

The politics of implementing Forest Rights Act in Sundarban, West Bengal: A Critical Analysis

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Abstract

A decade after the Forest Rights Act (FRA) 2006 has been passed in the parliament; the present study recapitulates the growing distortions and bottlenecks which have become endemic within the implementation of the Act. Based on an ethnographic study in Sundarban, West Bengal, our study addresses two crucial research questions which have not been asked before previously. What are the contextual debates centring the recognition of forest rights of the 'non-scheduled' forest dependent communities whose habitations fall outside the coverage of the fifth and sixth scheduled areas as well as FRA itself? To what extent does the FRA address all kinds of spatial-temporal (place based) resource distribution conflicts and regional political mobilizations facilitating or impeding forest rights? In spite of the growing contestations and political struggles within a range of actors, FRA has not yet been implemented in Indian Sundarban, a biosphere reserve which houses a majority of forest dependent people in the lower island villages bordering the forests. The law has a sporadic implementation in all the districts of West Bengal (WB) itself. Different examples of grassroot mobilizations in Sundarban have continually pushed towards the enactment in the face of considerable opposition from the Forest Department (FD). Recognizing the fact that diverse regional contexts have different institutional arrangements for managing forest rights, our paper attempts to investigate critically the ownership arrangement of resources and the scope and flexibility of alternative legal discourses like FRA. By exploring the two earlier research questions throughout the study, we would provide a critical analysis of not only the several definitional contradictions within the Act itself, but also a range of local political strategies and dominant power relations which influences the implementation of the Act at specific regional contexts. Through the fieldwork experiences, we argue that the corpus of implementation of a codified and institutionalized legal record like FRA is not only warranted by the state but deeply implicated within regional political interests in determining forest rights, control of MFPs and usage of forests deemed as 'protected areas' (PAs).

Keywords: politics, FRA, scheduled areas, PESA, forest rights, PAs, state, conflicts.

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1. Introduction

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, also known as the Forest Rights Act 2006 (hereafter FRA), has been an iconic forest law in India, which among a range of autocratic and top-down environmental regulations, provided for the first time, a recognition of the long drawn narratives of historical injustice towards the forest dependent communities. The preamble of the law turns attention towards the concerted grass root mobilizations and nationwide struggles of the forest dependent communities, in making space for their traditional forest rights and forest dependent livelihoods, within the global political network of legal hierarchy and authority. The law also accomplishes the task of building an area of community based forest management and an egalitarian space within a plethora of authoritarian environmental governance and legal instruments, driven by decades of resources extraction, exclusion and centralization (Gadgil and Guha 1992; Asher and Agarwal 2007; Sahu 2008; Dash and Kothari 2013; Sen and Pattanaik 2015; 2016). In spite of recognizing the need for the creation of inviolate areas for the protection of wildlife, FRA treated relocation of the people from the declared inviolate areas as the last option, and even if relocation is indispensable, 'settle of rights' was necessary before such relocation could happen (Shahabuddin and Bamidipati 2014: 124). Twenty three percent of the country's geographical area has been designated as forests, upon which an estimated 200 million people depend for their livelihoods to varying degrees (Sarin and Baginski 2010:6). According to World Bank estimates, the area of forests in India has now increased from 639390 km² in 1990 to 706820 km² in 2015. In recent years, as the levels of exclusion and dispossession increased to withdraw access from forest resources, local resistance and mobilization intensified in different parts of the country (Kumar 2012: 755). The majority of people categorized as forest dwellers in India are scheduled tribes (STs), dalits and other poor communities like SCs, vulnerable migrants and ecological refugees, who are occupationally subsistence cultivators, fishermen and forest product gatherers, dependent on land and forest resources for their livelihoods (ibid 754). The period aftermath the economic liberalization of the 1990s witnessed a rapid but unstructured neoliberal agenda charged by idioms of economic expansion and infrastructural developments which led to creation of a fortress *people free* conservationist paradigm on the one hand but also simultaneously promulgated several forest degrading developmental projects like mining and large dams on the other, under the banner of 'economic development', compromising environmental concerns. Such a version of 'grand' economic liberalization whose benefits have been distributed quite unequally, created a section of

impecunious 'project-affected' communities, a majority of whom are heavily dependent on forest resources for survival. The political marginalization which ensued from the inequitable benefits of economic liberalization led to large scale contentious environmental movements across states, significant among which were those of the forest workers and civil society groups for the enactment of FRA. The UPA government came to power in 2004 and brought with its advent, a mandate to address the bonafide livelihood rights to the forests through the formation of the National Advisory Council (NAC). FRA was finally passed in the Indian Parliament in 2006 (ibid) after a series of concerted struggles. It guarantees a range of individual and community rights for the forest dependent communities, including rights of forest based habitations, collection of Minor Forest Produce (MFPs), community rights like *nistar*, conversion of land lease into legal titles (*patta*), conversion of forest villages into revenue villages, rights to protect biodiversity, adjoining catchments and water bodies and traditional rights of access to forest resources. It also guarantees involvement and consent of forest dependent communities in cases of their resettlement from national parks and wildlife sanctuaries which houses important wildlife areas like 'critical wildlife habitats' and 'tiger reserves' (Dash and Kothari 2013). Recognition of individual and community rights is vested locally under this Act with the village assembly (*gram sabha*), through the formulation of the Forest Rights Committee (FRC), which should consist of ten to fifteen persons from the gram sabha for verifying the claims and forwarding them to the district committee. The FRA status report states that till 30th June 2016, 4182643 claims (4072161 individual and 110482 community claims) have been filed and 1679920 titles (1635469 individual and 44541 community claims) have been distributed (40% approx). A total 3689027 claims (88.2%) has been disposed off.¹ Experiences of successful rights based struggles have been recorded from several regions in India like Mendha Lekha in Maharashtra, Shoolpaneswar Sanctuary in Gujarat and Niyamgiri in Orissa, Bilgiri Rangaswamy Temple Wildlife Sanctuary in Karnataka (Sarin and Baginski 2010; Dash and Kothari 2013).

