

Tribals and Issue of Land Rights [UPSC Notes for GS I]

Tribals and Issue of Land Rights

Context

- Recent Supreme court order to evict lakhs of tribal who failed to prove that they are forest dwellers.
- Draft amendment to the existing Indian Forest Act, 1927 that proposes far-reaching powers to the state vis-a-vis the forest dwellers.

Background

- Supreme Court recently issued an order asking the states to evict lakhs of tribal whose claims as forest dwellers have been rejected under the Forest Rights Act of 2006
- The order was the result of a petition filed by Wildlife First, along with the Nature Conservation Society and Tiger Research and Conservation Trust. They are NGOs active in the sphere of wildlife conservation.
- The court stayed its own order later and decided to examine whether due process was followed by the gram sabhas and the States under the Forest Rights Act before the claims were rejected.
- However, this approach to conservation has put the lives of tribal and conservation efforts in limbo. Proposed amendments to the Indian Forest Act, 1927.
- The amendments shift the focus of forest related issues from mere transportation or taxation of forest produce and widens its scope to include “conservation, enrichment and sustainable management of forest resources” and “provision of ecosystem services in perpetuity”.
- The amendment also aims to “address the concerns related to climate change and international commitments.”
- It also aims to “strengthen and support the forest based traditional knowledge with peoples’ participation.
- The amendment also introduces a new category of forests called production forest which will be used as a source for timber, pulpwood etc.
- Strict regulations have been proposed to curb construction of sheds and other structures, fragmentation of land for cultivation or any other purpose, and burning any fire in such manner as to endanger or damage such forest land.
- Regulations also aim to grant patta or occupancy rights only in accordance with the recognition, restoration and vesting of Forest Rights, under “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- The amendment increases the role of states by stating that if the state government, after consultation with the central government, feels that the rights under The Forest Rights Act will hamper conservation efforts, then the state “may commute such rights by paying such persons a sum of money in lieu thereof, or grant of land, or in such other manner as it thinks fit, to maintain the social organisation of the forest dwelling communities or alternatively set out some other forest tract of sufficient extent, and in a locality reasonably convenient, for the purpose of such forest dwellers”.

Issues

- Present problem has been made more complicated by the fact that many tribal who have been living in the forest for generations do not have the necessary paperwork to prove that they have been living there.
- The rejection of claims have also been arbitrary without proper research or background check.
- There has been a theory in prevalence since the passage of the Forest Rights Act that such legislations accelerate deforestation.
- However, empirical data, including research by Tata Institution of Social Sciences have shown that community participation boost conservation efforts. Research also shows that an exclusionary approach to conservation makes conservation efforts unsustainable
- Amendments to the colonial era Indian Forest Act is also drawing a lot of criticism.
- It empowers the forest officials to use firearms and cause injury to prevent any “violation”.

- It also makes statements made to any forest officer admissible as evidence in a court of law. This is a provision that is used only in extreme cases like terrorism. Its use in forest administration where forest officers already enjoy wide powers is problematic. There is a huge scope for misuse.
- The amendments also empower the officer to seize property in relation to any case.
- The forest department will also have the right to impose a cess on forest produce, which is over and above the tax imposed by state governments. This is in contravention to FRA, which says that minor forest produce used by forest dwellers cannot be taxed.
- The Forest Rights Act had democratised the issue of Forest, land, ownership of forest produce, etc. and considerable devolution of powers to the gram sabhas had also taken place. Many provisions of these amendments might reverse this situation.
- There is also concern that inviting private parties to maintain forests might give them a perverse incentive to invest in timber cultivation which might adversely affect the fragile ecological balance of the forest area.