

# **Undoing the Historical Injustice?**

## **Drawing Implications of Forest Rights Act (2006) on Resource Governance**

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### **ABSTRACT**

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act was passed in December 2006 and notified in January 2008. After over two decades of debate on principles of participatory management and its execution in the form 'joint management', this 'delayed justice' has posed questions in the realm of forest resource governance. There are now concerns and apprehensions about the implementation of the Act and its implications for resource and the resource dependent communities. Some of the apprehensions/fallout in implementation may actualize on the resource sites considering the local political and administrative structures. Whether such fallout is characteristic of decision-making within 'multi-stakeholder' context is a question that would need thorough review of such decisions.

This paper tries to assess the implications of the recent Act in light of the historical performance of the policies in managing forestland and protection of tribal rights, with special reference to Nabarangpur district of Orissa. Nabarangpur is predominantly a tribal inhabited district with highest encroachment over forestland among the forest divisions of Orissa. The stated causes for encroachment restrict the understanding of encroachment to incident(s) of physical infringement into the boundary of the state (land owned by the State Government), mostly by the tribals. However, there have been ample instances of 'proxy' encroachment that are unaddressed despite the existing institutional arrangements. The paper critiques the traditional understanding of encroachment, examines the institutional changes with regard to encroachment on forestland and draws implications of these changes on resource governance.

The paper is based on review of policies and findings from empirical study conducted by the author in Orissa between 2005-2007. The study adopted qualitative approach, including a mix of document-based review and case study of forestland encroachment issues in Nabarangpur district of Orissa. The study partly adopts the framework for study of politics of policy implementation by Grindle (1980).

**Keywords:** *forest, implementation, multi-stakeholder, encroachment, institution, resource governance.*

## 1 Introduction

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (“The Act”) was passed in December 2006 by the Indian legislature. The Act was a result of protracted struggle at various levels and the policy makers claimed to undo the ‘historical injustice’ faced by the forest dwelling communities, particularly since the enforcement of the Forest Conservation Act, 1980. The Act faced significant opposition on account of the fact that the Parliament could not make such laws on state subjects. It also pointed at the invasion on power of the Gram Sabha under the Act.

On the other hand the Act is critiqued for not adequately abiding by the recommendations of the Joint Parliamentary Committee that was constituted for this purpose. Various stakeholders are concerned with the ambiguities in the Act arising out of eligibility criteria, role of Gram Sabha and Gram Panchayat, provisions for identification and management of critical wildlife habitats, status of the legislation as it overlaps with provisions in other policies and other complex issues. The complexity of the situation is indicated by the time lag at various stages of the policy process: the Bill was drafted on 13<sup>th</sup> December 2005; it was tabled in Parliament on 18<sup>th</sup> December 2006; and was finally notified on 1<sup>st</sup> January 2008. Till April 2008, the state governments had not communicated any concrete decision regarding the implementation of Act to the Central Government<sup>1</sup>.

Within this backdrop of contested claims there are apprehensions about the implementation of the Act and its implications for resource and the resource dependent communities.

Within the framework of implementation that conceptualizes implementation as an outcome of policy content and context, this paper examines the case of ‘forestland encroachment’ in Nabarangpur district of Orissa and draws implications of implementation of Forest Rights Act on the forest dwelling communities in specific and resource governance in general. The study is based on the field research by the author from 2005 to 2007 as part of the doctoral dissertation.

The paper is structured to present: (a) brief overview of forestry situation in India and Orissa, (b) issue of encroachment over forests and Forest Rights Act, 2006 (c) the framework and methodology for the study, (d) the issue of forestland encroachment in Nabarangpur, (e) institutional response to encroachment in Nabarangpur, (f) implication of the implementation of the Act in Nabarangpur and (g) Conclusion.

## 2 Brief overview of forestry status and forest policies in India

### 2.1 Forestry status in India

‘Encroachment’ over forestland has been a raging issue that has also been condemned in various government reports as a threat to forest health. The

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<sup>1</sup> News article “Govt yet to hear from states on Forest Act implementation”  
Website: <http://www.zenews.com/articles.asp?aid=439512&sid=REG>

'encroachment' figure for forestland in the country till March 2004 was 1,343,346.622 hectares. Of the above stated 'encroachment', eviction took place from 152,400.110 hectares till March 2004<sup>2</sup>. On the other hand, regularization of 'encroachment' was depicted as a loss to the forest area and cover of the country. Until recently, the laws/policies seldom recognized that what is being perceived as 'encroached' forestland is an area where the rights of the traditional dwellers were curtailed to convert it to forestland without proper procedures being followed. At many places the lands were diverted for "national purpose" without recognition of customary rights and livelihood needs.

Most of the reports that portray the relation between the communities and forests are state centric though paradoxically they also portray symbiotic relation between the forest and tribal way of life. The Forest Department, which commands and controls the forests since the inception of organized forestry in India, perceives this dependency as injurious to the health of forests in India. On the contrary, the inception of the organized forestry has been attributed to the need for systemic control over the forest resources. Considering the diversion of forestland for various non-forest use/development projects, it is possible to locate not only the loss of forest but also massive displacement of life and livelihood, without adequate rehabilitation. According to MoEF<sup>3</sup>, over 9 lakh hectares of forestland have been diverted from 1980 onwards for non-forestry purpose<sup>4</sup>. Thus, while on the one hand, the forest dwellers/tribals are blamed for unsustainable yield, such development-led displacements continue.

Market has also had considerable influence. Significant is the capitalist influence that is seen in the diversion of forest for mining and similar "development activities". The forest area is treated as a "resource" whose value can be compensated. An examination of the data on diversion for mining reveals that most of the mining leases have been granted since 1997 and over 50 percent of which is from the year 2000 to March 2007. Notably, the states staking most of these lands also run a deficit in the state exchequer.

Even though the economic demand for forest products has increased, the per capita availability of forests declined from 0.099 hectares in 1980-81 to 0.076 hectares in 1994-95. The Forest Department itself has been blamed for destruction of forests to cater to industrial needs. Thus there is the complicated politics of blame that configures the relation between forest, state and the communities. The relationships become complex as the contest over the resource intensifies with increase in stakeholders.

On an aggregate, the trend of forestry in India does not seem very encouraging. First, there is ambiguity over the definition of 'forests'. Although this paper does not provide the scope to discuss the complexity of definition in detail, the recent definition of 'forest' is important to capture. According to the new definition forest is, "An area under Government control notified or recorded as 'forest' under any Act, for

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<sup>2</sup> Source: Lok Sabha Starred Question No. 284, dated 16.8.2004.

Website: <http://www.indiastat.com/india/ShowData.asp?secid=291610&ptid=108&level=3>

<sup>3</sup> Ministry of Forest and Environment (MoEF)

<sup>4</sup> These tracts were mainly utilized for defence purposes, to regularise eligible encroachments, conduct mining operations, lay power transmission lines and construct hydel power plants, roads etc.

conservation and management of ecological and biological resources” (DTE, 2007)<sup>5</sup>. The definition leaves huge scope for interpretation (and misinterpretation!). Second, the complexity does not depict in the figures until one takes a vantage point. The problem manifests when we place the forestry situation in India within a development perspective. Twenty seven percent of the rural population, which is below poverty line, is constitutive of a large percent of the 360 million living in or around the forest area. Of these 360 million, more than 68 million are tribal/indigenous people, who constitute the most disadvantaged section of society (based on per capita income, literacy rate, nutritional and health status, and lack of access to social and technical services)<sup>6</sup>. Livelihoods of more than 90 percent of these communities depend directly upon forests. However, the interests of these stakeholders have often been marginalized in the process of policy decisions and implementation of the policies.

## 2.2 Forest policies in India

The earliest forest policy of India in 1894 was driven by the stated objective of “public benefit”. In this the regulation of rights and privileges of the forest users was nuanced along with the need for raising finances. Post independence, the National Forest Policy of 1952 articulated the concerns as “national need”. The independent nation state furnished unaccommodative policies under this garb. The Orissa Forest Act, for example, provided that no claim for shifting cultivation should be allowed in areas notified for reservation. Similar rules were framed in Karnataka, Madhya Pradesh, Maharashtra and many other places. The policies had separate strategies to tackle with the commercial interests and the forest dwellers’ interests. The development projects were prioritized as ‘national need’ over the claims of the forest dependent communities. National Commission on Agriculture, 1976, recommended further strengthening of the legislation and reduction of people’s rights. The dissociation of the state forest practices from the people was indicative of the influence of western ideology of economic growth. Scholars had already pointed towards environmentalism in south being a result of the environmentalism in the west with rapid expansion of productive forces since the Second World War (Guha, 1983; Redclift, 1984).

Meanwhile, the Wildlife Protection Act of 1972 accorded complete protection to the wildlife from the human population. This phase was important to mark the transformation in the debate. Traditional forestry received an early blow when Mrs. Gandhi described it as an ‘accountant’s view of forests’ which had to be kept out of at least the national parks and sanctuaries (Pathak, 1994). After 1970s, no clear thrust emerged in the policies with the states responding selectively to the claims of different interest groups like the wildlife conservationists with Wildlife Act, 1972, or, industrialists with the liberalization of wood import (Guha, 1994). There was greater challenge to the interests of the weaker sections as the arena of contestations opened and influence and bargaining gained primacy within iniquitous decision-making environment. State was unwilling to accept the rights of the local people over forest. This has been the reason of continuous conflicts and people’s movements.

Despite state’s claim to exclusive rights over planning and management of forest

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<sup>5</sup> Hereinafter, Forests- Cover story in *Down to Earth*, (Volume 16, No. 2) June 15, 2007.

<sup>6</sup> <http://www.forestsandcommunities.org/asia.html>

areas, people continued to exercise *de-facto* right in many areas. They may however be overthrown from this position through exercise of power or strategic disorientation through formal legal system, as it happened with the Panchayats, which were unable to function as formal legal system as they operated in the shadow of law (Galanter, 1981:2).

