
Democratic Assertions: The Making of India's Recognition of Forest Rights Act

Kundan Kumar and John M. Kerr

ABSTRACT

Inclusion of marginalized sections and minorities remains one of the most vexing problems for democratic politics. This article discusses the enactment of a recent Indian law, 'The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006', as exemplifying the possibilities of inclusion of marginalized groups in democratic processes. The law was enacted in response to a nationwide mobilization of marginalized forest dwellers and their advocates demanding rights over forests. Grassroots-level formations representing forest dwellers came together across scales and spaces to form a network that successfully negotiated India's democratic politics to achieve the passage of the law. The case illustrates the role of grassroots mobilizations in creating alternate discourses of legitimacy, networking across scales and locations, and using spaces provided by representative democracy to include the voices and demands of the marginalized in democracies.

An Act to recognise and vest the forest rights and occupation in forest lands 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 Whereas the forest rights on their ancestral lands and habitats were not adequately recognised in the consolidation of state forests in the colonial as well as in independent India resulting in historical injustices to the forest dwelling scheduled tribes and other forest dwellers who are integral to the very sustainability and survival of the forest ecosystem . . . [Preamble of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006].

INCLUSION OF THE MARGINALIZED

Inclusion of marginalized sections of society remains a paradox for democratic politics, both in theory and in political practice (Young, 2000). At the same time, inclusion becomes a critical question for the marginalized

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whose lives and well-being are linked to their ability to have a substantive say in public decisions affecting them. The high modernist developmental state with its tendency for top-down reconstruction of societies through the instrumentality of the bureaucracy sees poor people as passive subjects of development instead of active citizens participating in government (Scott, 1999). The material and cultural resources, institutional access and dense networks and connections across locations and scales that elites can draw on to obtain favourable policies and changes (Knoke, 1994; Moore, 1979) are not typically available to the marginalized.

Ordinary people use contentious politics through collective mobilization or struggles in attempts to make governments take account of their voices and aspirations (Tarrow, 1994). Contentious politics become movements when they are backed by social networks and alternate discourses and symbolism, and enter into sustained interaction against perceived opponents (*ibid.*). Yet, the politically marginalized face difficulties in entering and sustaining the politics of contention and ensuring substantive policy changes at higher political scales due to resource constraints that make the costs of collective action prohibitive. Issues that the poor and marginalized confront are entangled in institutions and processes of governance at different scales and locations. The complex and multi-scale nature of governance structures creates obstacles for place-based social struggles trying to change state policy through the politics of collective action. To address this problem, grassroots mobilizations of marginalized people have increasingly linked with other similar struggles and civil society organizations to be able to reach across scales and spaces (Escobar, 2008).

Emerging new forms of mobilization of the poor and marginalized are embedded in place-based¹ politics as well as in national and global politics. The increasing ability of locally-based grassroots organizations to link with each other and with other actors in open-ended and spatially dispersed networks allows them to draw both on the strengths of local, mass-based political organizing and on the flexibility and reach of networks over scale and space (*ibid.*). This has enabled collaboration amongst actors who share similar commitments and worldviews (Keck and Sikkink, 1998), and provided novel modes for the politics and struggles of marginalized people to traverse political decision making across scales and to cut across the traditional, hierarchical networks of information, power and authority. It also makes it possible for such formations to access expertise and knowledge to comprehend and negotiate the complex dynamics of governments and policy making.

1. Here 'place' means the 'the engagement with and experience of a particular location with some measure of groundedness (however unstable), boundaries (however permeable) and connections to everyday life, even if its identity is constructed and never fixed' (Escobar, 2008: 30).

In this article, we describe the processes that led to the passage of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (hereafter referred to as RFRA), which was enacted by the Indian Parliament in 2006 in response to a nationwide mobilization of marginalized forest dwellers. We locate the marginalization of India's forest dwellers² in the historical construction of India's legal forest estate. We show how networks of place-based social movements and civil society actors were able to weave together narratives of injustice, exclusion and claim making with astute advocacy and politics to pull off an important concession for the most marginalized and voiceless sections of Indian society.

The literature on social movements provides theoretical concepts to help understand networks such as the one that led to passage of the RFRA. These concepts include shared ideologies and identities that outline and define collective action frames (Snow and Benford, 1988), as well as favourable political opportunity structures, mobilizing structures of networks and face-to-face groups, forms of mobilization, representation and internal democracy, communications across space and scales, and processes of decision making (Tarrow, 1994). The concept of 'campaign' used by Keck and Sikkink (1998) becomes especially useful. They describe campaigns as sets of strategically linked activities in which members of diffused networks develop explicit, visible ties and mutually recognized roles in pursuit of a common goal. New linkages and networks may emerge through such processes around common and shared understandings. In turn, campaigns may lead to the emergence of shared subjectivities that then feed back into the process of change and collective action (*ibid.*).

This article uses the example of the Campaign for Survival and Dignity (CSD) as an illustration of a networked movement created by combining grassroots place-based struggles of marginalized people with flexible, open-ended networking across space and scale. A coalition of more than 200 grassroots and activist organizations from across the country, CSD was instrumental in the enactment of the RFRA, having managed to push the Indian state to enact progressive legislation in the face of considerable opposition. Along with the well-recognized importance of framing and construction of alternative discourses, we bring to the fore the ability of networked mobilizing structures like CSD to transcend scales of governance, reach diverse audiences and pull together resources and knowledge to achieve substantial change in favour of the marginalized.

