribes, Tribal Development

Introduction

Forest resources are considered to be the source of livelihood for the indigenous people of India and hence the formulation of forest policies and acts were highly influential towards the socio economic status of the tribal community. Afforestation, reforestation and conservation of biodiversity are the core concepts of the forest acts when implemented in the Indian forests. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006, commonly known to be the Forest Rights Act has been enacted and implemented to recognise the rights of the scheduled tribes and other traditional forest dwellers who were denied from their rights towards the forest and its resources during the pre independence and even after independence. After the implementation of the act various Non-Government Organizations focused on the scheduled tribes and other traditional forest dwellers to create awareness about the act. Various researched published articles and research papers about the The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006. This article is a literature review on such papers and its concentration towards the recognition of the rights to the scheduled tribes and other traditional forest dwellers

Evolution of the Forest Rights Act

Progya Ghatak (2009)¹, in his article on the evolution and implication of forest legislation acts in India speaks about the need for the origin of the forest legislations and how it is implemented in the tribal society by the Non-Government organisations and other civil societies. The article also elaborated the emergence of forest acts and its successors since 1878 and the evolution of the former act in various timeline. The paper also speaks about the forest conservation that coincides with the tribal rights and conservation. The author compared and reviewed various forest acts like The Forest Act 1865, The Forest Act 1878, Forest Act of 1927, Forest Policy 1952, Forest Conservation Act of 1980 and Recognition of Forest Rights Act, 2006 thereby explaining the essence of the acts and their target beneficiaries.

Manshi Asher (2019)² in the article on the evolution of forest rights act, narrated the incidents that becomes the cause and influential factors for enacting the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006. The paper appreciated the efforts of numerous social activists, environmentalists and social organizations that stood for framing and enacting the Scheduled Tribes and Other Traditional Forest Dwellers Act. Highlighting the points of Asher, M. and Agarwal, N. (2007)³, the author stretched the concern towards the tribal communities and the forest dwellers and their pathetic socio-economic status in the article. The paper also narrates the brief history of the Scheduled Tribes and Other Traditional Forest Dwellers Act, 2006 from making forest rights a sensational national issue, followed by the role of advisory committee and prime minister's office in drafting the act. The author also cited the article of Shrivastava, K.S. (2015)⁴ stating that the government of states and central in different timeline have handled the FRA 2006 in different approaches thereby diluting the actual course of the act. Overall, the article speaks and argues against the pitfalls in the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers Act, 2006.

Phulamani Soren and Iswar Chandra Naik (2018)⁵ appraised the tribal forest acts in India from its emergence through the forest policy 1855, followed by the first forest act in India enacted in 1865. The paper critically analyzed the policies and acts that are associated with forest conservation, rights of the tribes and agriculture. For instance, the authors criticized the circulars and statements of the ministry of environment and forest for showcasing the tribes as encroachers. The authors also pointed out the eviction of tribal communities from their homelands in the name of scientific forestry and industrial development. The article also stated that the main motive of the Scheduled Tribes and Other Traditional Forest Dwellers Act, 2006 is to include the forest dwellers and the tribal communities in forest conservation and wild life management. Altogether the paper is mainly focusing in the injustice done by the British for the tribal communities during pre-independence, in the name of commercialization and national development projects and also the ways how the forest dwellers are alienated from their homelands even after enacting the scheduled tribes and other traditional forest dwellers (recognition of forest rights) act, 2006.