The Forest Policy of 1988 stated higher priority to environmental stability than to earning revenue. The focus shifted from 'commerce' and 'investment' to ecology and local needs and strengthening the 'tribal-forest linkages' (Saxena, 2000, 362-363). Meanwhile the tussle for ideological supremacy between various departments continued. The Planning Commission constituted a National Committee on Development of Backward Areas that supported the forestry establishment and advocated the curtailment of rights of the tribals. The Ministry of Home Affairs on the other hand constituted a committee to reorient the policy to serve the tribal economy (Gol 1982). The report alleged the Forest Department for destruction of forest and disturbing the livelihood of the tribals.

The indulgence of the policy makers continued to be with devising effective sets of control even as the stated principles shaping the policies changed. Joint management was a practice to be cultivated only on degraded land and lands with less than 40 percent forest cover, divesting the valuable resources with the Forest Department (See Sundar et al., 2001, Baviskar, 2001). The principal factor leading to Forest Department's action was its inability to prevent encroachments and put forest to productive use (Kolavalli, 1995).

Although participation was evident in the rhetoric of forest policymaking through the decade of 1980s and afterwards, the decisions were typically 'incremental' in nature, trying to respond selectively to the issues and influences. Several authors have identified these influences and the inconsistencies that marked the "participatory" phase. Sundar (2001) observed that inspite of the contribution of the forest sector to the public sector revenue generation there was no clear analysis of the relationship between the policy changes and the changes in the economic contribution. The subsidies given to the industries accorded low priority to the demands of the people despite policy recommendation of first charge of people over the forest produce (Saxena, 1999:100). Forestry policies also witnessed increasing influence of the supranational institutions, social movements and NGOs.

At the national level, the MoEF assumed more of policy-making role and theoretical planning, leaving implementation in the hands of state Forest Departments (Sundar et al., 2001:33). Forest Department was characteristically engaged in finding techno-managerial solutions to problems that were even social or political in nature. The chances of misdiagnosis of problem were thus quite high.

There was substantive alteration in the relation between the forester, people, industry and the resources with the 42<sup>nd</sup> amendment to the constitution, the Forest Conservation Act and the Godavarman case (Ramesh, 2004). The Godavarman case questioned the claims of superiority through professional expertise (of the Forest Department) and also the relation between the three wings of the government itself that are involved in shaping and implementing the policy. Investigations following the case revealed lack of authentic statistical data with the forest officials.

Lack of information on the jurisdictional area questioned not only the expertise but also lapse in compliance to the law. Led by such evidences, the Supreme Court expressed lack of faith in the functioning of the Forest Department. This resulted in the constitution of several committees at the state level and the Central Empowered Committee to monitor and ensure compliance with the orders of the Supreme Court (Ramesh, 2004). It took away much of the discretionary and decision-making powers from the foresters, who acted in accordance with the orders of the committees. The environmental governance was thus seen to accomplish “administrative takeover of judicial functions” in response to addressal of the inadequacies in the framework of law, institutions created under it and the working (ibid).

Empirical evidences show that the policy implementation in the field has not been very successful in India. Social forestry, driven by the global wood fuel crisis, assumed people’s willingness to manage woodlot based on fuel wood shortage. However, the assumptions were misplaced (Arnold, 1989 and 1992). People living near forests did not have problem getting fuel wood and in most areas were not willing to participate in community woodlot management. Rich and poor alike were interested in the commercial production of timber and fuel wood.

The performance of forestry sector in India indicates a concern over the multiplicity of stakes and an undercurrent of political processes that influence the agenda and decisions in the sector. There is no single dominant pattern across territories for issues like resource use and degradation or changing locus of control. There is interplay of various forces (including time and space) and between varied interests that reflect in the pattern of decisions and there is a need to contextualize the environmental decisions in order to understand the variations. The pattern of change is effectively captured in Smil’s argument, “change in nature or in society, is never unidimensional: it always comes about from interplays- additive or multiplicative, synergistic or antagonistic”.

While many studies have pointed at the misplaced priorities and politics of policy formulation, it is important to examine these in the context of what is perceived as a historic piece of legislation in the forestry in India. This paper would try and examine the local context in the backdrop of recent policy pronouncement and assess the outcome from the perspective of the resource dependent communities. The central focus of study is the power dimension at the local level that has implication for implementation.

### 3 Issue of encroachment over forests and the Forest Rights Act (2006)

#### 3.1 Issue of Forestland Encroachment

The Oxford dictionary defines ‘encroachment’ as intrusion into another’s territory. ‘Encroachment’ is a contested concept with various interpretations based on the ideology of the stakeholder. “The term encroachment reflects both real processes of forest conversion for agriculture, and official classifications of land and land use, which may be superimposed to define existing cultivation as illegitimate” (Sundar et al, 2001: 183). The concern over ‘encroachment’ expressed itself in the form of settlement of rights. Initial ‘encroachment’ took place on the agricultural lands and

the deforested areas. The claims, even where the peasants had been cultivating the lands for years, were not settled because the peasants, for fear of tax, denied the possession. The beat guards who were left to protect the forest lands from 'encroachment' could not do it in view of the dependence of the forest dwellers which made the prevention physically, politically and economically unfeasible (Gol, 1982: 109)<sup>7</sup>. Due to such pressure from below, the 'encroachment' over forestland was institutionalized; seen in terms that the forest dwellers were fined but allowed to continue cultivation over these lands (Pathak, 1994:88). Gradually, the issue came to notice and was highlighted when the Forest Conservation Act, in 1980, hindered the regularization process.

The process of transformation of peasants to 'encroachers' is itself a divisive process. Accounts from the field show that in many forested parts of the nation and mostly the hilly areas, vast stretches of forested areas were declared as 'reserve' without proper survey<sup>8</sup>. This process turned the peasants and the dwellers into 'encroachers'.

'Encroachment' became a subject of political patronage. It could give electoral mileage as it did in Madhya Pradesh and several other states<sup>9</sup>. The Forest Conservation Act (1980) took away the autonomy from the state governments to decide upon regularization of forestlands. Encroachers were sent eviction notices with Centre's growing interest in conservation. When in 1989 the coalition government came, the states seemed relatively strong and demanded regularization. Thus regularization took place at many places. The guidelines issued by the MoEF in 1990 also seemed a positive step in the direction to resolve the age-old conflict between the state and the tribals/forest dwellers (including encroachment, disputed claims etc)<sup>10</sup>. However, the subsequent intervention of the Supreme Court in the matter (with the much famous Godavarman case referred to as the Forest Case)<sup>11</sup> restrained all such regularization attempts. The matters also got further complicated when dictionary definition of forest was instructed irrespective of the status and the nature of use of the resource.

The implication of the decision of the Supreme Court was that all categories of land entered as 'forest' in any record will be in the ambit of this Act. That precisely implied that even the shifting cultivation areas, which sustained millions of people in the hilly areas would invite the provisions of the Act. It was evident that such application would delegitimize the claims of millions of forest dwellers across the country. Encroachment is also seen as a divisive process because the Government did not take into consideration displacement and forest degradation by massive conversion of forest land for non-forest use. On the other hand, even after the prolonged battle

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<sup>7</sup> Cited from Pathak (1994).

<sup>8</sup> Orissa has cases where the slopes above 10 percent were not regularized (rather not surveyed). In many cases the beat guards warned the cultivators not to reveal the cases of encroachment, as it would lead to dispossession. The Beat Guards did not give the primary offense report even after they received money in lieu of cultivation.

<sup>9</sup> Bhartiya Janata Party's success in tribal areas like Bastar is attributed to pre-election promise of regularization (Sundar et al, 2001: 184)

<sup>10</sup> Refer to circular number 13-1/90-FP of Government of India, Ministry of Environment and Development, Department of Environment, Forests and Wildlife dated 18<sup>th</sup> September 1990. FP (1) referred to review of encroachment on forestland.

<sup>11</sup> Case refers to PIL by T N Godavarman, an ex-estate owner in Tamil Nadu, against illicit felling of timber nurtured by his family for generations.

of interpretation, it was difficult to distinguish between the 'encroachers' and the genuine claimants. The indecisiveness about the meaning of the terms 'encroachment' and 'encroachers' also indicated politics of more complex nature

While debates continue over the issue of encroachment, the passage of the Schedule Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006, indicated that there was not just recognition of injustice but also attempt to correct it (although the political processes and maneuverings may have diluted the intent). We would briefly examine the emergence of the legislation and the contestations in order to later identify clearly the issues and challenges in resource governance in multi-stakeholder context.

### 3.2 Emergence of the Forest Rights Act, 2006 and the issues

The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act received Presidential assent in 2006 and was notified in January 2008. The Act stated its intent to "recognize and vest the forest rights and occupation in forestland in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded" and also "to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forestland".

The Act has been a result of decades to struggle by the forest dwelling communities to assert their rights over the forest land on which they have been traditionally dependent. The struggle gained momentum with the MoEF circular on eviction of encroachment across states and Union Territories in 2002<sup>12</sup>. Despite the fact that the court had only restrained the states from regularization of encroachments<sup>13</sup>, incidences of forceful eviction were reported across the country. The decision of the MoEF was opposed for violating the earlier guideline that was issued in 1990, which was not complied with by the states and the Union Territories. Further, there was no mention of other instructions regarding 'disputed claims' and 'disputes regarding *pattas/leases/grants*' involving forestland in the 2002 order. Subsequently, committees were constituted with officials of revenue, forest and tribal welfare departments to submit proposal to the Centre for identification of eligible encroachers and regularization in a time bound manner. In order to be eligible the encroachers had to produce "first offense report". Generating such evidence was a difficult proposition for the tribals/forest dwellers, primarily marginalized from mainstream development processes. The identification process was inherently flawed in terms of ignoring the third category (apart from the eligible and the ineligible encroachers) of unidentified encroachers who did not have any record of encroachment.

There were several issues that confronted the struggle and even strengthened the demand for social (and political) justice for the tribals/forest dwellers. The Yellurkar Task Force (in 1984) reported to the Government of India that the primary cause for

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<sup>12</sup> The order was a consequence of the Interlocutory Application filed by Harish Salve in Godavarman case regarding encroachment in 2001.