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2. Forests are defined in a purely legalistic manner in India, as areas that have been converted to forest through application of various laws. Thus, pastoral landscapes and areas that are regularly covered in snow, as well as deserts, have been classified as 'forest'. The Supreme Court in 1996 defined 'forest' as including the dictionary definition of the word as well as all areas that have been classified as forest land under any law (Dutta and Yadav, 2005). We use the term 'forest dwellers' to refer to the category of people who live on, or whose livelihoods depend on, land legally classified as forest.

The rest of this article discusses the dynamics leading to the enactment of the RFRA and then analyses four key aspects of the campaign: 1) the emergent network of the marginalized forest dwellers and their allies as a mobilizing structure; 2) the firming up of a frame of legitimacy and justice and its circulation; 3) the critical role of the politics of mass mobilization at different locations and scales in obtaining legitimacy; and 4) the conjunction of political trends and events during the early 2000s in creating a political opportunity structure favourable to forest dwellers' demands. The article draws on three main data sources: analysis of the listserv *Forestrights*, interviews with key protagonists, and the first author's participation in and observation of the mobilization leading to the enactment of the forest law.³

THE SETTING AND THE CASE

Locating the Marginalization of the Forest Dwellers in India

Forest dwellers are amongst the poorest of the poor in India (Kapur Mehta and Shah, 2003). The majority of people categorized as forest dwellers are scheduled tribe communities,⁴ dalits⁵ and other poor communities. They are subsistence cultivators and forest product gatherers, dependent on land and forest resources for their livelihoods. Forest dwellers' rights to live in and use forests have been expropriated and negated by both the colonial and the post-colonial state through the exercise of exclusionary colonial forest laws (Bijoy and Raman, 2003; Pathak, 1994).

By 1950–51, about 71.8 million ha (approximately a quarter of India's land area) was claimed as legal forest, according to the data of the Ministry of Environment and Forests (FSI, 2003). One consequence of the manner in which legal forests were created is that millions of people still live on and cultivate forest lands (Sarin, 2005a). Recent scholarship shows that various factors, including blanket declaration of legal forests (Sarin, 2005a; Kumar et al., 2005), non-recognition of customary land use such as shifting cultivation and hunting-gathering, and poor settlement of forest rights (Kumar et al., 2005), and administrative confusions over the status of land (Garg, 2005; Ghosh, 2007; Kumar et al., 2005; Sarin, 2005b) are responsible for this situation. The enactment of the Forest Conservation Act, 1980 (FCA),

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3. Kundan Kumar participated in many of CSD's meetings and mobilizations during 2005–6.
 4. The Government of India categorizes certain ethnic groups as Scheduled Tribes, which makes them eligible for protection under Schedule V and VI of the Indian Constitution and also for various specific welfare programmes. More than half the tribal population of India is below the official poverty line, compared to less than one-third of the rural population as a whole (Kapur Mehta and Shah, 2003).
 5. *Dalits* (down-trodden) is a term used to describe communities defined as scheduled castes by the Indian Government. The scheduled castes consist of caste groups that had been heavily disadvantaged in the caste society, including those considered as untouchables.

which made changing 'legal forests' into non-forest land subject to permission of the central government, made redressing the non-recognition of rights very difficult. Large tracts of forest areas were also brought under the strict Wildlife Protection Act, 1972 (GOI, 2005).

The application of these draconian laws, along with the older forest laws, criminalized livelihoods and contributed to the marginalization of millions of forest dwellers (GOI, 2005; Sarin, 2003). The forest bureaucracy treats the presence of forest dwellers on legal forest lands as encroachments and officially seeks to evict them. The application of forest laws also makes most livelihood activities of forest dwellers illegal (Fernandes et al., 1988; Kumar et al., 2005; Sharma, 1989). Efforts to evict forest dwellers accelerated in the late 1990s, with a devastating impact on forest dwellers. Hundreds of thousands of people have been evicted from forest lands without any compensation in the post-independence period (Dreze, 2005). Restrictions on use of forests and forest land have affected the livelihoods of millions (Sarin, 2005b).

Localized resistance and mobilization against exclusions in forested areas have existed since colonial times. In recent years, as the levels of exclusion and dispossession increased, local resistance and mobilization intensified in different parts of the country. In 1990, efforts were made to address the problem of non-recognition of rights on forest land through a series of circulars issued by the Ministry of Environment and Forests (MOEF) under the FCA, 1980, but the efforts were mostly unsuccessful (Sarin, 2003). In 1996, Supreme Court rulings interpreted the FCA, 1980, very strictly, making the resolution of disputes over forest rights even more difficult.⁶

Forest Bureaucracy Over-reach Creates a Campaign Issue

The matter came to a head in 2002 when the MOEF ordered the eviction of all forest encroachers within a period of six months. Though this unilateral effort by the forest bureaucracy was based on misinterpretation of a Supreme Court ruling, serious efforts were made to implement it. Cases in which forest departments set forest dwellers' houses on fire and razed their crops were reported from the states of Assam, Rajasthan, Madhya Pradesh and Gujarat. In 2004, the MOEF admitted that people occupying 150,000 hectares of land had been evicted from forest lands after the 2002 circular. Dreze (2005) estimated that almost 300,000 families of tribals and non-tribal forest dwellers had been forcefully evicted. Media reports estimated that evictions would eventually affect almost 10 million tribals and non-tribal forest dwellers (Kaur, 2002).

