WELCOME

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

By

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INTRODUCTION

• What is a Forest:
  • "An area under Government control notified or recorded as 'forest' under any Act, for conservation and management of ecological and biological resources."

• A highly complex, constantly changing environment made up of a variety of living things and non-living things.
  • Trees are the biggest part of this complex community.
• Trees are an important component of the environment. They clean the air, cool it on hot days, conserve heat at night, and act as excellent sound absorbers.
• Trees help create a special environment which, in turn, affects the kinds of animals and plants that can exist in the forest.
• During the process of Evolution, when the human being was created, his first abode was Forest. He lived in the forest and completely depended for his food and shelter on the Forest only.
• In the course of transformation through Civilization, he left the Forest and sometimes cleared the Forest and developed his own Territory in the Plains for his better living conditions.
But, some people did not choose to leave the Forest and continued their life inside the Forest only.

They are the Tribals & Forest Dwellers, who for generations together continued their living in the Forest only.
Forest Dwellers

- Forests are home to crores of people, including many Scheduled Tribes, who live in or near the forest areas of the country.
- Nearly 250 million people live in and around forests in India, of which the estimated indigenous Adivasi or tribal population stands at about 100 million.
- They would form the 13th largest country in the world,
Forest Dwellers

• Forests provide minor forest produce, water, grazing grounds and habitat for shifting cultivation.
• Vast areas of land that may or may not be forests are classified as "forest" under India's forest laws, and those cultivating these lands are technically cultivating "forest land".
• The tribal communities of India have had an integral and close knit relationship with the forests since times immemorial, and have been dependent on the forests for livelihoods and existence.
• The relationship was mutually beneficial and not one sided. However, rights were rarely recognized by the authorities and in the absence of real ownership of the land, the already marginalized local dwellers suffered.
**History**

**Origin of Scientific Management of Forests:**

- India was one of the first countries in the world to introduce scientific forest management.
- In 1864, the British Raj established the Imperial Forest Department.
- In 1866 Dr Dietrich Brandis, a German forest officer, was appointed Inspector General of Forests.
History

Origin of Scientific Management of Forests (Contd..) :-

• The management of the forests went into the hands of the provincial government in 1935 and even today the Forest Departments are managing the forests of the country under the respective State governments.
• Since the subject of forestry was shifted to the concurrent list in the year 1977, the central government plays an important role, particularly at the policy level in the management of the forest.
Demographic Details

- India has an area of 635,400 km\(^2\) designated as forests, about 23% of the country.
- India's forest policy was created in 1894 and revised in 1952 and again in 1988.
- Andhra Pradesh state, after bifurcation, is left with only 37 lakh ha. of forests, which forms 23% of state’s geographical area. Further, another 4 lakh ha. of tree growth outside the forests make the total tree cover over 25.6%.
• Andhra Pradesh State is bestowed with two mighty river systems of Krishna and Godavari.
• The State has wide and varied vegetation types enriched by a variety of flora and fauna.
• Andhra Pradesh being located strategically in the central region of the Indian sub-continent has representatives of the magnificent Indian plant and animal life.
• Its varied topography ranging from the hills of Eastern Ghats and Nallamallas to the shores of Bay of Bengal supports varied ecotypes, which in turn support a rich diversity of flora & fauna.
There are two forest policies in the history of Independent India.

They are as follows-

- Forest Policy of 1952
- Forest Policy of 1988
Since 1947, government has been quite alive to the necessity of developing forestry in the country.

In 1950, “Vana Mahotsava” was inaugurated by India’s Union Minister for Agriculture Dr. K.M. Munshi.

Likewise to evolve an all India forest policy, a Central Board of Forestry was set up.
In 1952, the Government of India announced its National Forest policy. According to this policy, it was decided to raise steadily the area under forest to 100 million hectares. It was suggested to provide green cover over 2/3 of the land area in the hills and mountains. To achieve this goal, it was necessary to reduce the long range development of forest resources and meet the growing demand for timber and firewood.
Features of National Forest Policy 1952

- **Classification of Forests**: Forest Policy 1952 has proposed the classification of forests on functional basis into 3 categories- Protected forests (less strictly controlled), National forests and unclassed forests comprising of village forest or land classed as culturable land.

