

Where are Tribals in Their Development? A Century of Indian Forest Legislations

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Abstract

Historically, forest resources were being accessed and utilized predominantly by the forest dwelling tribal communities (FDTCs), but during the colonial regime and later by the State's interventions, accessibility and ownership on forests were being regularized and controlled through forest legislations. Over the century, forest acts and policies have claimed to conserve and provide the equitable and justifiable distribution of forest resources among the human populace. Ironically, the State has been using its eminent domain power to exclude FDTCs from their rights to livelihood and thereby from social equity and justice. In the pre- and post-independence periods, focus moved from the commercialization of forest resources to communities' livelihood and participation in the forest governance. Laws are inherently centralized both at the planning and implementation levels and, therefore, hardly there is any scope for principles like social equity and justice for the local communities. This article attempts to address the trends in the forest policies and acts through a critical review and also by analyzing empirical studies on its formulation. In doing so, it will explore the major changes in the Indian forest policies and their relationship with the rights and livelihood of FDTCs.

Keywords

Forest resources, forest laws, forest dwelling tribal communities

Introduction

India's rural economy is intrinsically associated with forest resources since time immemorial. Diversified communities such as forest dwellers, hunter-gatherers, shifting cultivators and agriculturists are directly or indirectly dependent on forest

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for their subsistence. Among all, the forest dwelling tribal communities (FDTCs)¹ are directly reliant on the forest for their livelihood. They had entire control over the collection, consumption and management of locally available forest resources in the past (Bhat 2010; Guha 1983). But, with the advent of colonial rule, the rate of deforestation has been accelerated for commercial use of forest resources. The introduction of industrialization complimented by advanced science and technology dramatically altered the natural world, which encouraged capital-intensive and market-oriented methods of resources extraction. Additionally, the centralized and bureaucratic planning of India excluded FDTCs from participating in the development process. Their interests remain perpetually unheard, gradually making them vulnerable. Thus, forest legislations fail to integrate conservation of forest resources, rights and livelihood of FDTCs. With this backdrop, the following section discusses the outcome of the forest conservation debate and its implication on forest policies in India.

I

The Forest Conservation Debate

The FDTCs built different types of institutions or ownership regime for natural resource management through their customary practices (Kulkarni 2000; Ormsby and Bhagwat 2010), and the common property regimes now are a remnant of earlier ways of doing things. As the community's customary practices are atavistic, it was considered as inefficient to manage forest resources. When forest resources remain unowned and available to all, the problem of non-excludability arises, and thus the free-rider problem persists, which eventually leads to tragedy (Hardin 1998). A group of polymath such as Olson (1965), Weitzman (1974), Smith (1981) and Sinn (1984) have argued that rights to private property could only avoid the tragedy of the commons. In response to the sturdy view on 'privatization' and inefficient informal management practices, studies of scholars such as Ostrom (1990), Wade (1987), Gordon (1954) and Demsetz (1967) on different commons demonstrated that communities' collective action is an alternative to privatization in managing commons. This gave rise to a private versus communal property rights debate. The debate got aggravated with the State's use of the eminent domain power to control the forest resources. Since ages, the scale and intensity at which nature was used (and abused) by 'multiple users'² increased manifolds (Guha 2000). The degree of exploitation of forest from the colonial to the post-colonial period is intensified with ideas and conduct like *dessicationist* (Ribbentrop 1990; Stebbings 1922; Grove 1995; Kumar 2010; Tucker 2012), *territorializations* (Oosthoek, n.d.; Gadgil and Guha, 2000; Kumar and Kerr 2013), *scientific interventions* (Smythies 1925; Guha 1985; Guha and Gadgil 1988; Ribbentrop 1990; Bryant 1994; Sunseri 2007; Nightingale 2005) and *conservation-induced displacement* (Rangarajan 1996; Gadgil and Guha 2000; Sayer and Collins 2012; Grove, Baviskar 2003; Madhusudan and Shankar Raman 2003; Saberwal and Rangarajan 2003; Brockington, Igoe and and Schmidt-Soltau 2006; Rangarajan

and Shahbuddin 2006; Kabra 2009). Thus, the green colonialism is replaced by green nationalism (Kumar, 2010).

