

Forest Rights Act: Lessons from the Field

Ritambhara Hebbar
Centre for Study of Developing Societies
Tata Institute of Social Sciences
Mumbai

Introduction

Does the Forest Rights Act really redress historical injustice, and more importantly, what constitutes historical injustice in relation to forest dwellers? It is essential to return to these questions, as FRA brought in great hope for forest dwellers that it would respect their association with the forest. Even policy makers have celebrated it as a paradigm shift. To quote the Joint Secretary, Ashok Pai, Ministry of Tribal Affairs (Khanna. Ed. 2015: 1),

The FRA has brought a paradigm shift in the forest law which has existed for almost one and half centuries, bringing the people ‘who were “offenders”, into their rightful place as right holders. From “encroachers” who needed to be “evicted” the forest dwellers have been recognised as “integral to the very survival and sustainability of the forest ecosystem”. The chasm which separated forest dwelling communities from such rightful place has been recognised as the “historical injustice” which the FRA sets out to correct.

How can this gap that separates forest dwellers from their rightful place be filled? What is their rightful place? Is the paradigm shift supported by changes in the institutional processes and practices that dominate forest areas?

In a piece titled *Righting the Wrongs done to India’s Forest Dwellers*, Madhu Sarin writes (2008: 10),

A national ‘Campaign for Survival & Dignity’ was spearheaded by a loose federation of grassroots organizations against forest evictions, drawing in other grassroots and political bodies. Their campaign work culminated in the enactment of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. ...the new law has several radical provisions. It admits the historical injustice done to India’s tribal and other traditional forest dwelling communities due to their land and forest rights not being recognized during the consolidation of state forests.

Sarin’s argument has been that there are thousands of illegal occupants of forestland who are threatened of eviction on a regular basis by the forest departments and by

other private and commercial interests, and that they would now be able to, with legal occupancy of such land, stand up to such intimidation. It was according to her 'akin to recognition of their citizenship rights 60 years after independence' (2008: 9).

The Act was apparently an outcome of a campaign. Given that it was among the many that have been campaigning for the rights of forest dwellers, the question of how it managed to translate into policy despite an opposition to it within government circles is still unclear. Moreover, what is the model of governance that it introduced in place of the earlier one? A detailed reading of the background that led to the formulation of the Act reveals the lack of coordination, and tensions, within local bureaucracies in forest areas. Indecisive initiatives by the forest department, to first grant pattas to forest dwellers for the occupied land and then to initiate an eviction spree, all point towards not just the tension but also to the mayhem and collapse of governance in forest areas (Ibid). It exposes the long-standing friction in forest areas, and the social distance between the local governments and the forest dwellers. The Act in this sense only seems to add fuel to fire. The Act only restores the conflict between tribal forest dwellers, forest departments and private interests. How then does the Act address the historical injustice committed against forest dwellers? Where do we locate historical injustice towards forest dwellers? Is it only about denial of land rights, or is it about the model of governance in tribal areas? While the FRA recognises individual land rights and community rights on forests, it subjects forest dwellers to the same apparatus that has historically undermined their relationship with forests. Historical injustice for forest dwellers is located in this history of distrust between local bureaucracies and forest dwellers, in the way their relationship with forests has been disrespected and rendered insignificant in comparison to development and commercial activities that now dominate the landscape of most forests in the country. Not surprising then, this distrust is what serves as the most important inhibiting factor in the implementation of the Act. The question that remains, however, is whether the Act is able to resolve the historical antagonism and distrust rooted in the management of forests in the country? Does the Act address the question of historical injustice or merely compensates for the wrong committed towards them? These questions are relevant in order to gain a better perspective of the Act and to reduce our expectations from it to bring about radical transformation in the grassroots.