Injustice or Recognition

Deirdre N. Dlugoleski (2020)⁶, a non-Indian author (Since, previously mentioned authors and works are from homeland, i.e., India) published a research article stating the term "Injustice", which has been highlighted by Phulamani Soren and Iswar Chandra Naik (2018)⁵. Here the paper broadly speaks about the eviction of the tribes from the forest regions, which also played a crucial role for raising voices to frame and the Forest Rights Act. This paper analyzes the Forest Rights Act 2006, as a global context, thereby comparing the laws and scenario of North American and Latin American Countries. The authors emphasize on how the forest rights act differentiates itself from the previous policies and laws of forests by Indian Government. According to the author, The Forest Act, 2006, justifies the rights of the tribes residing in National Sanctuaries, Reserves Forests and other regions to claims rights in forest products, collecting "listed" Non-Timber Forest Products, practice agriculture in the forest region etc. But there arises a problem, where the "listed" Non-Timber Forest Products were considerably fewer in number, which would be sufficient as a source of income or livelihood for the tribes and forest dwellers. Finally, the author concludes that the role of Supreme Court and its judgments in various cases that highlights and refers the Forest Rights Act, are highly considerable and also being a long awaiting hope for the forest dwellers and indigenous people to claim their actual rights and for undoing the injustice in the past era.

The words like "Struggle", "Injustice" was often witnessed in the articles and research papers that focuses on the Forest Rights Act, 2006, which raises the question that "Whether the act did justice for the previous struggle" or "Do the injustice continues and still the struggle exists?". C.R Bijoy (2017)⁷ in the article titled 'Forest Rights Struggle: The Making of the Law and the Decade After' also speaks about the pre and post scenario that prevailed in implementation of the Forest Rights Act, 2006. The author discussed the role of Gram Sabha which constituted the Forest Rights in the villages that are located within the forests or adjacent to the forest regions. Unlike other articles, this research paper broadly narrates the involvement of Gram Sabha, its authorities and significance in rural administration. The role of Gram Sabha, its responsibilities and the limitations were mentioned in the Forest Rights Act, through which the support and assistance were gained by the state governments and Central Government in

implementing the Forest Rights Act. The paper could be broadly classified into three parts like Factors that influenced the framing of Forest Rights Act, Implementation of the act and its impacts. The author was concerned about the loopholes which paved way for the injustice to the tribes and the forest dwellers from obtaining their rights towards the forests. The author also narrated the evictions in different parts of the nation even after the implementation of the Forest Rights Act. The paper spoke about the association of Tiger Reserves and National Sanctuaries which directly having its impact of the rights of the forest dwellers and tribal community, thereby concluding that the Forest Rights Act which is born through the struggle of forest dwellers and it has to be utilized with a democratic approach.

In article titled, Forest Rights Act, 2006: Past, Present and Future, Isha Tyagi (2019)⁸ also reflected the paper of C.R Bijoy (2017)⁷, thereby sketching the hierarchy of the three-tier body system which has been constructed by the Forest Rights Act. Gram Sabha the first level, followed by the Sub-Divisional Level Committee (SDLC) and District Level Committee (DLC) at the top level were specified in the paper along with their role in verifying claims on forest lands. The author mentioned that the rejection on the claims on forest lands were due to the misinterpreted information on the lands and non-submission of required evidences and documents by the applicants i.e., the forest dwellers. But it has been stated in the Forest Rights Act that the Three Tier bodies have to submit the reason for the rejection of claims to the department (Gokhale & Nihar, 2019)⁹. Isha Tyagi (2019)⁸ also quoted the statement of Mohanty & Basant Kumar (2019)¹⁰ who accused the unreliability on the satellite images, which were trusted by the Sub-Divisional Level Committee and District Level Committee for rejecting the claim for lands, adding the unethical activities of the Non-Government Organization who were receiving funds but not creating awareness among tribes on the Forest Rights Act. The author also added the “injustice” done to the tribes by stating that the Creation of national parks and the development projects by the state governments were the step backs for the rights which were confirmed by the Forest Rights Act for the tribes and forest Dwellers (Pandey & Kundan, 2016)¹¹. The author also cited the lines of Choudhury & Chitragada, (2019)¹², who mentioned that the activities of Ministry of Environment, Forest and Climate Change associated with the Forest Rights Act are indirectly attempting to suppress the powers of Gram Sabha in the Sanctioning and recommending for forest land claims. Overall, the article titled, Forest Rights Act, 2006: Past, Present and Future by Isha Tyagi (2019)⁸ also speaks about the systematic procedures drawn through the forest Rights Act and also the how the rights were denied for the forest dwellers even after the implementation of Forest Rights Act.