Since its inception, the seemingly discretionary and pro poor context of the law was much more questionable than one might expect, because whether the law will provide a flexible and democratic approach in recognizing forest rights was an ambiguous area (Sarin and Baginski 2010). Although FRA provides a significant shift from the centralized and bureaucratic forest governance policies towards an alternative decentralized management and democracy, there has been increasing observations from across the states, regarding non implementation/haphazard implementation in several places, implementation deficits,

¹ <http://www.tribal.nic.in/WriteReadData/CMS/Documents/2016081602304097703511compressed.pdf>.

lack of informed consent before resettlement and delayed onset of several of its major provisions and ambiguity regarding the transfer of powers to local bodies (Sarin, Singh, Sundar and Bhogal 2003; Bhullar 2008; Kumar, Singh and Kerr 2015). The growing body of literature on the impacts of devolution policies show that such programmes have largely failed to usher in meaningful democratization of forests, leading to problems like local elite consolidation, unequal representation of intended population, enticements and alignment with local ruling parties and misallocation of resources (Kumar, Singh and Kerr 2015:2). In the context of FRA, the processing of claims have been one of the major problems presently, since the recognition of community forest rights claim have been abysmally low compared to the individual rights claim. By focusing more on individual land rights by restoring forests and customary territories to local communities, and by ignoring community claims, implementation deficits of FRA has aided the political objective of the present development discourse guided by the neo liberal economic agenda (Das and Kothari 2013: 167). One of the central causes to this agenda is the accumulation of capital by the state, in the name of forest revenue, to which the FRA had provided a major blow. An article published by *Down to Earth* in 2010, noted that the main reason for which MFPs are denied by the FD to the forest dependent communities, is that it is a major source of revenue for the department (Mahapatra, Shrivastava, Narayanan and Pallavi 2010). The article notes that Andhra Pradesh earns Rs 82 crore from MFPs while its earning from timber is Rs 43 crore. In Chattisgarh, MFP accounts for 60 per cent of the forest revenue. Tendu leaves, used widely to wrap cigarettes were monopolized by the states of Madhya Pradesh in 1964 followed by Maharashtra (1969), Andhra Pradesh (1971), Bihar (1973), Gujarat (1979) and Orissa (1981) (Prasad 1999). There have been several works which indicate denial of those collective forest rights which are not linked to logging or extractive activities, but to organize communities for local forest protection efforts for harvesting and marketing MFP (Lele 2009; Kashwan 2013). The FD in many states views the FRA as a one-sided legislation that was the result of a hurried political action programme by the contemporary ruling power and also as a law which would compromise the environment (Bandi 2016). Non-scheduled forest dwellers, including several forest dwelling communities like SCs, dalits, migrants and a section of tribals are not represented adequately within the ambit of implementation since the state governments require proof of three generation (75) years occupation of land, whereas FRA simply requires proof of residence for this period (Dash and Kothari 2013: 167). According to Sarin (2010:23), such arguments overlooked the fact that the scheduling process has been uneven and arbitrary, with some communities recognised as STs in one state or district and not in the neighbouring ones, leaving many tribal communities out of the

scheduling process altogether. The strategic action of the FD in many states to convert Joint Forest Management Committees (JFMCs) to FRCs, also denies the provisions of the FRA, as well as makes evident the intentions of the Department to retain forest rights within the prescribed areas of the forests controlled by the state. The JFMCs (which in the name of collaborative management, operates primarily under the FD) if transferred to FRCs, would bring the management of MFPs like bamboo and tendu leaves under the JFMCs, a stark contravention of the provisions of FRA, which delineates the management of MFPs through their own FRCs (Shrivastava 2014).² Often the conversion of JFMCs into FRCs is constituted on the grounds that the area demarcated for the community rights falls under the area of the forest managed by JFM. The Act as Kashwan (2013, 616) has pointed out, has placed the instrumentality of forest rights within the political economic context, characterised by the conditions of widespread regional asymmetries. Apart from inherent injustices built into it, the implementation is also infested with what we term as the 'politics of purpose', whereby the notion of the communities, whose rights are to be protected under the Act, urges one to rethink about the forest dependent community less as a homogenous unit and more as a temporary unit of situation, intent or purpose (Lynch 1991; Li 1996; Leach, Mearnes and Scoones 1999; Jeffrey and Sundar 1999; Mukhopadhyay 2016). The administrative politics of implementation of the Act in several states has been pointed out by a host of literatures which have looked into the structural inequalities at the local level, facilitating or denying the implementation uniformly through the formation of a 'political community', the term coined by Chatterjee (1998).

Based on an ethnographic study in Sundarban, West Bengal (WB), our study addresses two such crucial research questions which have not been asked before previously. What are the contextual debates centring the recognition of forest rights of the 'non-scheduled' forest dependent communities whose habitations fall outside the coverage of the fifth and sixth scheduled areas as well as FRA itself? To what extent does the FRA address all kinds of spatial-temporal (place based) resource distribution conflicts and regional political mobilizations facilitating or impeding forest rights? The FRA has a sporadic implementation in all the districts of West Bengal (WB) itself. In spite of being excluded from the ambit of the 'scheduled areas' and experiencing major implementation deficits of FRA in almost all its districts, there has been very few published cases which evaluate the reasons of such erratic implementation of the Act. FRA has not yet been implemented in the two district of North and

² According to Kashwan (2013), bamboo under the Indian forest laws is considered as a tree, whereas botanically bamboo is classified as a grass species and thus as a MFP.

South 24 Parganas within which lies the Sundarban Biosphere Reserve (SBR) that houses a majority of forest dependent people in the inhabited islands, especially in the lower island villages bordering the forests fringes. These people are integrally dependent on the forest resources for livelihood, the most common forest based activities being forest fishing (fishing in the narrowest river creeks and estuaries surrounded by forest areas), prawn seed collection, crab fishing, honey and wax collection. Different examples of grassroots mobilizations in Sundarban have continually pushed towards the enactment in the face of considerable opposition from the FD. Recognizing the fact that diverse regional contexts have different institutional arrangements for managing forest rights, our paper attempts to investigate critically the ownership arrangement of resources and the scope and flexibility of alternative legal discourses like FRA. By exploring the two earlier research questions throughout the study, we would provide a critical analysis of not only the several definitional contradictions within the Act itself, but also a range of local political strategies and dominant power relations which influences the implementation of the Act at specific regional contexts to meet vested interests. Through the general experiences of implementation in WB as well as our fieldwork experiences, we argue that the corpus of implementation of a codified and institutionalized legal record like FRA is not only warranted by the state but is deeply implicated within regional political interests in determining forest rights, control of MFPs and usage of forests deemed as PAs.