In an earlier paper on FRA, I had specifically discussed my apprehensions about the Act and its implications of the lives of tribal forest dwellers. My recent research on tribes of south India therefore focused on how the Act has been received by tribal communities, how they interpret the Act and their expectations of it. The paper would present excerpts from interviews with tribal activists and local forest dwellers to reflect on the situation of the ground, or the conditions within which the Act has been introduced in the lives of tribal forest dwellers. Drawing on my research in Jharkhand, Maharashtra, Karnataka, Telangana and Andhra Pradesh, I present cases to illustrate the political and cultural context that reveal specific limitations of the Act. Specifically, I refer to the ambiguities in the way the term community is interchangeably used in the context of the Act. Similarly, the term encroachers, which ironically is the very basis on which historical injustice is explained in the Act, continues to haunt the forest dwellers in their effort to claim forest rights through FRA. And finally, I discuss the model of governance in forest areas that continues to undermine the spirit of the Act and inhibit its implementation. Here, I focus on the environmental parlance and practices that reek of colonial intentions and illustrate the underbelly of governance in forest areas. Through this I also reveal the politics that undermines the Act and comes in the way of its effective implementation. Any discussion on the Act therefore has to acknowledge the political nature of the problem and the cultural sensibilities that are embedded in the ongoing struggle in forest areas over the control and management of forests.

Whither Community

This is not the first time that I am writing about FRA. I had written a piece way back in 2005 when the Act was yet to be passed. I had my apprehensions about the Act, in terms of its larger purpose and its implications on tribal forest dwellers. I worried about the repercussions of the Act on the ongoing conflict between forest departments and tribal communities across the country. Having lived and researched in south Jharkhand in the late 1990s and 2000, I witnessed the breakdown of communication between forest officials and tribal communities. Following the Jungle Kato Andolan in the late 1980s, the Forest Department had withdrawn its staff and officials from the Protected Forests and many parts of the Reserved Forests. Subsequently, local villages formed forest protection groups (Van Raksha Dals or VRDs) to manage protected and even reserved forests. The village, where I stayed for more than a year during my PhD

research, was surrounded by a protected forest. There was no forest official that I came across or met in the area during my entire stay in the village. There were instead three forest protection groups, constituted by the villagers through their own initiative, to manage the forest. There were tremendous differences of opinion on forest management, as well as personal politics across these three groups. The protected forests had certain plots of land that were officially recorded in the name of persons in the village, but in general it was a part of the commons for many of the landless within the village as well as for the distant villages who were dependent on the forest for their basic needs. The VRDs were in regular consultation with other distant villages on organising access and ensuring rejuvenation of the forest. How does FRA unfold in the context where the idea of community is dynamic and susceptible to realignments within and across villages? There is no clear definition of community in the FRA. While the Act, particularly after the Amendment brought in through the 2012 notification, adds the phrase ‘community rights’ and community forest resource’ in its lexicon, but it leaves the term community undefined. Not surprisingly, in Telangana and Andhra Pradesh, this has led to many Joint Forest Management committees (also known as Vana Samrakshana Samithies or VSS) claiming community rights, thereby directly challenging the gram sabha’s entitlement to the status of being a ‘community’. Dominated by the forest department, these committees represent competing interests and directly challenge the position of the Gram Sabha or the village assembly. I also came across instances where the Forest Rights Committee was formalised by the MRO (Mandal Revenue Officer) and the MPDO (Mandal Parishad Development Officer) without the knowledge and participation of the Gram Sabha. As illustrated here, the concept of community is not just a contested one, but also open to manipulation. There are multiple manifestations of community within a village, corresponding to different occasions, social responsibilities and political allegiances.

The romantic idyllic depiction of Gram Sabha or village assemblies in the context of FRA does not reflect the contemporary dynamics of community life, and the various constraints they face amidst the different contenders that stake claims on natural resources in forest areas.

Open village assemblies, instead of government officials, are to initiate the process of receiving and verifying the claims. Village assemblies are also empowered to protect local wildlife, forests and biodiversity and to ensure that the habitat of forest-

dwelling indigenous communities is “preserved from any form of destructive practices affecting their cultural and natural habitat” (Sarin 2008:10).

