

## **Understanding India's Forest Land Rights through Spatial Justice Framework – A Policy Analysis of the Forest Rights Act 2006**

**PRATAP KISHORE MOHANTY<sup>1</sup> AND RABINDRA GARADA<sup>2\*</sup>**

<sup>1</sup>Research Scholar and <sup>2</sup>Associate Professor

Department of Sociology, Utkal University, Vani Vihar, Bhubaneswar (Odisha) India

### **ABSTRACT**

Of all related Forest Acts the Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a unique act in setting a paradigm shift from colonial forest governance to community governance in India. The community forest governance denotes to a social concept-“community” as well as to legal concept- “forest governance”. In this context, the spatial justice though pleads with two interrelated concepts *i.e.* space and social justice however by shaping both concepts tends to undermine another. The space for humanities is a social fact whereas justice is really a legal fact. However, unlike “justice” the space *i.e.* land, forest, territory, and landscape as understood under Forest Rights Act (FRA) in India, is not going to improve much, simply because it changes quite frequently with regards to every other independent variables. After FRA the forest-dwellers, including a high proportion of tribal, who have been among the poorest and most vulnerable groups in India since time immemorial whether witness a sigh of relief is definitely an analytical question at present. In this context, the paper with spatial justice framework reveals a “*Socio-Spatial Dialectic*”. This article deals with how the space has always been a contentious issue even after the right recognition process get ushered in some form or the other. Hence the spatial injustice perpetuated throughout the human history is again not going to disappear with this single stroke of the legislation -Forest Rights Act, 2006 in India.

**Key Words :** Forest Land Rights, Spatial Justice Framework

### **INTRODUCTION**

Forest-dwellers, mostly the ecosystem people (Garada, 2013) including a high proportion of tribal; have been among the poorest and vulnerable groups in India since time immemorial. Even in independent India they face persistent problems of chronic poverty, land alienation, indebtedness, no or restricted access to non-timber forest produce, involuntary displacement, eviction from their forest dwellings without proper rehabilitation, so on and so forth. The state's development intervention in people's life often spoils their ecosystems. It so happens that their access to substantive democracy, human right, social justice, economic equity is thoroughly violated (Garada, 2013). In this context, the Forest Rights Act 2006 (FRA) is just a belated but bold legislative attempt by the Government of India to democratise forest management and governance (Mohanty and Garada, 2016). For the very first time, not

merely forest dependent communities are identified by governmental law; the government has also started facilitating these communities' participation in forest governance and management which was an exclusive bastion of forest departmental bureaucracy. Spatial justice though pleads together with two interrelated concepts *i.e.* social justice and space however by shaping both concepts tends to undermine another. Given the emergence of a different branch of study recently “spatial Justice “has gained importance in the works of geographers David Harvey (1994) and Edward W. Soja (1980). The space for humanities is a social fact whereas justice is a legal fact. But unlike “justice” the space *i.e.* land, forest, territories, and landscapes as understood under Forest Rights Act in India, is not going to improve much, simply because it changes quite frequently with regards to every other independent variables. Consequently the spatial justice framework has given rise to a socio-spatial

**How to cite this Article:** Mohanty, Pratap Kishore and Garada, Rabindra (2019). Understanding India's Forest Land Rights through Spatial Justice Framework – A Policy Analysis of the Forest Rights Act 2006. *Internat. J. Appl. Soc. Sci.*, 6 (3&4) : 413-421.

dialectic in India at present. In this backdrop, it is high time to understand India's forest land rights through spatial justice framework.

### **Understanding Spatial Justice:**

Since social justice embedded in space where humans live as stated earlier, and understanding that we have to understand social injustices committed against people who are denied to live there. However, the spatial justice is becoming more a challenge than a reality in the country like India. Based on the existing literature on spatial justice, geographic space is an important component in producing justice relations. Taken into consideration both what "Spatial" and "Justice" they have rich histories within their respective disciplines of geography and political theory respectively. Our review of relevant literatures reveals that although both of these disciplines have independently developed their respective conceptual connotations, spatial justice is far from an evident concept. This without doubt owes itself at least in part to each discipline's boundaries: the geographers attend to space while taking for granted justice's meaning; political theorists frequently develop theories of justice detached from any particular place in the universe. A theory of spatial justice must account fully for both concepts of space and justice. This comprehension of space developed most forcefully by French Sociologist Henri Lefebvre, whose book "The Production of Space (1974)" set new terms for conceiving of space. In opposition to what he terms "abstract space," imagined as an infinite, pre-social grid in which material processes occur (Lefebvre, 1992), Lefebvre argues that "physical space has no 'reality' without the energy that is deployed within it" (Lefebvre, 1992, 13). To put this differently, "a space is not a thing but rather a set of relations between things (objects and products)" (1992, 83).