2. Forest Rights Act in West Bengal: current status of implementation

In a letter (D.O. no 23011/26/2012- FRA (pt)) dated 28th February 2013 to the chief minister of WB Ms Mamata Banerjee, the Ministry of Tribal Affairs and Panchayati Raj stated that till 2013, the Act has been implemented in only four districts of the state and the total number of claims received was 1, 37,278 against which only 29532 (29424 individual and 108 community) titles have been distributed. According to the letter, the Action Plan presented by WB in this regard lacked on four critical issues. These were, plan for the listing of hamlets sharing common boundaries with forests and the estimate of the amount of work at hand, the steps proposed for taking forward the process of recognition of community claims with emphasis on CFRs, strategy for formation of FRCs and the initiatives for framing conservation and management plans for community forest resources and plans for post claim support and hand holding to holders of forest rights. In addition to these lacunas, the letter also pointed out the inaccuracy of WB government to form FRCs at the level of *gram sansad* (instead of gram sabha), which are electoral constituencies of gram panchayats (GPs) in WB. FRCs at gram sansad level contravenes the provisions of FRA, since the Act mandates the

formation of FRCs at the level of gram sabha convened by the GP. The letter brings into cognizance the order no 122/PN/O/I/1A-2/07 dated 17.03.2008 of the Govt of WB which states that FRCs should act as functional committees under *Gram Unnayan Samiti*³ (GUS) and it also mentions that the chairperson and the secretary of the GUS would act as the chairperson and secretary of the FRC. However the FRA mentions clearly that FRCs should be constituted by the gram sabha and it is not binding upon the FRC to have a chairperson and secretary of the GUS as the chairperson and secretary of the FRC. The letter requested the government of WB to amend the order and constitute the FRC and gram sabha at the appropriate level as mandated by the Act. According to a reputed periodical from WB named *Sanhati*, replacing gram sabha with the gram sansad deprives the residents of forest villages and other habitations, settlements and un-surveyed villages of North Bengal from their rights of having their own village assemblies and thus conducting the rights settlement process in a way suitable to their own hamlet-level situation, making the actual implementation process hasty. *Sanhati* further noted that '11 remote and spatially separated forest villages in the Buxa Hills of the Alipurduar Sub-Division, Jalpiguri District, now needs to function and operate through a single FRC, which has been hastily formed in the Area on 25.03.2008'. They question the efficacy of a single FRC to conduct the recording and verification process of claims from several villages, particularly in relation to demarcation of CFR, and other rights to forest produces.

In the year 2016 also, the status of implementation of the Act in WB continued to be abysmally low. The coverage of the Act although extended to eleven districts now (Purulia, Bankura, Paschim Medinipur, Jalpaiguri, Burdwan, Cooch Behar, Hooghly, Birbhum, Darjeeling, Murshidabad and Nadia) from the initial four, the extent of implementation has remained merely paperwork and only a start up exercise with very little advances made after initiating the process of implementation. The present status report shows that till 30.04.2016, the number of claims received was 142081 (131962 individual and 10119 community) and the number of titles distributed was 43934 (43187 individual and 737 community). The extent of forest lands for which titles have been distributed were 20342.47 acres (for individual solely, no community forest lands) which is one of the lowest, followed by Himachal Pradesh

³ According to the West Bengal Panchayati Raj Act 1973, the gram unnayan samiti is a committee over the gram sansads for ensuring active participation of people in implementation, maintenance and equitable distribution of benefits. It should be accountable to the gram sansad for its functions and decisions. The gram unnayan samiti is constituted with the member of members of the GP elected from the gram sansad, the person/persons having the second highest vote in the preceding panchayat election and one member from a non government organization either registered or recognized by the state government and other community based organizations, one member of the self help group, one serving or retired government employee, one serving or retired teacher from the area and another ten members or one percent of the total members of the gram sansad, whichever higher.

and Bihar. 2819 FRCs have been constituted and 96395 claims have been rejected. 30.92% titles were distributed over the total number of claims received, which is again one of the lowest compared to the other states. The status of implementation of Act in WB was however a contested reality since the beginning. The North and South 24 Parganas district covering the Sundarban Tiger Reserve (STR) has been left out of implementation. A report from Kalpavriksh and Vasundhara (2015) states that 94 forest villages in the Duars region of North Bengal including parts of Alipurduar and Coochbehar districts have been identified for conversion to revenue villages after a long struggle to establish community forest rights (CFRs). Jha (2010: 24) points out that the order issued by the Backward Class Welfare Department (BCWD), government of WB in March 2008 revealed certain inconsistencies in the implementation of the Act and the formation of committees. These are the replacement of the gram sabha by the gram sansad (since the village unit of the Panchayati Raj Institution (PRI) in WB is known as gram sansad), FRCs to be formed by the gram sansad where representatives from the local forest and land revenue department should be present, FRC as a functional committee under the GUS, appointment of the chairperson and secretary of GUS as the chairperson and secretary of the FRC and the rural development officer and district panchayat officer as permanent invitees of FRCs (ibid). Such compositions of bureaucratic interfaces within the FRCs grossly violate the Rules 2007 which states that the FRCs should be free from the purview of bureaucratic control. The Act clearly mentions that FRCs would be constituted in the gram sabha meeting held at the GP. The WB government order of 2008 gives no primacy for forest villages; instead it replaces the term forest village with the stipulated definition of 'village' in the panchayat Act, as per the defining of the revenue village. This would grossly exclude the tribal and non tribal forest dwellers residing within the remote forest areas. Another contradiction in the provisions of the Act in the context of WB is the non inclusion of Other Traditional Forest Dwellers (OTFDs) from the benefits of the Act. Most of the provisions of the Act cover districts with a preponderance of STs. The districts of North and South 24 Parganas, which homes several non tribal forest dependent communities, fall out of the coverage of FRA. Tribal rights to land and livelihood have been addressed formerly by the Panchayat (Extension to the Scheduled Areas) Act (PESA), 1996. PESA was enacted on 24th December 1996, which gives substantive power to the tribals with regard to natural resource management and self governance. Since the scheduled areas⁴ were previously excluded from the ambit of the 73rd Amendment, PESA

⁴ Nine districts presently form the fifth scheduled areas of India. They are Chhattisgarh, Rajasthan, Orissa, Maharashtra, Madhya Pradesh, Himachal Pradesh, Gujarat, Jharkhand and Andhra Pradesh. Selected district areas of these states constitute the scheduled areas of India. The sixth scheduled areas further include Assam, Meghalaya, Manipur and Mizoram.

was enacted by the parliament to extend the principles of local governance to the scheduled areas. PESA made it mandatory for all legislation in the scheduled areas to be in conformity with the customary law, social and religious customs and traditional management practices of the community.⁵ The Ministry of Rural Development is the nodal agency responsible for implementation of PESA. However, over 50% of STs are not covered under the scheduled areas and hence denied rights provided under Article 244 (Bijoy and Menon 2014:10). Also, PESA, in spite of advocating self governance and eminence of the gram sabha, does not take into consideration the issue of forest based habitations and bonafide livelihood needs of the communities apart from the STs. Ownership rights over MFPs have been refused by the FD of several states on the grounds that the rights vested by PESA did not extend to the PAs outside village boundaries since the jurisdiction of the gram sabha is related to those boundaries (Sarin and Baginski 2010:10).

