

Forest Land Rights of Forest-based Women/Men in India and Unaccounted Gender Perspectives

ABSTRACT

In India, a majority of Scheduled Tribes are forest-based tribes and have endured longstanding injustice from both the Government and the Judiciary. The issue of forest management and forest land use in India's tribal belts has long been highly contested and unsettled. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, or the Forests Rights Act (FRA), was enacted in 2007 and aims to correct the "historic injustice" done to forest-based people. The Act addresses issues of land tenure, ownership and rights by granting secure forest land titles and use rights, either, individually or collectively to the claimants. The effects of its provisions are now receiving attention from researchers and development groups alike but, issues surrounding women's rights on forest land remain largely unexplored. Inadequate discussion of gender inclusion within the FRA provisions is surfacing as a major gap. India has been a pioneer in research on women's land rights in agrarian communities in South Asia over the last two decades. This knowledge remains untested on the ground in forest-based tribal communities, The Act therefore provides an important opportunity to analyse how women's rights to control land and capabilities to manage land have been affected by their newly-acquired rights and to understand gender-based tactics and measures used by tribal men/women in ascertaining and executing these rights. Such research is likely to have relevance for many international groups interested in issues of gender inequality in land tenure and forest use/management by assisting the development of gender-sensitive policies for effective local forest management.

KEY WORDS: The Forest Rights Act, India, Gender, Forest land, Schedule Tribes

INTRODUCTION

A recent estimate identifies that about 84 million indigenous peoples and 275 million forest people live in Indian forests (Chao 2012). Many of these people are members of Scheduled Tribes (ST)¹ or *Adivasis*, *Janjati's*, *Banbasi's* or *Girijan's* as they are locally known. In Census 2011² the Government of India identified 84,326,240 citizens as Scheduled Tribes constituting 8.2% of the total population of the country. The STs are recognised through their simple living, geographic remoteness and distinctive cultures³. There have been frequent debates on who should and should not be considered a ST (Xaxa 2005) as certain privileges are given to them by government. A majority of these tribes live inside or in the forest fringes across the county and therefore have become an indissoluble part of the discussions around forest governance system in the tribal dominated forest regions of India (Guha 1983).

Historically, any kind of forest rights in India were addressed through the National Forest Policy (NFP)⁴ and settled by the relevant ministry for environment or forests under the jurisdiction of the Indian Forest Act of 1927 and later the Forest Conservation Act of 1980 (amended in 1988) or some under the Wildlife Protection Act (WPA) of 1972. Until 2006-07 there was no separate act for settlement of rights⁵ of forest-based people associated with forest lands. A good record exists on historical developments, forest policy formulations and its impact on forest people of India (Guha and Gadgil 1989). During the colonial period and later in independent India the major emphasis of prevailing forest policy was on sustainable timber production following the principles of scientific forest management. The policy overrode the management of non-timber forest products and discouraged dispensing rights to forest dwellers causing frequent contestations between the Forest Department and the forest dwellers (Pathak 1994, Sarin 2010). The discord between the forest policy objectives, manner of implementation and local aspirations are elaborated in the robust cases presented in Guha (1983), Guha and Gadgil (1989) and Sivaramakrishnan (1995). The state continuously sequestered the rights and privileges of local communities using various procedures of forestland consolidation and land diversion in the name of development; and in the process

¹ The term 'Scheduled Tribes' first appeared in the Constitution of India. Article 366 (25) defined scheduled tribes as "such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this constitution"
<http://tribal.nic.in/index3.asp?subsublinkid=303&langid=1>

² The National Censuses takes place every 10 years. The latest one took place in 2011.

http://censusindia.gov.in/Census_And_You/scheduled_castes_and_scheduled_tribes.aspx

³ The criteria followed for specification of a community, as scheduled tribes are indications of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large, and backwardness. These criteria is not spelt out in the Constitution of India, but has become well established in Indian Policies. The use of ST as a category subsumes the definitions contained in 1931 Census, the reports of first Backward Classes Commission 1955, the Advisory Committee (Kalelkar), on Revision of SC/ST lists (Lokur Committee)- Ministry of Tribal Affairs, Government of India. Further information is available at,
<http://tribal.nic.in/index3.asp?subsublinkid=303&langid=1>

⁴ The first forest policy for India was enacted in 1894 by the British, followed by its revision in 1952 and in 1988 in the independent India.

⁵ The Forest Rights Act- 2006 is being enacted by the Ministry of Tribal Affairs (MoTA), Govt of India. A major departure from the eminent domain of Ministry of Environment and Forest (MoEF) which otherwise had been the sole decision maker regarding the forest management and forest land use in the country.

eventually disempowered and displaced many tribal communities from their traditional habitations (Sarin 2010). Driven by the escalating conflicts and the surmounting international weight a new national policy for forests was introduced in 1988. This policy led to a crucial move from focus on management of forest for timber production to strengthening conservation of forest resources; and in the process acknowledged the role played by various forest-based communities in protecting remaining forests of India. The policy also created a possible new space for forest-dwellers to join hands with the Forest Departments to manage certain types of degraded forests under the programs of Joint Forest Management (JFM), Eco-development, Tree-Growers Cooperatives etc., in various parts of the country between 1991 and the early 2000. Incidentally, many of these programs reached a deadlock after initial excitement; most importantly due to non-clarity over critical issues like tenure, benefit-sharing and non-recognition to the longstanding customary rights (Sarin 2010, Bhattachayra et al. 2010).