<sup>13</sup> And the fact that no eviction order was issued by the Central Empowerment Committee in IA 703 pertaining to the Godavarman case



encroachment on forestland was landlessness, which was supported by findings of several other committees earlier and even later. However, political will to question the incomplete and subverted processes was missing. The Government was blamed for 'encroaching' upon people's rights and for its inability to manage India's forests<sup>14</sup>. The nature of disputes relating to forest was varied and long-standing/unresolved and was compounded by the provisions of the Forest Conservation Act and the Godavarman case, both of which marked centralization of decisions regarding use of forest/forestland. With the administrative takeover of the issue by the Supreme Court and the subsequent formation of CEC (in advisory role) the issues were further complicated. CEC (Central Empowered Committee) was accused of robbing the forest of its socio-economic and cultural context. The committee was composed of foresters and conservationists (3 members from MoEF and 2 from NGOs). In 2004, the historic injustice was admitted for the first time with orders to discontinue eviction till the survey was complete.

A draft Bill that was prepared got delayed in passage to the Parliament due to MoEF opposition on grounds of 'conservation concern'. But the UPA (coalition government at the Centre) and the NAC (advisory council to the Government) were intent on monitoring the implementation of the Common Minimum Programme, with a long term political interest. The draft Bill was tabled in the Parliament in February 2005 which was criticized on aspects such as: the cut-off date for eligibility of claim (1980), exclusion of non scheduled communities, unclear rights of the Gram Sabha, complicated procedure for verification of rights, inadequate safeguard against vested interests and the status of the legislation vis-à-vis others. Amidst competing ideas of conservation and use/management, the Bill was referred to the Joint Parliamentary Committee (JPC). The recommendations of JPC were lauded for its attempt at comprehensive legislation. It recommended: extension of cut off date, inclusion of non-scheduled tribe within its ambit, participatory process of identification of critical wildlife area, vesting authority in the Gram Sabha for final settlement of right/claim, mandatory concern of Gram Sabha for diversion of forestland for non-forest use, right of multiple land use for shifting cultivators, people's right to development. The Bill presented in the Parliament accepted extension of cut off date to December 2005 and inclusion of non-scheduled tribes within its scope. Land ceiling was also increased from 2.5 hectares to 4 hectares. Apart from some of the positive points like the right to protect and manage the resource, the version accepted in the Parliament also underlined several limitations through provisions such as<sup>15</sup>:

- The definition of "forest dwellers" that included only those residing 'in' forest
- The ambiguity over the status of those residing outside but could claim rights over forestland
- The eligibility criteria for other forest dwellers (of proving three generations of stay in forest) was limiting for want of adequate proof
- The definition of Gram Sabha that was changed to include the revenue Panchayats and not the hamlet based Panchayats
- The power of the Gram Sabha in deciding the claim limited to only initiating the process while the final power was in the Sub-divisional committee

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<sup>14</sup> Considering large scale diversions, monoculture plantations, industrial development, and failure of scientific forestry practices in managing forests

<sup>15</sup> Stating only limited issues. For the rest refer to the JPC recommendation on the Bill.

- The clause related to Gram Sabha's consent in diversion of forestland was weakened.
- Bill was silent on rights of the shifting cultivators.

The Act thus subtly diluted the intent of the recommendations that was influenced by the tribal rights organizations, activists and the Left parties. The Act was finally approved by the Parliament in December 2006. The passage of the Tribal Forest Rights Act was lauded by the tribals/forest dwellers and the campaigners but they were unhappy for a number of reasons. Protestors from across the country pointed at: lack of proper definition of "forest dwelling scheduled tribes" and "other traditional forest dwellers". They believed that the manner in which the Bill was passed was not transparent and democratic. They also felt that the process of verification of rights as laid down in the Act was undemocratic and would result in further control of the Forest Department over the forest/land. The dilution of the clause relating to community control over forest management raised doubts about the intent of the Government. Certain provisions in the Act were also considered as open to arbitrary interpretation by the court and implementing authorities. A nine member panel was set up to frame the rule for the Act. Committee included members from Ministries of Tribal Affairs, Forest and Environment, Rural Development, and PRI besides State Government and experts. The rules drafting group held consultative meetings with state officials and civil society groups.

Even as the Rules of the Act were being discussed, undemocratic processes marred the forest scenario in the country. There were news of police and forest department excesses both in violent and non-violent forms. While tribals were forcefully evicted from many parts, there were attempts to prove that the land was under the control of the Forest Department<sup>16</sup>.

Much of the issues were unresolved even as the Rules were finalized and implementation orders circulated. Thus what started as a battle of rights over forest also brought forth the challenge of interpretation and impending threat of battle in forest. Some of these issues are highlighted below:

- The issue of entitlement- the Act is ambiguous about the categories "forest dwelling Scheduled Tribes" and "Other Forest Dwellers". The issue also entailed the battle of interpretation with the condition "primarily reside in".
- The issue of constitution of Gram Sabhas- 'hamlet' level committees were preferred by people as opposed to Gram Panchayat which would reflect traditional power relations
- Time frame for implementation- No definite time frame ascertained for implementation of the Act or even for the constitution of the committees.
- Composition of the Committees- two issues were of relevance in this: first, how to ensure democratic process of selection of committees and second, the Collector as leader of the District Level Committee would be overburdened and hence delay in implementation.
- The issue of overlap with other Acts- Though (in principle) this Act supersedes all others but Forest Department would still retain critical powers as per Indian

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<sup>16</sup> Reports from Sailana in Bhopal stated attempt by the Forest Department to dig up holes in villages on pretext of plantation drive.

Forest Act of 1927. That would have its implication for management of resource and community claims.

The emergence of the Act highlights both the pressures for and the obstacles that were faced in its making. One of the consequences of the disagreements was the delay in the finalization and notification of the Act. The Bill which was drafted on 13<sup>th</sup> Dec 2005 was tabled in the parliament on 18<sup>th</sup> Dec 2006 and was finally notified on 1<sup>st</sup> Jan 2008. Moreover, the rules that were notified are truncated, taking away the spirit of the Act in many ways. The Act was unique in several ways such as: it covered both agricultural land and forest lands including National Parks and Wildlife Sanctuaries, provided both individual and community tenure, combined rights and responsibilities, provided key role to Gram Sabha<sup>17</sup>. There is enormous challenge in implementation of this Act which seeks to create a new democratic system of forest governance by redistributing power between the communities and bureaucracy<sup>18</sup>. The following sections try to anticipate the implications of the implementation of the Act in Nabarangpur in Orissa on the basis of performance of the past policies and contextual variations.

## 4 The framework and methodology for the study

### 4.1 Significance of the study in Orissa

Forest governance in Orissa is marked by significant complexity. The issue of forestry in Orissa characterizes the political nature of the problems related to resource governance in a multi-stakeholder context. In a state that has a history of community protection as well as rigid state control, the translation of complex relations between state and non-state actors and institutions into policy decisions is inevitable. On the one hand the public as well as the official discourse on forestry lauded participatory management of forests under influence of various factors. On the other hand, the perennial conflict between the Forest Department and the people (tribals/forest dwellers) resembled the 'politics of blame'<sup>19</sup>. Further deconstruction of the concept of state and the people reflect variations in interests and ideologies and a plethora of other factors that have shaped the actions and responses of each of these entities. Indubitably, the 'social relations of power'<sup>20</sup> had significant influence on the policy decisions at various stages.

There have been number of studies that unravel the complexity of land tenure and forest administration in Orissa. Studies have also pointed at the mismatch between the environmental goals and the development policy of the state and the political economy of resource management. In terms of outcome, not much promise is seen in terms of either the forest resource status or the status of the forest dependent communities (as is evident from the forest resource status and the socio-economic status of the forest dwelling communities). In the backdrop of such outcome of the earlier policies, it is relevant to discuss the implications of the recently legislated Forest Rights Act in areas of high incidence of "encroachment" and simultaneous

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<sup>17</sup> Some issue highlighted on the basis of comments by the Chairperson of the Rule drafting committee in a workshop on understanding of the Act.

<sup>18</sup> As commented by Ms Madhu Sarin in a workshop on understanding of the Act.

<sup>19</sup> Following Guha's classification of politics in four stages in the history of forestry in India.

<sup>20</sup> Term used by Mollinga and Bolding (1999)

high dependence on forest (forestland in particular) for livelihood requirement. It would also be helpful to identify the implications of the content of the policy and to assess the adaptability of the legislation to the contextual variations.

#### 4.2 Magnitude of forestland 'encroachment'

The issue of forestland encroachment in Orissa is historically rooted in: i) the complex institutional arrangements and (ii) the ineffectiveness of the policies in addressing the root cause of the problem. The forest policies in Orissa have to be seen in relation to the revenue administration and the revenue laws since forest was not a dominant land use.

There are twin perspectives with regard to 'encroachment'. One perspective identifies the problem of revenue/land administration as a reason for 'encroachment' over forestland. This attributes the problem to misplaced policies, delivery problems, problem with survey and settlement and other related problems. One cannot deny the meeting point of the two perspectives but the acknowledgement of 'intrusion into another's boundary' was difficult for any party, more so for the state. There were several problems with the revenue and the forest administration in the state that cannot be discussed at length in this paper but were the precursors to the problem.

As per the Status of Forest Report 2003-2004 of Orissa, the encroachment over forestland was of the magnitude of 78,505.0779 hectares. Out of these, 56,585.9906 hectares of forest was encroached after 1980. Further disaggregating the data it appears that out of the 30 districts in Orissa, the extent of encroachment was highest in Nabarangpur district of Orissa (35,077.2654 hectares which is approximately 45 percent of the total encroachment in the state). Most of this encroachment (approximately 98 percent) was shown as post-1980 encroachment. The issue of forestland encroachment is intriguing in Orissa because of the long history of forest protection and effective community management of forests in many parts of the state.