Hegemonic control of the British over forests initially destroyed forests and later propagated desiccationist ideas promoted by the colonial scientific community, thereby making the British forest policy as the saviour of India's climate and irrigation sources through its conservation of forests and also to bring order to the irrational practices of FDTCs. Additionally, to control the forest landscapes, sophisticated systems of cadastral mappings and surveys got introduced to suffice the forest administration and management. The territorialization of forest areas was made by overlooking many customary rights of FDTCs. The motive behind the act of the colonial state's attempt to evolve efficient productive forestry regimes required for its physical expansion devalued the communal land tenure system and customary land use rights of FDTCs. The mapping of India's forests laid foundation for scientific forestry in India. Scientific forestry was introduced with an intention to reverse the rate of deforestation. On the contrary, the customary rights of the FDTCs got restrained and State got control over forests and woodlands for unobstructed timber production. For instance, mixed forests of the Himalayas and Western Ghats were converted to single species of coniferous and teak forests, respectively (Guha and Gadgil 1988). The useful species to FDTCs were substituted by the commercial plantations relevant to the Britishers. The exploitation was triggered in early 1970s, when displacement for conservation in protected areas (PAs) became a norm. As per FSI (2011), the PAs cover almost 4.7 per cent of India's land area which is quite small but are with relatively high human densities. A group of 'wilderness conservationists' support the view that to some extent the inviolate zone is required to maintain the gamut of biodiversity. The *raison d'être* of the decimated condition of the forest is laid on the FDTCs and on their growing population and their pattern of consumption. This gave scope to excluding the people who live in and adjacent to forest areas, from the use of forest resources, without providing them the alternatives for sustenance. Scientific studies on the Kanha National Park, the Sariska Tiger Reserve, the Bilgiri Rangan Hills Temple Sanctuary, the Pin Valley National Park and the Gir Forest supported the displacement and relocation drive of forest-dependent communities (Rangarajan and Shahabuddin 2006). Enforcement of PAs creation results in massive displacement leading to severe impoverishment and destitution.

The manoeuvre to look down upon FDTCs as encroachers and forest degraders initiated in the British rule and continued with added vigour by the forest legislations after Independence. Forest policies in the post-independence era prioritized in agricultural production, industrial needs for raw materials and constricted the accessibility of FDTCs in the forest and forest resources. In the early 1990s with the introduction of people's participation in the State's effort to conserve forest was found to be an appropriate strategy for arresting forest degradation. But the autonomy was still under the hold of forest department. This led to nationwide protests and movements, which in turn led to the enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (henceforth FRA). The Act aims to compensate the 'historical injustices' caused by the earlier forest legislations that alienated the FDTCs from their traditional rights on forest lands and forest resources (GoI 2006).

This article attempts to address the major trends in the Indian forest policies from 1865 to 2006 and their relationships with the rights and livelihood of the FDTCs. The research questions discussed herein are: Whether the failure of a law led to the formation of new forest law? What are the changes addressed in the succeeding policies? Who are the stakeholders of these acts and policies? Whether these forest laws address all the needs and concerns of the local inhabitants? The study critically reviews the Indian forest acts and policies in the pre- and post-independence periods and analyzes the empirical studies. Methodologically, this article is the outcome of information that is exclusively collected from online government documents, books, journals and Internet pages. The following sections review forest legislations in the pre- and post-colonial periods followed by a conclusion at the end of the article.

Pre-colonial to Colonial Regime

For generations FDTCs depended on the immeasurable forest lands in the pre-colonial phase without any interference. But in the sixteenth century, England's dependence on wealthy forests of India to obtain timber for ship-building, iron-smelting and tanning brought change on the forest landscapes (Guha 1983). Further, forests were viewed as obstruction for agricultural expansion up to nineteenth century (Guha and Gadgil 1988). In the early period of the Indian history, during *British Raj* forest lands were used for revenue generation through agriculture.

The first attempt by British Indian government towards forest governance was introduction of the Forest Charter of 1855, which made timber as state property, and its trade was strictly regulated (Vaidya 2011). Further, setting up of Forest Department in 1864 altered the forest usage in India (Guha 1985).³ The FDTCs were exposed to unfamiliar scientific technologies which increased the pace of extraction of forest resources. State had monopoly over the forest resources and the prime motive was to earn revenue through timber harvesting for forest-based industries. Previously, FDTCs eked out their living through the practice of grazing, forest produce collection and shifting cultivation on forested lands. But as argued by Chopra (1995), the assertion of the State's control and prioritized role of forests as providers of timber and industrial raw material cease the rights and livelihoods of the FDTCs.