Space is an activity that individuals come to comprehend through locational specific physical forms; what we colloquially call "places" (Tuan, 2011). In this, space is significantly like a commodity. Much as Marx argued that one cannot understand the commodity without understanding the social processes embedded in it, Lefebvre argued that space cannot be understood as a "thing" in which social processes happen: "We come to think in terms of spatiality, and so to fetishize space in a way reminiscent of the old fetishism of commodities, where the trap lay in exchange and the error was to consider 'things' in isolation, as 'things in themselves'

(Lefebvre, 1992:90). Space is greater than a container for social process, inscribed with man's workings; space is instead the pair of fluctuating material, social, and ideological relations that act on each other.

### **Cultural Construction of Space:**

The space in which we live in we grow with a set of social relations. It is conceived as social space in which we live and create relationships among us, with our societies and societal environments (Nigel, 2003). According to Harvey (1994) it is a relational social construction beyond its essentialist notion. For more than a century a group of thinkers and philosophers are of the opinion that nature is essentially a social product – part of our geographical imagination. The concept of nature is social and symbolic in nature as if a social construction or arbitrary sign (Escobar, 1996; Ellen, 1996; Uggla, 2010). Thus, it is very difficult to get rid of the biases of the culture in which conception of nature and culture is constructed.

In this context, Pálsson (1996) identifies the human-environment relations into paradigms of orientalism, paternalism and communalism. In accordance with the Orientalism the human beings have all the right to exploit the nature since they are the masters over nature but not vice versa. "They base their trust on modern science and their scientists present themselves as "analysts of the material world, unaffected by any ethical considerations" (Pálsson, 1996: 68). Though the paternalists also have similar beliefs but argue that the people are accountable for conserving nature by using modern science. Further, they see the scientists as neutral and value-free people attach more significant value to environment or its protection than human development. The communalists, on the other hand see an interlinked relationship between human being and environment. The communalists propose for a generalized reciprocity between humans and nature rejecting their separation. Many forest-dependent indigenous groups can be placed within this paradigm of communalism (Pálsson, 1996; Purcell, 1998).

### **India's Forestry Sector and Historical Injustice:**

Even if for the time being and for the continuation of narratives around space being understood as either land or forest, we would find a long history around forest and forest land in India. As per the Forest Survey of India 2009, nearly one-fourth (23%) of India's land surface is covered with forests. Human society and the global economy are inextricably linked to forests. The forest

ecosystem plays a critical role in it since a billion of people continues to rely on forests based livelihoods (Garada, 2013). The estimated number of forest-dependent people in India ranges from 250 to 350 million. During the long association between forests and the forest-dependent communities, various social, cultural and economic aspects of their lives have become linked with forests and community practices for managing forest resources have also evolved correspondingly. Before colonial rule in India, such forest-dwelling communities used to have a degree of sovereignty in management of local forest resources. Many of the colonial laws imposed were aimed at achieving easier administration and control in areas under forest cover. The most significant of these laws was the Indian Forest Act (passed in 1865, 1878 and once again in 1927) which brought forest resources under the direct control of the state. While there has been legal acknowledgement that 'historic injustice' was meted out to forest-dependent people during consolidation of forests as government property, till date the colonial Indian Forest Act continues to be implemented, with a few amendments (Mohanty and Garada, 2017&2016).

The Post-Independence National Forest Policy (1952) and laws like the Wild Life (Protection) Act of 1972 and the Forest (Conservation) Act of 1980 did little in alleviating the situation of disruption of forest based livelihood and of social injustice. Further, restriction on local use of forests and branding forest dependant people as encroachers or illegal users fast alienating village communities from forest and their symbiotic green relationship with it (Mohanty and Garada, 2017). Unfortunately, the Forest Conservation Act, 1980, the Wild Life Protection Act, 1972, and the Indian Forest Act, 1927 following the same principle of human interference would lead to destruction of forest ecosystem (Mohanty and Garada, 2016).