As part of my research in Nandurbar, a tribal dominated district in Maharashtra, I interacted with the tribal migrants from the Narmada valley who were in regular conflict with the local tribal communities over access and use of forest resources. Women and men walking over twenty kilometres in the early hours of the morning carrying piles of wood on their head was a common sight and therefore not unknown to the authorities. With the knowledge that forty percent of the forest in Nandurbar was degraded due to illegal mining and other development activities, the forest department had its own worries as it dealt with the problem of rapid depletion of forest cover. Clearly there was no dialogue across the conflicting interests in the forest. All these instances for me were illustrations of how the colonial model of forest management across tribal areas was losing its legitimacy. There was clearly a crisis of governance in the management of forests, given the inability to check indiscriminate (and involvement of its officials in many cases) illegal extraction of forest resources as well as to quell growing local demands on forest produce. So, when the Forest Rights Act first came up for discussion, I was perturbed. My concern was, as to how the Act would be received in a situation like this where there is a near total breakdown of communication between communities and the local bureaucracies, and also when there is an outright challenge that many forest areas have thrown up against the Indian state. Forest areas are also politically charged and highly sensitive, with large parts of it under the siege of insurgency. Forests are now, more than ever before, sites of competition between various interest groups such as environmentalists, tribal forest dwellers, miners, tourist industry and other commercial and private interests.

Encroachment and Citizenship

Siddi tribe, and the only tribe of African origin in India, are a tribe spread across Gujarat, Goa and Karnataka, along the west coast. They are a classic example against whom prejudices have compounded after the implementation of the FRA. On enquiring about FRA among them, they shared with me a long history of ‘encroachment’. Historically, Siddis were brought in as slaves to work on plantations and paddy fields, and were attached to the local upper caste landlords and plantation owners. As they settled into the region, they ‘encroached’ forest land for cultivation. Subsequently, they were granted patta for the land, but over time they lost it to

members of another caste who took over their land for cultivation and also tried to transfer it in their names during land reforms. Of late, the caste in question filed police complaints against the Siddis saying that the Siddis were trying to encroach the land they had purchased from them earlier. The police have been picking up Siddi men from their homes in the dead of the night on various charges and detain them for interrogation. Siddis have now filed an atrocity case against them, particularly after they were granted scheduled tribe status in 2003. FRA did provide them another context to claim rights over their holdings in the forest, but the Siddis are still unclear about FRA and its provisions. I visited the Social Welfare Department in Haliyal, Uttara Kannada but was promptly dismissed by the only officer who was available for any inquiry. The issue of not being granted rights on the total land claimed or even the stipulated 10 acres of land seemed secondary to the core concern that came up at all times in my discussion with them. It was about how they were snubbed by the welfare office, ridiculed by police officials, as well as by organisations wherein the latter patronised them and continue to decide the direction of their struggle. It was regarding the indignity and discrimination they faced as a people on a daily basis. In all this, FRA was yet another exercise that demonstrated their vulnerability and inability to set out on their own to demand their rights. FRA has not brought about a 'paradigm shift' in the lives of the Siddis, rather only reiterated their inability to navigate the existing hierarchies to get access to the basic provisions of the Act. Given that Siddis, like many other forest dwellers across the country, still struggle to convince authorities on the genuineness of their claim, how different is FRA from similar initiatives to grant pattas undertaken in the past? Also, the case of the Siddis forces us to re-examine the issue of 'encroachment'. *How does FRA challenge the concept of encroachment writ large in the history of forest management in relation to tribal forest dwellers?* The dictionary definition of 'encroach' is as follows: to take another's possessions or rights gradually or stealthily; or to advance beyond proper or former limits. An encroacher then is an intruder, trespasser, invader, persona non grata, an unacceptable and unwelcome person specially to a foreign government. If FRA acknowledges the historical wrong of not recognising the rights of forest dwellers on their forests, it ipso facto admits to the Indian state being an encroacher. What then does it mean to reverse the historical wrong? To begin with, it has to break the hierarchy built into the processes of ascertaining claims. Old vocabulary and processes

have to be abandoned in favour a more dialogic approach in the implementation of the Act.