- **Establishment of Tree Lands**: It emphasized on the establishment of tree lands so that physical and climatic conditions may be improved which in turn promote the general well being of the inhabitants of the country.
• **Indiscriminate Extension of Arable Land**- It advocated that indiscriminate extension of land should be discouraged through deforestation. It is because it not only deprives the local population of wood, grass, etc. but side by side deprives the land of its natural defence.

• **Protection of Wild Life**- The forest policy also evoked on the need for affording protection of wildlife by its proper management for scientific study and for recreational purposes.

• **Awakening People’s Interest**- The forest policy stressed that it would be the duty of the forester to awaken the interest of the people in the development, extension and establishment of tree law wherever possible and to make them tree minded.
Replacing old forest policy of 1952, GOI announced new forest policy in December 1988.

According to the Forest Policy Resolution of 1988, forest cover of country should not be less than 33% of the total geographical area.

Main points of forest policy of 1988 are protection, conservation and development of forests.
Features of National Forest Policy 1988

• **Role of Tribals in Forests**- The new forest policy aimed at recognizing the natural relationship between the tribal people and forests. It seeks to ensure the communities living in and around forest area should be in a position to get their domestic requirements of fuel wood, fodder, etc.

• **Target for Green Cover**- The forest policy of 1998 dictates that green cover should be extended to more than two-third of the land area of the million hectares and the total area should be raised to 100 million hectares.

• **Discouraging Forest Based Industries**- No forest based enterprises would be permitted to establish in future unless the projects have been cleared after a thorough assessment of the availability of raw materials from the forests.
Features of National Forest Policy 1988

• **Withdrawing the System of Private Forest Contract**- The forest policy states to cancel totally the system of forest contractors working in the forests. This policy also stresses upon the need to distribute the minor forest products through state-run depots.

• **Restriction on Diversion of Forests Land**- The policy suggests that restrictions should be imposed on the diversion of forest land and due application of forest land for non forest uses.
Features of National Forest Policy 1988

• Ecological security of Nation is prime objective (Ecosystem Services)
• People’s involvement in the management, conservation and protection of forests
• Sustenance needs and livelihood of the people living in and around forests have the first charge on forests
• Economic derivatives and other objectives are subordinate to prime objective.
• A.P forests are governed by two main laws, the A.P. Forest Act, 1967 and the Wild Life (Protection) Act, 1972. The former empowers the government to declare any area to be a reserved forest, protected forest or village forest.
• The latter allows any area to be constituted as a "protected area", namely a national park, wildlife sanctuary, tiger reserve or community conservation area.
• Under these laws, the rights of people living in or depending on the area to be declared as a forest or protected area are to be "settled" by a “Forest Settlement Officer."
• This basically requires that officer to enquire into the claims of people to land, minor forest produce, etc., and, in the case of claims found to be valid, to allow them to continue or to extinguish them by paying compensation.
Need for RoFR Act

• Those whose rights are not recorded during the settlement process are susceptible for eviction at any time.
• This "legal twilight zone" leads to harassment, evictions, extortion of money over forest dwellers' livelihoods and daily lives.
• This anomaly necessitated the enactment of “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”
• The Statement of Objects and Reasons of the Forest Rights Act describes it as a law intended to correct the “Historical Injustice" done to forest dwellers by the failure to recognize their rights.
Eligibility Criteria

- Eligibility to get rights under the Act is confined 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.
Process of Recognition of Rights

- The Act provides that the gram sabha, or village assembly, will initially pass a resolution recommending whose rights to which resources should be recognized (i.e. which lands belong to whom, how much land was under the cultivation of each person as on 13 Dec 2005, etc.).
- This resolution is then screened and approved at the level of the sub-division (or taluka) and subsequently at the district level.
- The screening committees consist of three Government officials (Forest, Revenue and Tribal Welfare departments) and three elected members of the local body at that level. These committees also hear appeals.
The ST & OTFD (RoFR) Act, 2006

Forest landscapes cover over 23% of the country.

Around 200 Million i.e. 20% of population live in and near India's forest lands.