The study concentrates on the outcome of the policies at the micro level (site of implementation). In general, attribution of any outcome to a particular policy would be difficult in a development context. However, it is understood that such direct attribution is more significant in studies on "impact" of policies. Moreover, it is assumed that clearer the objective of the policy, higher is the probability of attributing direct and indirect outcome to it. In the instance of policy on 'encroachment'<sup>21</sup>, this distinction becomes clear because the target group is objectively defined and also because this group was treated exclusively by the policies. Policies refrained from granting legitimacy to the forest dwellers ("encroachers") and hence they were denied any development benefits<sup>22</sup>.

The study broadly follows the framework for study of politics of policy implementation in the third world. It conforms to the understanding that policy implementation involves a series of decisions by a variety of actors, the ultimate outcome of which is

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<sup>21</sup> Or, tribal rights over forests because the tribals/forest dwelling communities were often regarded as encroachers over the government land irrespective of reason for such action.

<sup>22</sup> State had denied any development benefit to these communities. These settlements thus could not claim even basic infrastructure support like road, electricity, drinking water, education, and health care facilities.

determined by the content of the policy and the interaction of the decision makers within a politico-administrative context (Grindle, 1980: 5). The framework lays considerable emphasis on the content of the policies. For instance, to the extent that a policy is perceived to introduce changes in the social, political and economic relationships, there will be opposition from those whose interests are threatened (ibid: 8). Thus the interests affected, the nature of benefits and resources committed are an important consideration. The clarity in statement of goals and objectives is also emphasized in the framework.

Actors with varied interests characterize the context at the micro level. The pattern of interaction between these actors depends on their interests and the policy decisions are also a factor of these interactions. The interactions are influenced by their power capabilities and strategies. It is thus hypothesized that “who gets what” from the policy implementation is a factor of their power position. The study considers that power may lie in the individuals or collective actors and can be mediated through a variety of structures. What is important is whether the people have the discretion to use it? Collective articulation is often hindered by unequal access to economic and political resources. The resource model of power seems relevant to some degree in such examination<sup>23</sup>. The study limits the study of context to the interests of the actors and the patterns of interaction (based on power capability). Other factors such as compliance and responsiveness and institution and regime characteristic are touched upon but not analyzed in-depth.

The study is related to doctoral dissertation that looked into the politics of policy making with special reference to forestland encroachment in Orissa. The study adopted qualitative approach, including a mix of document-based review and case study of forestland encroachment in Nabarangpur district of Orissa. The main criteria for case selection were: tribal dominated and forested region with high dependence on forest/forestland for livelihood, perceived gravity of issue of “encroachment” both by state and the communities, area with diverse issues (such as in terms of institutional arrangement, conflict between state and communities, development related displacement etc), access to secondary information on the context of the case.

The primary data collection and study was conducted in three revenue blocks covering three forest ranges. The selection of the area of study in the district was based on several criteria including: forest area, region within the district with high propensity for encroachment, actual forest area encroached and responsiveness of the area (stakeholders) to land and forest issues.

a) Forest area: Umerkote and Jharigam ranges had highest area under forest as presented in the table below:

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<sup>23</sup> The resource model was initially conceptualized by French and Raven and followed by others. It identifies five bases of power (as identified by French and Raven): reward power, coercive power, legitimate, referent power and expert power.

Table 1: Forest Area by Legal Status

Range	Reserve Forests		Proposed Reserve Forests		Reserve Land		Total of RF, PRF and RL
	No	Area (ha)	No	Area (ha)	No	Area (ha)	
Nabarangpur	31	12596.88	32	16406.95	1	490.09	29493.92
Kotpad	09	4937.74	18	10728.00	0	0	15665.74
Jharigam	19	10145.22	20	44916.18	0	0	55061.4
Umerkote	21	30705.71	16	5959.11	1	29123.43	65788.25
	80	58358.55	86	78010.24	2	29613.52	165982.31

Source: Working Plan of Nabarangpur Division (1999-2000 to 2008-09)

b) Area under encroachment: These ranges also had highest incidence of encroachment over forestland as shown in the following table.

Table 2: Extent of Encroachment in Nabarangpur Division

Sl No.	Range	Encroached Blocks (No)	Encroached Area (ha)		Total (in ha)
			Pre 1980	Post 1980	Pre & Post
1	Umerkote	39	2427	6044.73	8471.73
2	Jharigam	18	15179.55	4634.81	19814.36
3	Nabarangpur	45	4925	567.61	5492.61
4	Kotpad	16	508.90	725.50	1234.4
	Total	118	23040.45	11972.65	35013.1

Source: Divisional Forest Officer (DFO), Nabarangpur.

c) Propensity of encroachment: Several factors including low population density, topography, fertility of the soil for agriculture and infrastructural development in the area increased the propensity for encroachment in the area<sup>24</sup>. Based on these factors, Umerkote and Jharigam blocks emerged as the most likely areas for encroachment.

d) Responsiveness of the people to land and forest issue: Conflicts pertaining to the issues of land in the area were considered as positive indicator of the responsiveness of the people to the issue. However, care was taken not to ignore latent conflicts.

Although the forest and the administrative boundaries did not exactly overlap at the block level, the selection of study area was done on the basis of blocks. This was done purposefully because of preliminary information indicating interlinkage between development pattern and the resource management in the area, which impacted

<sup>24</sup> An overall trend of immigration in the area revealed significant influx in the area. Although individual figures could not be drawn for the blocks, approximation for the same was possible based on the population density and the per capita availability of forest in the ranges. It was observed that the area under forest was highest in Umerkote and Jharigam range where the density of population was as low as 150 per sq mile<sup>24</sup>, while the area under forest was relatively low in Nabarangpur and Kotpad ranges where the density of population was 300 persons per sq mile (1961 census). The per capita forest availability was less than 0.5 acre in Nabarangpur and Kotpad range and 1.5 acre in Jharigam and Umerkote, causing difficulties in meeting the demand in the former.

upon the encroachment over forestland in the area. Based on the preliminary information, three blocks (namely Umerkote, Jharigam and Raighar) were selected for the study. The selection of villages was done order to:

- 1) Understand the power dynamics between different groups and communities.
- 2) Draw a relative picture of the status of different categories of villages in order to assess the outcome of policies on the resource status and the inhabitants of the encroached villages.

From the initial finding it was evident that the issue of forestland encroachment was closely interlinked with the revenue administration, the pattern of settlement and the development context. Thus three categories of villages were selected for the study: revenue village, “encroached habitation”, and the village settled under the Dandakaranya project (inhabited by immigrants from Bangladesh). There was thus sufficient diversity in the group. In case of “encroached habitations” care was taken to cover diverse communities that are settled inside the reserve forest. The size of the respondents varied from 30-40 percent of the household in the village. The sampling was non-random, depending on the availability of a household member in the village<sup>25</sup>.

The primary sources of information included forest dwelling communities, the villagers in the selected locations, the tribal leaders, the government officials/staff from the forest and the revenue department, the panchayat representatives (for example, Sarpanch, Ward member, Block Chairman etc), the advocates voicing the concerns of different parties, media persons etc. Data was primarily collected through informal discussions, group interviews, group discussions and individual interviews. Documentary information at various levels was also used for analysis including direct observation and satellite imagery for assessing the land use and forest cover change.

## 5 Forest encroachment in Nabarangpur

### 5.1 The status of encroachment in the study area

The encroachers (primarily settlers) on the reserve forestland were the tribals of both native and non-native origin. Most of the migrants were casual labourers and agriculture was of subsistence nature. Primarily all the migrants were landless with insignificant livestock population<sup>26</sup>. From the study landlessness emerged as the primary reason for encroachment over forestland<sup>27</sup>. Other reasons stated were: increase in population, conflicts within the family and displacement by the

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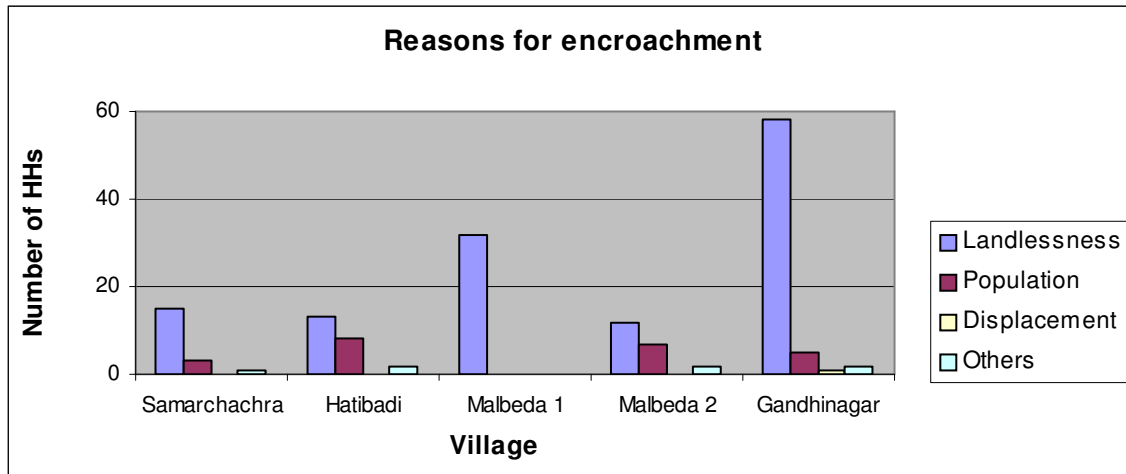
<sup>25</sup> Villagers were engaged in crop harvest and labour.

<sup>26</sup> Notably, the hill cultivators were neither in possession of land nor was agriculture on hill slopes a lucrative option (they generally used hoe and axe). Therefore livestock rearing was not common.

<sup>27</sup> At the same time it is also important to note that landlessness implied different meaning for communities migrating from different parts. The non-natives, who had migrated from Koraput and Rayagada, practiced shifting cultivation and had no right over the land they cultivated. The plantation programme on hill slopes further dissuaded them from shifting cultivation but there was no alternate source of livelihood. They needed fertile land for settled agriculture. The native tribals, on the other hand, from Tumuda, Malpara and other areas of Raighar block also did not possess land. Some like Puna Gond, who had approximately 1.2 hectares, found the existing area meager to sustain the family and hence perceived the risk of encroachment over forestland as more affordable.

hydroelectric project (Indravati and Upper Kolab Projects in Koraput). The prospect of settling in the area was bright on account of fertile and plain land as well as prior settlement in these areas by the state under Dandakaranya Development project. The figure below represents the extent of encroachment due to various reasons as stated by the villagers in the 5 villages.