What I describe here is not a one-off case but could well be extended to rest of the country. For instance, the instance of Jagatsinghpur, Odisha, where the locals took recourse to the FRA to stop the POSCO plant from coming up, is a case in point. Presented below is an excerpt of a personal interview with Dr. Urmila Pingle, Managing Trustee in the Centre for People's Forestry, who has also been a member of the Meena Gupta Committee constituted to examine the proposal submitted by POSCO India Pvt. Limited for establishing an Integrated Steel Plant and Captive Port in Jagatsinghpur District, Odisha.

*Forest Rights Act seems very weak. We had a lot of hope that we could do something, but after all the past incidents of POSCO, we are unsure of what is going to happen. I was on the committee set up by the MoEF on the POSCO case. We worked very hard gathering information, which was absolutely being stone walled by the Odisha government and MoEF. **They were not giving us files; we had to persist, keep writing in to them, and telephoning them.** And we were getting a lot of **information from the activists and the local people who were being affected – evidence of the fact that they had a very ancient relationship with the forests.***

In the Jagatsinghpur area, which is the proposed site for the POSCO plant, there are no tribes, only forest dwellers. But they have been living there for at least three generations now, and cultivating in the forests. The project has been cleared, the people are protesting. Gates have been built around the site. Even before the committee came into the picture, the clearance had already been given. Five years ago, the MOU was signed between the Odisha government and POSCO. Three years ago, they obtained all clearances, - forest, CRZ, environmental clearance. Now, you can ask why nothing came up for three years. It is because the local people don't want to part with their forest land, on which they have been cultivating for 75 years. They have all the documents which they have preserved from their grandfather's days. One thing about the local communities is that they understand that papers are very important. That is the only way they can fight it out, if even they get a chance.

Similarly, we got many old patta from the POSCO affected area. They came up with records that had George the Vth's stamp on it. And Odisha government has the cheek to say that all these records were faked. How can one fake such documents? These are old parchments which are hand written. We also got old revenue maps from 1920 of the villages showing clumps of forests. And the government is still saying that there are no forests, only wastelands. The Supreme Court states that any type of forest, whether village forest or otherwise, is a forest. We made a report of 150 pages and placed all evidence as annexures. This was simply thrown out. Added to our committee, the assignment was given to another internal statutory committee, the Forest Advisory Committee of the MoEF. After much dilly-dallying, they came to the same conclusions as us and corroborated our report. They stated that the plant was in violation of Forest Rights and therefore the consent must be revoked. For any transference of use of forest land for non-forest activity, you need the consent from the Gram Sabha. They have not even been consulted. This is not a 5th schedule area, which is one of the reasons that Jairam Ramesh has taken the matter very lightly. Niyamgiri area falls under 5th schedule and he kept repeating to us that POSCO was different from Vedanta. But POSCO plant is situated in a very delicate coastal ecology. Forest is also an ecologically sensitive area, so is the coast eco-sensitive. We kept our independent judgement about the issue and concluded in our report that it is a critical zone, a cyclone prone area where people have lost their home many times and rebuilt again and again. Literally they are surviving the odds. And the project wants to have a captive port on the river mouth which means the whole marine life will be completely shattered because they will have South Korean ships that run for half a kilometre to transport the iron ore out. They have to redefine the whole port. With regard to the forest, we stated that the people have been eking out a living from the forest produce such as betel vine. They claim that betel vine is a new phenomenon in the area. We dug out archival data and found that it has been in the area since 1920. Betel vine can be done in small area and is suitable to the coastal area, as the moisture helps the pan. Even 1/10th of an acre with betel vine is very valuable. A compensation of 10 lakhs is hardly anything compared to losing out their livelihoods. **The government is not talking about livelihood they only talk in terms of compensation.** The government calls them as **encroachers** even though they have been cultivating. So they are dealt with differently from those who have private lands with pattas. For those with pattas, a rehabilitation plan was drawn up with

house, land, etc. But the government does not want to do anything for those who they term as encroachers. Since they were protesting loudly, a new package was drawn up. These people are not professionally trained or educated. They will not be given jobs in POSCO.