Concerning declining access to forest resources for forest-based people Saxena (2012) shares that the 1988 forest policy was rendered ineffective in supporting livelihoods of forest people as it did not have legal standing and its implementation was slow. In tribal dominated regions (known as schedule V areas) he argued that the implementation of another piece of legislation, the Panchayat Extension to Schedule Areas (PESA) in 1996, was more crucial. Under the PESA the local Panchayats and the Gram Sabhas were deemed legal owners of the local natural resources including non-timber forest produces. However, in many areas this could not happen as the Forest Department challenged such claims on forest resources on the grounds that villages have no territorial rights over reserved forest lands thus PESA was not applicable in such cases (pg. 12). PESA remained an underutilized piece of legislation (Patnaik 2007).

Forest-based tribes until 2005-06, continued to face loss of habitation, agriculture lands, access to forest and their traditional modes of livelihoods for various conservation and development programs undertaken by the Government (Kumar and Kerr 2012, Guha 1997); meanwhile, enduring continuous injustice both at the hands of the Government and the Judiciary (Shivaramakrishnan 1995, Thayyil 2009). The issue of forest management and forest land use in the tribal belts of central-eastern India remains highly contested and unsettled.

THE FOREST RIGHTS ACT, 2006 OF INDIA

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, or the Forests Rights Act (FRA), was enacted in 2007 under the Ministry of Tribal Affairs (MoTA)⁶ after years of deliberations (Kumar and Kerr 2012). The Act aspires to reverse the “historic injustices” impinged on forest-based STs and other traditional forest dwellers (OTFD). These groups have been residing or cultivating forest lands, or have been

⁶ The act was notified on 31 December 2007, the notification is available at: <http://tribal.nic.in/writereaddata/mainlinkFile/File1035.jpg> , a copy of the original Act can be found at: <http://tribal.nic.in/writereaddata/mainlinkFile/File1033.pdf>.

gathering forest produces for generations but without any formal forest rights. The legal tenure security of these forest lands and forest resources used by them was almost non-existent. The FRA recognizes these rights and now seeks to bestow forest dwellers with legally recognised rights to live on and cultivate those forest lands parcels that were occupied before the 13th of December, 2005. The act allows settlement of various kinds of individual and collective rights including the right to reside, to use land and forest products, collective rights on other resources, community forest resource rights for management and developmental rights on forest lands (refer to table 1 for a summary of different kinds of rights provided by the FRA). Many Indian states and Union Territories which have forest dwelling tribal and non-tribal communities started implementing FRA immediately after the notification of the FRA Rules on 1st January 2008, mostly through their State Departments for Tribal /Social Welfare/Panchayati Raj.

Table 1: Different kinds of rights provided under the FRA

the Act	Kind of Right	Explanation
Chapter 3-Section (1)		
(a)	Individual or community right for habitation or cultivation	This provides for both individual and community tenure to STs and OTFDs in occupation of forest land for a maximum of 4 hectares including community cultivation rights.
(b)	Rights of <i>Nistar</i> or Usufruct	Restoring customary usufruct rights over adjoining forest areas that were legally recognized prior to independence.
(c)	Rights on Minor Forest Produce (MFP)	MFP or NTFPs including <i>Tendu</i> leaves, canes and bamboo; traditionally collected within or outside village boundaries.
(d)	Other community rights over Common Property Resources	This includes- water bodies, grazing areas, sacred groves, graveyards and other resources including-seasonal use by nomadic and pastoral communities.
(e)	Rights for Primitive Tribal Groups (PTG) and other pre-agriculture communities	Providing community tenure over customary habitats.
(f)	Rights over disputed lands	Including both individual and communal claims – relevant for the cases including rehabilitation, resettlement or land grab.
(g)	Conversion of <i>pattas</i> /lease/grant to titles	Any forms of titles granted by Govt bodies to be converted into forest titles. The 4 ha restriction doesn't apply in such cases.
(h)	Rights of settlement and conversion to revenue villages	All forest villages, old habitations, un-surveyed villages and other villages in forests whether recorded, notified or not to be converted to revenue villages.
(i)	Community Forest Resource Rights	Right to protect, regenerate, conserve, manage traditional community forest resources
(j)	Rights for customary or traditional rights recognized by State Govt body.	Under any state law or autonomous district councils or autonomous regional councils or others
(k)	Right of access to biodiversity and intellectual property	Rights of communities over their rich indigenous knowledge of biodiversity. There is a lack of clarity over how this would be claimed, however.

