
Forest Rights Act-2006 and Status of Tribal People in Gujarat: Some Observations

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ABSTRACT

This paper explains the historical background of Forest Act during British rule and tribal people. It also presents the conditions of Tribal people after independence of India and some Forest Acts which are related to the Tribal people. This paper is particularly related to Gujarat. It shows us the status of Forest Rights Act-2006 in Gujarat. How the Forest Rights Act has been implemented in Gujarat. Some observations have been given in this paper.

Keywords: Forest Rights Act-2006, Tribal, Gujarat

India has a tribal population of 10.42 crores (2011 census), constituting 8.6 per cent of the total population and is the second largest in the world. There are 427 tribes in India; mostly they are concentrated in the hilly and forest regions. There are about 250 Scheduled Tribe Communities, speaking nearly 105 languages and 225 subsidiary languages.¹ The Scheduled Tribes in India have been specified in 25 states and Union Territories, as per provision contained in Article 342 of the Constitution of India. The Constitution provides a comprehensive framework, consisting various safeguards for protection of their interests. The provision contained in Articles 15(4), 16(4), 19(5), 46, 164, 244, 244(A), 275, 330, 332, 335, 338, 342 and Fifth and Sixth Schedule of the Constitution, provide the guidelines for their welfare as well as protection against exploitation. All tribes have their distinct racial, linguistic, cultural and ethnic identities. In spite of these diversities they possess some striking similarities in their socio-economic & political ways of life. A tribal community is generally characterized by a small isolated group, confined to an area, having a village headman or a leader maintaining their clan identity and kinship bonds.

As per the 2011 population census, the total population in the Gujarat state was 604.39 lakh of which the tribal population, accounting for 14.75% of the total population, was 89.17% lakh. The effective literacy rate was 62.5% in ST population, far lower than the effective literacy of 78% in

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the total population of the Gujarat state. There are 26 Scheduled Tribe groups in the state. The major tribal communities are (1) Bhils, Bhil, Garasia and Dholi Bhils (2) Dubla, Talava, Halpati (3) Dhodia (4) Rathwa (5) Naikada, Nayaka and (6) Gamit, Gamata etc. Tribal communities including Kathodi, padhar, kolgha and Kotwalia belong to the primitive Tribal groups.

In Gujarat, Scheduled Tribes mostly live in the area along the state's eastern border. The tribal region consists of 48 tribal talukas, 15 pockets and 4 clusters covered under the 14 Integrated Tribal Development projects. These areas are among the most backward in the state, characterized by hilly terrain, rocky soil, uncertain rainfall and presence of large tracts of forest land. Agricultural land, forests and minerals are the main resources in the tribal region. Unfortunately, the human resources are unskilled and undeveloped, leading to poor growth of the tribal belt. The task of developing the region is therefore a big challenge before the administration. For administration and implementation of the Tribal Sub Plan, the tribal is grouped under 14 Integrated. Tribal Development projects in 14 districts. (Refer Table-1 for further detail)

Sr. No	District	Project Headquarter	Talukas (48)
1	Banaskantha	Planpur	Danta, Amirgadh
2	Sabarkantha	Khedbrahma	Khedbrahma, Vijaynagar, Poshina
3	Panchmahals	Godhara	Ghoghamba
4	Dahod	Dahod	Dahod, Garbada, Jhalod, Fatepura, Limkheda, Deogarh-Baira, Dhanpur
5	Chhota Udepur	Chhota Udepur	Chhota Udepur, Naswadia, Kavati, Jetpur-Pavi
6	Narmada	Rajpipla	Dediapada, Sagbara, Nandod, Tilkwada
7	Bharuch	Bharuch	Valia, Jhagadia, Netrang
8	Surat	Mandvi	Mandvi, Mahuva, Bardoli, Mangrol, Umarpada
9	Tapi	Songadh	Songadh, Uchchhal, Vyara, Valod, Nizar
10	Navsari	Vansda	Vansda, Chiklhi
11	Valsad	Valsad	Dharampur, Umbergam, Pardi, Kaprada
12	The Dangs	Ahwa	Ahwa, Subir, Waghai
13	Aravalli	Modasa	Bhiloda, Megharaj, Modasa
14	Mahisagar	Lunawada	Santrampur, Kadana

Objectives of the Study

1. To know the Forest Act during British Rule and Tribal people.
2. To know about some Forest Acts after independence of India and Tribal people.
3. Scheduled Tribes and other Traditional Forest Dweller (Recognition of Right) Act 2006.
4. To Examine Forest Act 2006 in Gujarat.
5. Some observation about status of Forest Rights Act 2006 and tribal people in Gujarat.