The crux of the issues raised herein regarding FRA is that the Act does not hold on its own. Despite being a member of a statutory committee, Pingle had difficulty in convincing the Odisha government and the Environment Ministry about the rightful claims of forest dwellers.

Politics and Practice of Conservation

In the above-mentioned case, the project was set against both environmental concern as well as FRA, wherein FRA only strengthened the environmental case against the establishment of the steel project. As Pingle observes,

There is a resistance from the department towards the implementation of this Act, and the government also resists, whenever they want an area to be given to projects such as the POSCO. In all instances where the forest lies outside development area, the Odisha government is implementing the FRA better. There is no conflict of interest. Where there is a conflict of interest, they are opposing implementation of the FRA.

One of the strongest opposition to FRA comes not so much from the forest department that it is still nursing its clipped wings, but from the conservationists and environmentalists. In many of the southern states, the environmental agenda and lobby has been extremely critical of FRA, and has proactively decelerated its implementation. In my research in Tamil Nadu, particularly in the Nilgiri Biosphere Reserve (NBR), the presence of tribal forest dwellers was projected as a threat to conservation by the environmentalist as well as the Forest Department. Thus while there is a discussion of a 'paradigm shift' in the context of FRA, in environmental circles forest dwellers are presented as a threat to the forest biodiversity. Despite documented evidence of indiscriminate development activities and tourism destroying the Nilgiris, tribal forest dwellers in the reserve are construed as the root cause for the man-wildlife conflict in the region. This construal conceals the fact that environment as a subject is entangled in a set of government practices dominated by NGOs and the tourist industry who work in collusion with the government departments to promote

this perception. The excerpt quoted below is from an interview with a social activist from Gudalur, Nilgiris, which reveals the local politics around conservation.

Nilgiri Wild life association was started to encourage the sport of hunting. After a certain period of time it was transformed into an environment association. Tamil Nadu Green Movement is another organisation with a presence here. In reality it is not even a movement. It's a one-man show. These groups talk a lot about wild life and conservation. But they don't take up any issues of the forests. Conservationists claim that these settlers are destroying the forests and that the tribes are killing the animals by hunting. They keep labelling the people as encroachers. The first encroachers were the people of Nilambur, then the British and now it is the 12 companies. But the companies are never questioned. The forest department keeps harassing the people living here now; they come and break down their houses, file false cases on them, arrest people and damage crops. There were two to three battalions of police placed here just for this. This was how it was, till about 5 to 10 years ago. Only when the Forest rights Act came, the harassment stopped. In addition to the Forest Department, we now have to deal with the conservationists.

Organisations such as WWF (World Wildlife Fund), the BNHS (Bombay Natural History Society), the Tamil Nadu Green Movement claim that it is the people who are destroying the forest. This makes building a case to evict the people easier for the Government. Our agitation is to clarify and bring to the public on who is truly destroying the forest. We collect data to substantiate our statements. We keep track of how many lorries of trees are being taken out (from check post logs), who are the land grabbers, how much is an estate legally allowed to own, how much is he occupying, etc. and we use this information to authenticate ourselves. We also track the actions of forest department officials.