According to the census 2011, WB has a ST population of 5296953 in 1160069 households. The no of rural ST households is 1065283 and the no of ST population is 4855115. The category of 40 STs in the state include Asur, Bedia, Baiga, Bhumij, Bhutia, Birhor, Birjia, Chakma, Chero, Chik Baraik, Garo, Gond, Gorait, Hajang, Ho, Karmali, Kharwar, Khond, Kisan, Kora, Korwa, Lepcha, Lodha, Lohara, Magh, Mahli, Mahali, Mal Pahariya, Mech, Mru, Munda, Nagesia, Oraon, Parhaiya, Rabha, Santhal, Sauria Pahariya, Sawar, Limbhu and Tamang. However, WB is not covered under the fifth and sixth scheduled areas, in spite of having a considerable number of tribal populations, making the implementation of PESA difficult in the region. Also, North and South 24 Parganas, two of its districts with significant forest cover and forest dependent communities, have been left out of the ambit of FRA. Although it is usually highlighted in certain scholarly works, the lack of recognizing the tribal areas of WB under the fifth and sixth scheduled areas is only mentioned in footnotes of such works. Thus FRA has been the single most comprehensive legal framework, which is hoped to address the issue of forest rights and legal landholdings of the forest dependent communities in the state. However, the implementation of FRA in WB has been plagued with varied problems like the notification of 2008, which replaced the Eco Development Committees (EDCs) in WB with JFMCs whereby the later has been assigned to protect the degraded forests, violating section V of the FRA, which empowers the gram sabha and the communities to control and manage their own forests with the FD only assisting the gram sabha in the process (Jha 2010:26).

⁵ *Frontline*, 3rd May 2013.

The Action Plan which presently represents the phases of implementation of FRA in the state includes firstly the formation of state level, district level and FRCs, secondly, arrangements for building awareness regarding the Act and its processes of implementation by holding camps at state level, divisional level, district level and sub-divisional level and thirdly, arrangement of training programmes for master trainers who would subsequently train the district level and sub divisional functionaries. In addition to that, the plan states setting up of coordinating machinery among different departments involved in the process of implementation and fixation of targets regarding invitation of claims, enquiry and awarding patta. However, certain provisions, like the setting up of coordinating machinery between the different divisions implementing the Act, is invalid, since observations from the fieldwork reveal that BCWD and FD of WB are at loggerheads regarding the implementation of the Act. Most of the forest dependent communities in Sundarban region are unaware about the existence of FRA. The plan itself says that the lowest level representatives of the FD, Land & Land Reforms Department, Panchayat & Rural Development Department and the Backward Classes Welfare Department (BCWD) were tagged with the FRCs, to held camps in order to facilitate filing of claims. Examples of such bureaucratic interfaces within the FRCs have not been mentioned anywhere in the Act. A citizen's report from Kalpavriksh and Vasundhara (2015: 3-4) states that a Block Level Task Force Committee exists in some areas of WB, to assist the SLDC, whereby the former is finalizing the village list where FRA would be implemented. This is done with active participation of the FD, whereby only permanent forest villages and those with tribal habitations are given pattas. The problems in implementing FRA in WB has been thus multifaceted, ranging from definitional and administrative contradictions like the non implementation in several districts, primacy of gram sansads over gram sabhas and thus the neglect of forest villages, constitution of FRC in accordance with the GUS and its chairperson, without the consent of the forest dependent people in the gram sabha, replacement of JFMCs with FRCs, exclusion from the coverage of PESA 1996, and neglect of community right claims over individual right claims. The Act and its components in WB has been severely diluted and contravened, reinforcing the hegemonic control of the state FD over the forested areas and its dependent communities.

3. Setting the field of study: the context of implementation in Sundarban Biosphere Reserve

Sundarban forms the southernmost part of the Gangetic delta encompassing an area of 25,500 km², of which 9,630 km² falls within India and 15,870 km² is in Bangladesh. This 9630 km² forms the SBR in India. Out of this 9630 km² in India, the forest cover is 4263 km²

covering the core and the buffer area that is completely uninhabited. The rest 5367 km² of the SBR is the transition zone and is divided into 19 Community Development Blocks over the districts of North and South 24 Parganas in WB, which is densely populated. STR, which was notified in the year 1973 under Project Tiger scheme of the government of India⁶, has an area of about 2584.89 km² out of which 1699.62 km² is being designated as a Core area or the Critical Tiger Habitat (CTH). Sundarban forests have a global prominence worldwide and efforts have been made to legalize the limits of the national park and the wildlife sanctuary since the British period. Presently, STR constitutes the Sajnekhali Wildlife Sanctuary (362.42km²) as per sub section (1) of section 18 of the Wildlife Protection Act (WLPA) 1972 (53 of 1972), Sundarban National Park (1330.12km²) as per clause (b) of section 21 of the WLPA 1972, a CTH (1699.62 km²), which includes the National Park as per sub section 4 of section 38 (V) of the WLPA 1972 and a buffer area, including the wildlife sanctuary (885.27 km²). It is only the buffer area of the STR excluding the wildlife sanctuary, which measures (2584.89-2062.04) =522.85 km², out of the 2584.89 km² where bonafide livelihood needs related forest occupations are permitted within STR. The state management efforts have maximized the area of the core zones in the recent years to save the dwindling tiger population, without any involvement of the local people. The WLPA, which has demarcated core area as the national park, wildlife sanctuary and the CTH have also consequently made them inviolate zones where human activities should be strictly prohibited. Thus the legal framework, before the advent of the FRA had been grossly 'anti people' ruling out the possibility of any kind of human interventions inside the forests, thus denying traditional livelihood rights. However, with the advent of FRA, security of bonafide livelihood needs from the forest and rights of entry within the national park and wildlife sanctuary without licence and permits were never guaranteed, since the Act is not yet implemented in the two districts covering SBR. After the implementation of the FRA in WB in 2008, the next eight years was a period of contestations and controversies regarding the issue of 'forest rights' as guaranteed by the Act to the forest dependent people.

Our study site, *Satjelia* is one of the islands which shares about 22 kilometres of its boundary with the STR and is considered as a forest fringe island. It is located at the south east of the *Gosaba* block, in the district of South 24 Parganas, WB. As lower islands (nearer to the sea)

⁶ The Project Tiger was implemented in the year 1973 under National Tiger Conservation Authority (NCTA), by the Ministry of Environment, Forests and Climate Change, to implement state level conservation emphasis on the preservation of tigers. Under this scheme, the Government of West Bengal on 18.12.2007, constituted Sundarban as a CTH, listing the area to be 1699.62 km² which was previously 1330.12 km². Under this notification, a large area of the STR, which was previously buffer, was also included within the core, increasing the area of the inviolate zone.

they are most vulnerable, subjected to constant erosion and rebuilding by the daily tidal action and changing course of the river, physically most distant from the city and hardest to travel. Consequently, it is also the island where the number of forest workers⁷ has been found in abundance.