These legal perspectives in general often ignore that tribal as an integral part of the forest ecosystem who not merely survives on forest but sensitively preserve it. On the contrary on 3<sup>rd</sup> May, 2002 the Indian government had ordered an eviction notice on all forest encroachers and within a just four months about 300,000 impoverished cultivators from over 152,000 hectares was evicted. Mass protests and destitution finally persuaded the Government of India to introduce in Parliament on 13 December 2005, the Scheduled Tribes and other traditional forest dwellers (Recognition of Forest Rights) Bill, 2005 and the rest is a shy of relief to a considerable extent (Mohanty and Garada,

2017 and 2016; Katare and Barik, 2002).

Against a colonial legacy of commercial timber harvesting and rampant hunting, the dawning of India's conservation era since the early 1970s has resulted in the creation of an extensive network of protected areas—national parks, tiger reserves, and wildlife sanctuaries buttressed by a formidable legislative and institutional framework. A landmark event in this conservation history was the passing of the Wild Life Protection Act in 1972, which provided for the constitution of state wildlife advisory boards, sanctuaries, and national parks; the total protection of 133 endangered species of mammals, birds, and reptiles; and strict penalties for violations of the Act.

The following year saw the launching of the central government - sponsored "Project Tiger" scheme with substantial financial and advisory inputs by the World Wildlife Fund. Initially implemented in nine reserves, each divided into Core and Buffer Zones, Project Tiger advocated an 'Ecosystem Approach' for the elimination of all forms of 'human exploitation' in the former and the 'rationalization' of activities in the latter. Its mandate was strengthened through further legislation: the 42nd Amendment Act to the Indian Constitution in 1976, which enabled both Parliament and state governments to pass legislation relating to forest and wildlife conservation with national law prevailing in the event of conflict.

This Amendment also included two new articles: Article 48-A which reinforced the State's role in protecting and improving the environment and safeguarding forests and wildlife, and Article 51-G, which described the protection of the environment, forests, and wildlife as 'the duty of every citizen of India'. This was followed by a further spate of activities: the creation of a Department of Environment in 1980, upgraded five years later to a full-fledged Ministry; the Forest Conservation Act of 1980, which prohibited states from de-notifying reserve forests and restricted their use for non-forest purposes; and the Environmental (Protection) Act of 1986 empowering the central government to coordinate all activities relating to resource management. In 1986 and 1991, further amendments were made to the Wild Life Act, including a total ban on trade in animal products; protection for specified plants; greater restrictions in sanctuaries; and increased penalties and powers of prosecution for wildlife wardens.

At the close of the century, this legislative commitment to wildlife conservation has led to a dramatic increase in protected areas from 65 in 1970 to 554 in

early 2000, covering 4.69 per cent of the country's total land area (Kothari *at all* 1989). But within this extensive network, conflict has been endemic. Surveys conducted in the 1990s revealed clashes between Forest Department/Project Tiger staff and local residents over poaching, illegal grazing, coercive relocation programs with woefully inadequate compensation packages, and human and livestock deaths caused by animal attacks in 47 out of 222 protected areas. This is hardly surprising given the presence of at least 3 million people, mostly belonging to scheduled castes and tribes, who live inside over half of India's protected areas without access to basic facilities and often under severely restrictive regimes (ibid; Mohanty and Garada, 2016:36).

### **Ontology of Space and Conflict from within:**

A plausible understanding of the space or spatial is that unlike justice space it is always dynamic. Striving for space/territorial right for a certain individual or group might lead to marginalization and exclusion of some individual or group in a given time period. Hence even if the connotation of justice might remain as an independent variable whereas (space) territory, resource, land and forest always dynamic in nature, and hence will always remain as dependent variable. In Indian scenario for the last fifty years or so and even in recent times we have-not only come across situations of people and community being the cosmic right holders because of their cultural and customary resource interaction but at the same time there are department, agencies, schemes and programmes also striving for a claim over the same space and there are imminent conflict over it. One might argue that the natural heir and the custodian must ideologically, and ethically are the forest dependent communities but there are equal weightage of the demand of globalised forces where feeding the teeming million is equally important for their establishment. What comes out of the argument is simply that there is always a conflict with regard to the claim over space which is not necessarily the excluded groups and communities.