For instance, in Gudalur, there are four timber saw mills located within the forest. As per the Supreme Court directions this is a violation; order states that you cannot have any constructions within one kilo meter of a National Forest. If an honest man happens to be in the official position and takes action against such illegalities, he is moved out of here. We started exposing that many of the DFO's are behind the land mafia. This led to a lot of conflict and violence between us, the land mafia, the estate owners and the forest department. They employ goons and directly use violence against us. Our men also hit back. Then false cases are filed, usually under the pretext

that we are grabbing land, that we fell trees. Because we don't have pattas it makes it easier for them. Their recent strategy is to call us terrorists, Tamil Terrorists.

The conservationists have links at high levels - with the Superintendent of Police, Collector, Inspector General... If WWF wants, they can meet with the Chief Secretary. The Tamil Nadu Green Movement knows the Collector personally. The Land mafia and the Forest Department are the problem and the conservation groups are somewhat backing the forest department. The WWF come here under the pretext of doing research, then go back and complain about us. Personally, I have faced many problems. They conspire against us. At such times, even a strong movement becomes weak and withdraws. To establish that we do not want to indulge in violence, we have gone on many hunger strikes, and used other democratic means of protest...

This excerpt is significant in highlighting that there is a need to recognise and acknowledge the practices around conservation particularly if we want to understand the denial of rights under FRA to forest dwellers. Conservation practices in Nilgiris are not just discriminatory towards forest dwellers, but also sustain a model of conservation that has the patronage of the dominant economic and political class in the region. Environmental projects are in direct conflict with the provisions of the FRA. The challenge for FRA and its implementation lies in these powerful dynamics that characterises most forest reserves and national parks. Besides, there are international environmental conventions that continue to dominate our vision and practice of forest conservation. The idea of conservation, as promoted through projects such as Project Tiger and the Elephant Corridor, is a forest without human habitation. The excerpt below further reveals how the conservationist construct of man-wildlife conflict is played up in the context of the implementation of project tiger and elephant corridor to evict forest dwellers. Selective interpretation of Man-Wildlife conflicts that targets forest dwellers, and not commercial development activities responsible for its degradation, is precisely what has been at the root of the historical injustice against tribal forest dwellers. In this respect, conservation practices severely undermine the publicised spirit of the FRA.

Nature of Governance in Forest Areas

Presented here is an excerpt that reveals the various stakeholders that dominate governance in forest areas, and how it undermines the rights of forest dwellers.

More than the resorts, we are opposing the company estates. Even today the M. company holds 3000 acres of land. A resort owner has 50 acres. Before you come to the man who owns 50 acres you have to deal with the company which holds 3000 acres. Reclaim it as forest and hand it over to the people. Secondly, for the damage already inflicted upon the forest punish the officials responsible. Shut down the mills inside the forest. While bringing in the Tiger Project, follow the law. Get the Gram Sabha's approval and get them to pass the resolution. We are not opposing the Tiger Project or the Elephant Corridor. The elephant has to walk. You cannot do anything about that. There is already an elephant corridor. We want the tigers to be protected, the elephants to be protected, the forest to be protected and the people to be protected. They don't protect the tiger, or elephant or forests or people. Ask J. which elephant he has saved? We also worked with them at one point when we did not completely understand their motive. The first person I was introduced to was a writer and a Human Rights activist from Erode. They came to us because we had the people. We came together to save the Nilgiris forest. They misused us. We told them not to make issues of people, like using up water in the forest or collecting firewood and cultivating. We asked them to take up the issues of companies holding land. But they would never do that. This divide between the people and the conservationists became bigger until we broke away from them. We have worked with WWF and BNHS too. They set up an office in Gudalur. They used our cultural teams and we worked to spread environmental awareness. BNHS was interested only in conducting research. We asked them to expose the issue of illegal tree felling in the forests. You can study leaf falling or study the foot print of the tiger but do you not see the trees being cut. They said that if they brought up such issues they will not receive funds. We asked them to get out. Does not everyone know that we need trees, that we need the tiger? Shouldn't we tell them who is destroying it? This is the problems with such groups. Apart from these environmental groups there are other NGOs...

