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This paper is drawn from a larger research study titled “Tribals, Forest Rights and Heritage Conservation: A Study of Western Ghats in Karnataka” sponsored by the Indian Council of Social Science Research, New Delhi. The author would like to thank ICSSR for this. Comments of Tara Nair, Gujarat Institute of Development Research, on an earlier version of the draft have been useful in giving the paper its present shape. The usual disclaimer applies. The Western Ghats, also referred to as Sahyadri

(the benevolent mountains), were declared a world heritage site at the 36th Session of the World Heritage Committee (24 June–6 July 2012) held in Saint Petersburg, Russian Federation.

The Western Ghats, running parallel to the western coast of India, are internationally recognised as a region of immense global importance due to their biodiversity, including areas of high geological, cultural and aesthetic value. The ghats traverse through Gujarat, Maharashtra, Goa, Karnataka, Kerala and Tamil Nadu, stretching to a length of 1,609 kilometres, spread on 1,40,000 square kilometres (sq km). In all, 39 areas consisting of national parks, wildlife sanctuaries and reserved forests form part of the world heritage site (UNESCO 2012). Of these, four are in Maharashtra, 10 in Karnataka, 20 in Kerala and five in Tamil Nadu. Many big and small rivers like Krishna and Cauvery have their sources in this region (MoEFCC 2017).

Besides being home for the tribal or indigenous people since ages, the ghats support the subsistence of scores of people living in the western and southern parts of India, directly or indirectly. Certain areas are recognised as world heritage sites because they are so important and special in terms of cultural and natural heritage that it becomes the responsibility of the local government, as also the international community, to protect them collectively for their “outstanding universal value.” The recognition makes the local authority/ state — where the site is located — responsible for taking measures to protect the site in accordance with the guidelines of the United Nations Educational, Scientific and Cultural Organization (UNESCO). **Effects of Declaration** However, the declaration of Western Ghats as a world heritage site has not been a great development for the tribals living in these areas, as the authorities consider them a threat to the heritage in the parts declared as ecologically sensitive areas (ESA), and prohibit

them from entering into these areas. This kind of restriction in their territories, according to C R Bijoy (2014), has been affecting the tribals adversely in every aspect of their lives.

Curiously, it presents the contradictory effect of an international organisation, such as the United Nations, because in its Declaration on the Rights of Indigenous People in 2007,¹ it had stressed on In India, a year prior to this declaration, a significant legislation recognising the rights of the tribals was enacted in the form of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – popularly known as the Forest Rights Act (FRA) – which in all its essence was in harmony with the philosophy of accommodating the rights of the tribal people with an inclusive approach.

The FRA is also applicable in protected areas, such as reserved forests, national parks and wildlife sanctuaries to which the community

had traditional access (Ministry of Tribal Affairs 2014). As per estimations, two-thirds of those living under the poverty line depend in one or the other way on the forest for their livelihoods (Khare et al 2000). The tribals who are its overwhelming inhabitants practise agriculture along with minor forest produce collection from the forest for their living. In the market, they are exploited by intermediaries like local traders and shop owners, who double up as moneylenders (Bandi 2015), leaving little for them to save for the future. As Sunita Narain (2009) has observed, the tribals in India remain the poorest of the poor despite living in resource-rich forests. At least 5% of them face acute food insecurity for up to six months (Radhakrishna and Ray 2006).

Against this background, this paper examines the position of the tribals in the context of the implementation of the FRA in the heritage sites of the Western Ghats in Karnataka. It touches upon the developments that occurred during

the process of assigning heritage status to the sites located in the state. Towards understanding the issue in its entirety, the reports of the committees chaired by Madhav Gadgil and Krishnaswamy Kasturirangan that studied the conservation of biodiversity in the Western Ghats are discussed briefly. In the way forward, the paper draws attention to the fact that globally, conservation models that vouched for the exclusion of human habitants from ESAs failed to conserve biodiversity. Hence, the paper argues for the adoption of an inclusive approach that has been in vogue for ages.

Implementation of the FRA

A renewed hope for the tribals bloomed when the FRA was legislated. The tribals expected their woes would end with this act because the preamble assured them of “undoing historical injustices” experienced by them over centuries (Ministry of Tribal Affairs 2014). After a decade of its implementation, the scenario presents a

dissatisfying picture because the percentage of distribution of claims is only 44.5% (Table 1). Odisha with 67.7%, followed by Kerala (65.5%) and Tripura (63.3%), top the list of 20 states where the FRA is implemented (Ministry of Tribal Affairs 2018). Several reports and studies (Bandi 2016; Kukreti 2017; Mahapatra et al 2018; Gokhale 2019) suggest that the implementation of the act in the country has not been encouraging.