### **Background of the Forest Rights Act:**

The relationship between forest dwelling scheduled tribes and other traditional forest dwellers is historically characterized by co-existence and is considered integral to the very survival and sustainability of the forest ecosystems. Forests provide them sustenance in the form of minor forest produce, water, grazing grounds, medicines and habitat for shifting cultivation, etc. They have been

widely depending upon the forestland and forest resources to derive their livelihoods, food security and socio-cultural traditions for generations. It is also well known fact that there exists a spatial relationship between the forest dwelling tribes and the biological resources in India. This symbiotic relationship has been acknowledged and crystallized as customary rights over land and forest resources. However, these rights were neither recognized nor recorded by the State in the consolidation of State forests during the colonial period as well as in independent India. As a result, they were subject to deprivation and susceptible to harassment, threat of evictions, extortion of money by different authorities, etc. causing injustice to the forest dwellers. These processes of exclusion have severely affected their immediate resource base leading to tenurial and livelihood insecurity in their ancestral land by making them vulnerable.

History has witnessed the gradual process of exclusion and marginalization of the forest dependent and dwelling population in India. The colonial State considered forest as state property and a source of revenue, therefore, massively exploited for commercial purpose without any legislative framework to make forest available for meeting local livelihood needs of the forest dwellers. The forest estate named Imperial Forest Service was established by the British in 1864 for managing the strategic concern of the exploitation of timber, as a critical juncture of exclusion and separation of local people's customary forest use from valued forests through policy enforcement amounted to gradual 'ethnic cleansing' in many cases. The customary use of forest by the villager was only treated as 'privilege' and not 'right'. The absolute control and ownership right is however with the state (Guha, 1984). Community lands and forests were reserved as State forests to extract revenue. The priorities of the new system of forest management and control, imposed by the colonial state, conflicted sharply with customary and traditional rights, local systems of forest use and control, community conservation and governance systems. In this process, the rights of the village communities on forests were progressively eroded. Thus a new forest governance system excluded the forest-dependent communities in the name of national development, industrial growth, public interest, scientific forestry and conservation. The independent India also, inherited the colonial worldview, established a mode of forest governance that imposed restrictions on local forest dwellers through a definition of forest as national property,

which tried to acquire control of forests for commerce and “national development” at the cost of local forest-based livelihoods.

It has also been laboured the non-existent incompatibility between conservation and livelihoods. The classification of forests in the name of forest reservation and conservation has tactically imposed restriction on the customary use rights and free access of resources (land, forest produce, pasture, other traditional and cultural use, etc.) by the local forest dependent communities.

The National Forest Policy of 1988 has adopted Joint Forest Management (JFM) as extension of forest administration, the impact of which was found to be adverse on the communities and their traditional systems and in a way ended up creating more conflicts and rights deprivation.

The process of marginalization of forest dwellers and their reduced access to forest resources by the State constructed legal instruments led to serious discontent and frustration. As a result, the growing agitations and unrest in forest areas emerged strongly in different parts of India against the continued exclusionary processes adopted by the state by pushing the resource dependent poor into the state of serious marginalization. The movement against such alienation of customary rights in tribal regions became prominent after 1980s.

In response to the massive discontent, the Ministry of Rural Development, Government of India constituted Bhuria Committee to recommend the salient features of a law for extending provisions of Part IXA of the Constitution of India (‘Panchayats’) to Scheduled Areas (tribal areas) (PESA). The Committee had argued for the legal recognition of the Palli Sabha (or the village council) as the primary centre of tribal governance and also recommended that the long-standing demand of tribal control over productive land and forests should be conceded to and administrative interference in their affairs should be minimised. Based on the report, the Parliament enacted the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, which recognized the rights of tribal to self-governance and empowered their Palli Sabhas to manage their community resources-land, forest and water in accordance with their customs and traditions. But the actual implementation of the PESA has been far from satisfactory.

The Commissioner for Scheduled Castes and Scheduled Tribes in his 29th report (1987–89) recommended a framework for resolving disputes related

to forest land between tribal people and the state. Based on the recommendations, the Ministry of Environment and Forest (MoEF) issued a set of six circulars in 18th September 1990, asking the State government to resolve disputes related to forest lands arising out of incomplete or poor forest settlements, conversion of forest villages into revenue villages and address other issues related to forest tenure. However, these circulars remained unimplemented leading to their further land alienation, deprivation and unrest in tribal heartlands (Kumar et al., 2005, Sarin, 2005).