But

They had no legal right to their homes, lands or livelihoods.
The ST & OTFD (RoFR) Act, 2006

Result ???

Both forests and people were suffering.

To mitigate the sufferings of the people living in the forests, 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.
The ST & OTFD (RoFR) Act, 2006

- The Scheduled Tribes and OtherTraditionalForestDwellers (Recognition of Forest Rights) Act, 2006, is a key piece of forest legislation passed in India on 18th December 2006.
- It has also been called the Forest Rights Act, the Tribal Rights Act, the Tribal Bill, and the Tribal Land Act.
- The law concerns the rights of forest-dwelling communities to land and other resources, denied to them over decades as a result of the continuance of colonial forest laws in India.
The ST & OTFD (RoFR) Act, 2006

• Supporters of the Act claim that it will redress the "historical injustice" committed against forest dwellers, while including provisions for making conservation more effective and more transparent.
• The demand for the law has seen massive national demonstrations involving hundreds of thousands of people.
• However, the law has also been the subject of considerable controversy in the English press in India.
• Opponents of the law claim it will lead to massive forest destruction and should be repealed.
The ST & OTFD (RoFR) Act, 2006

• A little over one year after it was passed, the Act was notified into force on 31 December 2007.

• On 1\textsuperscript{st} January 2008, this was followed by the notification of the Rules framed by the Ministry of Tribal Affairs to supplement the procedural aspects of the Act.
The ST & OTFD (RoFR) Act, 2006

It entitles:
• Individuals & Families or communities to a right over their own land, and importantly,
• Empowers the Gram-sabha, or village assembly, with initiating the process of recognition.

Types of Rights:
• Land rights
• Use rights
• Right to Protect and Conserve
The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

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Salient Provisions: Preamble

• This Act is intended to recognize and vest the Forest Rights and Occupation of Forest Land on the Scheduled Tribes & Other Traditional Forest Dwellers residing in forests for generations and whose rights have not been recorded.

• It also provides a framework for recording these forest rights and the nature of evidence that is required.
Salient Provisions: Preamble

• Recognized rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for
  – sustainable use
  – conservation of biodiversity
  – maintenance of ecological balance
  – strengthening the conservation regime of the forests
  – ensuring their livelihood and food security
• The forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India.

• This resulted in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem.

• It has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

• This Act was enacted by Parliament in the Fifty-seventh Year of Republic of India, which is as follows:-----
1(1) This Act is called as “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”

(2) It extends to the whole of India except the State of Jammu and Kashmir

(3) It has come into force on 29th December 2006
2. Definitions of various terms that are relevant to this Act are explained in Section 2 of the Act.

(a) “Community Forest Resource”:

- Customary common forest land within the traditional or customary boundaries of the village or
- Seasonal use of landscape in the case of pastoral communities including
  - Reserved forests
  - Protected forests
  - Protected areas such as Sanctuaries and National Parks
  - To which the community had traditional access;
2(b) “Critical Wildlife Habitat”:
- National Parks and Sanctuaries where it has been specifically and clearly established on the basis of scientific and objective criteria that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee.
- The Expert Committee includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included in determining such areas.
2(c) “Forest dwelling Scheduled Tribes”:

- The members or community of the Scheduled Tribes who primarily reside in and who depend on:
  - the forests
  - forest lands
  - for *bona fide* livelihood needs
  - includes the Scheduled Tribe pastoralist communities;
2(d) “Forest land”: 
• Land of any description falling within any forest area 
• Includes unclassified forests 
• Un-demarcated forests 
• Existing or deemed forests 
• Protected forests 
• Reserved forests 
• Sanctuaries and National parks;
2(e) “Forest Rights”:
- The forest rights referred to in section 3;

2(f) “Forest Villages”:
- The settlements which have been established inside the forests by the forest department of any State Government for forestry operations
- Which were converted into forest villages through the forest reservation process and includes
  - Forest settlement villages
  - Fixed demand holdings
  - All types of *taungya* settlements, by whatever name called, for such villages
  - Includes lands for cultivation and other uses permitted by the Government.
2(g) “Gram Sabha”:

- A village assembly of all adult members of a village.
- In case of States having no Panchayaths, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;
Definitions