Within Satjelia Island, there are two GPs, known as Satjelia GP and Lahiripur GP. There are three mouzas⁸ under Satjelia GP, known as Dayapur, Sudhansupur and Satjelia which houses eighteen individual village hamlets, divided into fifteen gram sansads. Under Lahiripur GP, there are four mouzas known as Hamilton Abad, Sadhupur, Lahiripur and Luxbagan which houses eleven individual village hamlets divided into ten gram sansads. The individual villages underlie these mouzas. The total no of households within Satjelia GP is 4352 and the population size is 18081. The total no of households within Lahiripur GP is 5531 and the total no of population is 21838 (Census of India, 2011). The village called Patharpara and Emilibari, where the study was conducted lies within Lahiripur GP and Satjelia GP respectively. Both of them shares close proximity with the forest. Recording conversations, focused group discussions and diary writing were the three integral tools of our research methods followed by individual narratives. Our interviewees included forest workers, NGOs, fishermen unions and the forest range officers at Sajnekhali Wildlife Sanctuary.

⁷ We have referred to the forest dependent people of Sundarban as ‘forest workers’, since the occupations in the realm of the forest are described by the locals as ‘doing the forest’ or *jongol kora* in local language. The primary occupations thus included in the realm of the forest are forest fishing, in the innumerable creeks and rivers of Sundarban, honey collection, wax collection, prawn seed collection, crab collection, Nypa Palm, shell and dry wood collection, all of which forms an integral part of the livelihood needs of the forest workers.

⁸ Mouzas are administrative units within a village which comprises of one or more settlements. There might be dispersed settlements within each mouza.

Gosaba block, South 24 Parganas district, West Bengal



4. The context of FRA in Sundarban: rights and relations of political power

According to a notification issued by the Ministry of Tribal Affairs on 9th June, 2008, two years after the passing of the FRA, a clarification was provided regarding the phrase in the legislation draft (section 2c and 2o), 'primarily reside in and who depend on the forest or forest lands for bonafide livelihood needs'. The reason for providing the clarification is that both these sections 2(c) and 2(o) refers only to those STs and other forest dwelling communities who were staying *inside* the forests and thus dependent on the forests for bonafide livelihood needs. The notification in consultation with the Ministry of Law and Justice clarified that the implication of using the word 'primarily' is to include the STs and other Traditional Forest Dwellers (OTFDs) who have either habitation, or patches of land for self-cultivation for livelihood, and would, therefore be primarily spending most of their time either

in temporary make shift structures or working on patches of land in such areas *irrespective of whether their dwelling houses are outside the forest or forest land*. Therefore, such STs and OTFDs who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs would be covered under the definition of “forest dwelling Scheduled Tribes” and “other traditional forest dwellers” as given in Sections 2(c) and 2(o) of the STs and OTFDs (Recognition of Forest Rights) Act, 2006.⁹ In accordance with that, the forest workers of Sundarban fall under the coverage of the FRA 2006. In Sundarban, dependence on forest in terms of fishing, honey collection and all other types of forest related occupations, are done through regular forest visits, since there are no forest villages¹⁰ and no village or human habitation is located inside the forests. All the villages are revenue villages. The notification hereby secures the grounds for the implementation of FRA in the Sundarban, since the forest is not inhabited but is used extensively for boanfide livelihood needs by the local people. However, in spite of securing rights of forest use for livelihood needs, FRA has not yet been implemented in SBR till now, which has led to widespread protests and agitations within the forest workers regularly. Apart from the administrative failures in implementation, I hereby point out three inherent contradictions within the Act itself which might make implementing FRA in the Sundarban problematic. The first contradiction concerns the acquisition of land title. According to this Act, the term ‘forest land’ does not include revenue land or land outside the forest. Therefore the revenue land under the occupation of the forest dwelling STs and OTFD communities is not to be taken into account for determining the limit of an area of 4 hectares of land as legal title for habitation or for self cultivation (patta) as referred to in section 4(6) of the Act. There is a contradiction in section 3 (1) (a) of the Act which states ‘the right to hold and live in the forest land under the individual or common occupation for habitation or for self cultivation for livelihood’ and Rule 2(1) (b) of the Recognition of Forest Rights Rules, 2008 which states ‘bonafide livelihood needs’ as fulfilment of sustenance needs of self and family.’ Considering this, the Ministry of Tribal Affairs, in a notification dated 29th January 2009, stated that if the forest dweller do not primarily reside on the forest land in their occupation and depend on the revenue land or the area of regularized encroachment of forest land for their bonafide livelihood needs, then they should not get the title to the forest land in occupation. Thus it means that by imposing limits

⁹ For details, see Compendium of Forest Acts, Rules and Orders (March 2011), Forest Department, Government of West Bengal.

¹⁰ A forest village is a settlement inside the forest established by the FD of any state government for forestry operations and includes forest settlement villages, fixed demand holdings, lands for cultivation and other uses permitted by the government.

on the title to be assured to the forest dependent communities, the government has strategically ruled out the possibility of the forest workers of the lower islands of Sundarban, who primarily depend on the forests for livelihood, to be the beneficiaries of the Act. This is because they are in possession of revenue land which is outside the forest area. The forest workers here depend upon the forest land for bonafide livelihood needs but they do not inhabit the forests following their occupational period. Although they inhabit revenue lands outside the forest, their occupation is dependent on the forest land itself almost every day. While interacting with the FD, officials were seen to cite the reason that since many forest workers also work as wage labourers to complement the meagre family income, and since they reside on revenue lands, they do not have complete dependence on forest for sustenance needs. Thus in spite of considering the forest working community as a group eligible for forest rights under the category of OTFD, FRA limits access of these communities to the titles based on the above notification, the effect of which is that the two districts of South 24 Parganas and North 24 Parganas remained out of the scope of functioning of the FRA.¹¹

A second problem regarding the implementation of FRA in the Sundarban lies with the constitution of the gram sabha in the revenue villages, which entails a definitional contradiction in the composition of the assemblies. The FRA has given immense power to the gram sabha in each village, which are supposed to be composed of all the adult voters belonging to a village. The gram sabha, under the Forest Rights Rules 2007, 'shall be convened by the GP of individual villages and in its first meeting it shall elect from amongst its members, a committee of maximum 15 persons as members of the FRC, wherein at least one third of such members shall be STs and not less than one third of such members shall be women'. However in Sundarban, a multiplicity of gram sansads has a single GP. Hereby, the provisions of PESA and FRA differs, whereby the former defines a village as a habitation or a group of habitations with an individual gram sabha at the village level, while the later defines the presence of gram sabha of an individual village at the GP level. In Sundarban, each GP houses multiple revenue villages under different gram sansads and thus convening a single gram sabha at the GP level would be a serious challenge, as it would include a vast range of people not necessarily dependent on forests. Each gram sansad houses one or two hamlets of its own within a mouza, composed of all the eligible voters in that particular village, who select the representatives of the panchayat through elections. Satjelia has 15 gram sansads while Lahiripur has 17 gram sansads. According to the West Bengal Panchayati Raj Act 1973, every gram (any mouza or part of mouza) shall have a gram sabha