Figure 1: Reasons for encroachment on reserve forestland



Source: Empirical data from the 5 villages

Some of the factors determining the area for settlement of the tribals have been: the availability of land for establishment of habitation, low chances of conflict with the Forest Department, the suitability of land for agriculture (in terms of affordability for investment in reclamation of land since they were forested), water availability. Significantly these habitations were in proximity to the area where some of their kith and kin had resided at some point of time.

The trend of encroachment in the area indicates non-linearity in the process. The encroachment over forestland started in late 1960s. There was increase in magnitude of encroachment along with the progress in the Dandakaranya project and agricultural improvement<sup>28</sup>. Maximum encroachment over the forestland occurred in the early 1970s. Though the trend declined after 1975, encroachment in the decade of 1980s was again high. The data from the five villages depict a decline in the encroachment in the decade of 1990s and 2000. This could be due to several reasons like: decline in availability of uncultivated land, decline in soil quality and fertile land, prominent concern over the issue at the national and the state level.

On the other hand, the trend of forest offense cases (cases booked by the Forest Department)<sup>29</sup> depict that there was a decline in offense cases booked in 1980s,

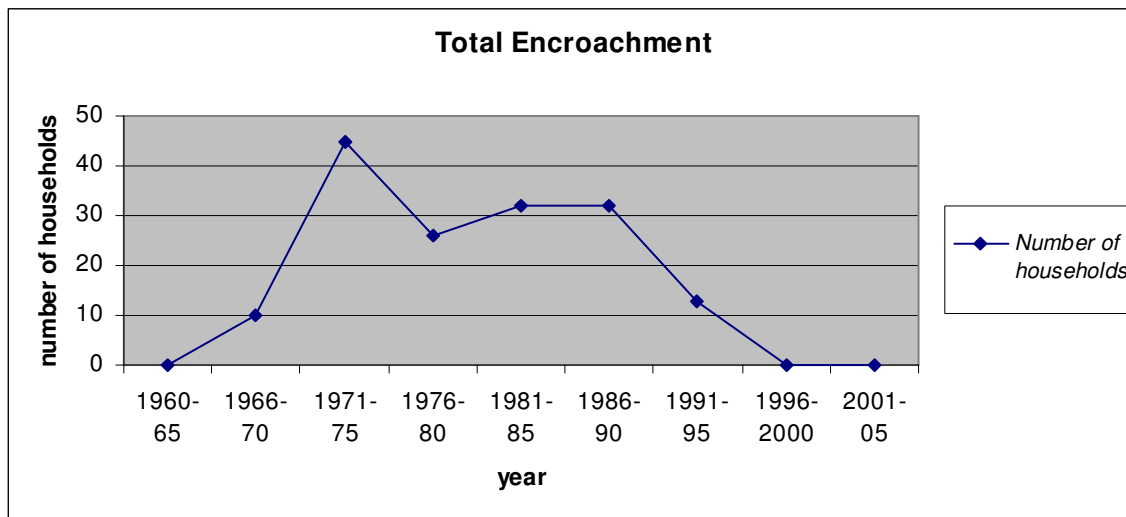
<sup>28</sup> Huge forest areas had been cleared for the Dandakaranya project by that time.

<sup>29</sup> Forest Department records offense under several heads depending on the nature of offense. These are compounding cases, prosecution cases, undetected cases, and cases under Section 56 of OFA, 1972. Compounding cases are those that lead to realization of revenue from the offender through fines (seizure of small timber, fuel wood etc which are taken away without permission). The offender in this case can be fined five times the market rate of the produce. Prosecution cases are generally sent to the court for trial. Encroachment cases are booked generally as prosecution case. Undetected cases are those where the identification could not be done. Under Section 56 of OFA 1972, vehicles were involved for transportation of forest produce (timber etc).



followed by an increase in the 1990s. The increasing trend can be linked to Government's disposition towards forestry sector. After the Forest Conservation Act in 1980, law was unaccommodating to any kind of infringement. But by 1990s, Government's treatment of the issue instilled a hope that the encroachment cases would be regularized and hence possibility of an increase in the number of encroachment cases<sup>30</sup> cannot be ruled out. Political leaders are also said to have supported spurts of encroachment<sup>31</sup>.

Figure 2: Trend of encroachment by the respondents in the 5 villages



Source: Empirical data

The complexity of the problem increases on considering the dimensions involved in the registration of forest offense. The Forest Department targets certain number of cases (that has to be booked) annually, which possibly is driven by the objective of revenue realization. The number of cases is also linked to the performance of the Forest Department. The encroachers also illustrated this link by narrating the following: *“Till 1970s multiple cases were booked against a person. Afterwards, group cases were booked<sup>32</sup> to avoid question. Moreover the Department could not handle proceedings against such large number of encroachers at one point.”* An official in the district bureaucracy, who did not wish to be identified, confirmed this practice. The practice had implications for the joint verification by the Revenue, Forest and the Tribal Welfare Departments for regularization of encroachment where the offense cases became criteria for eligibility of the encroachers.

<sup>30</sup> This might sound as a simplistic assumption but also has undercurrents in the form of questions like: who were these encroachers? What were the other forms of encroachment? Did the land use pattern, production trend etc demand some other interpretation? (These questions would be dealt later in the study). Another important point to be mentioned here is that the disaggregated data was available only for period after 1990s (due to problems of compilation etc). However, the aggregate data for the earlier period depicts that the encroachment cases (booked as prosecution case) would be low. This was also confirmed by the Forest Ranger for Umerkote range.

<sup>31</sup> Political support has been extended in various forms. Several leaders assured the encroachers of regularization. Support is also said to have been extended on community basis, as for example, the Kondhs are said to have infiltrated in greater numbers while Phulmani Santa was in power. As stated by the villagers, a Minister (Buxi Patra) was instrumental in liquidation of several cases during late 1970s and early 1980s.

<sup>32</sup> It meant that if there were a group of offenders cases would be booked in name of one or two and for the rest of the names cases would depict as “.... and others” which did not specify the number of offenders.

## 6 The institutional response to forestland encroachment

There was no direct response to forestland encroachment in the form of policy pronouncement by the Government of Orissa. For other category of land, that is, land under the control of revenue department, Orissa Prevention of Lands Encroachment Act (OPLE) was designed in 1972. The law accommodated the concern of the landless and the homesteadless persons and stated that “landless and homesteadless persons shall not be evicted from encroached Government land except in certain cases where the Government land is ‘Gochar’, ‘Rakhita’, ‘Sarbasadharan’ etc”. With regard to forestland, concern with encroachment and subsequent action to be taken were mentioned in the resolution of the Revenue Department in 1972.

The 1972 resolution was drafted with the objective of preserving the reserve forest and also to release land for settlement to the tribals, harijans and landless people. The compliance to this directive was low inspite of follow up order in 1972 that extended the time frame for the survey till 1975. Till 1980 the work could not progress fairly until the pronouncement of the Forest Conservation Act, 1980 that restricted diversion of forestland for non-forest use.

In 1990, the MoEF issued a circular top all states and Union Territories. The objective of this circular was to review the situation of encroachment and lay guidelines for: forestland encroachment, disputed claims over forestland arising out of forestland settlement, disputes regarding pattas/leases/grants involving forestland and its settlement, elimination of intermediaries in forestry works and payment of fair wages, conversion of forest villages into revenue villages and settlement of other old habitations, payment of compensation for loss of life and property due to predation and depredation. These guidelines laid down considerations for regularization of encroachment led by the commitment of several states to regularize land and also by the administrative problems that had led to delay in settlement and consequent encroachment by the people. The guidelines suggested course of action for each of these categories<sup>33</sup>.

There were a series of follow-ups to these guidelines. In 1991, the MoEF furnished clarification on the preconditions of regularization of encroachment. It instructed that only those cases would be considered for regularization where the decision by the State Government was taken before 1980. There was consecutive follow up in this regard by the Revenue department of the Government of Orissa<sup>34</sup>. No compliance was recorded even after these follow-ups until 2000. The matter assumed

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<sup>33</sup> For example in the case of encroachment it stated that all such cases where the State Government had taken a decision to regularize the encroachments before 1980 had to be reviewed individually. A joint team comprising of Revenue, Forest and Tribal Welfare Departments was supposed to complete this in a time bound manner. The encroached lands were to be properly surveyed. The encroachments should have taken place before 1980 that was to be proved by the presence of First Offense Report issued under the relevant forest act at that time. In case of ineligible category of pre 1980 encroachment, where the State Government had taken a decision prior to the enactment of FCA, the cases were to be treated at par with post 1980 encroachment. For encroachments that took place after 1980, immediate action was to be taken to evict the encroachers. However, it was upon the state government to decide to provide alternate economic base.

<sup>34</sup> Refer to the following letter numbers from the Department of Revenue, Government of Orissa: Letter No: 53881/R- GE (GL)-S-11/92, Letter No: 27360/R- GE (GL)-S-8/93, Letter no: 46901 dated. 27/9/1997 and wireless message number 37014 dated 24/7/1998, Letter No: 21060/R- GE (GL)-S-17/2000.

importance under consideration of Chief Minister's public statement on 1<sup>st</sup> April 2000 that all pre-1980 forest villages will be regularized before 1<sup>st</sup> October 2000. It was in this year that the problems with the joint verification of encroachment (by the Revenue Department, the Forest Department and the Tribal Welfare Department) were expressed by the administration. It was reported that there was problem in identifying the pre-1980 encroachers due to non-institution of cases.