The issues of rights deprivation also became more acute with the change in the focus of development and economic liberalization that underwent a paradigm shift in the 1990s. It focusing on resource exploitation and extractive industries resulted in increased displacement and loss of livelihoods in tribal and forest areas. The forest rights issue reached a flashpoint in 2002 when the MoEF issued an order to the State governments to evict all “encroachers” on forest land in a time bound manner by misinterpreting the order of Supreme Court under Writ petition 202 of 1995 filed by T.N. Godavarman vs. Union of India. In response to the most crucial Intervention Application 703 filed by Advocate Harish Salve, Amicus Curiae, the Supreme Court passed an interim order “restrained the Central government from regularising any encroachment without permission of the Court”. No order was passed regarding eviction of the “encroachers.” However, the MoEF by misinterpreting the order its Inspector General of Forests issued an order on dated 3rd May 2002 “to evict the ineligible encroachers and all posts-1980 encroachers from forestland in a time bound manner” creating an impression that eviction was order by the Supreme Court. The eviction drive created immense hardship for tribal communities across the country. As per the statement of MoEF in Parliament on 16th August 2004 the “encroachers” are evicted from 1.5 lakh hectares of forestland, without mention of the number of family evicted. According to NCS and other groups working among forest dwellers, about 300,000 families were evicted between 2002-06 by the Forest Dept. to create new Protected Areas and to clear ‘forest encroachments’ making way for plantations and wildlife areas. Since 1947, millions of people in the country were displaced due to creation of Protected Areas and development projects like large dams, mines, industries, roads and army cantonments. As per an estimate made by Planning Commission between 1951 and 1990 about

21.3 million people were displaced by development projects. Millions of them were dragged into destitution, harassment, etc., on the pretext of being encroachers in their ancestral home lands.

This has created a milestone in the history of Forest Rights Campaign, in which peoples movements and organisations began to organise themselves to resist the evictions across the country. The gross violation of the democratic rights of Adivasis and other communities by the forest department continued to be a matter of grave concern. A country-wide campaign launched against the MoEF order on eviction by mass tribal and civil society organizations demanded a comprehensive legislation to deal with the issues of unrecognised forest rights. Campaign for Survival and Dignity among others took a lead role in organizing and bringing large number of groups and people's organisations from State to national level together. The mass struggle and campaigns launched at national, state and regional levels along with political leaders, civil societies and their active campaign groups, tribal rights activists against the eviction and for making permanent legal solutions to these historical wrongs.

Compelled by these protests, MoEF issued a clarification in October 2002 that its 1990 circulars remained valid and that not all forest-dwellers were encroachers. Indeed, the Ministry admitted in an affidavit filed in the Supreme Court in July 2004 that, during the consolidation of state forests, "the rural people, especially tribal who have been living in the forests since time immemorial, were deprived of their traditional rights and livelihood and consequently, these tribal have become encroachers in the eyes of law". The affidavit continued that such rights needed to be recognized "to remedy a serious historical injustice" and that "(this) will also significantly lead to better forest conservation". The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 emerged as a legislative means for remedying a historical wrong through forest tenure reform, is the product and sacrifice of millions of people and their prolonged struggle by grassroots movements. It was a result of the polity responding to protracted struggles by tribal communities and movements to assert rights over the forestlands they were traditionally dependent on. The Act specifically aims at- (1) recognizing and vesting forest rights and occupancy rights to those forest dwellers who have been living in such forests for generations but their rights were not recorded; (2) providing a framework for recording the

forest rights; (3) including the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance – thereby strengthening the conservation regime of forests; and (4) ensuring livelihood and food security of the Scheduled Tribes and other forest dwellers.

It also recognizes community's traditional rights to forests as they can manage, protect, regenerate or conserve community forest resources traditionally protected and conserved for sustainable uses. And further it empowers the Palli Sabhas and the right holders to protect their wildlife and biodiversity in the forests.

### **What is Forest Rights Act?**

The enactment of Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest rights) Act, 2006 ushered in another paradigm shift from a completely colonial legacy of forest governance to that of a community based, community centred and community owned forest governance regime. However there are different hindrances to the process of implementation. Forest dwellers have systematically been deprived, excluded and alienated from their rights over the forests. The priorities of British enacted forest laws and policies (Indian Forest Act, National Forest Policy) conflicted sharply with local systems of forest use and control. In the 1970s the Wildlife Protection Act and declaration of the Protected Areas (Wildlife Sanctuaries and National Parks) set in an exclusionary process of conservation leading to further deprivation and alienation of forest dwellers and local communities. The forest rights issue reached a flashpoint in 2002-2003 when following a Supreme Court order in the Godavarman case the MOEF issued letters to the State governments to evict forest dwellers from their forest land in a time bound manner. This led to evictions in many states which were protested widely by the tribal and forest communities. The Joint Forest Management programs adopted after the NFP impacted adversely on the communities and their traditional systems. The issues of rights worsened in the post 1990 liberalized Indian economy. The resource extractive industries implemented in the tribal and forest areas led to displacement and loss of livelihoods in most cases.