(l)	Right to any other traditional right not mentioned in clauses (a to k)	Excluding traditional right of hunting or trapping or extracting a part of the body of any species of wild animals
(m)	Right to in-situ rehabilitation	This includes claiming rehabilitation on alternative land in cases of illegal eviction or displacement from forest land of any description, w.r.t 13 th Dec 2005.
Chapter 3		
Section (2)	Right for development of infrastructure facilities	The Central Government to provide notification on any diversion of forest after taking recommendation from the <i>Gram Sabha</i> for forest land less than 1 hectare and if exceeding felling of more than 75 trees per hectare. Development can take the form of local schools, health centres or hospital, mother and child care centres, fair price shops, electric and telecommunication lines, tanks and minor water bodies, drinking water supply and water pipeline, water or rainwater harvesting structures, non-conventional sources of energy, skill-based learning and training centers, roads and community centers.
Section 4 (2)	Rights in Critical Wildlife Habitats (CWH)	While creating inviolate areas in the CWH of National parks and Sanctuaries adequate considerations to be given to modify any rights given under FRA

(Source: developed from the FRA, 2006 and the FRA Amendments of 2012)⁷

Thus, apparently the Act provides generous prospects for ST and OTFD communities to negotiate and claim rights over various categories of entitlements; and in a way the Act can be considered quite ground-breaking.

On the operational side of the Act, the key actors in FRA for implementation at village level are the *Gram Sabha*⁸(GS) and the Forest Right Committee⁹ (FRC). A scheme of how local people apply to obtain rights under the FRA is presented in figure 1. To initiate the process, the local *Panchayat*¹⁰ first submits a list of all *Gram Sabhas* it presides over to the Sub-Divisional Level Committee (SDLC) which is placed at the Block level in the District. Once the village is notified by the SDLC, then further steps are taken in the village with the FRC playing a lead role in facilitating completion of claim applications and undertaking various awareness-creating and information-sharing activities in the village. After the initial assessment by the FRC, it calls for a GS meeting, where the GS approves all individual claim applications and claims for any possible community rights in their village through a

⁷ The Rules and Guidelines for FRA 2006, were amended in 2012 and were subsequently notified on 12th September 2012. A draft copy could be found at: <http://tribal.nic.in/index2.asp?sublinkid=1169&langid=1>

⁸ *Gram Sabhas* are the Village Councils in Indian villages, the executive members are mostly selected and all the adult villagers are members to it. The FRA and the Pachayat's Extension to the Schedule Area Act or PESA-1996, has given legal recognitions to these councils in the tribal villages.

⁹ Forest Rights Committees or FRC are constituted under the FRA and usually consist of 7-15 village adults, depending on the size of villages.

¹⁰ Pachayats are the governance institutions at the lowest level in Rural India, which were empowered through the 73rd Amendment to the Constitution in 1992. Further details can be found here, <http://www.orissa.gov.in/panchayat/73rd%20Amendment.pdf>