The first attempt was made by the British regime in 1865 with the introduction of Indian Forest Act (IFA), aimed at establishing 'absolute proprietary right of the State'⁴ to meet national and regional long-term needs (Ribbentrop 1990) without having provisions for the rights of the users (B.H. Baden Powell cited in Kulkarni 2000). The Madras Presidency refused to adopt the IFA, as the rights of the FDTCs over forests were considered inevitable (Negi 1994). Sudden regulation and restriction of forest resources brought change in the state-tribal relationship. The Act was relevant to the forests under government's control, overlooking private forests (Kulkarni 1987). The major lacuna of IFA, 1865, is that the forest is protected only after it is declared as government forest. The establishment of the proprietary right of the State was criticized, as the customary use of forest by the local communities was based not on 'right' but on 'privilege', exercised only at

the mercy of the local rulers. Since the British were then the rulers, the rights of the absolute ownership held to be vested in them (Guha 1983).

The government of India abetted the sole right over valuable forests and subsequently IFA was passed in 1878. This was a comprehensive Act, where the classification of forests was introduced, viz., reserved, protected and village forests (Kulkarni 2000). The local government was empowered to levy duty on timber (Balooni and Inoue 2009). Activities like trespassing and grazing were prohibited. Tribal communities were deprived of accessing their traditional forests, without providing them any alternative (Vaidya 2011). Then, the first formal policy, i.e., National Forest Policy (NFP) came in 1894, followed by the Dr Voelcker's report⁵ in 1893. According to the primary functions, forests are classified again as preservation forests, commercial forests, minor forests and pasturelands (Balaji 2002). This policy restricted community's use of forests, yet underlined the commercial value of forests (Pratap 2010).

After 1878, the IFA was amended in 1927 which consolidated all the pre-existing laws relating to the transit of forest produce, duty leviable on timber and other forest produce, and thus emphasized clearly the revenue-yielding aspect of forests (Vaidya 2011). The IFA empowered the state governments to formulate and implement the forest laws (Pratap 2010). The forests further got classified into reserved, protected and village forests (Government of India [GoI] 1927). Village forests, under Section 28, provided some scope for villager's participation in forest management, but in reality hardly it was taken care of (ibid.). The Act did not give any preference to communities' rights over forests, which were preferred in the earlier Act (Prasad 2011). Under Section 9, the Forest Settlement Officer was authorized to extinguish and approve the claims of communities. The state government under Section 10 has restricted FDTC's shifting cultivation practice. However, the Act declares that no portion of forest land can be used for non-forestry purposes and denies the rights of the local communities over forest produces (Arora 1994). Nevertheless, until today this act is considered as an important piece of forest legislation.

Under British administration, the Forest Department created a systematic inventory of trees, curtailed the customary rights of FDTCs over forest land and produce, and transformed into concessions which was availed to them with forest official's permission (Kulkarni 2000). All the forest acts and policies during the colonial era were directed towards commercial interests and agricultural development, which is the major source of revenue. Many forest legislations surfaced after independence which has colonial inheritance. The following section discusses the impact of post-independence legislations on the rights and livelihoods of the FDTCs.

Post-independent Forest Legislations

Profound changes occurred in Indian economy after independence. Mining and quarrying, use of insecticides in Indian agriculture, population explosion, increase of pastoral herds, unattained demand for timber and firewood-fodder-minor forest

produce, introduction of modern industrial conditions, with the greatly increased demand for constructional timber, for sleepers in railways and a hundred other uses and nuclear experiments led to depletion of forests (Smythies 1925). Forest policies became imperative in the face of increasing adversities in the environment. The pre-independent legislations have repercussions on the post-independent laws and policies. For instance, the NFP, 1952, is framed within the framework of NFP, 1894, which also denies the 'communal property' rights (Reddy 1995). As argued by Elwin (Reddy 1962):