### **Forest Rights Act- Ensuring Spatial Justice in Indian Scenario:**

The Forest Rights Act recognizes and secures community rights or rights over community forest

resources of the communities in addition to their individual rights. Recognition of community rights is landmark step which is expected to empower the communities to assert their rights over community forest resources which are critical for their livelihood. While providing for forest rights of the community, the act also ensures their right to protect and conserve the community forest resources, a significant step to enable community conservation initiatives and strengthen the diverse process of protection and conservation of biodiversity, hitherto unrecognized by the government. Different procedures have been laid down to translate the act into reality with every concern towards empowerment, livelihood security and biodiversity conservation.

**The spatial justice framework broadly speaks the following:**

One- The “spatial justice refers to the promotion of access to public goods, basic services, culture, economic opportunity and healthy environments through fair and inclusive spatial planning, design and management of urban and rural spaces and resources” (Rocco,2014:14).

Two- It is an essential element of sustainability, understood the integration of social, economic and environmental dimensions that will allow future generations to enjoy healthy and happy lives.

Three- It is a right for all and is an especial element of democracy. The spatial justice- spatial opportunities and benefits, fair redistribution of resources, sustainable governance, etc can be achieved through democratic participation.

It may be premature to test the usefulness of Forest Rights Act through the above three parameters simply because the time frame of right recognition and realization of the inherent spirit of the act would be lesser one. But this experimentation would definitely lead us to an indicator from which, further development and improvement can be made. There is no denying that in a nutshell Forest Rights Act intends to ensure three securities *i.e.* Tenurial, Livelihood and Ecological Security. But this would be a very simplistic analysis of the Act because there are elements like culture, happiness, sustainable governance which may not be or impossible to categorise under any of the above securities and hence a fair understanding of the contribution of Forest Rights Act from a holistic perspective is next to impossible at least in the present scenario, when more than 30 to 80 percents of individual forest land and community forest land rights yet to be recognised.

But from a very realistic standpoint the framework refers to an idea that the community would be able to have a fair and inclusive spatial planning once their rights over forest and forest land have been recognized. But in its reality it has not yet been quite visible even in places where rights have long been recognized. This might have many reasons and narratives but it gives an impression that community and their associations with the forested landscape have undergone a big change and hence they are not responding to the situation as has been expected. Many researchers, people’s organization claims that gradually people would take up the task on to themselves of conserving and managing their resources. But until now what has been the experiences. There are mixed reactions at hand. In few places people and communities have started resisting any outside interference in their community forest resources and on the other side there are communities who have become instrument of indiscriminate felling and destruction.

**Evaluation of the implementation of the Forest Rights Act:**

Firstly the spatial justice refers to the promotion of access to public goods and resources as has been stated earlier in this paper, it is not fair to expect the full potential of FRA has been realised nor is it possible that the Act in a single stroke can effectively undo all the historical injustice meted out to the forest dependent communities. But the overall impression seems to suggest that the Act has the potential to bring in a big change in so far as the forest governance in India is concerned. It is estimated that rights of over 200 million STs and OTFDs in over 170,000 villages should be recognized under FRA, mostly through CR and CFR provisions. Changing the top-down state governance of forests, the FRA supports local adaptive forest governance. The Act recognizes rights over community forest resources and empowers the gram sabha to prepare conservation and management plans. Transfer of jurisdiction of CFRs to the gram sabha will boost creativity and disperse local knowledge of forest dwellers to effectively manage, govern and restore forests at a low cost. Barely three per cent of the potential CFR area has been recognized till now, but effective forest governance and restoration by the gram sabha are already being practiced in hundreds of villages. Till now, the FRA’s implementation has been limited. But even that much has made startling and powerful changes, show field reports. Cases have been reported where tribal and OTFD gram

sabhas have earned tens of lakhs of rupees each from the sale of bamboo and Kendu leaves (Narmada district in Gujarat, Gadchiroli and Chandrapur in Maharashtra), and through large scale convergence of FRA with programmes such as IAY and MGNREGA (Kandhamal and Mayurbhanj districts in Odisha).