6. The role of the Supreme Court of India in forest conservation has been radically conservation-oriented, often to the detriment of forest dwellers (Rosencrantz and Lele, 2008).

The evictions and associated human rights violations led to an outcry by grassroots organizations and political formations all over the country (Joshi, 2003). They framed the issue in terms of injustice to vulnerable forest dwellers whose rights had gone unrecognized during the creation of India's legal forests (CSD, 2003). The efforts of grassroots organizations to create a national forum to address forest rights and evictions led to the formation of a coalition called the Campaign for Survival and Dignity (CSD). CSD became a key player and interlocutor for the forest rights issue at the national level. An initial effort by the coalition was a *jan sunwai* (public hearing) organized in Delhi in July 2003, where over a thousand tribal men and women from across the country came and presented their accounts of evictions and human rights violations (*ibid.*).

The evictions became an issue in the 2004 national elections as the major political parties competed for tribal votes. Realizing that the attempt to evict millions of forest dwellers and tribals from forest land was a political miscalculation, the then Prime Minister promised that tribal encroachments on forest lands would be legalized and evictions halted. However, efforts to do so were stayed by the Supreme Court on the grounds that they violated the Forest Conservation Act, 1980 (Venkatesan, 2004).

The 2004 elections brought to power the opposition United Progressive Alliance (UPA) coalition led by Congress (I). Congress (I) had also made a pre-election commitment to discontinue eviction of tribal communities from forest lands. The CSD and other organizations working for forest rights took up the matter with the newly elected government in a series of high-level meetings in late 2004. The incoming central government administration formed the National Advisory Council (NAC),⁷ which recommended that the government pass a law to provide forest occupancy and user rights to forest dwellers. CSD also organized a two-day convention in Delhi in December 2004, at which it demanded a law to recognize the rights to forests of forest-dwelling tribals and other forest dwellers (Prabhu, 2004).⁸ In a meeting on 19 January 2005 organized by the Prime Minister's Office (PMO), to which senior bureaucrats and a representative of the CSD were invited, the Prime Minister directed the Ministry of Tribal Affairs (MOTA) to frame a law for restoring and recognizing forest rights. It was also decided that a Technical Support Group (TSG) would be created to help MOTA to draft the bill.

7. The NAC was headed by the powerful Congress (I) President Sonia Gandhi and included eminent members of civil society. It advised the national government on development issues. The NAC is also credited with facilitating the enactment of the Right to Information (RTI) Act and the National Rural Employment Guarantee Act (NREGA).

8. These are classified by the Recognition of Forest Rights Act as 'Forest Dwelling Scheduled Tribes' — Scheduled Tribes who live on forest land and who depend on forest or forest land for bonafide livelihood purposes; and 'Other Traditional Forest Dwellers' (OTFDs) — people who, for at least three generations prior to December 2005, have lived in forests and depend on forests or forest lands for bonafide livelihoods.

Prelude to the Creation of RFRA

The TSG included government officials and representatives of CSD and other civil society organizations. CSD presented a draft bill it had prepared for discussion. Although government officials in the TSG opposed the inclusion of non-tribal traditional forest dwellers, the non-government members, including the CSD representatives, pushed for their inclusion. The first draft prepared by the TSG included non-tribal forest dwellers and was sent for comments to the PMO. The PMO objected to the inclusion of the non-tribal forest dwellers and also indicated that the law should apply only to those forest-dwelling scheduled tribes who were living on forest land before 1980. It also asked that protected areas (sanctuaries and national parks) be kept out of the purview of the proposed law. These directives were apparently the result of objections raised by powerful conservationists who had access to both the Prime Minister and the UPA Chairperson.

These proposed changes led to a debate within CSD on whether to remain involved in the process of drafting the bill. It decided to remain engaged with the process while also putting outside pressure on the government. It launched a nationwide campaign to ensure that the draft Bill would be introduced in Parliament as soon as possible, including mass rallies in New Delhi and state capitals and postcard campaigns. Approximately a quarter of a million forest dwellers and tribals, including a large number of women, participated in these demonstrations and drew the support of many Members of Parliament from all parties (CSD, 2005).

As a new forest rights law started to become a serious possibility, strong opposition emerged from powerful conservation organizations and the forest bureaucracy.⁹ The conservationists unleashed a major media campaign.¹⁰ Advocacy by both CSD and the anti-Bill groups resulted in continuous coverage and debates on the proposed law in the media.

Following pressure from government coalition partners and the CSD, the government presented the Bill in Parliament on 13 December 2005. The Bill as presented excluded non-tribal forest dwellers, retained the 1980 cut-off date and provided for very limited rights inside protected areas, thereby ignoring the major demands of the grassroots campaign. Parliament formed a Joint Parliamentary Committee (JPC) of MPs to look into the proposed law and submit their recommendations. The JPC consisted mostly of tribal MPs from all parties. The JPC invited oral and documentary submissions

9. The MOEF strongly resisted the proposed Bill. In a letter dated 14 March 2005 to the Ministry of Tribal Affairs it said: 'The approach adopted in the proposed Bill requiring denotification of vast tracts of forest lands and elimination of legal protection for the forest cover, will lead to irreparable ecological damage of immense proportion' (Ganapathy, 2005).