Village communities in the neighbourhood of a forest will naturally make greater use of its products for the satisfaction of their domestic and agricultural needs. Such use, however, should in no event be permitted at the cost of national interests. The accident of a village being situated close to a forest does not prejudice the right of the country as a whole to receive the benefits of national asset. The scientific conservation of a forest inevitably involved the regulation of rights and the restriction of the privilege of user depending upon the value and importance of the forest, however irksome such restraint may be to the neighbouring areas...while therefore, the needs of the local population must be met to a reasonable extent, national interests should not be sacrificed because they are not directly discernible, not should the rights and interests of future generations be subordinated to the improvidence of present generation. (Quoted in Reddy, 1995:7)

This NFP continued to expand state's control over forests by restraining the rights of the local communities (Sarin 2001). The commercialization of forests for national benefit took precedence over the livelihoods of FDTCs. The systematic efforts were made by the State towards the collaboration of forest-based industries and forest research institutes to accelerate the industrial production. The industrial production were catered by replacing the 'low-value' mixed forests by 'high-value' plantations of commercial species through scientific forestry. For instance, in Madhya Pradesh, 23 per cent of India's forests were designed as scientific forestry to meet the industrial requirements (Saxena 1997). For regularization of resource extraction and utilization, NFP introduced the functional classifications of the forests. A new classification was added, i.e., 'village forests' (GoI 1952). The 'village forests' was to provide firewood, small timber and grazing areas for the communities (Pratap 2010). And also, the policy recognized the communities' cooperation in forest protection. The NFP of 1894 had the provision of free grazing, whereas the NFP of 1952 imposed grazing fees for the cattle of local communities (Prasad 2011). The management of village forests by *Panchayats*⁶ was questioned by this policy (Pratap 2010). The traditional practice of shifting cultivation of tribals was discouraged. As, Katkari, a tribe from Maharashtra, were practising cultivation of inferior grains like *ragi* and *nachani* on the fallow lands for several years, but the forest officials restricted it and thereby deprived the forest-dependent families from their source of livelihood (Kulkarni 1987). Special attention was paid for the promotion of protected forests, which serves national interests.⁷

The industrial needs also got prioritized in the National Commission Agriculture (NCA) report of 1976. The industrial wood production was prioritized in the

Part IX of the NCA report, while pushing back the tribal demands which are clearly mentioned in it.

No special programmes were taken, which could directly contribute to the uplifting of the tribal economy. The programmes executed were essentially the forest development programmes which benefited the tribals only indirectly...[through] wage earning opportunities. (Saxena, 1976: 7)

By mid-1970s, to meet the demands of the tribal, social forestry programme on villages and private forests was made. By then only in Bihar and Odisha under Swedish International Development Cooperation Agency projects, social forestry was tried, as their lands were used for producing timber (Sharma and Kohli n.d.). The NCA report stated:

Free supply of forest produce to the rural population and their rights and privileges has brought destruction to the forest and so it is necessary to reverse the process. The rural people have not contributed much towards the maintenance or regeneration of the forests. Having over-exploited the resources, they cannot in all fairness expect that somebody else will take the trouble of providing them with forest produce free of charge. ...One of the principal objectives of social forestry is to make it possible to meet these needs in full from readily accessible areas and thereby lighten the burden on production forestry. Such needs should be met by farm forestry, extension forestry and by rehabilitating scrub forests and degraded forests. (NCA 1976: 25)

Thus, social forestry released some pressure away from forest lands, and forests were continued to be used to meet industrial needs. In 1976, the subject of 'forest' was in the Seventh Schedule of the state list which transferred from state list to the concurrent list with the 42nd Amendment of the Constitution (Kulkarni 1983). This enhanced the centre's power over state's on the forest resources.