Secondly it is an essential element of sustainability, understood the integration of social, economic and environmental dimensions that will allow future generations to enjoy healthy and happy lives. Even if the evidence is not clear as of now with the implementation of the Act is still on its way, there has been examples as to how the forest governance by the communities themselves who have become the steward of their forest resources have taken unto themselves the tasks of management as well. The transformative potential of FRA, representing the largest land and forest tenure reform in the country, to not only restore to forest dwelling communities their historical rights but also to democratize forest governance through empowered gram sabhas, conforms with the country's Constitutional obligations, international commitments as well as development goals. FRA's potential to enhance local livelihood and ensure conservation makes it an effective vehicle to address the Sustainable Development Goals, especially the goals of eliminating poverty and achieving ecological sustainability. By recognizing individual and collective rights of forest dwellers, the FRA supports their access to subsistence resources including forest based livelihood, food grains, etc.

In doing so, it also conforms to India's commitments under the Convention on Biological Diversity and those related to climate change- the marginalized forest dwellers. The campaign for the Forest Rights Act served to temporarily short circuit state's power dynamics and led to an outcome more democratic to marginalized forest dwellers and tribal. It is a right for all and is an especial element of democracy: the enactment of the Forest Rights Act, 2006 represents a moment of inclusion of the marginalized in the democratic process, forced by a statute movement politics and a favourable political environment. Whether this gains for the forest dwellers in actual substantive rights or their access remains an open question. The rights of forest dwellers had been a marginal issue since independence, but it became important for the government during the period 2002–08. It was the subject of special Cabinet meetings, a Joint Parliamentary Committee and specific parliamentary discussions. The rights of forest dwellers became a topic

for debates on national television channels and a staple of newspaper headlines. A law that admitted historical injustices was enacted by the parliament to address the problems that forest dwellers faced. From being considered criminals and encroachers in 2002, they were statutorily elevated to the status of victims of historical injustices, to be compensated through the recognition of their rights. This change seems particularly remarkable when compared with the actual political marginalization and lack of voice of forest dwellers in local contexts. The content of the RFRA is radical in scope, especially in the wide varieties of rights vested in the forest dwellers. It radicalizes the rights settlement processes by giving power to local Gram Sabhas. Whether these statutory provisions can actually empower the forest dwellers on the ground remains to be seen.

As discussed above, feedback regarding the implementation to date looks rather bleak, though a number of cases in which forest dwellers have used the law to challenge the power structures and assert their rights are being reported. The lack of proper implementation of the Forest Rights Act points to the substantial barriers to empowerment of forest dwellers relative to the state apparatus and local elites. Nevertheless the enactment of FRA provides insight into how Indian democracy could possibly become more inclusive of marginalized people. It provides an instance in which marginalized 'subjects' and their organizations, through non-electoral mobilization and strategic moves, were able to set the frame for creating a new law favouring the marginalized forest dwellers. The campaign for the Forest Rights Act served to temporarily short circuit the state's power dynamics and led to an outcome more democratic to marginalized forest dwellers and tribal.

#### **Way Forward:**

There is a large sections of Indian society who are skeptic about the usefulness of Forest Rights Act and the new regime of forest governance being a game changer, simply because of the fact that, the community as most of us envisage are not homogenous and the power equations are not going to change overnight, even within the community level. The space or territory has always been a contentious issue even after the right recognition process in some form or the other. Hence spatial injustice perpetuated throughout the human history is again not going to disappear with this single stroke of legislation. And simultaneously the fight for the bigger



share of the same space is not going to stop in any level, may it be in the power corridors of community, as well as the state. Space in its current discourse related to forest and forest land is not going to be less vulnerable because of a new regime of governance. The quest for power, hegemony from within the state or from outside the state, in the form of “Globalised Forces“, will always going to destabilize the very notion of “space“. Also we need to bear in mind that it is very difficult to ensure democratization of space because space or territories are not static rather dynamic and the relationships often changes and takes different shapes owing to hosts of externalities. In India with regard to this governance change researchers are of the opinion that this might lead to the emergence of another class of people, in whatever nomenclature, the vicious cycle of exclusion would continue. See the perception of the right wing as well as the left wing political parties and their affiliated institutions and organizations. If the extreme right wings want to control space and territories for the propagation of their theories of development leading to mass industrialization etc., the extreme left committing genocide in areas where they claim to fight for their rights on space (land, forest, customary habitat and territories) as a dependant variable shall always remain vulnerable and spatial justice at this juncture would not be possible to realize with the present form of institutions. In order to realize it a complete overhauling of the governance apparatus is the need of the hour.