Besides the Tribes Advisory Committee also expressed concern over harassment of people who had encroached forestland prior to 1980. It was decided that instead of depending exclusively on the Forest Offense Record as prevalent under Forest Act, other circumstantial evidence would also be considered<sup>35</sup>. It was also decided that the encroachers would not be evicted until identification process was complete and proposals prepared. Still in the status report on encroachment by Forest Department of Orissa, few districts (in Nabarangpur) were shown not to have complied by the guidelines till 2006. The Forest Department officials on the other hand had a number of reasons to attribute the non-compliance. For example: low staffing, lack of coordination between the revenue and the forest department, procedural hassles, political interference, lack of power with the Forest Department for resolution of encroachment cases, non-decision of the government with regard to encroachment, lack of financial resources and rent seeking and corruption in the bureaucracy.

Centre's concern over recurrent nature of the problem of encroachment resulted in the instruction to the states/UTs regarding eviction of illegal encroachment of forestland in various States/UTs in a time bound manner<sup>36</sup>. Subsequently, the state government laid out action plan for eviction and sent it to the districts. Meanwhile, the eviction order by the MoEF was criticized across the country for superceding 1990 guidelines for regularization of encroachment. Subsequently, the Ministry clarified that there was no change in policy with regard to regularization of pre-1980 eligible encroachment. At the district level there was reluctance to carry out the order even at a later point of time fearing social and political unrest. Moreover, the verification procedure was fraught with several problems and lapses in carrying out the order. Government of Orissa had not determined proper verification procedure. Whether there was proper survey of the encroachment over revenue forests was not clear till the encroachment report of 2003, although cases were booked in revenue villages under the provisions of the OPLE Act<sup>37</sup>. In the year 2003, the order from the Principal Secretary, Government of Orissa, to the Collector of Nabarangpur (for provision of drinking water facilities in the pre-1980 encroached habitations) was a welcome development for the forest migrant villages.

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<sup>35</sup> Such as cases registered in local police stations, police beat chart, census report, ration card, voter list etc.

<sup>36</sup> As stated in the order, there was concern with encroachments being done by powerful lobbies, which caused great harm to forest conservation. Such patterns of encroachment in remote areas in a honeycomb manner threatened the continuity of wildlife corridors between National Parks and Sanctuaries. Additionally, the frontline staffs were not able to take prompt action for eviction of encroachers and encouraged further encroachment. Reference was also made to the Supreme Court order (in Interlocutory Application No 703 in Writ Petition No 202/95, dated 23/11/2001), which restrained the Central Government from regularization of encroachments in the country.

<sup>37</sup> The ambiguity persists since there was no mention of any procedure, neither did the villagers give any account for the same. The revenue forests continued to be encroachment. The matter was complicated because in absence of proper survey and settlement in all the blocks of the district, there was confusion over land category and boundaries.

The Central Government issued a set of guidelines for speeding up the process of rights settlement of the tribals and the forest dwellers in 2004. MoEF observed that there were no proposals from the State and the UT governments regarding settlement of disputed claims, issue of pattas/leases/grants etc. It interpreted this as deprivation of tribals from natural justice. However, before any action could take place on these guidelines, the Supreme Court put a stay on the operations of the State and the Central Government related to regularization and settlement of disputed claims.

In the same year MoEF issued instructions to the states and UTs for recognition of traditional rights of the tribals and other forest dwellers and discontinuance of eviction till the survey was complete. District level committees were to be set up involving Deputy Collector, DFO and a representative of the Tribal Welfare Department to help in determining the rights of the tribals/forest dwellers. Subsequently, instructions for formation of local level and block level committees also followed. The latter instructions that followed were quite comprehensive and dealt in detail with issues such as verification of claims, eligibility criteria and other issues. In response to frequent instructions from the Central Government and its compliance, the state government expressed concern over the confusion created with formation of so many committees at various levels. Till this compliance report of 2006, 17 district proposals were pending with the Central Government for clearance. For the pending 9 districts, it was suggested that the Task Force Committee at the sub-division level would expedite the process of pre-1980 proposals.

In the field visit during the study, many of these provisions/instructions were flouted. There was no change in the nature of evidence for verification of rights of the tribals. The Forest and the Revenue Department still resorted to documentary evidence (Forest Offense Record). Although there was a district level committee, there were no committees assigned with specific task of claim verification. No local committees existed for rights determination and neither was such issue taken up for discussion in the Panchayats visited. There was no discussion pertaining to in situ rehabilitation of the ineligible encroachers. The officials pointed at the complexity of the problem where most of the settlement was over encroached land even in the municipal areas. This problem emerged from the incomplete process of settlement. According to the officials, there was paucity of land in the area for settlement of the ineligible encroachers nor was there any scope for alternate employment. The officials claimed that there was no formal order of eviction from forestlands in the district/division. Further such process would be difficult in view of the influential people possessing encroached land in the area. Even the status of proposals for the nine districts was unclear as the district officers claimed to have sent the completed proposal (although they provided no documentary evidence for the same). Nabarangpur was one of the nine districts for which the proposal was pending (as per the report from the PCCF office in January 2007)<sup>38</sup>.

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<sup>38</sup> After the Supreme Court's restraint on regularization without its approval, the State government requested the Supreme Court for suitable direction in respect of the proposals. The State Government also demanded exemption from the payment of Net Present Value (amounting to Rupees 193.00 crores) while regularization of pre-1980 encroachments. On the basis of order dated 13/04/2006 of the Supreme Court of India (in IA No 1252/1345 in W.P. (C) no. 202 of 1995) the Central Government agreed *in principle* for diversion of 1921.3118 hectares (1263.7379 hectares vide letter dated 22/11/2001 and 19/05/2006 + 657.5739 hectares vide letter dated 23/08/2006 of GoI, MoEF) in 9 districts of Orissa (including Jharsuguda, Sambalpur, Khurda, Nayagarh,

## 7 The outcome of the implementation of policies

This section of the paper briefly discusses the outcome of the earlier policy decisions of the government and its implications. This assessment would help in anticipating the implication of various provisions of the current Forest Rights Act on the forests and the forest dwelling communities in similar context. However, it is important to clarify that this is just indicative of policy performance and does not attempt to establish any causality between policy and outcome. Establishing such relation is also difficult because of influence of other factors/policies on the outcome.

### A) Resource Status:

- i. *Forest area*: There was an increase of approximately 20 percent in the demarcated forest area from 1970-71 to 1990. But from 1990 to 2001, there was a decline of approximately 21 percent. While the earlier decline might have been because of change in forest categories, the later was unexplained (especially decline in demarcated protected forest by almost 32 percent). Besides, there were unexplained differences in various sources of government data (consider for example the data on forest area of the division stated in the Working Plan and by the District Level Committee vary by 768.0952 square kilometers). Currently approximately 46.5 percent of the total geographic area of the district is forest area. While the revenue department exercises control over 50.41 percent of the total area. In absence of proper settlement, rights of the forest dwellers are curtailed. Simultaneously, the resource status shows a declining trend.
- ii. *Forest as land use*: No definite trend emerges from the data on land use pattern. However, there is an indicative pattern between the fluctuation of land use as forest and the acreage and production of maize in the district from 1993-94 to 1999-2000. For next two years there was a decline in production, which was attributed to both climatic and political factors (conflict over land issue in Raighar). But subsequently again there has been an increasing trend. It can at best be said that forestland has been converted to agricultural use.
- iii. *Forest cover*: The forest cover in Nabarangpur registered a decline of approximately 6 percent from 1997 to 2001. The dense forest cover declined by 15.5 percent, while open forest and scrub forest increased by 12.9 percent and 5.9 percent respectively. On the contrary, the forest cover at the state and the national level increased in the same period. The trend of decline in cover continued inspite of plantations taken under various schemes including JFM. Most of the plantations were destroyed because local people had no other livelihood support apart from the forests.
- iv. *Biodiversity*: Analysis based on survey in the forest blocks under the study indicated biodiversity loss in terms of tree species and wildlife (the details are not recorded here).

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Rayagada, Boudh, Kalahandi, Koraput and Kandhamal). (Information from CCF Nodal in PCCF's Office. The CCF Nodal is endowed with the charge to deal with encroachment issue over forestland)

- v. *Regenerative capacity of forest*: The regenerative capacity of the forests show variation within the area but there has been overall decline in the capacity of even predominant species like sal (*shorea robusta*). Large rootstock is still available in many of these forests.
- vi. *Demand and supply of forest produce (timber and firewood)*: The gap between demand and supply of both firewood and small timber has been increasing and there is acute scarcity in both rural and urban areas of Nabarangpur. The traders and contractors have been engaging in illegal trade of wood from the local forest to other parts of the state and even outside<sup>39</sup>.
- vii. *Revenue and Expenditure*: There has been a decline in surplus from the division owing to increasing expenditure and decline in revenue from forest produce.

## B) Outcome on forest dwellers

Since there can be no direct attribution of the outcome to a particular policy for a number of reasons, proxy indicator was used for analysis. The outcome thus compared the relative status of different sets of villages (forest migrant villages, revenue villages and Dandakaranya villages or DNK village) with respect to social, economic and political dimensions. A brief summary of such analysis is presented here.

- i. *Settlement pattern of the villages*: The forest migrant villages were located farthest from the economic center. This created relative disadvantage in access to economic and political resources.
- ii. *Endowment at source*: In terms of endowment at source, the revenue villagers were better off inspite of inequity in resource distribution. The rest two categories were rather assetless. However, government endowed the settlers in the Dandakaranya villages with land, livestock, capital and other means to establish and expand their livelihood options.
- iii. *Education*: Dandakaranya villages are relatively better with proper infrastructure, consciousness and improved economic status that help them to pursue education. Since no support can be provided to forest migrant villages, the literacy rate suffers.
- iv. *Health*: The villages in the forest had no access to any medical facility except for occasional medicine distribution to prevent epidemic.
- v. *Drinking water, roads and electricity*: The forest migrant villages suffered backwardness in terms of infrastructure. Roads and electricity was out of question for these villages.

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<sup>39</sup> It was reported by some local officers that traders in the decade of 1990s often transported wood in trucks loaded with grains. They would often hide wood lots and poles beneath the sacks.