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It used to be that the forest in ancient India, remained outside the orbit of state control and were within the domain of the forest dwellers (with omnipotent rights held by them) who were largely the tribal/indigenous people including the women living as marginalized and poorest people until the forest timber and other products became of commercial value after the advent of British in India.

1878- Indian Forest Act. State is sole proprietor of classified forest lands.

1890-Forest Department Resolution. Previous rights of access and use redefined as 'privileges' for specific tribes, castes, villages and organization.

1927-Indian Forest Act. Few substantive changes over the 1878 Act. It remains the legislative basis for state forest management today. The Indian government adopted the 1927 Act after it gained independence in 1947.

During the British period, an Indian Forest Act in 1878 was passed by declaring the state as a proprietor of forest in India. The 1890 Forest Department resolution defined rights of access and uses of forest lands and of forest resources which were of traditional Forest practices as 'privileges' for specific tribes which include Forest women, castes, villages and organizations. With what is called today as the forest management is ultimately based on the 1927 Indian Forest Act which by itself was an outcome of the 1878 Forest Act.

Forest Acts After Independence of India and Tribal People

1952- National Forest policy. Set out guidelines which were, for the host part, directed towards the supply of cheap timber and non-timber forest products for state-sponsored industrialization.

1976- Indian Forest Act. Added to the concurrent list of the Constitution of India, central government and states were given shared control over forest matters.

1980-Forest Conservation Act. The central government reasserted some of its control over forest based resources. The 1980 Act restricts the state government's power to de-reserve a forest, and it restricts the use of forest land for non-forestry proposes without the prior approval of the central government.

1988- The National Forest policy. Envisaged people's involvement in the development and protection of forests for the first time and never translated into law.

Commercial exploitation and degradation of India's forests increased dramatically over a period of time, including the period after independence, with an increased control of forests by the governance mechanism by replacing the local forest dwellers and more particularly of the forest women's rights. Indeed, a National Forest Policy guideline was formulated in the year 1952 in consonance with the increased requirement of the forest products for industrial and commercial development, as set out in the year 1952. Then the issue of conservation came and the result is that the 1980 act reasserted some of its control over forest-based resources by the government machinery. The Forest Conservation Act restricted the power of the state government over the use of forest land for non-forestry purposes without the prior approval of the central government

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and also prohibited unilateral decisions by the regional states on any implementation proposals. Then the people's involvement in the development and protection of forests were thought of, for the first time, through the National Forest Policy of 1988. It stipulated that the requirements of people living in and near the forests for fuel wood, fodder and small timber should be treated as the top priority and expected that the forest communities including women should be motivated to identify themselves with development and protection of forests from which they derive benefits. The agencies for forest management are expected to engage tribal population on the preservation and conservation of the forest and its products. It was expected that all these agencies in such endeavor will provide employment opportunities for the tribal people but with no legal teeth to do so. The JFM process started in 1990 with the declaration of resolution at the national level following the National Forest Policy of 1988. JFM is a collaborative forest management regime for sharing of products, responsibilities, control and decision-making authority over forest lands between forest department and local user group based on formal agreement. This process envisaged the involvement of the tribal in protection, management and development of forest in India. Till date all the 28 states have declared their JFM resolutions and consequently 1,200,000 JFM communities have been formed that brought 17 million hectare of forest area under JFM activities.

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

This act is commonly known as the Forest Rights Act 2006. This Act was introduced to repair historical damage caused to tribal masses by alienating them for land by both the state and other vested interests. This Act intends to extend ownership rights to tribes on the land which they are tilling since long with ownership right special features of this act are as follows:

1. Recognizes and vests the forest rights and occupation in forests lands in forest dwelling scheduled tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded.
2. Recognizes the responsibilities of the Forest Dwelling Scheduled Tribes (FDST) and other traditional forest dwellers for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security to them.
3. Recognizes the forest rights on ancestral lands and their habitat which were not adequately recognized during the colonial period as well as in independent India.
4. Addresses the long standing insecurity of general and access rights by FDST and other traditional forest dwellers including those who were proceed to relocate their dwelling due to state development interventions.