**N.B.:** The authors are thankful to Vasundhara, Bhubaneswar, for providing access to their library. Vasundhara Bhubaneswar, Odisha is a Research and Policy organization involved with Democratization of Natural Resource Governance.

## REFERENCES

- Ellen, R.(1996). ‘Introduction’ in R. Ellen and K. Fukui (eds.) *Redefining nature: ecology, culture and domestication*. Oxford: Berg. pp.1-39.
- Escobar, Arturo (1996). ‘Construction Nature: Elements for a Post-Structuralist Political Ecology’. *Futures* 28(4): 325-343.
- Garada, R. and Mohanty, P. (2015). ‘Land Tenure System, Land Settlement and Status of Legally Landless Communities in Koraput: A Case Study of Kapsiput Village, Odisha (India)’. *Global Journals Inc. (USA), Global J. Human-Soc. Sci. : B Geography, Geo-Sciences, Environmental Science & Disaster Management*, **15** (3) : 46-52
- Garada.R. (2013). ‘Contextualizing the Emerging Issues and Dilemmas of Displaced Ecosystem People: A Case of Coal Mining Industry at Talcher, Odisha’. *IOSR J. Humanities & Soc. Sci.*, **12** (4) : 22-31
- Katara, P.M and Barik, B.C. (2002). (Ed. Vol) *Development, Deprivation and Human rights Violation*, New Delhi: Rawat Publication.
- <http://www.wri.org/our-work/project/governance-forests-initiative>
- <http://www.forestrightsact.com/what-is-this-act-about>
- Kothari, A., Pande, P., Singh, S. and Variava, D. (1989). *Management of National Parks and Sanctuaries in India. A Status Report*. New Delhi: Indian Institute of Public Administration.
- Lefebvre, Henri (1972). *Espace et politique*, Paris: Anthropos.
- Mohanty, P. and Garada,R. (2017). ‘Tribal Land Rights and Kotgarh Wild Life Sanctuary in Odisha-Issues, And Concerns’. *IOSR J. Humanities & Soc. Sci. (IOSR-JHSS)* **22** (7), Ver. 9
- Mohanty, P. and Garada, R. (2016). ‘Forest Rights Act and Community Conservation Initiatives in Odisha: Exploring an Alternative Regime of Forest Governance’. *J. Politics & Governance*, **5** (3) : pp 35-47.
- Nigel, N. (2003). “Space: The Fundamental Stuff of Human Geography”. in Sarah L. Hollaway; Stephen P. Rice; Gill Valentine. *Key Concept in Geography*. London: SAGE. pp. 95–107.
- OXFAM (2016). *Promise and Performance of Forest Rights Act: A National Report Compilation*, OXFAM –India and Rights and Resources Initiative (RRI)
- Pálsson, G. (1996). “Human-environmental relations: orientalism, paternalism and communalism” in P. Descola and G. Pálsson (eds.) *Nature and Society*. London: Routledge. pp. 63-82.
- Rocco, R.(2014).‘Why Discuss Spatial Justice in Urbanism Studies?’. *Atlantis*, **24** (4).
- Soja, Edward W. (2010). *Seeking Spatial Justice*. Minneapolis: University of Minnesota Press.
- Soja, Edward W. (2000). *Post-Metropolis: Critical Studies of Cities and Regions*. Oxford: Basil Blackwell.
- Soja, Edward W.(1996). *Third Space: Journeys to Los Angeles and Other Real-and Imagined Places*. Oxford: Basil Blackwell.
- Tuan, Yi-Fu and Hoelscher, Steven (2011). *Space and Place: The Perspective of Experience* (Seventh ed.). Minneapolis: University of Minnesota Press.
- Uggla, Y. (2010). ‘What is this thing called ‘natural’? The nature-culture divides in climate change and biodiversity policy’. *J. Political Ecology*, **17** : 79-91.
- [www.orissadiary.com/ShowOriyaColumn.asp?id=32212#sthash.H5bhI6xP.dpuf](http://www.orissadiary.com/ShowOriyaColumn.asp?id=32212#sthash.H5bhI6xP.dpuf)

\*\*\*\*\*