The Government of India promulgated the Forest (Conservation) Ordinance on 25 October 1980, specially to bring an end to the Silent Valley project in Kerala which affirmed that the states could not divert forest lands for non-forestry purpose without the permission from the centre (Akhileswar 1993). Thus, the centre became the nodal agency for felling trees and creating any rights on forest land through sale, transfer, lease, mortgage or any other mechanism for any person or institution under Forest Conservation Act (FCA), 1980, GoI, 1980. Along with the FCA, Wild Life (Protection) Act, 1972, and the Environment (Protection) Act, 1986, were also executed for conservation and management of forest resources of the country without giving space to the rights and interests of FDTCS, thus created resentment among them (Pratap 2010). Contrary to the FCA, states continued to convert forest land into tea, coffee and rubber plantations areas. This Act instigated mining in the forestland. As many as 317 mining leases were granted in the forest lands (Kandhari 2010), which systematically managed to alienate FDTCS from their inhabited forest lands (Damodaran 2003). Eventually, a labyrinth of relationship among forests, forest-dwellers, state and central governments was created.

A radical change occurred with the emergence of NFP, 1988. The focus shifted from revenue generation to forest conservation by securing the livelihoods of the FDTCs while maintaining the environmental stability, for the first time. This is the second NFP after independence which emphasizes on the expansion of forest cover and increase in productivity of forests to meet national needs (GoI 1988). Regarding the supplies to industry, the NFP in Para 4.9 put forth that the forest-based industries should meet their need of raw material by themselves. This policy also emphasizes people's participation in the protection and management of forest resources. The devolution of power for forest management shifted from government to local communities (Balooni and Inoue 2009). In Para 4.3.4, the policy prioritizes the protection of rights and concessions enjoyed by communities living in and near forests.⁸ The policy on one hand strengthens tribal-forest linkage (Saxena 1997) by meeting the requirements of FDTCs (Pratap 2010), but on the other hand restricted access to these populations to the forests (Hazra 2002). This policy focused on arousing massive people's movement for achieving its objectives and minimizing the biotic pressure on existing forests.

The implementation of this policy was actuated by the Government of India's resolution in June 1990 (the JFM circular), where participation of village communities and village assemblies in the regeneration of degraded forest lands was initiated. The success of Joint Forest Management (JFM) initiative in Arabari was spread widely. Paradoxically, the net income incurred in JFM from harvesting of commercial timber and bamboo in forests provides a narrow and marginal benefit to the FDTCs (Sarker 2009). Some states like West Bengal, Nagaland and Himachal Pradesh were permitted up to 25 per cent or even less, whereas in Kerala, the *Van Samrakshana Samiti* (VSS) is entitled to only 10 per cent of the harvested forest produce. In spite of the huge coverage of forest under JFM, the substantial improvement in the livelihood of local communities was hardly achieved. For instance, in the forest villages of Betul in Madhya Pradesh, collection and sale of Non-Timber Forest Products (NTFPs) have not led to improve forest-based livelihood opportunities for traditional tribal stakeholders (Vemuri 2008). Most of the JFM implementing states ignored the rights of FDTCs to access forest produce especially the NTFPs. Moreover, forest communities were forbidden to sell nationally listed NTFPs like *kendu* and non-nationalized, non-timber medicinal plants like *anola*, *mahul patta*, *mahua* seeds, etc. (World Bank 2006). Sarin (2001) argued in her work on the Pakhi Van Panchayat of Uttarakhand that the power and authority to regulate the village joint forest management are vested in the hands of non-elected representative of the bureaucracy, leading to the disempowerment of villagers. In JFM, Non-wood forest products (NWFPs) played an important role. A study conducted by the Indian Institute of Forest Management in 1996 observed that the tribal families of *Kondhs*, *Mundas* and *Saoras* drew about one-half of its annual income from forests (Prasad 1999). However, enticed by the economic potential of NWFPs various state governments have appropriated control over them. Ergo, NFP with JFM initiatives neither secured rights nor provided livelihood opportunities for FDTCs. In fact, the participatory and democratic function of JFM became questionable.

Breakthrough in Indian Forest Law: FRA 2006

The lack of settlement of land and forest rights created turbulence among tribal groups. This has been reported in the 29th Report, which was submitted to Government of India in 1990 by B.D. Sharma, the then commissioner for Scheduled Castes and Scheduled Tribes. For resolving conflicts, he also has given certain recommendations, which were approved by the Cabinet and a Committee of Secretaries. Then a set of guidelines were issued by the Ministry of Environment and Forests (MoEF) for regularization of forest land and rights of tribals over those lands (Springate-Baginski and Blaikie 2007). These guidelines were not implemented by state governments till 2002. Report of the *Jan Sunwai* (CSD, 2003) stated:

After the issuance of a letter on 3 May 2002 by Inspector General of Forests (IGF) to the Chief Secretaries of all the state government informing them that in response to the problem of encroachment of forest lands raised in the *Godavarma Thirumulpad vs Union of India* case (in Interlocutory Application No. 703 in Writ Petition No.202/95), the Supreme Court had by its order (dated 23 November 2001) restrained the Central Government from regularising encroachments in the country without its permission.... Interestingly, the implementing agencies misinterpreted the directive of Supreme Court, purposively or otherwise, so as to hurt the interests of the adivasis and other poor forest dependent people the most. Through a subtle bureaucratic juxtaposition the letter of IGF created the legal illusion that the Supreme Court had actually directed eviction of encroachers. (CSD 2003: 2)

This move caused serious conflicts and violation of rights which led to nationwide protests. This led to the formation of the national Campaign for Survival and Dignity (CSD) which advocated with the central government for enactment of a new law. In 2004, when United Progressive Alliance (Indian National Congress with a coalition of allies) came to power, the central government asked the Ministry of Tribal Affairs (MoTA) in January 2005 to draft a law.

Subsequently, the FRA came into existence in 2006 and was implemented on 1 January 2008. This Act is considered as an important landmark in the history of forest resource use and management in India, which is meant to address the long standing historical injustices by restoring and recognizing the rights of forest dwelling Scheduled Tribes (STs) and other traditional forest dwellers (OTFDs) on their ancestral land, encouraging their participation in the conservation and management of forests and wildlife (Bhullar 2008) and securing their livelihood while maintaining the ecological balance (Gooch 2009; Sathyapalan 2010).

Prior to FRA, forest governance in India experienced decentralization with the introduction of the JFM circular. But it is not encouraging enough for the FDTCs. Decentralization of authority and ownership to the village level institutions and FDTCs is put forth in FRA. However, the ground reality of FRA implementation is a grave concern. For instance, the act though defined OTFDs in Section 2(O), but to meet the criteria the OTFDs must show the evidences that they have resided in forest for 'generations'⁹ and depended on the forest or forest lands for bona fide livelihood needs since the year 1930s. This indicates that evidences are

required since pre-independence period which may not be available. There are also instances of relocation of FDTs from Similipal Tiger Reserve, Odisha;¹⁰ Achanakmar, Chhattisgarh; Melghat, Maharashtra; and Sariska, Rajasthan, without recognizing their rights (Gupta and Kothari 2010; Kalpavriksh n.d.), whereas the recognition of rights prior to relocation is clearly mentioned in the Section 4.2.

The FRA devolves the decision-making power to the *Gram Sabha* (village council meeting), who is the central authority and empowered to protect, manage and conserve wildlife, forest and biodiversity. However, Forest Advisory Committee (FAC) set up by MoEF overtakes the gram sabha while diverting the forest lands for development purposes. Thus, FAC surpassed FRA and the MoEF 2009 order.¹¹

Decentralization of decision-making power through FRA 2006 is still dubious at an implementation level. The village level institution to implement is Forest Right Committee, to be constructed in all villages by convening gram sabha meetings. The study of 12 villages in the four districts of Odisha by Sarap et al. (2013) found that the gram sabha meetings could not be held in many villages because the panchayat level authorities were not prepared for them. In a study of two villages in Mayurbhanj in Odisha, Satpathy (2013) put forth that FRCs are constituted undemocratically. Reddy et al. (2011) argued that FRA promises to be a pro-poor institutional reform, yet the process have been severely anti-poor, and so the pro-poor benefits have been restricted. As per the rule of FRA, subdivision-level committees (SDLCs) and district-level committee (DLCs) should have membership of panchayati raj institutions or of primitive vulnerable tribal groups (PVTGs). But in many areas, these members are kept out of proceedings of SDLCs and DLCs as evident from Kandhamal district of Odisha (GoI 2010). Due to lack of pre-implementation training to the implementing officials, unawareness and misinterpretation of the Act at various levels hinders FRA implementation. A frivolous instance is in the Bokaro district of Jharkhand, where beholders of three acres of revenue land were disallowed to claim under FRA. Further, the Act was not enforced in and around PAs (AITPN 2012). The rights of PVTGs and tribals have been restrained due to development projects. For example, tribals of Vishakapatnam district of Andhra Pradesh who submitted the claims on their cultivating lands in the proposed bauxite mining lease areas was rejected (ibid.). Again, the rights of tribals in Kalahandi in Odisha and Dhalai in Tripura over their shifting cultivation lands were not recognized (GoI 2010). Thus, the *modus operandi* of FRA enforcement goes through several ambiguities.