Clearly forests are sites of competition between different interest groups and FRA has not equipped forest dwellers unequivocally to contend with them. The above reveals how there is a 'structure of competition' over natural resources in which tribes are

reduced to one of the stakeholders within the ensemble of claimants and benefactors—local communities, private investors, revenue and forest departments, non-governmental organizations, international donor agencies, as well as extremist groups. Evidently, present day governance in tribal areas extends beyond the purview of the state, to varieties of actors and institutions in which the state is both a stakeholder, and the broker between competing interests. While the FRA undermines the institutional authority of the forest department over the control and management of forests, it does not in turn invest authority onto another institution or to tribal communities. Instead, it has introduced a network of actors and institutions and a combination of procedures and practices to resolve the nature of governance of forest resources. Governance in this formulation is not self-evident, but emerges in the expression of competing interests by the actors involved, and the strategies and tactics employed therein to further their claims. Interestingly, this process takes precedence in the discussion on democratization, and the outcome is incidental to this interplay of antagonistic and unequally placed interests.

Take for instance the process of recognizing rights of forest dwellers. Any person claiming forest rights would have to fulfil the criteria laid down in the Act by furnishing ‘acceptable’ evidence. The Act proposes the formation of gram sabhas or village level institutions, which would make recommendations of claims to the screening committee at the sub-divisional level, and the district and state level, who would verify its authenticity. Reference to evictions made above highlight the long drawn out and ongoing conflict between Gram Sabhas and local forest dwellers and government departments, with different government departments sub-serving the different interest groups, such as environmentalists, commercial interests, and tribal communities. Despite this, the higher-level committees comprise of officials from the revenue, tribal affairs and the forest departments, three members of the Panchayati Raj institutions from the corresponding level, of which two would be from the scheduled tribes and at least one of them would be a woman. This regulation of including government officials in the committees reintroduces the same power structure the Act sought to remedy.

Evidently, the implementation of FRA depends heavily on the efficacy of the network between various institutions and the tribal communities. In this association of self-governing networks, the state emerges as a dismembered category. It reveals the

fissures within - between its various units over the implementation of FRA. For example, one of the issues that has come up regularly is the resistance from the forest department to the implementation of the Act. The dominance of the forest department in the forest rights committees and the weak presence of the tribal welfare departments in many states, particularly south India, has been a significant factor for the slow progress in the implementation of the Act. This is not surprising, given that the forest department has been on an eviction spree since 1996 to reclaim forestland from tribal and other forest dwellers (Thayyil 2009). For tribes, this conflict of purpose between the different government departments only exposes the absence of collective responsibility on the part of the state to ensure the implementation of the Act. Ironically, the Forest Rights Act, which was to check these discrepancies and protect forest dwellers, has given forest and revenue officials a prominent role in determining claims. There have been reported cases of violence and intimidation against tribal forest dwellers from Karnataka and Tamil Nadu. This has only aggravated the tensions between local officials and tribes. The consequence of this has been predictable, illustrated in the cases quoted below from Telangana and Andhra Pradesh. The cases bring out the malpractices at the local level, wherein the importance of the Gram Sabha has been undermined, the local government officials have disrupted protocol and due process to be followed in the implementation of the Act, and how non-governmental organizations as important interlocutors in the welfare and development initiatives in tribal areas have high stakes in governance.

Domination of government officials- When the Forest Rights Act was implemented, a Gram Sabha was supposed to be held for forming the forest right committee. However, the MRO (Mandal Revenue Officers) sat in their offices and formed a committee with names of the people who they knew. This was how the committee was finalised. Some people are not even aware that they are part of the committee. There have been no meetings until now.

Lack of transparency- In one day, the Forest department, Revenue department, MRO, and MPDO got together and formed 7-8 village committees. They entered a village, within 10 minutes collected a set of people, and enrolled them as forest rights committee members. The committee does not function. The members are not even aware of the functions of the committee. Some people do not even know that they are in the committee. Until today, not even one meeting has been held.