2(h) “Habitat” :

• Includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of Primitive Tribal Groups and pre-agricultural communities and other forest dwelling Scheduled Tribes ;
Definitions

2(i) “Minor Forest Produce”:
• Includes all non-timber forest produce of plant origin including
  – Bamboo
  – Brush wood
  – Stumps
  – Cane
  – Tussar
  – Cocoons
  – Honey
  – Wax
  – Tendu or Kendu leaves
  – Medicinal plants and herbs
  – Roots
  – Tubers, and the like;
Definitions

2(j) “Nodal Agency”:
- Agency specified in Section 11;

2(k) “Notification”:
- A notification published in the Official Gazette

2(l) “Prescribed”:
- Prescribed by rules made under this Act

2(m) “Scheduled Areas”:
- The Scheduled Areas referred to in clause(1) of article 244 of the Constitution (The areas other than the States of Assam, Meghalaya, Tripura and Mizoram);
Definitions

2(n) “Sustainable Use”:
• The same meaning as assigned to it in clause(O) of Section 2 of the Biological Diversity Act, 2002 (the use of components of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations);

2(o) “Other Traditional Forest Dweller”:
• Any member of Community who has for at least 3 generations prior to the 13th day of December 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs

Explanation — For the purpose of this clause, “generation” means a period comprising of 25 years;
Definitions

2(p) “Village” :

i) A village referred to in clause (b) of section 4 of the Provisions of the Panchayaths (Extension to the Scheduled Areas) Act, 1996; or

ii) Any area referred to as a village in any State law relating to Panchayaths other than the Scheduled Areas; or

iii) Forest villages, old habitation or settlements and un-surveyed villages, whether notified as village or not; or

iv) In the case of States where there are no Panchayaths, the traditional village, by whatever name called;

2(q) “Wild Animal” :

v) Any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature
3. For the purposes of this Act, the following rights which secure
   – Individual
   – Community tenure or
   – Both

shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-
3 (1) (a) - Right to hold and live in the forest land under the individual or common occupation
   – for habitation or
   – for self cultivation or
   – for livelihood

by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;
3(1)(b)- Community rights such as Nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

• ‘Nistar’:
  – The concession granted for removal from forest coupes on payment at stipulated rates, specified forest produce for bonafide domestic use, but not for barter or sale. The Nistar rates are fixed by the forest department for the specified forest produce in consultation with the District Collector. The rates so fixed shall not exceed 50 % of the market rates.
  – Generally, the forest produce distributed as Nistar rates include:
    (i) Bamboo
    (ii) Timber of specified class
    (iii) Timber poles
    (iv) Firewood
Forest Rights 3(1)(c)

3(1)(c)- Right of ownership, access to collect, use, and dispose of Minor Forest Produce which has been traditionally collected within or outside village boundaries;
3(1)(d) - Other community rights of uses or entitlements such as
- Fish and other products of water bodies
- Grazing (both settled or transhumant) and
- Traditional seasonal resource access of nomadic or pastoralist communities;
3(1)(e)- Rights, including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;
Forest Rights 3(1)(f)

3(1)(f) - Rights in or over disputed lands under any nomenclature in any State where claims are disputed;
3(1)(g)- Rights for conversion of *Pattas* or leases or grants issued by any local authority or any State Government on forest lands to titles;
3(1)(h)- Rights of settlement and conversion of all forest villages, old habitation un-surveyed villages and other villages in forest, whether recorded, notified, or not, into revenue villages;
3(1)(i)- Right to protect, regenerate, or conserve or manage any community forest resource, which they have been traditionally protecting and conserving for sustainable use;
Forest Rights 3(1)(j)

3(1)(j)- Rights which are recognized under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of concerned tribes of any State;
Forest Rights 3(1)(k)

3(1)(k)- Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
Any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be,

- which are not mentioned in clauses (a) to (k) but

- Excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;
3(1)(m)- Right to ‘in situ’ rehabilitation including alternative land

• In cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land without receiving their legal entitlement or rehabilitation prior to the 13th of December 2005.
Forest Rights 3(2)

3(2) - Not withstanding anything contained in the Forest (Conservation) Act, 1980,