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The Forest Rights Act 2006 recognizes 13 rights of tribes and other forest dwellers. These are as follows:

1. It extends rights to hold or live in forest land under the individual or common occupation by forest or self-cultivate for a livelihood by a member or members of a forest dwelling people.
2. It extends community rights or nistar.
3. It extends rights of ownership/access to collect, use and dispose of minor forest produce.
4. It permits to hold other community rights or entitlement such as fishing or grazing.
5. It extends rights, including community rights, terms of habitat and habitation for primitive tribal groups and pre-agriculture communities.
6. It holds rights in or over disputed lands.
7. It provides right for conversion of Pattas or leases or grants issued by local authority.
8. It provides rights of settlement and conversion of all forest villages into revenue villages.
9. It legalizes rights to protect or conserve or manage community forest resources.
10. It accepts rights which are recognized under any state laws of any autonomous district council or rights of tribal people under any traditional or customary law of the concerned tribes of any state.
11. It facilitates right of access to biodiversity and customary right to intellectual property and traditional knowledge related to biodiversity and culture diversity.
12. It acknowledges any traditional rights which are not mentioned above.
13. It extends rights to IN SITU rehabilitation including alternative land in the cases where they have been illegally evicted or displaced from forest land prior to December 13, 2005.

To Examine Forest Rights Act 2006 in Gujarat

1. Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Rights) Act-2006 has come into force from 29-12-2006. Rules under this act came into force in Gujarat state from dated 1-1-2008.⁷
2. Tribal Development Department is the nodal agency for the implementation of this Act.
3. Considering the administrative convenience, Forest Rights Act has been implemented in 48 talukas of 14 Integrated Tribal Development project districts.
4. 5775 Gramsabhas have constituted 5775 Forest Rights Committees.
5. One State Level monitoring committee, 14 District Level Committees, 18 Sub Divisional Level Committees have also been constituted.
6. 1,82,869 cases for individual and 7182 community claim respectively were received by the Forest Rights Committees in the area of 48 talukas of 14 Scheduled districts of which as on 31-3-2014, 63,219 individual and 3688 community claim have been approved (see Table)

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Table 2 Status of individual claim and Land proved-F.R. Act-2006

Sr. No.	Name of District	Claims Received	Claims Approved	Approve3d Land (Hectare)	Approval and (Acre)
1	Banaskantha	9488	4708	2558.47	6319.42
2	Sabarkantha	19625	6046	3468.96	8568.33
3	Panchmahal	23666	3706	2263.38	5590.55
4	Dahod	20150	3225	2153.78	5319.84
5	Vadodara	17557	6517	4064.52	10039.52
6	Narmada	17783	7080	6274.30	15497.52
7	Bharuch	4076	2012	2097.89	5181.79
8	Surat	7747	4058	2817.51	6959.25
9	Tapi	1947	5097	5155.00	12732.85
10	Dang	7341	1461	928.80	2294.14
11	Navsari	9322	2468	1114.86	2753.70
12	Valsad	34167	16859	4109.00	10149.23
Total		182869	63219	37006.47	91405.98

(Sources: Annual Report-2013-14, Tribal Development Department, Government of Gujarat Page No.-12/200)

Table 3 Status of Community claims and Land approved Forest Rights Act-2006

Sr. No.	Name of District	Claim Received	Claim Approved	Approved Land (Hectare)	Approved Land (Acre)
1	Banaskantha	784	770	54591	134840
2	Sabarkantha	953	153	31423	77615
3	Panchmahal	639	126	24021	59332
4	Dahod	651	89	6354	15694
5	Vadodara	377	168	16055	39656
6	Narmada	273	1269	43764	108097
7	Bharuch	141	94	5614	13867
8	Surat	1275	833	19291	47649
9	Tapi	506	506	50879	125671
10	Dang	626	406	16606	41017
11	Navsari	700	117	31110	76842
12	Valsad	257	257	25616	63273
Total		7182	3688	325324	63273803551