Collusion of interests between NGOs and forest department- The government only mediates through some of the NGOs here... The NGOs need to be in the good books of the government to merely exist. Hence they will go along with the actions of the government. They don't need any money from the government but to receive international funds they need to register through the government. The NGOs will call for a meeting with the people, pay them an amount, and convene it. The forest department will use the same meeting to show on paper that the people are with them. The NGO people who work in these areas do not even belong to this area. They come from elsewhere.

NGOs and tribal development- Numerous projects have been implemented in the last decade. How better are the tribals in all those areas? The debate on whether you want to ensure tribal development as tribals or you want to mainstream them has not been resolved by the NGOs. Many NGOs work on their projects without entering into this debate and taking a position on it. And in much of this, the tribals do not even have a choice.

NGOs, both national and international, which have dominated governance in tribal areas for decades, have been central to the implementation of FRA. NGOs have been at the forefront of the process of dissemination and filing of information with regard to claims to forestland. They are integral to the third-party government introduced in tribal areas, where power is split between different groups and no one group, including government departments, can enforce its will. While this may give the impression of democratization in tribal areas, in actual practice this form of governance does not hold anybody responsible for government action and inaction. Importantly, it depoliticizes developmental concerns apparent in the non-committal presence of NGOs in tribal areas. In the case of FRA, this emerges as one of the formidable challenges in its implementation. In fact, it helps conceal the collusion of interest of government departments, NGOs, industries and the local power brokers in arresting the implementation of the Act.

Concluding Thoughts and Suggestions on FRA

In the paper, I have discussed what I consider are key concerns with respect to FRA and its implementation. Based on my research among tribal forest dwellers, the predominant concern I have with FRA and discussions around it is that there has

hardly been a focus on the lives of forest dwellers, their contemporary situation as well as the diverse possibilities this holds in addressing the issue of non-implementation of the Act. I have highlighted issues specific to regions as well as how many of these issues also cut across specificities of regions. There is a need to recognise and deliberate on both if any comprehensive sense has to be gathered on the actual developments in forest areas over FRA. This includes first of all recognising the dynamic nature of the term community or village assembly and not reduce it to an idyllic haven. There is a need to critically examine the status and role of Gram Sabhas; comprehend the constraints they work under; and document the reasons for delays/rejections of claims.

Secondly, the term 'encroachers' is an oxymoron. After the apology for calling forest dwellers encroachers in the context of the Act, the term refigures in the determination of claims. This only exposes the lack of familiarity that concerned authorities and departments have of communities living in forest areas, as well as the conflict of interest that persist between local bureaucracies and forest dwellers over the implementation of the Act. The term reeks of a colonial, top down institutional set up that needs to be phased out and replaced by a more interactive, accommodative system of ascertaining claims. However, any beginning in this regard would require a critical introspection on the model of governance in forest areas and how institutional practices in these areas violate the core of the what the Act seems to promise to forest dwellers. Governance in forest areas reveal a network of association between various competing interests that undermine the FRA. Environmental groups in particular have been resisting the implementation of FRA, mostly with the tacit and often open support of forest officials. There is a need to identify such challenges posed to the implementation of the Act, as well as question the politics unfolding in forest areas in the name of conservation.

There is clearly an absence of a perspective on FRA. If FRA is only about restoring forestland to tribes, then there is a need to tone down the public opinion that projects the Act as a legislation with radical possibilities. But if it has a larger vision of redressing the antagonism built over a century against forest dwellers, it should also recognise and remedy the colonial attitude and ideas that dominate institutional processes and practices in relation to forest dwellers. FRA has primarily focused on past deeds, and has failed to demonstrate a vision about the future of governance in forest areas or about forest dwellers, on how old ways of associations could be

refurbished by reforming institutional processes and practices that have alienated them in the past. Circumventing or even challenging the configuration of interests that now dominate forest areas could serve as a beginning in this direction.

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