Some of the reasons are a lack of awareness about the FRA among the tribals and more so among the particularly vulnerable tribal groups (PVTGs) and pastoralists (Kothari 2011); poor implementation in the protected areas (Fenari and Pathak-Broome 2017), where the most vulnerable tribals reside; and giving priority to individual claims over community forest rights by tribals for a good part of the FRA implementation, when the community forest rights had more potential in providing secure livelihoods (Kalpavriksh 2008). However, a

major reason is the indifferent attitude of the forest department and a lack of political will on the part of either the respective state governments or the central government (Bandi 2013, 2019; Mahapatra et al 2018). Then, there are legal and administrative issues too that contribute to complicating the implementation process further. Existing laws like the Indian Forest Act, 1927 and Forest (Conservation) Act, 1980 were used as pretexts to deny the rights under the FRA (Sunder and Parmeshwarappa 2014), putting an important decision-making body like the district-level committee on an unsure footing, by making its role more challenging while considering the rights.

This is frequently observed, despite the FRA clearly mentioning about it superseding all such existing laws that are in conflict with it (Bandi 2017).

Status of the FRA in Karnataka

Karnataka has 19.6% (37,550 sq km) of its total geographical area covered by forests, according to the India State of Forest Report, 2017 (MoEFCC 2017: 212). The six districts (Chamarajanagar: 2,720 sq km; Chikmagalur: 3,936 sq km; Kodagu: 3,251 sq km; Mysuru: 1,029 sq km; Udupi: 2,138 sq km and Uttara Kannada: 8,118 sq km) where the Western Ghats are located have a forest share of 56.4% (MoEFCC 2017: 216–17). Karnataka has a poor record among 20 other states in the country for having less than 10% of claims recognised under the FRA until April 2018. Precisely, it is only 5.7% (Table 1).

More importantly, the figures in Table 1 depict that 70% of the claims are already disposed off. This means that, out of 2,75,446 total claims received under both individual and community forest rights, 30% are yet to be decided. Probably, even if all the remaining claims are recognised, the overall picture leaves scope for speculations about the way the implementation

has taken place so far in the state. According to K N Murthy (2019), only 17.5% of applicants in Karnataka were tribals and the remaining 82.5% were other traditional forest dwellers (OTFD). Hence, he argues that the rights of tribals are more or less settled and the remaining applications have failed the scrutiny for the want of valid evidence. At the national level, the emerging pattern of FRA implementation from protected areas indicates that the livelihoods based on forest-use are treated as contradictory to conservation efforts (Arvind 2019).

In Karnataka, the exclusion of the indigenous people is not uncommon either (Kukreti 2017). The lack of documented proof has been the cause of the rejection of claims by the tribal communities like the Siddis (of African descent) in Karnataka. According to Sibi Arasu (2019), this was due to “bureaucratic oversight” and not because the claims were invalid. In this milieu of discouraging developments, there

were rare stories of resilience and brave acts put up by the very tribals fighting for their rights. These have been inspiring their counterparts in the state to not lose their hearts when it comes to reclaiming their genuine and just rights. Tribals versus OTFD The debate on the inclusion of the OTFD along with the tribals in the FRA has been brewing since the legislation of the act. It is because the entire argument for forest rights was based on the “historical injustice” meted to the indigenous or tribal people in the country. The insertion of OTFD into the scheme of legislation as the act proceeded into final stages of enactment is seen as a deliberate attempt on the part of certain political parties supporting the government of the time (Bandi 2016).

OTFD claims cannot just be brushed aside as unjustified because there are examples of communities like Gowlis, Kunbis, Halakki Vakkala and Kare Vakkala, Kunbi and Kulvadi Marathi, who have been residing in the forests

of Uttara Kannada for years, depending on them for livelihoods in the form of collecting minor forest produce (cinnamon, kokam or *Garcinia indica*) (Rathore 2019). It is also true that the OTFD find it a rigorous task to secure rights under the FRA in comparison to their tribal counterparts, as they have to prove their “continuous existence” for 75 years (Table 2). To add to their woes, the government has allegedly come up with a rule asking them to prove that the submitted documents are equally old (that is, 75 years) (Gokhale 2019). On 25 April 2019, relief came for them in the form of the Karnataka High Court issuing a stay order to stop evacuating such occupants from forestland. The court acknowledged the difficulty in obtaining such documents by these people. Assuming that denying OTFD their rights in the forests would help save forests is contestable for two reasons. One, the rights sought by them are not on fresh lands. And two, the threat to the forests comes in the form of huge loss of land when forestland is diverted

for non-forest-related activities, such as mining, thermal power plants, dams, roads, railways and irrigation projects. Between 1950 and 1980, illegal or legal encroachments (mostly for agricultural purposes) occurred to a tune of 43 lakh hectares of forestland when forests were in the state list (GoI 1990). Post the enactment of the Forest (Conservation) Act, 1980 also the forestland was diverted to non-forest activities in the name of development. Interestingly, the latest report released by the Forest Survey of India suggests an improved forest cover in the last two years (FSI 2019). Further, the same report placed Karnataka at the top for having improved its forest cover by 1,025 sq km (FSI 2019). If the FRA has been as damaging as it is made out to be, would this development have ever happened?