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SOME OBSERVATIONS

1. This act is supposed to confer land ownership titles on Adivasis and others. Name of both men and women are supposed to be on land (patta) distributed under this scheme. But if we see the achievement, the pictures are frustrating. In Gujarat till on 31-3-2014, altogether 1,90,051 claim were received from both individual (1,82,869) and community (7,182) but only 66907 (individual 63219 and community 3688) claims were cleared. (See above table)
2. It is also claimed that the patta (land) distributed are not accepted as negotiable instruments for receiving subsidies or accessing bank loan.
3. In pursuance of the state Tribal Advisory Council's suggestion to review the claims which were not approved, the state Government, vide G.R. dated 12-10-2011 decided to review those claims. The Hon. Gujarat High Court also directed the state Government to re-examine the claim which were not approved (August 2011) but on 31-3-2014, 63219 individual and 3688 community claims have been approved.
4. The states are directed to implement PESA [The provisions of the Panchayats (Extension to Scheduled Areas) Act 1996] and transfer resources and functions to Gram Sabha. Since its enactment in 1997, PESA has remained by and large a law on paper, As per PESA guideline, the power to transact business of MFPs (Minor Forest Product) was to be transferred to the Gram Panchayats so that the tribal could receive more than the collection charges. Since collection and marketing of NTFPs is largely the domain of tribal women and they are supposed to avail maximum benefit out of PESA Act, they could not avail the benefits primarily because the Act was not honestly implemented.
5. The Forest settlement villages' conversion into revenue village.

In Gujarat, As per the Scheduled Tribes & other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 Section-3(1)h recognize the rights relating to settlement of conversion on forest villages. There are 196 forest settlement villages in the state, out of this proposal of conversion into revenue villages have been submitted to the concerned District Collectors for 16 villages for Bharuch district, 12 villages of Tapi district and 19 villages of Surat district. Remaining proposal will be submitted after completion of survey. We can see the process is very slowly going on.

6. Under FRA-2006 survey of forest lands individual occupants.

As per the Scheduled Tribes & other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, the survey of forest land under recognized claim is started by the Forest Department with the help of Tribal Development Department. Survey of 21,435 ha. Forest land have been done by the N.K. Buildkon Ltd. Remaining survey will be carried out by the different agencies, approved by the State Level Monitoring Committees.

7. Under FRA-2006 Section 3(2) diversion of forest land provision of development facilities.

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As per the Scheduled Tribes & other Traditional Forest Dwellers (Recognition of Provision of Section 3(2) of the Forest Rights) Act, 2006, proposal of diversion of forest land, covering 289 ha. Forest land has been sanctioned for different infrastructure facilities end of the year 2013-14.

8. Participatory/Joint Forest Management Policy has been taken by Gujarat Government in 1991 which is being implemented by formation of village level committees, which in turn protect and conserve the forest and the JFMC members enjoy the products of collection of MFP, fodder, fuel wood and thinning material. Presently 3392 JFM Committees have been constituted and 4.58 lakh Ha. Of forest area is under joint Forest Management in Gujarat but Tribal people have not given any right in this matter. It is clear that Forest Rights Act 2006 is far away for tribal people.
9. Initially only Timrn leaves, Mahuda flower and seeds were traded. Now, it trades in about 80 Minor Forest Products (MFPs). The procurement price are increased progressively in accordance with prevailing market rates and demand and supply position of MFPs collection and sale of MFPs by the tribal generates employment, particularly during summers, when other income opportunities do not exist. The Gujarat State Forest Development Corporation pays Rs. 1200 to Rs. 2000 as procurement expenses annually to them. The tribal are also imparted training to improve the quality of MFP collected as well as about value addition through grading, standardizing etc.

In the wake of PESA and the amendment to the Gujarat Panchayat Act in 1998, the ownership of MFPs was transferred and now vests with Gram Panchayat in scheduled areas. But the state Government has entrusted responsibility of this on their behalf to this corporation on “No Profit no loss” basis since 2003. The corporation transfers about Rs. 300 lakh to District Panchayat annually.

CONCLUSION

The overall scenario and condition of Forest Rights Act in Gujarat are just pathetic. The effects of Forest Rights Act have not made any significant impact in improving the condition of the tribal. There is all-round degradation of natural resources in the tribal regions. According to one observation tribal people face problems at the level of collection, processing, storage and marketing of MFPs. Reasons are both macro and micro. Unemployment, poverty, macro-economic policy and forest-management strategy which is capitalistic in nature are the macro factors and lack of awareness, alternative source of income, infrastructure and support from state and civil societies are the micro level problems. These two sets of problems create conditions against the interest of tribal people. Systematic awareness building and training is needed for enhancing tribal people’s capacity to take up their new responsibilities as decision makers under Panchayat Raj and Forest Rights Act 2006.

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Conflict of Interests

The author declared no conflict of interests.

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