10. The powerful conservation groups used both media and behind the scenes lobbying to ensure that the Bill was not tabled. For instance see the story in *The Pioneer* provocatively entitled 'UPA's Tribal Bill: Tiger's Death Warrant' (Bindra, 2005).

and in May 2006 it produced its unanimous report, which reflected the CSD position. It recommended including non-tribal forest dwellers, extending the cut-off date to 2005, and applying the law to protected areas. After taking cognizance of the JPC recommendation, the government submitted a revised Bill to Parliament in December 2006, where it was passed without any significant opposition and became law. The new law accepted many of the JPC's recommendations, including coverage of non-tribal forest dwellers and bringing the cut-off date to 2005.

THE RFRA 2006 ENACTED

The law that the Indian Parliament finally passed is radical in many respects. In its preamble it accepts that historical injustices have been done to forest-dwelling scheduled tribes and other traditional forest dwellers in the creation of India's forest lands. The law seeks to redress these injustices by providing these two groups with twelve types of rights, including rights over land occupied for agriculture or homestead, rights over non-timber forest products, rights to protect and manage community forest reserves, and community tenures for habitat for primitive tribal groups and other pre-agricultural communities.¹¹ The law empowers and holds responsible the holders of these rights to protect wildlife, forests and biodiversity¹² as well as adjoining catchments, water sources and other sensitive ecological resources,¹³ providing statutory backing for community-based forest governance in India for the first time. The rights determination process is to be initiated at the community level by the Gram Sabha¹⁴ (village assembly) and final rights determination and preparation of a record of rights is to be carried out by higher-level committees including both government officials and members of elected local self-governance institutions.¹⁵

The initiative for implementing the law rests with the central and state governments. At the time of writing this article, millions of individual claims to forest land have been filed under the law in different states and are being processed.¹⁶ The primary focus of the state governments has been on settling individual rights on occupied lands, with little attention to provisions to facilitate community control of state-owned forest areas. There has been little evaluation of how effective these claim-filing processes are, but at least in the areas where grassroots organizations are active, they are trying to

11. Section 3(1), RFRA, 2006.

12. Section 5(d) and 5(d), RFRA, 2006.

13. Section 5(b), RFRA, 2006.

14. Section 6(1), RFRA, 2006.

15. Section 6(3) to section 6(9), RFRA, 2006.

16. See <http://www.tribal.nic.in/index1.html>. By March 2010, 2.744 million claims had been filed and 782,000 land titles had been distributed.

ensure that the right procedures are followed.¹⁷ The feedback to date has not been good. The law seems to have been poorly implemented in most states, with the forest bureaucracy maintaining control (GOI, 2010). The democratic processes of rights settlement involving the Gram Sabha seem to have been bypassed in most cases (*ibid.*).

Post-enactment, the arena of political struggle has shifted back to the state and grassroots levels, as various state governments are implementing the law. In some isolated cases, local forest-dwelling communities and grassroots movements are using the law to challenge state bureaucracies. For instance proposed displacement through wildlife protection laws has been challenged in Tamil Nadu using the law.¹⁸ In the West Bengal Hills, the forest bureaucracy's efforts to harvest or cut forests have been challenged.¹⁹ In parts of Orissa, communities protecting forests informally have applied for community rights under the RFRA.²⁰ The radical potential of the RFRA in empowering forest-dwelling local communities has become clear in the Niyamgiri–Vedanta case (MOEF, 2010; Saxena et al., 2010). Here, the non-settlement of rights under the RFRA, especially concerning the habitat rights of pre-agricultural tribal groups, has been cited as one of the main reasons for refusing forest clearance for mining Niyamgiri Mountain by Vedanta, a powerful multinational corporation.²¹ Similarly, the Ministry of Environment and Forests put on hold a US\$ 12 billion investment for a steel plant by POSCO as the rights had not been settled on the forest land sought to be diverted for the project.²²

Whether these isolated events represent a major nationwide empowerment of forest dwellers and a transformation in forest governance is an open question requiring empirical investigation. CSD remains in place as a coalition of organizations and its constituents continue to coordinate and meet on the issues related to the RFRA and its implementation.

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17. The CSD has a website that manages information and feedback about the implementation of the Act. See <http://forestrightsact.com/>.
 18. In Tamil Nadu, local communities have protested strongly against the declaration of Mudumalai Sanctuary as a 'critical tiger habitat', claiming that such a declaration is illegal under the RFRA (Masingudi Panchayat, 2008).
 19. In the West Bengal hills, forest dwellers organized a blockade of Forest Department timber shipments out of the area, arguing that under the RFRA the Forest Department no longer has the right to harvest and export timber without their consent (Sinha, 2008).
 20. Vasundhara, personal communication, 2010.
 21. The Niyamgiri mining issue became globally known due to the effects it would have on the Dongaria Kondhs, a primitive agricultural tribe, and on the area's exceptional biodiversity. The proposed mining was finally refused by the Indian Government, which cited violations of RFRA, The Forest Conservation Act of 1980, and the environmental laws.
 22. Most of the land required for this project is forest land, part of which has long been under cultivation by forest dwellers. The MOEF ordered a stop work order in August 2010 when it learned that the diversion of the forest land without settling the rights under RFRA would violate the law.

ANALYSIS: THE POLITICS OF MARGINALITY, SCALES AND NETWORKS

The enactment of RFRA provides an interesting example of what Li (2007) refers to as the inclusion of marginalized groups in democratic politics through layered alliances that span multiple levels of politics. Marginalization is linked to structural conditions in society. Social hierarchies, relations of production, laws, state policies and governmental procedures form critical ingredients of the assemblage constituting these structural conditions (Williams et al., 2003). The forested landscapes of India are one of the two major pockets of chronic poverty (Shah and Guru, 2005). Forest dwellers in India, mainly belonging to tribal and dalit communities, are at the bottom of the social and economic hierarchy, with poor entitlement over productive resources.²³ Their low educational standards make them ill equipped to negotiate the formal state institutions relating to land and forest. Their social marginalization has been aggravated by the criminalization of their livelihoods by forest laws. Their daily existence illustrates Chatterjee's (2004) notion of 'transgressing the strict lines of legality in struggling to live and work'.