- vi. *Social network*: In the initial phase of settlement, the forest migrant villages faced tough resistance from the neighbouring villages. With time the relation improved at many places where the leaders were instrumental in building networks with the bureaucracy and the Panchayat representatives. Economic linkages further helped to strengthen this relation. However, the acceptance was confined to occasional interaction instead of active participation. The relationship with the bureaucracy was relatively constrained for the forest migrant villages and the landless within the revenue villages with low paying capacity.
- vii. *Land holding pattern*: The average land holding was highest in the forest migrant villages. But all these were encroached forestland (upland). The average land holding in the other villages ranged from 2.5 to 4 acres. However, the category and quality (type) of land varied.
- viii. *Agricultural production*: The crops grown by these villages were almost similar where the only difference was that the revenue villages and the forest migrant villages still grew some traditional variety of crops for self-consumption. The area under maize cultivation was higher in the forest migrant villages (especially in Raigarh block) compared to other two. However, the economic status of the families and the debt pattern indicated the vulnerability since they could not control the production process without capital or credit facilities. The yield of paddy was highest in the DNK village due to hybrid seed and fertilizer.
- ix. *Other sources of income*: Apart from agriculture and labour, the forest migrant villagers could not engage in any other activity due to illiteracy, absence of capital/credit, and absence of tenurial rights. They were unable to avail any benefit from the development schemes due to rigid policy instruction and weak social and political affiliation.
- x. *Access to institutional credit*: While the forest migrant villagers cannot avail institutional credit, the other villages too are grappling with the issue of credit. The reason for lack of access is high default rate due to which banks refused to lend any further, the default rate being higher in Dandakaranya villages where the investment in agriculture is high. Moneylenders/traders have been monopolizing credit market at extortive rates of interest (100-150 percent per annum).
- xi. *Benefits from the forest*: Forests have been supporting the livelihood of the tribals/non-tribals in the area effectively through meeting the household requirements as well as commercial need. However, the most striking use of forestland has been for agriculture. Although, a cursory view projects the benefit flow in favour of the tribals/forest dwellers by contributing a major share in household income of the tribals/forest dwellers, the benefits are reaped by the economic elite in both the DNK village as well as the revenue village. The policies depict no institutional mechanism to control this proxy encroachment.

- xii. *Institutional affiliation*: Formal institutional affiliation was missing in the forest migrant villages. Even informal groups like self-help groups (such as savings group promoted by banks or other organizations) could not take off due to uncertainty in savings. The only transaction they involve in is with the money lenders/traders who conduct the transactions at the village level.
- xiii. *Awareness about Panchayat's role and responsibilities and the rights of the people*: The level of awareness about the Panchayat, its functioning, role and responsibilities varied from high to low and dismally low in the Dandakaranya, revenue and forest migrant villages respectively.
- xiv. *Participation in village and panchayat level decisions*: While the participation of the villagers in village meetings is relatively high in the forest migrant villages (possibly in wake of uncertainties), the other villages also display active participation. For the forest dwellers, participation held no relevance because their acceptance was low among the villagers and the government had restricted extension of any benefit thus de-legitimizing the communities of any claim whatsoever.

While the issue of forestland encroachment by forest dwelling communities is reasoned with economic logic, the counter arguments are many such as: why those encroaching upon the forestland have not been able to diversify their livelihood portfolio? Why they are not able to guard themselves from the risk of crop failure and even threat of eviction from the forestland itself? Why has the condition of living of the tribals/forest dwellers not improved if cultivation on forestland has been so rewarding? If they have not benefited<sup>40</sup>, where did the forest disappear? Was there abundant land to promote the cultivation of maize so extensively as to result in turning Nabarangpur the largest producer in the area?

From an institutional perspective, factional politics at the Panchayat level is often discussed in the context of the decentralized governance. It has been pointed out that the factions that were often led by elite with self-centered orientation adversely affected the developmental activities.

Another constraint arises from the exclusionary treatment of resources in the planning by the state<sup>41</sup>. The planning process seemed to be disjointed in terms of land use planning, agricultural improvement, infrastructure development, tribal welfare etcetera aggregating to treatment of resources as independent of human interference.

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<sup>40</sup> The statement "they have not benefited" is used irrespective of the fact that the tribals/forest dwellers consider that their condition has improved from pre-migration period. It has to be kept in mind that their reference point was their condition where they cultivated hill slopes or worked as landless labourers on being displaced by development projects.

<sup>41</sup> Kothari considered similar issue, though in a different context, and stated that "by itself, decentralized governance is an inadequate tool to empower people socially, economically, educationally and with respect to access to decent standards of livelihood-health housing etc- unless the economic policies of the central government are employment oriented" (Kothari, 1999: 51).



## 8 The implementation and implications of the Forest Rights Act (2006)

Following the Government order for speedy implementation of the Act, there has been progress in all the states at least in terms of formation of the committees. As per the information of the Ministry of Tribal Affairs, efforts were also being made for time bound action at various levels for implementation. In Orissa, State level monitoring committee and District level committees have been constituted. The Act and rules were also translated in Oriya language and distributed among stakeholders.

This section on implementation is based on the review of policy performance of the past in the context of forestry. There were a number of factors contributing to the poor performance including the objectives of the policy and the context of implementation (where context refers to the social, economic, political and institutional context). To what extent these concerns from previous policies were incorporated in the new Forest Rights Act will be analyzed through this particular case<sup>42</sup>. The analysis is based on the implementation framework used by Grindle (1980). Although all the assumptions behind this framework for study of politics of policy implementation in the third world countries are not relevant, the idea of implementation as a political and administrative process is adopted. The assumption that the demand making primarily happens at the implementation stage is negated in the context of this Act.

### 8.1 The content of the Act

- i. *Objective of the Act:* The Act has clarity in terms of recognizing and vesting the forestland and occupation in forestland in forest dwelling scheduled tribes and other traditional forest dwellers. However, there does not seem sufficient clarity in terms of framework for recording the forest rights and the nature of evidence, both of which hold the threat of reverting to the old system of bureaucratic and political control. Clarity is also missing in the Act regarding time frame for implementation of the Act. Often the time frame set by the states for various activities have looked unreasonable (for example Chattisgarh).
- ii. *Interests affected:* The Act has direct implications for the forest dwelling scheduled tribes and other forest dwellers that have been 'primarily residing in' the forest for generations but whose rights could not be recorded. It also has indirect implication for the Forest Department (and also the Revenue Department since it controlled some categories of forest area) and also those who had been residing in these areas for (a) subsistence farming and (b) profit through cultivation of huge patches of land. Careful reading of the provisions reveals that the phrase "primarily resides in" leaves ambiguity about the eligibility of the claimants.
- iii. *Types of benefits:* The benefit may be both in terms of individual entitlement

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<sup>42</sup> The attempt is not to generalize the case for the variations across the country but to help in understanding the variations in the context and how they influence the policy process.

to land under cultivation<sup>43</sup> as well as community tenure. Apart from this, the Act mentions benefits like collection of minor forest produce, community resource use, community tenure of habitat and habitation for primitive tribal groups and pre-agricultural communities. It also clarifies rights in or over disputed land, right for conversion of *pattas* or leases or grants issued by any local authority or any State Government on forestland, right of settlement and conversion of forest villages to revenue villages. Significantly, it also endows the community with the right to protect, regenerate, conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use (Refer to Chapter 2 of the Act).

- iv. *Extent of change envisioned:* The extent of change envisioned through the Act is considerably high in terms of: (a) vesting rights of the tribals/forest dwellers and forest dwelling communities over the resources they had historically used, (b) redistribution of power thereby ensuring democratic governance of natural resources, (c) combining rights and responsibilities for users of forest resource thereby strengthening the conservation regime of the forest. Although the Act vests powers in the *Gram Sabha* on account of being representative democratic entity, the extent to which this can be exercised is unclear.
- v. *Resources committed:* There is no mention about the resources committed for the implementation of the Act. The onus of implementation is on the state governments. Based on the past performance of the policies that depicted various shortfalls due to lack of coordination between departments, the expectation of commitment from the current administrative machinery is far-fetched. Further the constraint of human and financial resources might hinder effective implementation.

## 8.2 The context of implementation

As politico-administrative context of implementation is instrumental in terms of multitude of actors and interests that come in the ambit of the policy, 'who gets what' is a matter of important choices/decisions. This in turn depends on the strategies, resources and power positions of the actors involved in the process. The regime characteristics also affect the nature of interactions between these actors and the decisions (Grindle, 1980: 12). At the same time, effective implementation is contingent upon compliance of the implementers to the policy goals and their responsiveness to the demands of the intended beneficiaries (ibid: 13). In this subsection I have tried to identify the factors that make the context of Nabarangpur unique. It is also important to mention that in the context of Nabarangpur, the interests are conflicting because of unequal status of the actors involved.

- i. *Political patronage:* There have been complex issues in Nabarangpur linked with institutional arrangements, the settlement of the refugees from East Pakistan, influx of outsiders in the area (seeking economic opportunities), conflict among the native and the non-native tribals, conflict among the new

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<sup>43</sup> Right to hold and live in the forestland under the individual or common occupation for habitation or self-cultivation for livelihood

leadership and traditional leaders and non-implementation of policies. Amidst all these issues, the encroachers (both tribals and non-tribals and also the powerful encroachers) received political patronage. Hence any action in this regard is also contingent upon political will/motivation.