¹¹ Ministry of Tribal Affairs letter no 23011/28/2008/SG-II dated 3.12.2008, addressed to the government of Gujarat.

consisting of persons registered in the electoral roll pertaining to the area of the gram. Accordingly, if the FRA is implemented, the FRC would be formed at the gram sansad level under the purview of the GUS contrary to its formation at the level of the gram sabha. The chairperson of the GUS is the GP member elected from the gram sansad. There is an inherent contradiction within the provisions laid down by the FRA. This Act was primarily designed keeping in mind the forest villages and not revenue villages. In the gram sansads and subsequently in the GUS of Sundarban, the people who practice occupations other than working in the forests in many cases outnumber those who are involved in forest fishing and other forest related activities. Thus in the village assembly constituency as well as in the gram sansad, there might be an influx of village elites who have no prior knowledge about forest rights, but represent the pinnacle of decision making in the FRCs. Since the idea of the FRA was framed keeping in mind all the people in a village as equally dependent on the forest, in the case of Sundarban, those members of the village assembly who are not associated with forest related occupations might often become unfair representatives of the FRC to be constituted by the gram sabha. Replacing the gram sabha with the gram sansad at the very first place violates the FRA. An elected member of the gram sansad (usually the elected panchayat member from the electoral constituency) will become the chairperson of the FRC by virtue of his/her position in the GUS, no matter whether he/she has any relationship with the forest or not (Jha 2010). FRA has not been designed keeping such spatial-temporal dimensions of the complexity of formation of individual villages.

The third contradiction which is also specific of Sundarban, lies regarding the definition of the community rights in the commons. In the case of forest associated occupations within the Sundarban forests, all rights to the forests should be community rights based on collective occupations like fishing, honey gathering, dry wood and shell collecting, where many villagers go together to obtain their livelihood from the forests. There are no individual rights since the forest resources and the locations are usually shared by the community, not by any single individual. The community rights entail forest workers entering common grounds of resource extraction where people from multiple villages extract resources. The implementation of the FRA in Sundarban therefore entails or presupposes a self management policy within these different groups of forest workers claiming resource rights on a regular basis from the commons. However the mechanism for this management to work out successfully is not provided under the clauses of the FRA. Under the FRA Amendment Rules 2012, section 4(1)(e), the gram sabha is entitled to form committees for the protection of wildlife forest and biodiversity which can carry out duties of the holders of forest rights in the form of ensuring protection of adjoining catchment areas and water resources, ensuring that the habitat of the

STs and other traditional forest dwellers is protected from any destructive practices and ensuring that the decisions of the gram sabha regarding access to community forest resources are complied with. These committees are required to prepare the conservation and management plans in consultation with the forest workers from different villages, and not only from the village concerned, to sustainably and equitably manage the community forest resources among the users. Whether the gram sabhas have implemented specific rules of self management for determining forest rights in Sundarban is not clear.

There have been active protests from the forest fishers, honey collectors, wood cutters, Nypa Palm cutters, shell collectors etc claiming immediate implementation of FRA in Sundarban. In a very recent public hearing on 31st January 2016 on the (non) implementation of the FRA 2006 in the Sundarban, organized by Sundarban Jana Sramajibi Manch (SJSJM) and All India Union of Forest Working People (AIUFWP) at Rangabelia island in Gosaba, several concerns of the forest workers were raised before a panel of experts. Issues ranged from total confiscation of the honey and wax collected, payment of licences and permits for entering forest area, exploitation and harassment by the forest guards in cases of entry without permit, absolute denial of community rights as enshrined in the Act, physical and verbal abuse by the forest guards regularly on entering the core areas and confiscation of fishing boat, fish catch and drinking water, neglect of the no of human deaths caused by tiger attack every year, bribery and corrupt officials inducing fines arbitrarily and transfer of BLC on the payment of enticement. While harassment and exploitation by the state officials on the forest workers is not new, what was striking about the panchayat in Satjelia was absolute ignorance about the existence of the FRA. The awareness about the existence of FRA which guarantees forest rights is absent even among many forest workers themselves, and is confined only to those forest workers who are subjected to collective mobilizations by fishermen unions and local grass root organizations like SJSJM and AIUFWP. Until the last year, honey was to be deposited with the FD office at Rs 115/kg, and marketing rights were not granted to the honey collectors. The honey was disposed off to West Bengal Forest Development Corporation Ltd and finally sold to companies like Dabur at a much higher rate than the amount granted to the collectors. The revenue so earned by the department in the year 2013-2014 was Rs 1571250.00 for 20950.00 kg (209.5 quintal) of honey collected, as reported by the STR website, which, according to the forest workers are highly deflated. According to our interview with Mr Pranabesh Sanyal, ex director of SBR, honey was sold to Dabur at Rs 550/kg, during his tenure a couple of years back, which has increased manifold now. In the year 2016, a total of 300 quintal (approximately 3000kg) honey was collected, and permitted

by the FD to be marketed without state intervention. However when approaching companies like Dabur, honey collectors are noting that prices/kg have declined abysmally, to around Rs 85- Rs 86. Also, different kinds of quality tests for the honey are demanded by the companies to purchase the collection. According to the forest workers, negotiations of the FD with companies like Dabur have induced this tactic of deflating market prices for independent marketing of MFPs, which would eventually compel the forest workers to concede with the prices offered by the FD.