In most forested areas, a nexus of local elites, petty officials, money lenders, liquor traders, legal professionals and touts constitute themselves into a 'shadow state' that interdicts benefits flowing down from the welfare state for the poor and seeks to suppress local demands and struggles for livelihoods and justice (Corbridge et al., 2005; Harriss-White, 2003). The state-deemed illegality of livelihood strategies has made forest dwellers doubly vulnerable to exploitation and marginalization at the hands of the 'shadow state'. Shah and Guru (2005: 21) describe the tribal populations in forested parts of India as facing 'internal colonialism, resource emasculation, and subjugation of interlocked modes of exploitation wielded by a non-tribal axis of power'. Efforts to assert rights and challenge structural conditions leading to marginalization are resisted by these powerful interests, and struggles for rights to land and forest are met with violence and repression. Many leaders of grassroots movements who participated in the campaign for forest rights have been imprisoned due to false cases filed against them, and activists have been killed or injured.

The complex ensemble of laws, policies and procedures related to forests also confounds efforts to challenge the exclusion of marginalized forest dwellers. The legal framework for forest governance is embedded in a complex, multi-jurisdictional matrix, including national and provincial land and forest laws and their subordinate rules. This legal infrastructure is enforced by the powerful forest bureaucracies and is supported by hegemonic discourses of environmental protection, biodiversity conservation and development. Any transformation in this complex system requires deep understanding of its dynamics and of the multiple interests vested in the status

23. See Lanjouw and Stern (1991) for a discussion of a strong correlation between caste and poverty in India.

quo. Such expertise and political capacity are not easily available to the marginalized forest dwellers.

Thus the marginalization of forest dwellers is structured not only by local power configurations, but also by how local socio-ecological contexts articulate with higher scales (provincial, national and global), laws, policies, procedures and the discursive politics around forests. The extent of marginalization is exemplified by the fact that violent evictions of forest dwellers continue even after the enactment of the RFRA with its emphasis on redressing historical injustices.²⁴ The ability of the network of grassroots organizations to ensure the enactment of RFRA needs to be seen in this context of power asymmetries and marginalization.

The non-settlement of rights on forest land and exclusion from forests have long been issues of struggle in the Indian hinterlands (Brahmane and Panda, 2000), even though they have received relatively little attention at policy levels. In India as a whole, numerous local mobilizations, movements and organizations have emerged which fight for the rights of the poor, many of which have been struggling with the issues of forest and land rights and empowerment of the poor for decades. Some of these grassroots organizations collaborated in the 1990s to push for the enactment of the Panchayats (Extension to Scheduled Areas) Act, 1996.²⁵ It was through the efforts of these organizations that the CSD was formed as a national level forum in 2002–3.

Emergence of a National Mobilizing Structure: The Campaign for Survival and Dignity

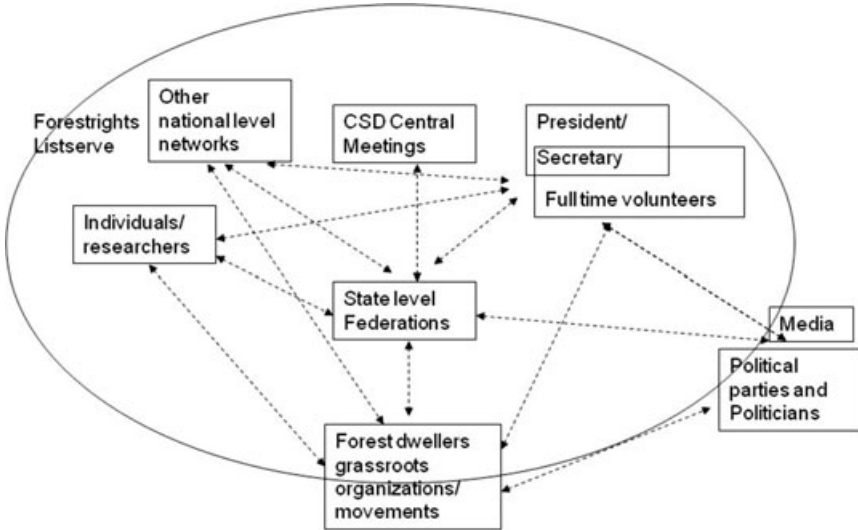
The Campaign for Survival and Dignity emerged as a networked coalition of national federations, state level organizations and federations of tribals and forest dwellers. Some of the initial members of CSD had been working together and were part of the National Front for Tribal Self Rule (NFTSR).²⁶ During a public hearing on forest evictions in Delhi in 2003, it was decided to create a broader coalition on forest evictions and rights issues (Asher and Agarwal, 2005). State-level federations of organizations working for rights of tribals and other forest dwellers from Madhya Pradesh, Gujarat,

24. For example, two tribals were killed by police fire over the issue of claiming forest land in Gujarat in February 2008. In January 2008, the Forest Department burned or demolished more than a hundred houses of forest dwellers and injured six people in Burhanpur district, Madhya Pradesh.