- ii. *Bureaucratic politics*: The bureaucratic politics was rooted in the interest of control over forest resources. The interests of the local officials colluded with the interests of the “local elites”. The self interest of both the parties paid off in this alliance while the forest dwellers were relatively distanced from the benefits. At another level, the struggle for control also distinguished the relationship between the forest and the revenue department. Both the parties were engaged in politics of blame in order to justify any delay in implementation, displaying a fractured bureaucracy.
- iii. *Compliance and responsiveness*: Compliance to the goals of the policies required integrating effort with various other responsible stakeholders in the process (including the intended beneficiaries). However, the motivation of the implementers was well beyond attempt at such effort which they attributed to various reasons such as: lack of autonomy to take decisions related to encroachment, lack of resources (human and financial), political and economic influence on decisions. Within the given context this can also be attributed to lack of downward accountability. Moreover, the attitude of the bureaucracy was unchanged even after lauded participatory approach. Thus sharing power with *Panchayat* was an unacceptable proposition. Moreover, scope for rent seeking and corruption was high in the complicated institutional set up. On the other hand, responsiveness of the policy implementers to the demands of the local beneficiaries was difficult as it would require redistribution of resource and change in power distribution at the local level.
- iv. *Alliances at local level*: The alliances at the local level were varied depending on the mutual interest of the actors. The outsiders (settlers under the DNK project and the traders from other districts and states) formed an alliance with the ‘local elite’ (the traditional power holders/leaders in the revenue villages commonly) for economic advantage. Thus land alienation became common phenomena. The outsiders gradually gained political advantage over the other classes thus enhancing their economic and political influence. The outsiders also coalesced with the tribals/forest dwellers through which transaction of forestland was encouraged. The local elite and the outsiders also coalesced with the bureaucracy, thus gaining control over the resources. The officials on the other hand refrained from owning any responsibility for iniquitous distribution of resources at the Panchayat level. There was also a class of emerging new elites including the traders and local land owners, legal experts and the moneylenders who gained control over the resources. The alliances also included the local elites and outsiders with the politicians. The political leaders sought to harness this relation in organizing the electorate and penetrated at different levels of the community. Significantly, even the timber contractors/mafia took into confidence the bureaucrats, the local elite and the politicians.

- v. *Regime type:* Most of the policies that were implemented were directed by the Central Government and influenced by the interest of the ruling party. In a similar manner, the implementation at the local level was also influenced by the regime at the state level. For instance, the action of joint verification was not completed in many districts (including Nabarangpur) until the Chief Minister's declaration of regularization in the year 2000.

The case of Nabarangpur is also unique due to massive conversion of forestland to agriculture land. However, the control over the land market was of the outsiders and the local (emerging) elites. At a more conceptual level, the land use classification was not based on proper assessment, thus de-legitimizing community claim for cultivation. Moreover, there was no distinct policy initiative or even clearly laid objective pertaining to encroachment on forestland, for a long time. Much of the policy initiative was in "incremental" form that failed to question the status quo. The non-decision also suppressed the conflict that might have disturbed the socio-political situation in the district.

An overall analysis of the situation reveals that there were a number of factors that hindered effective implementation of the policies but inaction was a political choice. At a bureaucratic plane, the individualized demands were also inevitable due to lack of incentive within the system to discourage such demands. Local political demands gained primacy over goals of implementation owing to the volatility of the situation.

The implementation of the Forest Rights Act in Nabarangpur will occur in a similar context of unequal power relations and development of local constituencies on the basis of group/individual interests and is liable to face some of the following complexities.

*The battle of definition/interpretation:* Like other parts of the country, much of the battle in Nabarangpur would also owe to assessing the eligibility for claim under the Act. Given the fact that much of the encroachment over forestland is "proxy" in nature, benefit to any person cultivating the land will only legitimize the claims of local elite/local (emerging) elite and the outsiders. The matter is complicated due to: (a) local alliances/unequal power relations in the area, (b) lack of institutional participation and exercise of power by the Panchayat and (c) bureaucratic maneuver and strained relation between bureaucracy and tribals/forest dwellers.

*Evidence for claim by Other Forest Dwellers:* Generation of evidence by the other forest dwellers in absence of documentary evidence would be difficult where the relationship with the neighbouring village is not harmonious and where the Panchayat is not particularly favorable towards protecting the interest of any community.

*Land ceiling for individual claim:* Considering the fact that: (a) the average size of holdings is much below 4 hectares, (b) where it is more than 4 hectares, it is often controlled by the traders/other elites and (c) that no such ceiling for community claim, there is high probability of use (misuse) of the provisions of the Act by the landed gentry (proxy encroachers).

*Status of Gram Sabha:* The consideration of the *Gram Sabha* at the *Gram Panchayat* level would act unfavourably in heterogeneous villages. Further, considering the fact that for all administrative purposes the forest migrant villages were depicted as hamlet of the revenue village, ascertaining the rights of the forest dwellers would be difficult.

*The power of the Gram Sabha in decisions:* The power allotted to the *Gram Sabha* in matters of diversion of forestland is a critical cause that might be misused by the local elites and political parties who have a history of influencing decisions on forest offense cases (especially related to quarrying and other diversions).

*Monitoring mechanism for cut-off date:* The extension of cut-off date has massive implications for the encroachment status since there have been many reported incidents of new encroachment after the joint verification. It instilled a hope of regularization in the minds of the people. Both tribals and non-tribals have engaged in registering false cases (during joint verification) through bribing of officials.

*Monitoring inalienability of rights:* In a context where land transaction has been popular among the tribals despite institutional provisions, ensuring that the rights are “inalienable” and “non-transferable” is a difficult task and demands bureaucratic accountability and local monitoring. Whether the implementation can ensure such accountability is doubtful.

*The duties of the right holders:* Nabarangpur is a unique case in a sense that it hardly has forest protection mechanism in place. The influence of prospering economy has shown more promise for agriculture development than forest protection. The forest protection agenda serves the political machinations of the leaders except in few cases of genuine interest. Moreover, the institutional robustness is a weak point considering the lack of awareness and proactive stance of the *Panchayats* and its members in initiating resource protection or even being informed about the same.

*The committees - formation and coordination:* Monitoring proper representation of various groups on the committees, timely formation and open communication between various committees is a challenge in the area. The experience of the previous policies has rendered lack of cooperation as an important reason for non-implementation of policies. The government machinery is overburdened<sup>44</sup>. Another significant point is that the current office bearers in other capacities represent these committees. Whether they have any incentive to perform (individualized incentive) is a question that is seldom asked prior to implementation results being apparent.

*Procedural hassles and rise of new class of information brokers/middlemen:* Considering the fact that the procedure of rights claim is lengthy and involves much paperwork and tenacity, there is chance of rise of new class of information brokers (who may be from the section of local elite). This is highly probable in light of performance of *Panchayats* on other schemes.

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<sup>44</sup> The task of forest survey and settlement was entrusted with the sub-divisional officer in absence of Forest Settlement Officer.

*Implication for forest status in the district:* Considering the fact that massive area of land has been diverted for agriculture<sup>45</sup> and that the forest cover in the area has been declining, the regularization (including diversions for proxy encroachment areas) might lead to further decline in forest status and fragmentation of resource. Moreover, there is no plan of resource protection by the resource constrained forest department in the district.

*Act not in derogation of any other law:* The provision weakens the probability of effective implementation considering the fact that the earlier policies are still not implemented in the district for various reasons. The result is seen in the ambiguity in land and forest resource boundaries, lack of revised settlement and rights allocation.

The flexibility of the new Forest Rights Act to adapt to local variations is low. But on the other hand, the ambiguity in various clauses makes it amenable to a battle of interpretation.

## 9 Conclusion

The complexity surrounding the governance of forest resources was oversimplified in the policies of the state at various levels. The state presupposed uniform property regime that could be altered from the Centre. Thus when the rights over land were privatized through the process of settlement, there were many others like the sharecroppers, the labourers, the tenants, who lost their customary access to land and its produce (Scott, 1998). Similarly in the determination of rights over forest, the tribal-forest interaction was simplified and replaced by revenue interest of the state. The tribals/forest dwellers were treated as a homogeneous group, while shifting cultivation practice was considered ecologically wasteful/damaging. The forest resource in Nabarangpur was historically used by the state for commercial purpose, diverted for resettlement project and then used extensively for cultivation.

Despite state's attempt at "administrative ordering of nature and society" (Scott, 1998: 4)<sup>46</sup> the nature of stakes upon the resource increased. The resource demand and use pattern by the tribals/forest dwellers and the local non-tribals was in conflict with the demand placed by the traders/contractors etc. But the personalized interests/demands for short-term use of the resource were much stronger than the demand for sustainable use of the resource/conservation of the resource. In the entire process, the richer classes (local/traditional elite, *neo-elite*, outsiders) benefited tremendously in absolute terms, while the benefits from the forest produce and forestland formed a greater share of the income of the poor class (marginal land holders and the landless). The reduction in the pressure was not possible unless the property rights regime was defined clearly and there were enough avenues for diversification of the livelihood portfolio.

In contrast to widespread evidence of localized protection and resource management efforts in many parts of Orissa, the study in Nabarangpur does not

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<sup>45</sup> The probability of the aggregate being higher than the land held by the forest migrants

<sup>46</sup> For further discussion on the tunnel vision of the state refer to: Scott, J.C., 1998, *Seeing Like a State*, Yale University Press, New Haven.

show any directed effort towards conservation and efficient use of the resource. The environmental issues were hardly raised at the local level until 1990s with the support of some civil society organizations. It becomes critical to understand why such efforts were not observed. Those that were affected the most did not challenge the emerging power structure. Was it because over the years there was internalization of subordinate status to the socially/economically and politically advantaged class and it continued even as the actors changed? This would not be countered because the local populace had been culturally tied to patronage relations that subsisted in one form or the other but the parallel processes were also significant.

There was a process of social mobility as a result of the alliances and the networks that were developing. The *neo-elites* within the local tribal communities prospered through interactions with the outsiders. It also indicated acceptance of the value system that was perpetuated by the economic elites and the ruling class. The formal institutions and organizations within the state mediated the process of domination and influence. The course of action adopted by the Forest Department in this complex background was to avoid any overt conflict. Thus any demand making was carefully thwarted before it even surfaced. As the complexity in the social structure increased, the complexity of decision-making increased too.

When the new Forest Rights Act is examined in light of the governance of forest resources in Nabarangpur, not much hope emerges within the limited performance of the past policies. A preliminary assessment of the implications (anticipated outcome) indicates ownership of land tenure by many who have been denied such right under settlement process, but also negates disincentive for the proxy encroachers and the forest resource in the district. Moreover, the local self-governance system is yet to emerge as robust institution to bear the risk of new reforms in governance of natural resources. In a multi-stakeholder decision situation, such experience holds lesson for reforms of limited scope and attempt at “incremental” policy decision.

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