Implementation of the Act

Geetanjoy Sahu (2021)¹³, in the article about the Implementation of Forest Rights Act in Jharkhand specifies the uneven implementation of the act in different states of the nation. The paper showcases the numerical figures in number of individual claims and community claims on forest lands, also mentioning the statistical data of the acres regularized under the Forest Rights Act. The author also pointed out the poor implementation in the state by adding references of the case studies that speaks about the practical’s issues in the implementation. The cases were about the benefits to be provided for the Other Traditional Forest Dwellers (OTFD) and recognizing their claims for the forest lands. There are also cases discussed based the gaps between the number of claims and the number of sanctions that are claimed under Individual Forest Rights (IFRs) and Community Forest Rights (CFRs). Discussing the cases that are based on the conflicts and practical difficulties, the author also listed out the challenges in the implementation that are associated with conflicts between the departments, role of the implementing agencies and the lack of clarity in the policies. The author thereby concluded the paper, insisting on the sensible understanding towards the issues of the forest dwellers and the effective implementation of the Forest Rights Act by the implementing agencies, Departments and Ministries associated to the act.

Jayaram Singh Samal (2020)¹⁴, also discussed the issues and confusions towards the rights of the Scheduled Tribes and Other Traditional Forest Dwellers (OTFD), while implementing the Forest Rights Act. The problem is to identify the norms which provide guidelines for recognizing the Other Traditional Forest Dwellers (OTFD). According to Sharma A. R. (2018)¹⁵, the Other Traditional Forest Dwellers (OTFD) has to prove their existence in the forest region for at least three generations to claim their rights in the forest land and to be recognized as the forest dwellers. It is also to strictly identify the encroachers and other alienations that takes place in forests, misusing the rights of forest dwellers. Kumar et.al (2017)¹⁶ highlights the rights of Gram Sabha in approving the the claims under Community

Forest Rights (CFRs) and Community Forest Resources Rights (CFRRs), through which the forest land to be utilized for industrial purposes could be prevented. Jayaram Singh Samal (2020)¹⁴ also cited the statement of Gandhi Tanay (2019)¹⁷ stating that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act is not issuing legal status for any forest lands but the act is enacted to recognize the rights of the scheduled tribes and other traditional forest dwellers.

The Voluntary Guidelines and the World Bank (2015)¹⁸ conducted two case studies under the title "Implementation of the Forest Rights Act in India: Critical Issues and Learning from Two Case Studies" to understand the land governance system and to promote the awareness on the Forest Rights Act among the tribal community and the other traditional forest dwellers. The first case study deals with the issues of the claiming process and also the poor guidelines and practical difficulties in land measurements. The second case study is to identify the key issues like awareness level among the scheduled tribes towards the Forest Rights Act, discrimination between scheduled tribes and the other traditional forest dwellers etc. The case studies lead to the outcomes like understanding the procedural aspects of Gram Sabha, Sub-Divisional Level Committee (SDLC) and District Level Committee (DLC), also estimating the need for the Non-Government Organizations in supporting the process of implementing the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act.

Conclusion

Almost all the articles which has been discussed, where specific towards the implementation of the Forest Rights Act and shows their concern on the Scheduled Tribes and the Traditional Forest Dwellers who still struggles for their recognition towards the forest rights. The practical difficulties in implementing the forest rights were discussed in the form of case studies and as articles. This paper could be concluded by stating that the efficient implementation of the act by compiling with the actual norms while sanctioning the lands, utilization of forest resources etc will be the solution for the "injustice" for the Scheduled Tribes during colonial rule and after Independence.

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