25. This law provides for autonomy for local self-governance in Schedule V areas. It recognizes the prevailing traditional practices and customary laws and tries to empower people in the tribal areas.

26. These included organizations like the Bharat Jan Andolan, Kashtakari Sangathan (Maharashtra), Adibasi Mukti Sangathan (Madhya Pradesh) etc. that have a long history of fighting for tribal rights on land and forests. The NFTSR was formed in 1993 to push for tribal self-rule.

Figure 1. Networked Structure of the Campaign for Survival and Dignity



Note:

The Secretary of CSD was a full-time volunteer. Other full-time volunteers worked at both national and state levels. The *Forestrights* listserv membership (shown by the ellipse in Figure 1) included almost all the key actors in CSD, although some of the important constituents and actors such as grassroots workers, sympathetic media members and political activists were not linked to the listserv. We have shown these categories partly outside the ellipse of the *Forestrights* listserv.

Andhra Pradesh, Tamil Nadu, Maharashtra and Rajasthan became a part of the initial group. In June 2003, an e-mail listserv called *Forestrights* was initiated to coordinate and share information. The CSD network expanded as other grassroots groups and activists working in Orissa, Northeast India, Chhattisgarh and other areas joined. The *Forestrights* listserv, through word of mouth and forwarded e-mails, also attracted a number of intellectuals and scholar activists. By 2005, the CSD had stabilized as a national network of existing networks, organizations, activists and sympathizers. The structure of the CSD remained flexible and open to new membership (see Figure 1).

Over time, a core of activists who were giving much of their time to CSD activities emerged at different scales. CSD had two full-time volunteer workers at the national level, both on loan from one of the founding organizations. The various state-level and local constituents had their own part-time volunteers who were often part of the grassroots groups and federations constituting CSD.

Decision making in the coalition was carried out through processes of collective deliberation. National-level strategies were decided in meetings held once every few months in which representatives from various states would come together. Certain individuals with expertise, including lawyers and

retired government officials, were also invited to these meetings. Given the diversity of interests and priorities of the various organizations represented in CSD, extensive debates took place on many different issues. Decisions were taken in a transparent manner. The coalitional structure was repeated at provincial levels, although with different situations in different states. In Orissa, a new local chapter of CSD was formed with membership from a number of organizations and grassroots mobilizations. Initially a journalist functioned as the state-level convenor; later a tribal leader with grassroots experience was chosen as the convenor through a show of hands in a state-level meeting. The state-level body in Orissa also included NGO representatives and some city-based intellectuals, though the majority were from grassroots mobilizations of forest dwellers; decision making was deferred to them. Meetings were organized to chalk out programmes and action, as well as to brief representatives who would attend the national CSD meetings. The main requirement for being a part of the coalition in Orissa was to commit to the issue of forest rights and to abide by decisions made through deliberation at the state and national levels.

In other states, pre-existing federations and networks of local organizations took the lead in forming coalitions. These state-level groups deliberated over issues emerging from their states and served to share and validate the stance and strategies that the CSD was developing at the national level. Similar deliberative platforms developed in some of the districts, primarily in areas where grassroots mobilizations were active.

Communications were maintained primarily through the Internet, phone and meetings. The *Forestrights* listserv acted as an instant conduit for sharing major news and happenings and allowed information to move quickly from the national scale to the states and vice versa. State-level activists would ensure that important messages were spread to the grassroots through phone calls, letters and meetings, using the existing networks and linkages of the various organizations. Given its core constituency, CSD had a strong capacity to mobilize grassroots support in different locations.

The tendency at all scales was to be inclusive and open-ended, allowing actors to come in and drop out, while maintaining core continuity through certain organizations and individuals. The strength of this loose network came from unstated assumptions of democratic debate and inclusion, which provided space at various scales for different voices and opinions and allowed strategies to emerge. The embeddedness of the grassroots organizations at local levels allowed CSD to validate its deliberations and decisions through local feedback. At the same time it allowed diverse ground-level concerns to be taken into account at higher scales.

CSD continued as a network after the RFRA was passed, functioning as a mouthpiece of grassroots organizations. Meetings are held regularly, though at the grassroots level the focus has turned to implementation. CSD has also mobilized a network of lawyers to fend off legal challenges to the RFRA, and it continues its efforts to influence the relevant government-issued policy and

operational circulars. However, the intensity of mobilization has declined, and major mass mobilization events are no longer being organized.

CSD as a mobilizing structure approximates the concept of a networked coalitional campaign (Tarrow, 1994), with autonomous entities cooperating on the basis of shared understanding and commitments (Della Porta et al., 2006). The process of participating in this mobilizing structure and its framing of the forest rights issues also led to the development of new subjectivities and relationships, which helped create an overarching collective identity amongst members of different constituent organizations (Diani, 1995).

Framing: Historical Injustices and Exclusion of the Forest Dwellers

The existence of grassroots-level mobilizations of forest dwellers in various parts of the country indicates that narratives of unjust exclusions and injustices related to forest lands based in real life experiences already existed. As organizations mobilized around forest rights in a campaign mode, these narratives slowly started coalescing into a common frame that drew from the experiences of grassroots struggles and a number of other sources. These included the environmental history literature, which provided detailed historiographies of the colonial construction of legal forests and resultant exclusion of tribals and forest dwellers (Guha, 1989), and narratives of tribal dispossession and marginalization in the work of scholars such as Verrier Elwin (1963), B.K. RoyBurman (GOI, 1986),²⁷ and scholar activists such as Mahasweta Devi and B.D. Sharma. Sharma's '29th Report' (1989) was an important bridge that linked real life experiences with policy analysis and suggested ways of resolving disputes regarding rights on forest land. The grassroots movements working with forest dwellers provided actual examples of exclusion, often articulated as undemocratic denial of justice to vulnerable people. A public hearing in July 2003 brought together forest dwellers from across the country and led to a sharing of experiences of exclusion. These were collected in a book called *Endangered Symbiosis* (CSD, 2003). The book was shared widely and helped delineate some of the key concerns of a common frame on forest rights.