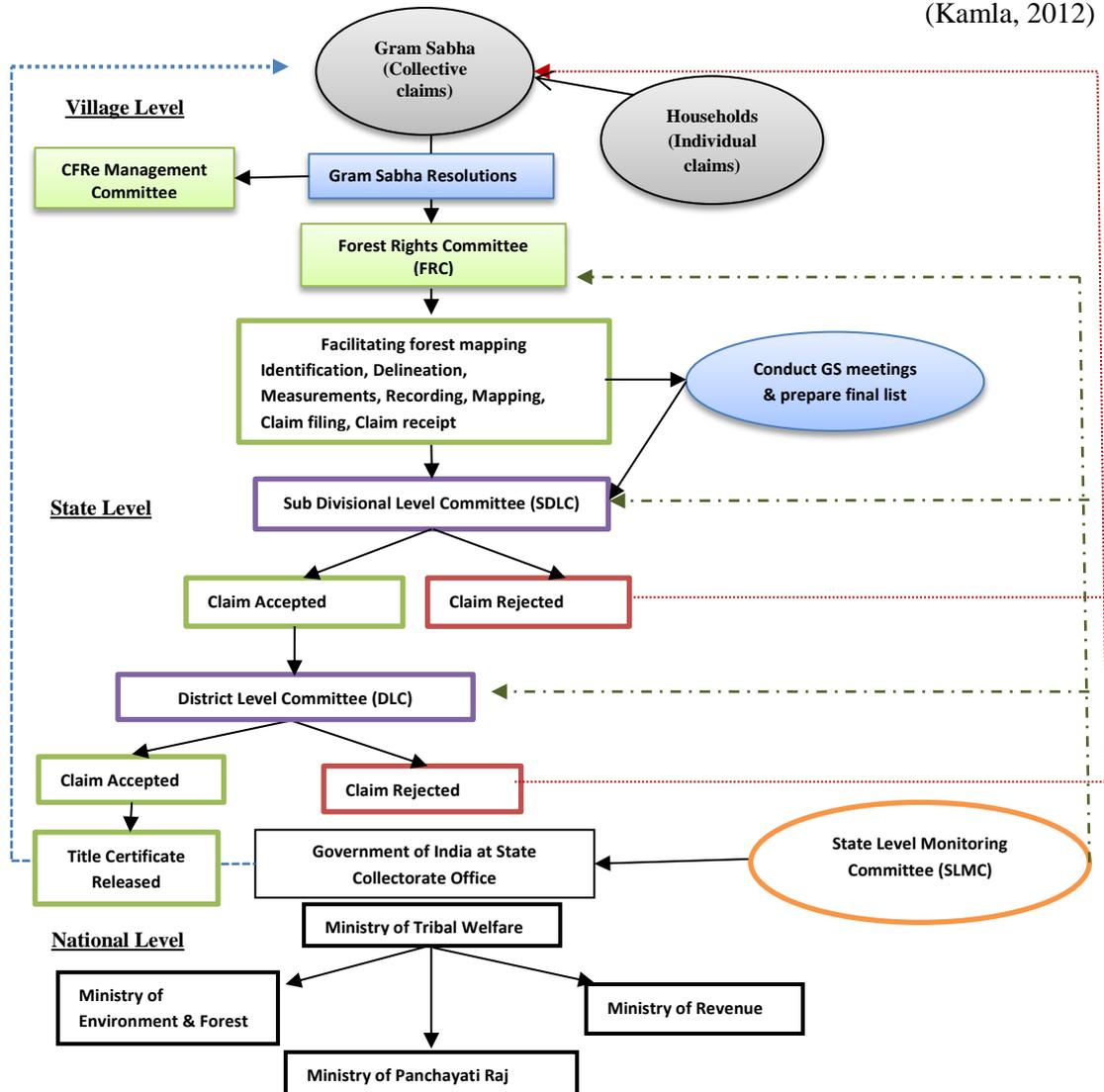
resolution¹¹. After getting approval from the GS, the FRC submits the locally approved applications to the SDLC which is constituted of personnel from the Forest Department, the Tribal Welfare Department, the Revenue Department and the *Panchayat* (refer to table 2 for summary of the roles and responsibilities of various FRA institutions). Once the application is received by the SDLC, a ground verification exercise is conducted for all the claims, in which, the SDLC verification team visits the claimed plots and verifies the information and the documents provided as evidence along with the claim application. In this process, it receives support from the FRC and local government offices like the Forest Range office. If the SDLC finds no irregularities in the claim application, the evidence and the ground situation, then it approves the application and forwards it to the District Level Committee (DLC) for contemplation. The final approval is given by the DLC (taking into account regional and national issues) and if deemed appropriate then the forest rights claim is approved and certificates of titles are prepared. In Integrated Tribal Development Agency (ITDA)¹² areas final certificates are released by the ITDA offices and in non-Agency areas the District Collectorate office delivers this responsibility. To standardise the monitoring and evaluation procedures for the process followed and the progress made by each state, the Act directs the constitution of a State Level Monitoring Committee (SLMC) in every state. The SLMC is required to meet once per quarter to monitor implementation progress and brief the State about any issues identified.

¹¹ Different Forms are provided by the Act to make claim over individual plots (Form A), collective community (Form B) resources and community forest resources (Form C).

¹² There are 192 Integrated Tribal Development Project (ITDPs) / Integrated Tribal Development Agencies (ITDAs) spread over 19 States / Union Territories in the country. The Ministry of Tribal Affairs releases grants to the State Governments for the implementation of schemes/ programmes for the socio-economic development of STs and their protection against exploitation. The concerned State Governments implement these schemes/ programme by releasing funds to their administrative units viz. ITDPs / ITDAs etc. and details of funding and implementation of items of work of these schemes / programmes, are maintained by these States. (MoTA, 2012) as explained in the House of Commons: <http://pib.nic.in/newsite/erelease.aspx?relid=82621>

Figure 1: Operational arrangement for the Forest Rights Act

(Kamla, 2012)



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Figure 2: Institutional set-up for the Forest Rights Act

(Kamla, 2013)

GRAM PANCHAYAT (GP)

- Selected Representatives from Village Councils/Gram Sabhas
- Elected for 5 years
- Part of 3-Tier governance

- Release a list of all hamlet/villages under it.
- Submit the list of villages to SDLC for approval

GRAM SABHA (GS)

- Consists of all adult members of the village
- Headed by a president
- Selected by the villagers

- Initiate the process of FRA.
- Constitute the Forest Rights Committee (FRC)
- Determine – Nature, Extent and Claimants.
- Prepare a list of Claims and send it to SDLC
- Prepare records of claims
- Arrange evidences for claim making
- Constitute a committee for any community forest resources
- Approve any transit claims
- Take decisions on use of income from sale of produces
- Modifications in forest management plan

FOREST RIGHTS COMMITTEE (FRC)

- Constituted through a GS Resolution
- Consisting of 10-15 members

- Reports to SDLC
- Facilitate claim making process in GS meetings
- Act as a link between SDLC and GS
- Verification of claims- coordinate between: 1 forest officer, 1 revenue officer and 1 tribal officer

SUB-DIVISIONAL LEVEL COMMITTEE (SDLC)

- Constituted by the State Govt
- 6 members including: 1 Sub - Divisional Officer, 1 Forest Range officer, 1 Tribal Welfare Officer and 3 block Panchayat representatives

- Receive claims from FRC and verify them.
- Send verified claims to DLC for final approval and submit information/report for rejected claims to DLC.
- Disseminate information about critical information for forest management planning to GS.
- Provide forest and revenue maps to GS
- Provide the possible government records as evidences to GS.
- Record keeping of all resolutions submitted by various GS
- Prepare block wise forest rights reports
- Ensure availability of forms A,B and C to claimants.
- Hear petitions for cases of disputes between GSs and between GS and Claimants over claim application status.