Although FRA is yet to be implemented in Sundarban there can be some positive implications when it gets implemented in terms of assessing community rights over the forest resources. Some fervent exploitative practices by the FD which ignores the forest rights of the communities in the absence of FRA are mentioned hereby. According to most of the interviewed respondents, a majority of whom were forest workers, buffer areas have been abysmally reduced arbitrarily without any consultation with them, which strongly violates the Act. One month before the implementation of the FRA in WB on 1st January 2008, STR was declared as a CTH on 18th December, 2007, under notification no 6028-FOR as per sub section IV of section 38 V of the Wildlife Protection Act (WLPA), covering 1699.62 km². This was an extension in the core area from the previous 1330.12 km² to 1699.62 km², without any consultation with the forest dependent communities. The extension incorporated four new forested islands within the cluster of 'core' or 'inviolable' areas. These four blocks with their subsequent compartments include Chamta (1-3), Baghmara (1), Netidhopani (1-3) and Chandkhali (1-4), covering total 369.53 km², in addition to the previous 1330.12 km². This was possible mainly due to the absence of the law since FRA states under section 5, that 'in case of declaring or extending any wildlife conservation zone, the consent of the gram sabha is essential and the gram sabha has the authority to protect the wildlife, forest and biodiversity and ensure that adjoining catchment areas and other ecological resources are protected'. Added to this are instances of physical and verbal abuse on entering the core areas mistakenly whereby the forest guards do not even hesitate to seize the resources of the forest workers like the fish caught, drinking water, boat and even the licence. Implementation of the FRA might help to curb these forms of exploitation. Secondly the practice of paying enticements for entry into the core areas is rampant. The forest workers also notice guest houses and tourist spots inside the core areas for which extensive logging have been done for paving tourist roads, while these areas are not permitted for fishing. An example is the formation of camps for tourists at *Kalash Island*, *Chulkati* and *Bonie Camp*, all of which are in core areas. The watch tower proposed at *Chulkati* for a glimpse of the tiger is believed to be the highest in Sundarban. Although FRA has been viewed as an emancipation

from the long drawn historical injustice to the forest dwellers in terms of securing their tenurial and livelihood rights, several scholars have viewed the Act in terms of a law which is not an immutable category, but a political instrument used by multiple groups with their distinct political identities to stake their claims (Karthik and Menon 2016). For instance, the JFMCs can be manipulatively replaced by the FRCs in Sundarban, as is the case in many other districts of WB, to entertain claims only on lands approved by the FD. The question of decentralized governance and its applicability in Sundarban can be sought only with the proper implementation of the Act in the region.

In a very recent incident noted by the Telegraph (29th April, 2016), a day before the Assembly Election in WB, it was reported that the fishermen living in the six Assembly Constituencies of South 24 Parganas (*Gosaba, Sagar, Patharpratima, Kultali, Basanti* and *Raidighi*), have decided to vote for candidates who have promised to implement the FRA, without any preference for the political party. Apart from *Raidighi*, all the other 5 constituencies fall within SBR. Out of the 31 assembly constituencies in the district, *Gosaba, Basanti* and *Kultali* represent SC candidates. While all the three constituencies represented the rule of the Left Front government until 2011, *Gosaba* consolidated the support base of the TMC since 2011 securing 51.24% of the total votes, while *Basanti* and *Kultali* remained dominated by the Front (RSP and CPI-M respectively). One day before the Assembly elections in South 24 Parganas, Telegraph reports that the leader of SJSM, Mr Pabitra Mandal has announced, 'We demand the immediate implementation of the FRA in the Sundarban and will support only those candidates who have been supporting our cause in their campaigns in public. We expect most of them to win as we have a significant presence in these constituencies. Our members will support TMC candidates in Sagar, Patharparatima and Kultali and the Left-Congress jot candidates in Basanti, Gosaba and Raidighi. We took the decision after several meetings with the candidates from all parties. Though almost all of them expressed solidarity in private, we are only supporting those who have spoken in favour of our demands in public meetings.'

The political background through which issues of forest rights are sought is therefore complex in Sundarban. We can witness that the issue of conservation politics, which is often thought of as an authoritarian state opposed to the local communities is doubtful, and gives way to a situation whereby the local communities coalesce with the political parties which forms an integral part of the decentralized governance. The Assembly Election results declared on 19th May 2016 needs to be looked at in this regard. Gosaba, consolidated its support base in TMC, and won by 90716 votes while Basanti, taking over the rule of the RSP

for 34 years (1977-2011), also consolidated its support base in TMC through 90522 votes. Kultali retained the rule of CPIM and won by 73932 votes while Sagar and Patharapatima retained the rule of TMC through 112812 and 107595 votes respectively. Gosaba, our study site is presently ruled by TMC. The results indicate that the attempt by SJSM to mobilize forest workers in supporting Left Congress alliance in Basanti and Gosaba was unsuccessful, since TMC emerged as a ruling party here. Interaction with Mr Pabitra Mandal, (the president of SJSM) after the election results revealed that the attempts to mobilize support base for implementing FRA will be further extended to Panchayat Elections of 2018, since in Gosaba, TMC is believed to be less responsive to the issue of implementing FRA and the panchayats have retained closer ties with the FD in non implementation of the Act, observed through several instances when campaigns for mobilizing people's support bases were intentionally attempted to be jeopardized by the panchayat pradhans of certain villages. It is interesting to locate the influence of the political parties in the implementation process. Local NGOs like SJSM, which have been fighting issues of implementation deficits of FRA in Sundarban notes that although CPI-M, TMC as well as Congress supported the causes of implementation, neither of the political parties took any initiative in this regard. This is because of the fact that the level of influence which the political leaders can wield presently within the individual GPs as well as JFMCs would be endangered with the implementation of FRA. Gram sabhas would be much more vocal in the process of determining rights, rather than the GPs and other collaborative management organizations. This was the reason for which the panchayat elections of 2013 in WB revealed no campaigns for the implementation of FRA in Sundarban. Such instances reflect how local political interests coalesce with the state and the issues of decentralization at the local level are fraught with political interpretations, whereby institutions of self governance retain close ties with the dominant parties as well as with the state to work out policies to their personal ends, than to meet the greater objectives. These mobilizations are also examples of contentious politics based movements to negotiate with the complex dynamics of policy making.

The BCWD, WB is the nodal agency responsible for the implementation of FRA in WB. Under the FRA, the rights of the community towards fishing, honey collection, fuel wood collection and other forest related bonafide livelihood needs can be carried out without the consent of the FD, since the gram sabha and the FRCs are responsible for managing and recording the individual and community forest rights without the involvement of the state. The FRCs will regulate the allocation of MFPs which can be collected from the forests irrespective of core and buffer areas and no permit or charge can be collected by the FD for this purpose.

Unfortunately, due to the absence of the implementation, none of the conditions are being complied with in Sundarban. The political strategy which has resisted the implementation of the FRA in the villages studied has been enumerated in a diverse range of instances available from the fieldwork. They are as follows.