By 2004–5, a coherent 'master frame' on forest rights and forest dwellers had emerged. Following Snow and Benford's (1988) analysis, the master frame that CSD developed had diagnostic, prognostic and motivational dimensions. The diagnostic dimension, i.e. identification of the problem and attribution of blame and causality, included the claim that rights of tribals and non-tribal forest dwellers had not been legally recognized during forest

27. RoyBurman specifically examined the issues of land tenure related to tribals, and also chaired the committee that wrote the important Planning Commission Report on 'Land Holding Systems in Tribal Areas' (GOI, 1986).

consolidation. Since this was in clear violation of the requirements of law, the current situation relating to forest lands was wrong in law and represented widespread historical injustice against tribals. These arguments were backed by detailed data and analysis on the construction of forest lands in various parts of the country, drawing from recent research on forest tenure (Garg, 2005; Ghosh, 2007; Kumar et al., 2005) which showed very clearly that the state apparatus had violated its own laws in respect of both tribals and non-tribals. This helped overturn the state narrative of the 'illegality' of forest dwellers and helped legitimize the demands for justice.

The prognostic dimension, i.e. regarding what needed to be done, was brought together in the demand for a law which recognized the rights of tribals and forest dwellers. This claim drew on a number of narratives to strengthen its central argument of historical injustices. CSD countered arguments of conservation and environmental protection with the counter-narrative of the tribal and forest dwellers as living in harmony with forests and nature. These frames already existed in grassroots mobilizations of forest dwellers (Brahmane and Panda, 2000) as well as in writings of anthropologists and academics (Elwin, 1963; GOI, 1986) and were now drawn into the larger media and political discourse. This claim to legitimacy was reinforced by references to the Indian State's constitutional obligations to protect vulnerable sections, especially tribals. Drawing on Schedules V and VI of the Indian Constitution, the existing forest land situation was shown to violate the specific rights and protections provided to tribal communities and therefore to be in need of overhaul through legal and policy changes.

The motivational dimension was provided by calls to action to fight for justice and the language of struggle and mobilization used by the various parts of the network. Two central motivations for the many tribals and forest dwellers who took part in the mobilization were the possibility of escaping the harassment and suffering that they had undergone in the existing forest rights regimes, and the chance to claim rights to resources. This frame of historical injustices also resonated with a large number of scholars and activists who were drawn to the movement.

The master frame evolved as new grassroots organizations and movements joined from across the country. In 2003 the core issue was limited to rights for tribals on forest land that they occupied for permanent cultivation (see CSD, 2003), arising mainly from the experiences of tribal organizations in Maharashtra and Madhya Pradesh. Input from new constituents helped to widen and realign the frame into one inclusive of claims over ancestral shifting cultivation lands,²⁸ community tenure and rights over forests,²⁹

28. Inputs for shifting cultivation came from constituents from Northeast India and Orissa, both areas where non-recognition of shifting cultivation in legal forests has led to exclusion (see Kumar et al., 2005).

29. The demand for community tenure arose because of the experience of forest dwellers in Orissa and Jharkhand, where for many years local communities have protected large areas

rights to habitat and habitation³⁰ and rights for nomadic and pastoralist communities — in other words, a reconfiguration of Indian forest governance itself. CSD disseminated the master frame effectively through the media and through discussions, presentations and publications (Gopalakrishnan, 2005; Prabhu, 2005; Sarin, 2003, 2005b).

The name of the coalition — Campaign for Survival and Dignity — itself evokes the struggle of forest dwellers for justice in order to survive with dignity. The collective framing by CSD took a large number of existing issues and narratives related to forests from across the country, wove them together into a coherent frame of justice and legitimacy, and used this frame to mobilize forest dwellers, create allies and pressure the state for redress.

Politics of Mass Mobilization

The networked structure of CSD allowed it to make effective calls for mass demonstrations and rallies of forest dwellers and tribals in the national capital, state capitals, district seats and local towns. A number of mass mobilization programmes at strategic moments pushed along the processing of the Bill. Decisions about mass mobilization events were made through discussions and consensus in central meetings of CSD, in the presence of state-level representatives. The latter would, in turn, inform and help mobilize the various network members in the states for both local and national events. This allowed synchronized mass events in various parts of the country. A large *dharna* (sit in) was organized in March 2005 in New Delhi to demand introduction of the RFRA Bill in Parliament, followed by a nationwide protest in August 2005 in which more than 150,000 forest dwellers participated (*The Hindu*, 2005). A national Jail Bharo Andolan (Fill the Prison movement) was organized in December 2005 in which 75,000 people courted arrest across ten states. Similar mobilizations and demonstrations followed in 2006 to press for acceptance of the JPC recommendations and the final enactment of the law (Reuters, 2006). These events were organized in state capitals, district headquarters and smaller towns in forested areas.