DISTRICT LEVEL COMMITTEE (DLC)

- 6 members
- 1 district collector, 1 District Forest Officer, 1 Tribal Welfare Officer and 3 Panchayat representatives from district (nominated)

- Final approval of claims as prepared by SDLC
- Providing certified copies of rights and title certificates to the concerned claimants and GS
- Ensuring that SDLC provides relevant information to all GS for claiming process.
- Issue directives for incorporation of FR in records of rights.
- Hear petitions against SDLC by claimants

STATE LEVEL MONITORING COMMITTEE (SLMC)

- 10 member committee (1 Chief secretary, 4 Secretaries from Revenue Dept, Tribal Welfare, Forest Dept and Panchayati Raj; PCCF-Forest, 3 ST members from Tribal Advisory Council and a Commissioner Tribal welfare as member secretary)

- Devising C & I for monitoring the process
- Meet at least once in 3 months to monitor progress and release state level quarterly report of progress to the central Govt.
- Monitor compliance of the provisions for regular participation of govt officials in the various stages of claim verification.

GENDER CONCERNS IN THE FOREST RIGHTS ACT

The Act has been operative since 2007 and the effects of its provisions are drawing acute attention from researchers and development groups as it has immense potential to influence forest governance in these tribal regions (Patnaik 2007, Springate-Baginski.O. et al. 2009, Bose et al. 2012, Larson and Pulhin 2012, Saxena 2012, Veetil et al. 2013).

In Central-eastern India which is covered by dry-deciduous and moist-evergreen forests, many tribal men and women or their families have now received forest land rights; either a joint *patta* or title (in case of an existing husband) or an individual *patta* (in case of a single female or male headed household). In addition, a number of *Gram Sabhas* are applying for the titles for Community Forest Resources (CFRe). However, it is still unknown if these men and women can gain or are already gaining any additional benefits from their changed tenure status. Saxena (2012) has expressed anxiety that even if the FRA is well intentioned, in itself, it is an insufficient reform, as it can only provide ownership, but has remained silent on the questions surrounding actual management and control by the new owners. Still the responsibility of forest management continues to lie with the Forest Departments. Similar concerns were also raised by Sarin and Springate-Baginski (2010).

The post-implementation years of the FRA are witnessing much dynamism in related policies, for example the introduction of the Rehabilitation and Resettlement Bill-2011, the Land Acquisition Bill- 2012, Amendments to the Wildlife Protection Act -1972 and the Biological Diversity Act-2002. Civil Society has been one driving factor that has raised impetus (Bose 2007), and is further favoured by the upcoming federal elections in 2014. Overall, momentum is being generated around demands regarding synchronising related policies in line with the FRA, which now remains the superseding Act in tribal forest regions.

FOREST LAND RIGHTS AND WOMEN

A few studies have been undertaken on the gendered impacts of forest management and almost none except one exists on the impacts the FRA will have on the status of women's access to forest resources (see Bose 2011, Bose 2012). From the pre-FRA era, studies by Sarin (1995;1998;2001) and Agarwal (2001;2009) have discussed issues surrounding declining access to forest resources and the hardships faced by forest women while struggling to collect daily fuel-wood, fodder and minor forest products and how they have affected women of different classes differently. Almost all these studies have also raised questions on the patrilocal residence system and prevailing social norms under which many women gatherers and cultivators reside; and how this affects the capabilities of young women to adjust, especially after marriage, to unfamiliar resource use and learning practices which are very site specific and different from their maternal homes (Jewitt 2002). Substantial knowledge also exists from the mid 90's and early 2000 where researchers have explored issues facing gender mainstreaming in forestry programs in India for various participatory forestry programs particularly in the Joint Forest Management program (Sarin 1995, Locke

1999), but with a premise that land and resource rights in forest areas were informal and non-delineated.