• The Central Government shall provide for diversion of forest land for the following facilities managed by the government which involve felling of trees not exceeding seventy-five trees per hectare, namely: -
• Schools;
• Dispensary or hospital;
• Anganwadis;
• Fair price shops;
• Electric and telecommunication lines;
• Tanks and other minor water bodies;
• Drinking water supply and water pipelines;
• Water or rain water harvesting structures;
• Minor irrigation canals;
• Non-conventional source of energy;
• Skill upgradation or vocational training centers;
• Roads; and
• Community centers:
• Provided such diversion of forest land shall be allowed only if,-

  (i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

  (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.
4.(1)- Not withstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act

- The Central Government hereby recognizes and vests forest rights in-
  (a) The forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;
  (b) The other traditional forest dwellers in respect of all forest rights mentioned in section 3
4(2)- The forest rights recognized under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled

– Provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:-
(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) It has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;
(c) The State Government has concluded that other reasonable options, such as, co-existence are not available;
(d) A resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government.
(e) The free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) No resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package;

• Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.
4(3)- The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitats shall be-----

• Subject to the condition that such Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.
4(4)- A right conferred by sub-section (1) shall be

• Heritable but not alienable or transferable and
• Registered jointly in the names of both the spouses in case of married persons
• In the name of the single head in the case of a household headed by a single person
• In the absence of a direct heir, the heritable right shall pass on to the next of kin.
4(5)- Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.
4(6)- Where the forest rights recognized and vested under sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3

• Such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and

• Shall be restricted to the area under actual occupation and

• Shall in no case exceed an area of 4 hectares.
4(7)- The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980

• Requirement of paying the ‘net present value’ and

• ‘Compensatory afforestation’ for diversion of forest land, except those specified in this Act.
4(8) - The forest rights recognized and vested under this Act shall include

- The right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions and

- Where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.
5. - The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to-

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas adequately protected;
(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with;
6.(1) The Gram Sabha shall be the authority

- To initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by
- Receiving claims, consolidating and verifying them
- Preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights
- The Gram Sabha shall, then, pass a resolution to that effect
- Thereafter forward a copy of the same to the Sub-Divisional Level Committee.
6(2) Any person aggrieved by the resolution of the Gram Sabha

- May prefer a petition to the Sub –Divisional Level Committee constituted under sub-section(3)
- The Sub-Divisional Level Committee shall consider and dispose of such petition;
  - Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha;
  - Provided further that no such petition shall be disposed of against the aggrieved person unless he has been given a reasonable opportunity to present his case.
6(3) The State Government shall

- Constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.
6(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee

- May prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee
- The District Level Committee shall consider and dispose of such petition;
  - Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee;
  - Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.
6(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

6(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

6(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.
The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of

- Officers of the departments of Revenue, Forest and Tribal Affairs of the State Government
- Three members of the Panchayath Raj Institutions at the appropriate level, appointed by the respective Panchayath Raj Institutions, of whom
  - Two shall be the Scheduled Tribe members
  - At least one shall be a woman, as may be prescribed.
6(9) The Composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.
7 - Where any authority or committee or officer or member of such authority or committee contravenes any provision of this Act or any rule made there under concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees;

• Provided that nothing contained in this sub-section shall render any member of the authority or committee or head of the department or any person referred to in this section liable to any punishment if he proves that
  – the offence was committed without his knowledge or
  – he had exercised all due diligence to prevent the commission of such offence.
8 - No court shall take cognizance of any offence under section 7 unless

– Any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha

– Or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee

– And the State Level Monitoring Committee has not proceeded against such authority.
Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act—Shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

**10(1)** No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for—Anything which is in good faith done or intended to be done by or under this Act.
10(2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees for

– Any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

10(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for

– Anything which is in good faith done or intended to be done under this Act.

11- The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorized by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.
12 In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

13 Save as otherwise provided in this Act and the Provisions of the Panchayaths (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

14(1) The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.
In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:–

(a) Procedural details for implementation of the procedure specified in section 6;

(b) The procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section(2) of that section;
(c) The level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section(8) of section 6.