The forest legislations in India are all rhetoric. There is always a tussle between central government, state government and FDTs regarding the ownership and management of forest resources. In the process, the FDTs are kept away from planning and implementation of the legislations.

Conclusion

In days of yore, FDTs had entire control over the abundant forest resources. The cultural and religious practice of forest conservation by FDTs is their ability to shape their society and adapt to their immediate environment. The declining trajectory of forest dependency of FDTs is noticeable. Tribal society the repository of

social capital at one time is losing its value. The *de facto* occupied and cultivated lands of tribal are trademarked as illegal and encroachment by the State and their interests were marginalized. Many tribal faced the trauma of evictions from their ancestral lands. This brought furore among them in the shape of environmental movements, against the 'exploitative state structure' and 'development model' that excludes them. The Chipko movement in Uttarakhand, Appiko movement in south India and movements in tribal belts of Jharkhand and Bastar in central India were some of the noted movements against the state's domination over forest resources.

The development of National forest policies and acts undergo many changes from revenue generation to livelihood generation and finally to sustainability. Still, these leaps could not provide social equity and justice to the deserving communities. India being a democratic country has a centralized planning system. 'The Indian Paradox' as described by Myron Weiner is the contradiction between a high level of political violence and a sustained democratic political system (Mehta 1992). The policies and acts seem to be ad hoc without clear priorities and are excessively bureaucratic in nature. The formulation of laws probably begins with the assumptions that these are meant to protect, conserve and manage forest resources. Throughout these policies and acts the rights and interests of FDTCs are ignored. Over the years, the blame for degraded forest lands in India was laid on the increasing population pressure, but somewhere the ineffective implementation of laws itself is responsible. Forest policies and acts have become the instruments for the government to pursue its economic interests.

Almost for two decades forest governance continued to remain in the debate, which consequents from the decentralization in the forest policies, with an aim of preventing deforestation and degradation; it still holds the centralized decision-making power. The recent FRA gives scope to the FDTCs to participate in the process of forest governance and thus believed to address the historical injustice. But at the implementation level transparency and accountability of FRA is uncertain. Autocratic nature of the centre leads to over-exploitation, mismanagement and inequitable distribution of existing forest resources. The gap between provision of the policy and the actual achievement of the policy led to assess the implementation of the policy at every stage.

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Notes

1. There are many forest dwelling communities. However, this article refers only to tribal groups who dwell in the forest and depend on the forest products for their livelihood.
2. Forest dwellers, traders/industrialists, timber mafia, villagers, forest officials, etc.

3. In 1864, the forest department was headed by a German Botanist, Sir Dietrich Brandis, who laid the foundations of 'scientific' forestry in India.
4. Under Section 2 of Indian Forest Act of 1865, the Act empowered the State to declare any land covered with trees or brush-wood can be declared as state forest, and to make rules regarding management of the same by notification, provided that such notification should not abridge or affect any existing rights of individuals or communities (Prasad 2011).
5. The report was on the 'Improvement of Indian Agriculture' which stressed the agricultural interests of the country (Ribbentrop 1990).
6. Village councils.
7. The term 'national interests' was interpreted in a very narrow sense (Kulkarni 1983) which mentions that environmental stability and ecological balance will be preferred to the derivation of direct national economic benefit.
8. See National Forest Policy 1988 for details.
9. Here 'generation' is defined as a period of 75 years or three generations.
10. In 2010, altogether 61 families from Jenabil village inside the Similipal Tiger Reserve were relocated to Ambadiha village near Udala in Mayurbhanj (*The Hindu* 2010).
11. Consent of Gram Sabha is a prerequisite before diverting forest land. For details refer web link http://sandrp.in/otherissues/MoTA_to_MoEF_FAC_blatantly_violating_FRA_Dec2012.pdf

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