One of the few recent studies focussing exclusively on women rights was conducted by the Rural Development Institute and the UN (UNWOMEN 2012) in India. The study shared the results of a land ownership survey conducted with 504 women and their families from the Indian states of Andhra Pradesh and Bihar, primarily consisting owners of recorded revenue lands (not forest lands). The study provides quantitative evidence of a range of elements that were held responsible for discouraging women from owning land in these states (as discussed in length by Agarwal 1994). Some of the interesting findings include:

- About 39% of women inherited land from their families, about 25% received it under some government scheme and 34% purchased it from markets or others.
- Joint-titling was almost non-existent in the study sample.
- Only 8% of the women in the study sample owned any land.
- About 33% of the men express that they did not wish their wives to own land citing possibility of hostile relations with their community. On the other hand almost 50% of the women expressed their desire to own land against the 46% those refused any desire to own land citing bad terms with their communities.
- 73% of the sons and daughters selected choices that resonated non-ownership of land by women; citing reasons that a women need not to worry about working on land as their husbands take care of such matters.
- About 40% of women responded that the law does not allow women to own land. Regarding owning land through inheritance about 19% women responded that the legislation does not support such actions.
- 60% of the women specified that their village leaders will not recognise land inherited from parents.
- Highlighting the tedious process of land documentation the study shared that about 60% of the plots covered in the survey had no formal documentation and about 61% of women avoided any interaction with the land revenue officers.
- Regarding the question of women's land ownership and intra-household decision-making in households where husbands were present for more than 6 months in a year women didn't participated in decisions about the use of plots. In cases of women headed households about 77% women took lead in taking decisions regarding land use on their plots.

In the end the study shares that a woman is likely to have her name documented on land records in cases where land is distributed through any government program as in FRA and in such cases female land owners are encouraged to interact with revenue officers and raise questions about land-use. The interest of women in owning land was found to be high but the existing socio-cultural norms and weak supporting systems makes it difficult for women to effectively use their land rights (UNWOMEN 2012). Many of the findings of this study are in line with arguments raised by Agarwal (1988;1994) in her pioneering work on women land rights in India almost two decades ago.

With an eye to the FRA, Saxena (2012: 21) discusses concerns involving women in farm forestry systems under the various farm-forestry programs. He argues that in many occasions where communal land has been diverted as a private property, the rights of women have been diluted. This resonates with the finding of the study conducted by Bose (2011) about the impact of FRA on tribal women in Rajasthan. Most of the extension and credit programs are aimed towards men and are not suitable for women who tend to remain in the subsistence side of farm forestry. Thus the constraints faced by women in such forest or tree-based sectors are comparable to those in the agricultural sector. He recommends making amendments in the relevant property succession acts to secure lines of land inheritance to women, thus ensuring a power balance between the two sexes at the level of a household. As a proximate move he proposes making women a mandatory co-manager of any new joint protection schemes.

Overall a wealth of information exists on South Asian women in farming from the pre-FRA years and encouraging information exists for the role gender plays in participatory forestry.

WOMEN AND FRA

Very limited research and information is available on the post-FRA status and developments on the newly allotted forest lands and its use by women. Some of the key questions arising out of the initial review of the literature on the implementation of the FRA and how it might affect women in existing gender norms to date include:

- Has the tenure security provided by the act brought some changes in the state of affairs in these tribal villages?
- Has the act resulted in a change in attitudes related to a woman owning land?
- Has the act enabled tribal women to exercise more control over land management issues?
- What gains and losses has the FRA brought for the different classes of tribal woman?
- What is the impact of existing lines of inheritance in safeguarding ownership of these FRA entitled lands?
- Does the Act's specification that all individual and communal titles are non-alienable discourage tribal women to own the land?
- Are tribal men and women able to assert their rights equally in patriarchal setups?
- What tactics or manoeuvres have emerged which have enabled the claimants to ascertain their rights imminently?
- Once these forest rights are claimed, are male and female recipients expected to control these lands on their own? Or are they given any help given the limited skills and capacities of some households? What is the post-implementation strategy for these newly allotted plots?
- What various options exist for these tribal men/women in the scheme of changes that are forthcoming?

Concurrently, interest in gender and forest rights is gaining attention from the international policy environment and various policy discussions¹³ concerning Indian forestry are drawing attention to the FRA for the potential it holds for forest-dwelling populations, focussing on weak and marginal groups in the country (UN 2010, FAO 2011, EU-FLEGT 2011). Stimulating the need for gender research, a series of publications have also emerged from international organizations in the last five years pressing for the need to address the gender inequality issues in land tenure and forest programs. This has brought back the focus on developing gender-sensitive policies for natural resource management (RDI 2009, FAO 2010, Aguilar et al. 2011, Colfer and Minarchek 2012, Colfer 2013).

Locating Gender Spaces in the Act

FRA as a landmark legislation provides some degree of gender representativeness in the form of joint titles and some clauses for minimum representation for women in various assemblies and institutions. With legal land rights at her end, how perceptions of forest land and forest resources change for men and women remains unknown.

Box 1, contains sections from the Act, which in a way or other, acknowledge the role of women in the FRA process, mostly addressing the issue of participation and representation in various institutions involved with the FRA. The conditions laid out regarding non-alienability and inheritance opens us a whole new debate of patriarchy and inheritance systems at household level. This further complicates the matter.

Box 1: Gender Spaces in the Forest Right Act

Chapter 1 Section 2(g)

‘Grama Sabha’ means a village assembly which shall consist of all adult members of a village and in case of states having no Panchayats, No Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women.

Chapter 3 Section 4

A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of- kin.