Issues in World Heritage Sites

There are 184 Scheduled Tribe (ST) communities³ including a significant number of PVTGs⁴ living in the states⁵ covered by the

Western Ghats. Karnataka has a maximum representation of 50 STs (Ministry of Tribal Affairs 2019). In the total population of 6.11 crore in the state, 6.95% belong to the ST category. About 44.2% of them reside in the districts covering the Western Ghats (Office of the Census Commissioner and Registrar General 2011). Among the 14 tribes who are primitive, two among them are primarily natives of the state (Roy et al 2015). All the 39 heritage sites located in the ghats fall under the jurisdiction of the Ministry of Environment, Forest and Climate Change (MoEFCC – originally Ministry of Environment and Forests), and are administered at the state level by the respective forest departments. As observed by Marcus Colchester (2014), the relationship between tribal rights and conservation has always been complex. It is true in the context of Karnataka too.

When the MoEFCC, along with the Wildlife Institute of India, Dehradun and two other non-

governmental organisations based in Karnataka undertook the task of identifying potential sites to declare them of importance to heritage in the Western Ghats, people living in the area expressed their apprehensions about their future (Deccan Herald 2010a, 2010b). They feared restriction of access to the land and resources on which their lives depended and apprehended a lack of representation “in the management structures that would take overall control of the sites” (Bijoy 2014: 224). The suspicion grew stronger when the World Heritage Committee in its “Statement of Outstanding Universal Value” mentioned about the protection of sites in India through various acts such as the Wild Life (Protection) Act, 1972, the Indian Forest Act, 1927, and the Forest (Conservation) Act, 1980 (IUCN 2011), but did not refer to the FRA. It is also important to mention that the Karnataka government of the time had opposed the nomination of 10 sites⁶ identified within the state by siding with the local people (Nandi 2018).

Conserving the Western Ghats

In 2010, the MoEFCC had set up a committee named Western Ghats Ecology Expert Panel (WGEEP) under Madhav Gadgil to assess the status of the ecology in the Western Ghats to demarcate the area as ecologically sensitive (WGEEP 2011: 110–14). The objective was to conserve, protect and rejuvenate the Western Ghats region. The panel was to come up with recommendations by following the consultation process with the local people living in the entire ghat region spread across the states. The final report was submitted to MoEFCC on 31 August 2011. However, it came into the public domain only in May 2012 (Vasudeva 2012).⁷ The significant recommendations of the WGEEP committee included the designation of the entire range of hills as ESA. The 142 talukas covering the Western Ghats were classified into three ecologically sensitive zones (ESZs). The ESZ 1 being the prioritised zone was barred

from undertaking any developmental activities such as mining or establishing thermal or hydel plants. From the governance perspective, the committee recommended for establishing a Western Ghats ecology authority (WGEA), a statutory body under MoEFCC to administer the ESZs (WGEEP 2011). The government found the WGEEP report too difficult to implement for being too rigid on conservation issues. It appointed a 10-member high-level working group headed by Krishnaswamy Kasturirangan in August 2012 to study, review and suggest measures to implement the Madhav Gadgil report.

The Kasturirangan report that was submitted to the MoEFCC in April 2013 substantially reduced the coverage of ESA to only 37% of the total Western Ghats area. However, it also recommended a complete ban not only on polluting industries, but also on mining (including sand mining) and quarrying in ESAs. As far as clearances required for power plant

projects were concerned, they were to be given after a detailed study. The Kasturirangan report also divided the Western Ghats into cultural and natural landscapes. The former consists of 58% of the ghats, which includes human settlements, agricultural fields and plantations (Sethi 2013). ople (Rathore 2019).

The major criticism of the Kasturirangan report was on the issue of the categorisation of ESAs, as it was believed that by identifying only 37% of the Western Ghats region as such would dilute the preservation of the environment.

Nevertheless, in February 2017, the environment ministry had issued a draft notification accepting certain recommendations of the Kasturirangan report and the MoEFCC declared over 37% of the Western Ghats as ESA under the Environment (Protection) Act, 1986.

The conservationists were unhappy as they believed that if the remaining 63% was exposed to developmental activities, the ESA would be adversely affected.