

# BEFORE EVICTION: ON SC VERDICT ON FOREST-DWELLERS

Relevant for: Developmental Issues | Topic: Rights & Welfare of STs, SCs, and OBCs - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

The Supreme Court's order to evict, over the next five months, occupants of forest lands who failed to make a successful claim for tenure under the Forest Rights Act, 2006, has once again highlighted the dilemma of reconciling inalienable tribal rights with biodiversity conservation. When the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act was passed, it was with the wholly welfarist goal of making these communities partners in conservation. They would be stewards of forests that have shrunk and become fragmented over the decades. It was another landmark, therefore, when the Forest Rights Act protected possession and conferred heritability of land to over 23 lakh out of 44 lakh claimants who are either specified Scheduled Tribes, or people who have lived in forests traditionally, relying on forest produce for at least 75 years prior to the cut-off year of 2005. But over 20 lakh other applicants who could not establish their claim through gram sabhas and appellate authorities have now been ordered to be evicted by July 12. The 17 State governments which have been asked to carry out the evictions must respond by quickly determining whether there were procedural lapses that deprived applicants of due process, notably in making appeals. This process may take time, more so in an election year, and the sheer scale of action required would necessitate an extension of the eviction date.

In the ideal scheme, as the Forest Rights Act envisages, forested areas and their biodiversity will be protected by communities, with individuals taking forest produce only for sustenance and livelihood. Such an approach is at odds with the colonial paradigm of forests being treated as a resource run by an opaque bureaucracy that replaced precious old-growth trees with monocultures such as teak. Today, forests have shrunk to about 5% of the land in terms of protected areas, while human pressures are growing: landscapes are alienated for resource exploitation, road and dam building, and a lot of wildlife is lost to poaching. Man-animal conflict is growing. Claims for tenure under the Forest Rights Act must therefore satisfy the primary test of whether they are legally unimpeachable, and even if they are, whether they would impose additional pressures on forests and wildlife. The answer in many areas may lie in resettlement. In some well-documented cases, such as in the Western Ghats, alternative land and cash compensation convinced tribals to move out of core areas. One example is that of the Nagarhole National Park, where the outcome has been good for both people and wildlife, as evidenced by the recovery of tiger density over three decades. State governments need to pursue such programmes in a humane and vigorous fashion. They must also come forward to declare critical wildlife habitats under the Act. This will aid in formulating resettlement schemes for tribal residents.

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The Meghalaya government must urgently ensure that all illegal mines are shut down

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