Chapter 4 Section 8

The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed

In a section-wise analysis of the Act, Sarin and Springate-Baginski (2010) discusses the verbatim of the Act and on the issue of the role of *Gram Sabhas* under the community forest rights. They state that ‘neither the Act, nor the Rules, say anything about ensuring that the voices of the most marginalised sections and women within *Gram Sabhas* shall be heard

¹³ Including- Climate change, Reduced Emission from Deforestation and Degradation (REDD+), Payment for Environmental Services (PES) and protecting rights of indigenous peoples as specific in the United Nations Declarations on the Rights of Indigenous People.

during the framing of collective management rules and the differentiated needs and rights of different sections of the community will be protected. The distribution of benefits within villages will undoubtedly be affected by local power dynamics' (pg. 25).

Another issue is raised in the section concerning Non-Timber Forest products (NTFP) and the royalty charged by the government about the possibilities of women based enterprises to demand for 'the rights to collect, process and market *Tendu* leaves' (pg. 26).

Overall, the study had expressed elevated concerns about the Act as an insufficient piece of legislation which is open to several interpretations that could surface during its implementation. The disputes over ambiguous segments of the act were so strong that in September 2012 the Government of India underwent major amendments to the Guidelines and the Rules.

In a more relevant work Bose (2011) has dealt exclusively with the post-FRA status of tribal women's individual and collective access to forest resources and their management in the *Bhil* Schedule Tribes of Rajasthan. Her work analysed FRA as a case of identity-based forest tenure reform and has discussed contrasting standpoints about using such approaches in policies affecting use and access to forests resources. Based on 54 interviews¹⁴ Bose argues that irrespective of social status, a woman holds no primary property rights to forest land in terms of its use and control, and the new institutional arrangement under the Act has failed to capture the subsistence needs of tribal women. The results of the study are insightful and can help in comparing results from a different geographical area of India, as the level of forest dependence and the wider social settings can play a significant role in determining if women are able to use their knowledge and skills in managing their new fields and forests, as discussed in Jewitt (2002).

Amongst Scheduled Tribes, levels of forest dependence and forest resource endowments differ in different geographical regions in India and therefore, it becomes critical to see if different results come from different geographical settings.

A CONTEXTUAL FRAMEWORK

Agarwal (1988) hypothesizes that in poor households' direct access to land rights can shrink women's risk of poverty, enhance allocation of household resources, increase women's access to credit, technology and information, impart economic security, and also reduce

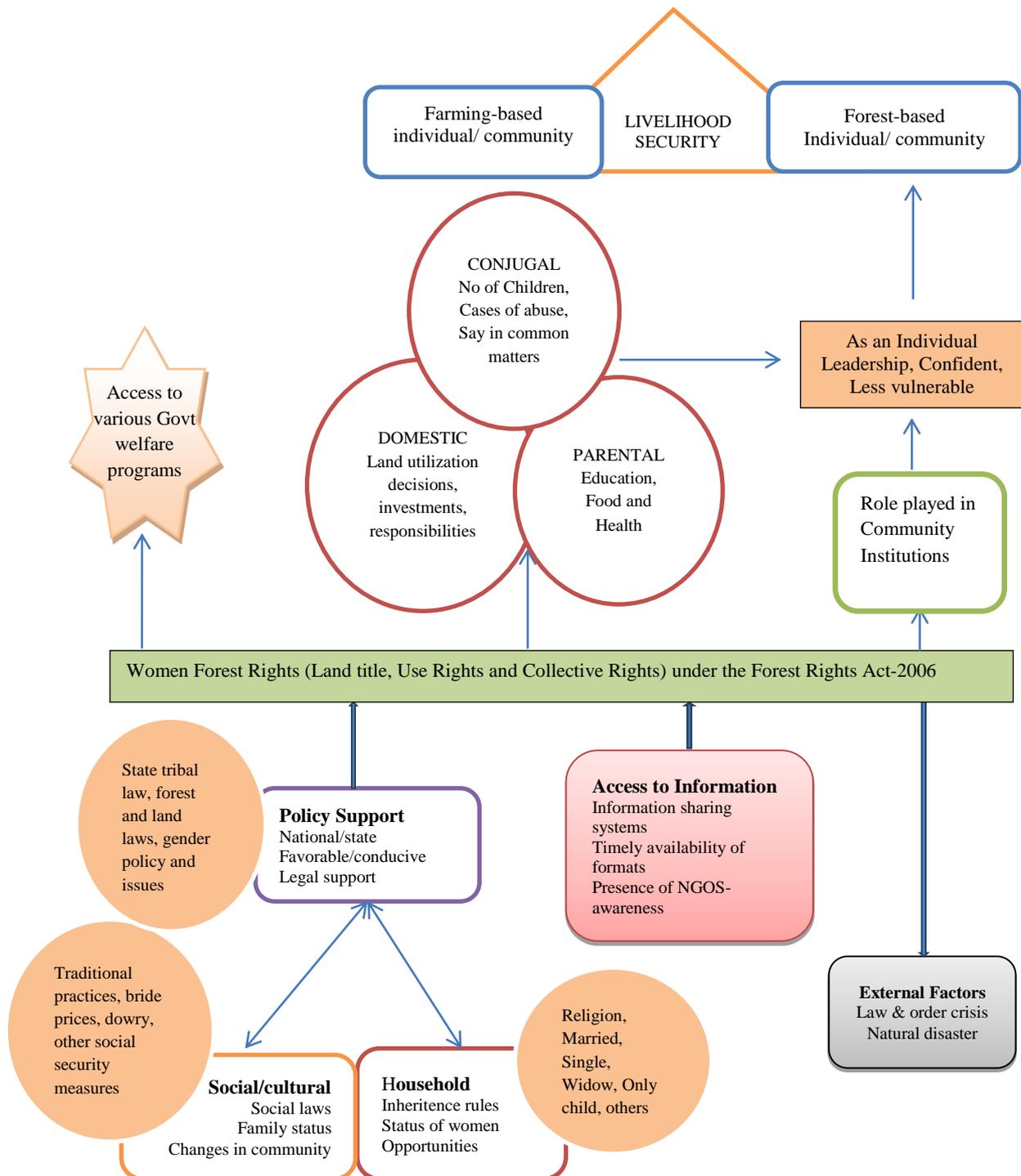
¹⁴ Individual access to forestland and forest resources; women members who were a part of the forest committees- (about 11%) thought that FRA only gives forestland ownership to household heads (mostly men); 73% were of the opinion that their access to the forest has decreased after FRA, after the local ban on collection of *Jatropha* and *Bamboo* (by FRA committee); 88% respondents lost access to the *Tendu* leaves collection; Almost 2/3rd of the tribal women lost access to fodder and fuel-wood. The male relatives of 88% respondents had claimed land rights on their behalf; about 19% respondents got their names proposed by their male counterparts for individual ownership as primary claimant, but with little control over managing and using the forest land; landless tribal women felt that lack of an influential male relative in the committee made their claim less favoured.