These events created solidarity and a shared identity amongst forest dwellers and tribals on the issue of forest rights. The CSD and its constituents strategically combined mass mobilization with constant contact and discussion with MPs, familiarizing them with the complex issues related to forest rights. MPs were also invited to the mass *dharnas* in Delhi, where many of them made public commitments to pass the law.

of state forests. These community conservation efforts were held up as examples of the positive linkages between livelihoods and forest conservation, and the ability of forest dweller communities to protect forests.

30. Rights to habitat and habitation were a result of input from states and grassroots movements from areas where vulnerable hunter gather groups and shifting cultivators are present.

The show of strength through the politics of mass mobilization and creating pressure on MPs through direct contact at constituency levels gave CSD legitimacy among political formations and parties. Political parties across the spectrum were supportive of the demands for forest rights, primarily because none of them wanted to be seen as anti-tribal and anti-poor. CSD interacted constantly with these parties at different levels; their support was vital in pushing the government to pass the law.

Political Opportunity Structure: The Politics of Tribal Votes

The larger political situation prevailing in the country provided 'opportunity structures' (Tarrow, 1994) that framed the mobilization of the marginalized sections and its relative success in obtaining concessions from the state. The larger mathematics of coalition-based electoral democracy provided a favourable opportunity for the enactment of the law, because tribal votes had become significant in certain critical swing areas. Prior to the 1990s, tribals across the country were seen as supporting Congress (I); however, in the 1990s, tribal votes in many areas started shifting to the right-wing Bharatiya Janata Party (BJP) and various regional parties. For instance, in traditional Congress (I) strongholds of central Gujarat, Madhya Pradesh, Chhattisgarh and Rajasthan, a shift of tribal votes to the BJP helped it come to power in the 2003 Assembly elections. These shifts made tribal votes a matter of deep contention amongst the main political parties.

The proposed eviction of (mostly tribal) forest dwellers from forest land in 2002 and the mobilization for forest rights pushed the political parties to take up the issue seriously. Both the ruling coalition at the time, the NDA (National Democratic Alliance led by BJP) and the opposition UPA (United People's Alliance led by Congress (I)), included the forest land issue in their election manifestos for the 2004 national elections. Following the elections, all political parties supported the idea of settling the forest land issue and many, such as the Communist Party of India (Marxist), an important constituent of the ruling coalition, provided strong support to the CSD campaign.

The increasingly powerful Maoist insurgency in forested areas of India was another important consideration for the government in responding to the mass mobilization for forest rights. Issues related to forest land rights and forest governance were seen as core disaffections pushing tribals into the Maoist fold. A number of policy reports suggested that resolving the forest problem in these areas was critical to addressing the insurgency problems.

The genius of CSD was in its ability to frame the issue of forest rights in a way that made effective use of the opportunity structures that these political shifts provided. It was able to use mass mobilization and constant interactions with political parties to make both the political costs and benefits clear, thereby garnering their support.

CONCLUSION: INCLUSION OF THE MARGINALIZED IN A DEMOCRATIC POLITY

The enactment of the Forest Rights Act, 2006 represents a moment of inclusion of the marginalized in the democratic process, forced by astute movement politics and a favourable political environment. Whether this gain for the forest dwellers is consolidated in forms of actual substantive rights and access remains an open question.

The rights of forest dwellers had been a marginal issue since independence, but it became important for the government during the period 2002–08. It was the subject of special Cabinet meetings, a Joint Parliamentary Committee and specific parliamentary discussions. The rights of forest dwellers became a topic for debates on national television channels and a staple of newspaper headlines. A law that admitted historical injustices was enacted by the parliament to address the problems that forest dwellers faced. From being considered criminals and encroachers in 2002, they were statutorily elevated to the status of victims of historical injustices, to be compensated through the recognition of their rights. This change seems particularly remarkable when compared with the actual political marginalization and lack of voice of forest dwellers in local contexts.

The content of the RFRA is radical in scope, especially in the wide varieties of rights vested in the forest dwellers. It radicalizes the rights settlement processes by giving power to local Gram Sabhas. Whether these statutory provisions can actually empower the forest dwellers on the ground remains to be seen. As discussed above, feedback regarding the implementation to date looks rather bleak, though a number of cases in which forest dwellers have used the law to challenge the power structures and assert their rights are being reported. The lack of proper implementation of the RFRA points to the substantial barriers to empowerment of forest dwellers relative to the state apparatus and local elites.

The enactment of RFRA provides insight into how Indian democracy could possibly become more inclusive of marginalized people. It provides an instance in which marginalized ‘subjects’ and their organizations, through non-electoral mobilization and strategic moves, were able to set the frame for creating a new law favouring the marginalized forest dwellers. The campaign for the RFRA served to temporarily short circuit the state’s power dynamics and led to an outcome favourable to marginalized forest dwellers and tribals.

Even though the conditions and mobilizations that led to the enactment of the RFRA remain unique and context-specific, the process offers certain lessons for struggles on behalf of the marginalized. The key ingredients for success in this instance included an open and flexible network structure; the capacity to mobilize masses at the grassroots; the ability to leverage expertise and research; and the capability to generate and circulate credible frames of justice, legitimacy and rights of the poor. The multi-scalar nature of the network meant that it was able to transfer information, resources

and capabilities across scales, and leverage them at strategic locations and moments. These allowed the struggles of highly marginalized people to become mainstream political concerns. That this could be done in the context of marginalized forest dwellers indicates the possibilities of the politics of networked social movements of the marginalized and their ability to move across scales and create favourable outcomes.

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