(d) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section(9) of section 6;

(e) Any other matter which is required to be, or may be, prescribed.
14(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised

– In one session or
– In two or more successive sessions
– And if, before the expiry of the session
– Immediately following the session or
– The successive sessions aforesaid
– Both Houses agree in making any modification in the rule or
– Both Houses agree that the rule should not be made
– The rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so,
– However, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 --- Rules

By
Sri. V. Santhaseela Babu, Divisional Forest Officer (Retd.)
1. **Short title, extent and commencement.**-(1) These rules may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007.

(2) They shall extend to the whole of India except the State of Jammu and Kashmir.

(3) They shall come into force on the date of their publication in the Official Gazette.
2. Definitions.- (1) In these rules, unless the context otherwise requires,-
(a) “Act” means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
(b) “bonafide livelihood needs” means fulfillment of sustenance needs of self and family through production or sale of produce resulting from self-cultivation of forest land as provided under clauses (a), (c) and (d) of sub-section (1) of section 3 of the Act;
(c) “claimant” means an individual, group of individuals, family or community making a claim for recognition and vesting of rights listed in the Act;
(d) “disposal of minor forest produce” under clause (c) of sub-section (1) of section 3 of the Act shall include local level processing, value addition, transportation in forest area through head-loads, bicycle and handcarts for use of such produce or sale by the gatherer or the community for livelihood;

(e) “Forest Rights Committee” means a committee constituted by the Gram Sabha under rule 3;

(f) “section” means the section of the Act;

(2) The words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.
3. **Gram Sabha.** (1) The Gram Sabhas shall be convened by the Gram Panchayath and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein at least one-third members shall be the Scheduled Tribes:

Provided that not less than one-third of such members shall be women:

Provided further that where there are no Scheduled Tribes, at least one-third of such members shall be women.
(2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.

(3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.
4. Functions of the Gram Sabha.-

(1) The Gram Sabha shall -

(a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;

(b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;
(c) 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;

(d) consider resettlement packages under clause (e) of sub section (2) of section 4 of the Act and pass appropriate resolutions; and

(e) 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.
(2) The quorum of the Gram Sabha meeting shall be not less than two thirds of all members of such Gram Sabha:

Provided that where there is a heterogeneous population of Scheduled Tribes and non Scheduled Tribes in any village, the members of the Scheduled Tribe, primitive tribal groups (PTGs) and pre-agricultural communities shall be adequately represented.

(3) The Gram Sabha shall be provided with the necessary assistance by the authorities in the State.
5. **Sub-Divisional Level Committee.** - The State Government shall constitute Sub-Divisional Level Committee with the following members, namely:-

(a) **Sub-Divisional Officer or equivalent officer** - Chairperson;

(b) **Forest Officer in charge of a Sub-division or equivalent officer** - member;
(c) three members of the Block or Tehsil level Panchayaths to be nominated by the District Panchayath of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member; and

(d) an officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.
6. Functions of the Sub-Divisional Level Committee.- The Sub-Divisional Level Committee (SDLC) shall -
(a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected;
(b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
(c) collate all the resolutions of the concerned Gram Sabhas;
(d) consolidate maps and details provided by the Gram Sabhas;
(e) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
(f) hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
(g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram Sabhas;
(h) co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims;
(i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records;
(j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;

(k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules;

(l) ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A & B) of these rules;

(m) ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.
7. District Level Committee.- The State Government shall constitute District Level Committee (DLC) with the following members, namely:-

(a) District Collector or Deputy Commissioner - Chairperson;

(b) concerned Divisional Forest Officer or concerned Deputy Conservator of Forest - member;
(c) three members of the district panchayath to be nominated by the district panchayath, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member; and

(d) an officer of the Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in charge of the tribal affairs.
8. Functions of District Level Committee.- The District Level Committee shall –

(a) ensure that the requisite information under clause (b) of rule 6 has been provided to Gram Sabha or Forest Rights Committee;

(b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;