Collective rights; 90% of the respondent were unaware of the collective tenure and access rights; 88% of the respondent perceived FRA disadvantageous for not recognising women's traditional collective rights over forests; A few perceived the quota system of (1/3rd) reservation for women indeed is leading to loss of decision-making power of a tribal women (in terms of women being considered as a token in the participation); and women also shared about their non-presence in any of the forest based commercial interventions.

gender-based violence. She also recognised numerous challenges including a lack of inheritance rights for women, privatisation of community lands, legislation treating men and women differently, patrilocal residence for women after marriages, and, existence of gender prejudices in various levels of bureaucracy (Agarwal 1994). According to her, in tribal communities women enjoyed more usufruct rights, but, with frequent intervention by the State, more and more communal land is being privatized and this has seriously eroded access of tribal women to forest usufruct. On another important aspect concerning mass movements surrounding land rights, she cites that 'grass-root land movements have typically not given an explicit recognition to women's independent claim to land' (pg 571). This particular work has pin-pointed views on the challenges faced by women farmers in India in the last two decades. This work still holds much relevance as the concerns expressed remain unknown in the light of FRA. Using Agarwal's research on farming women's land rights, as a further exploration of the similar issues in forest-base communities, a contextual framework has been developed for women's land rights under FRA (refer to figure 3).

To enable a tribal woman to make an independent claim under the FRA, there is a need to provide her with appropriate policy support, timely information and backing from her household and the community. Once a woman is able to jump through these initial barriers, the authorities need to recognize her rights at the same level of that of men in the household (in case of a joint title). Once the woman is able to secure her land and use titles, there will be a need to create conditions and opportunities for her to make use of her titles.

Figure 3: Women Land Rights under FRA; a Contextual Framework
 (Based on Agarwal (1988) and Agarwal (1994))



CONCLUSION

Significant knowledge already exists about women and land rights in India. Critical insights are also available on the inherent challenges women face in putting land rights into use; particularly in patrilineal family/social systems. New evidence is emerging from studies linking forest resources, farming, and livelihood and food security around women's land rights.

With Forest Rights Act now in existence a new situation has emerged which can provide a testing ground to extend the scope of this existing knowledge but with a particular focus on forest land use and rights by men and women in India. The article highlights the knowledge, existing gaps and the questions arising out of the literature on gendered nature of forest land use and forest rights in India. There is a need to conduct further research in this sector to generate important new information on strategies used by tribal women/men in obtaining, asserting and declaring the forest land rights that have recently been made available to them.

Recent research has emphasised that there is a need to incorporate gender-sensitive support programs as part of the post-implementation strategy will encourage her to make the best out of her newly received rights and play a significant role in her household decision making and in her communities in large. A particular focus needs to be given on women-oriented farm and forestry-based skill development guidance in their local settings.

My research aims to provide insights to some of the questions raised in this paper, particularly those dealing with gender-based strategies of ascertaining forest rights under the Act and by investigating the trends in land-use priorities in these newly allotted plots and understand if there exist any gender spaces and how these could be addressed in the post implementation phases of the Act.

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