1. The intervention of the political parties and methods of resisting popular discourse: FRA has been a contested terrain in the villages that I studied. While many forest workers are unaware of the rights that the Act entails, the onus lies much on the different pressure groups and political parties who have used the arena of implementation of FRA with diverse political interests. Most of the local parties' representatives supported the cause when asked about the need of implementation, but none of them are too vocal about the implementation of the Act, especially during the period of panchayat elections. In Lahiripur, in the the village of Jahar Colony in 2013, a meeting for the implementation of FRA by the local people, mainly the forest workers, was forcefully stalled by the police, since it was at a time before the panchayat elections. While different terrains of public opinion emerged in the aftermath, most of the locals view the incident as a ploy by Lahiripur GP and cadres of the TMC party leaders who played pivotal role in sabotage of the demonstration. The underlying causes are varied. The political power that these parties wield in the process of local forest management schemes like that of JFM is a cause in vision which would replace their dominance with the authority of the independent gram sabha and the FRCs constituted by the forest workers mainly. Such politics of representation and popular dominance is deeply implicated in the local power struggles which discount the interests of the forest workers through the consolidation of state powers.
2. Lack of coordination within the diverse nodal agencies and denial of rights: One of the primary politics of non implementation of the Act lies in the lack of coordination between the FD and the BCWD, WB. Interactions with the forest workers and the NGOs reveal that both the Departments are at loggerheads with the issue of implementation of the Act. Considering the terrain of the lands, it is difficult for the people to communicate frequently between the two departments to reach an understanding regarding implementation. The FD also comes up with the standard excuse of excluding Sundarban from the ambit of the Act on the grounds that, 'here in Sundarban, people live outside the forests in revenue villages, not forest villages. Over and above they are migrants and thus have no rights to forest land'. FD seems oblivious of the notification of 2008 to include all forest dependent communities

irrespective of settlement locations within the scope of the law. The BCWD holds that the FD, the main agency responsible for managing the forests, should be the concerned agency for the implementation of the Act in Sundarban.

3. Appropriating the revenues and denying people's participation: The tiger reserve boasts of being 'encroachment free'. The global prominence as a Tiger Reserve since 1973, status of a National Park since 1984, status of an UNESCO World Heritage Site since 1997, declaration of the reserve as a CTH in 2007, have acquired global prominence for SBR along with large scale financial assistance from donor agencies worldwide. The annual revenue in the financial year 2013-2014 by STR was 47, 70,930/- along with 1, 40, 755, 70.00/- from Sundarban Tiger Conservation Foundation Trust (STCFT). The allocation for Project Tiger during the XII plan was Rs 1245 crore in the year 2013-2014. Total revenue earned from eco tourism in Sundarban was Rs 1, 40, 75, 570.00/- in the year 2013-2014. Constitution of FRCs and the implementation of FRA in Sundarban would mean that the funds allocated for conservation of this globally prominent zone should be channelized through the gram sabha since according to section 3 (1) (i) of FRA, 'the forest dependent communities should have the right to protect, regenerate, conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use', reiterated further in section 5 (a), (b), (c), (d). Tourism would also be controlled by the consent of the gram sabha. Apart from financial transactions, the control of the FD over the management issues would be further discounted by the fact that FRA would presuppose that no fees, tax, permit or bribe can be remitted in the case of collecting MFPs like honey and fishing. Although the permit is issued at a nominal fees of about 30/- to 45/- for a group of seven people, honey collectors have noted that acquiring a permit entails a payment of about 6000/- to 7000/-. The amendment Rules, FRA, 2012, section 2 (1) (d), states 'disposal of MFP under clause (c) of sub section (1) of section 3 shall include right to sell as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihood'. This means that if FRA is implemented, honey collected by the *mawaleys* should not be appropriated by the FD in any way, and the right to sell or process those lies with the collectors themselves. This would deprive the FD of the annual revenue earned from the collection of honey.

5. Conclusion

The study shows the controversies in implementing FRA in Sundarban across a multiplicity of spacio-temporal scales. Apart from administrative and definitional contradictions impeding the successful implementation of the Act in the region, what in the context of Sundarban marks a departure from the archetypical concerns about the failures of FRA elsewhere, is the vested political interests competing for electoral votes disregarding the process of implementation. The political struggle has now moved its base towards the state bureaucracy, from the delineated centralized governance which is responsible for implementing the law. The complex foray of power, law and rights is replete with examples of contradictions within certain regional levels where a range of locally powerful interests repress grass root mobilizations of right based struggles to serve multiple entrenched interests, replacing the previous neatly defined top down hierarchy of state versus community conflicts in recognizing forest rights. This argument denies the presence of the state in conservation as a 'free standing entity', as Sivaramakrishnan (2000) points out; evident from different localised political interests entrenched in conservation, aligning with the institutions of local governance like the panchayat. In Sundarban, competing interests groups constitutes the definition of communities, whereby power and dominance of influential elites mediates and impedes the politics of implementation of the FRA to their own ends, rendering little or no voice to the marginal forest workers in manoeuvring their claims. The qualification of the law is undeniable in recognizing for the first time, the presence of OTFDs along with the STs, as potent claim makers to the forest based livelihoods and forest resources for survival. Excluded from the ambit of customary self governance laws like PESA and FRA, the forest workers of Sundarban are unable to articulate successfully, the power asymmetries such as the continual confiscation of principle MFPs like honey, permits, licences and heavy fines for obtaining bonafide livelihood needs, equivocal representation in the gram sabha and the endless cycle of abuse and exploitation. The study also shows that the ownership arrangement of resources and the scope and flexibility of alternative legal discourses does not effectively address issues of legitimacy and rights in many cases, since most of the provisions of such alternative laws contradict each other. For example, the schedule 5 and schedule 6 areas as declared by PESA, confers eligibility of forest rights only to STs. It excludes a large no of tribes who falls outside the scheduling process altogether as well as other traditional forest dwellers, like those in Sundarban, which houses a section of non scheduled tribal population, along with other non tribal forest dependent communities like SC migrants from Bangladesh and the OBC migrants from Medinipore district. Although FRA

grants forest rights towards OTFDs along with the STs, there are subsequent problems like lower recognition of community rights, ambiguity regarding proof of habitation. FRA also violates the idea of traditional hamlets having individual gram sabhas, as given in PESA. It does not clarify how gram sabha will be convened, at the level of the GP or at the individual hamlets.

Although providing a critical departure from the state forest law in India, FRA has a long way to go at least in its sporadic implementation in WB and lack of understanding of the spatial-temporal dimensions. FRA also has to address the issue of blanket coverage of all complex kinds of forest rights, without concerns about their sustainability and mechanisms of collective management. In the absence of popular awareness about the Act at the village level, most of the communities are politically mobilized by different pressure groups which raise their vote banks in the name of implementation of the law. FRA must be understood more locally, keeping in mind the larger political economy within which it operates and critically examining the self governance or the decentralized governance which aims at resolving natural resource distribution conflicts. Alternative customary legal discourses are thus constrained by their limits to be implemented evenly across the state and the country. These limits are equally comprehended through administrative failures as well as political marginalization of the intended beneficiaries through the dynamics of local elite power and efforts to outwit each other. The implementation of such laws are therefore context-specific, and depends on place based political mobilizations and flexibility, rather than a blanket and universalized assumption of addressing historical injustices through a uniform application based approach.

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