(c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;
RoFR Act, 2006 - Rules

(d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;
(e) co-ordinate with other districts regarding inter-district claims;
(f) issue directions for incorporation of the forest rights in the relevant government records including record of rights;
(g) ensure publication of the record of forest rights as may be finalized; and (h) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexures II & III to these rules, is provided to the concerned claimant and the Gram Sabha respectively;
9. **State Level Monitoring Committee.** - The State Government shall constitute a State Level Monitoring Committee with the following members, namely:

(a) Chief Secretary - Chairperson;
(b) Secretary, Revenue Department - member;
(c) Secretary, Tribal or Social Welfare Department - member;
(d) Secretary, Forest Department - member;
(e) Secretary, Panchayati Raj - member;
(f) Principal Chief Conservator of Forests - member;
(g) three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
(h) Commissioner, Tribal Welfare or equivalent who shall be the Member-Secretary.
10. Functions of the State Level Monitoring Committee.- The State Level Monitoring Committee shall –

(a) devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;

(b) monitor the process of recognition, verification and vesting of forest rights in the State;
(c) furnish a six monthly report on the process of recognition, verification and vesting of forest rights and submit to the nodal agency such returns and reports as may be called for by the nodal agency;
(d) on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;
(e) monitor resettlement under sub-section (2) of section 4 of the Act.
11. Procedure for filing, determination and verification of claims by the Gram Sabha.- (1) The Gram Sabhas shall -

(a) call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of these rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, shall be made within a period of three months:

Provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.

(b) fix a date for initiating the process of determination of its community forest resource and intimate the same to the adjoining Gram Sabhas where there are substantial overlaps, and the Sub-Divisional Level Committee.
(2) The Forest Rights Committee shall assist the Gram Sabha in its functions to -

(i) receive, acknowledge and retain the claims in the specified form and evidence in support of such claims;

(ii) prepare the record of claims and evidence including maps;

(iii) prepare a list of claimants on forest rights;

(iv) verify claims as provided in these rules;

(v) present their findings on the nature and extent of the claim before the Gram Sabha for its consideration.

(3) Every claim received shall be duly acknowledged in writing by the Forest Rights Committee.
(4) The Forest Rights Committee shall also prepare the claims on behalf of Gram Sabha for community forest rights in Form B as provided in Annexure I of these Rules.

(5) The Gram Sabha shall on receipt of the findings under clause (v) of sub-rule (2), meet with prior notice, to consider the findings of the Forest Rights Committee, pass appropriate resolutions, and shall forward the same to the Sub- Divisional Level Committee.

(6) The Secretary of Gram Panchayat will also act as Secretary to the Gram Sabhas in discharge of its functions.
12. Process of verifying claims by Forest Rights Committee.- (1)
The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department
(a) visit the site and physically verify the nature and extent of the claim and evidence on the site;
(b) receive any further evidence or record from the claimant and witnesses;
(c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individuals, communities or their representatives are present;
(d) ensure that the claim from member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified when such communities or their representatives are present; and

(e) prepare a map delineating the area of each claim indicating recognizable landmarks.

(2) The Forest Rights Committee shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.
(3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing:

Provided that if the Gram Sabhas are not able to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub-Divisional Level Committee for its resolution.

(4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorized officer.
13. **Evidence for determination of forest rights.**– (1) The evidence for recognition and vesting of forest rights shall, inter alia, include -

(a) public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, pattas or leases, reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;

(b) Government authorized documents such as voter identity card, ration card, passport, house tax receipts, domicile certificates;

(c) physical attributes such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;
(d) quasi-judicial and judicial records including court orders and judgments;

(e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;

(f) any record including maps, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;
RoFR Act, 2006 - Rules

(g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;
(h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;
(i) statement of elders other than claimants, reduced in writing.
(2) An evidence for Community Forest Rights shall, inter alia, include –
(a) community rights such as nistar by whatever name called;
(b) traditional grazing grounds; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems; sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;
(c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;
(3) The Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee shall consider more than one of the above-mentioned evidences in determining the forest rights.
14. **Petitions to Sub-Divisional Level Committee.**— (1) Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.

(2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.

(4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.
(5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.

(6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.

(7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.
15. **Petitions to District Level Committee.**— (1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.

(2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.

(3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.

(4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.
(5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.

(6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.

(7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-Divisional Level Committees and pass appropriate orders.
Thank you...