

Forest tenure reform: exclusion of tribal women's rights in semi-arid Rajasthan, India

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SUMMARY

The current trend in forest tenure reform promotes identity-based categories, such as indigenous people, on the assumption that this provides better access to forest resources for marginalized groups. India's historic Forest Rights Act of 2006 recognizes the traditional rights of the scheduled tribes and other forest-dependent people dwelling in and around forestlands. This paper examines the politics of individual and collective access to forestland and the political representation of Bhil tribal women in the semi-arid Banswara district, Rajasthan, India. Data were collected through in-depth interviews with 54 informants, and two focus group discussions. A rights-based access approach was used to analyse outcomes of forest tenure reform on tribal women's access to forestland, and inclusion in, and/or exclusion from, collective decision making about forestland management. The findings indicate that the new identity-based forest tenure reform is mere tokenism and hinders rather than promotes tribal women's political empowerment and access to forest-based resources.

Keywords: Tribal women, forest tenure reform, rights-based access, exclusion, India

Réforme de la gestion des terres: exclusion des droits des femmes de tribu dans le Rajasthan semi-aride, Inde

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Le courant actuel dans la réforme de la gestion forestière a tendance à promouvoir des catégories basées sur l'identité, comme, par exemple, les populations indigènes, en affirmant que cela offre aux groupes marginalisés un meilleur accès aux ressources forestières. L'acte indien des droits historiques à la forêt de 2006 reconnaît les droits traditionnels des tribus enregistrées et des autres populations dépendantes de la forêt et habitant en son intérieur ou dans ses alentours. Cet article examine la politique de l'accès collectif et individuel aux forêts, et la représentation politique des femmes de tribu Bhil dans le district du Banswara semi-aride au Rajasthan, en Inde. Des données furent recueillies à l'aide d'interviews de 54 informateurs, et de deux groupes de discussion. L'approche d'un accès basé sur les droits a été utilisé pour analyser le résultat de la réforme de la gestion forestière sur l'accès des femmes de tribu à la forêt, et leur inclusion/exclusion des prises de décision collectives quant à la gestion forestière. Les résultats indiquent que la réforme de la gestion forestière basée sur l'identité n'est qu'un miroir aux alouettes, et freine plutôt qu'encourage l'octroi de puissance politique aux femmes tribales, et leur accès aux ressources forestières.

Reforma de la tenencia de tierras forestales: exclusión de los derechos tribales de las mujeres en la zona semiárida de Rajasthan, India

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La tendencia actual en la reforma de la tenencia de tierras forestales fomenta una categorización basada en la identidad, como pueden ser los pueblos indígenas, al asumir que esto proporciona a los grupos marginados un mejor acceso a los recursos forestales. La histórica Ley de los Derechos Forestales de 2006 de la India reconoce los derechos tradicionales de las tribus oficialmente reconocidas y otras comunidades dependientes del bosque que habitan dentro o cerca de áreas boscosas. Este artículo examina las políticas relacionadas con el acceso individual y colectivo al bosque y la representación política de las mujeres de la tribu Bhil en el distrito semiárido de Banswara, Rajasthan, India. La recolección de datos se realizó mediante entrevistas detalladas a 54 personas y dos discusiones con grupos focales. Se empleó un enfoque basado en derechos de acceso para analizar los resultados de la reforma de la tenencia de tierras forestales en cuanto al acceso al bosque para las mujeres de la tribu, y su inclusión o exclusión de la toma de decisiones colectivas sobre la gestión de tierras forestales. Los resultados indican que la nueva reforma de la tenencia de tierras forestales basada en la identidad es meramente simbólica y que más que ayudar entorpece a la mujer tribal a la hora de facultarla políticamente y darle acceso a los recursos forestales.

INTRODUCTION

In recent years, the substantial shift towards decentralized forest tenure reform (Capistrano and Colfer 2005, Ribot *et al.* 2006) has led to the recognition of the rights of, and/or legal transfer of forests to, indigenous peoples in the global South (Colchester 2004, Sunderlin *et al.* 2008). Forestland tenure security for forest-dependent indigenous people is believed to hold potential for good governance, improved livelihoods, and better forest management and conservation (White and Martin 2002). Larson *et al.* (2010: 37 - italics in original) argue that “the *indigenous rights struggle* brought the criterion of rights into tenure reforms globally, even if the initial intent involved ethnic identity, ancestral occupation and use of forestlands.” The current trend in rights-based decentralized forest tenure, particularly ethnic identity rights, recognizes ancestral rights of indigenous peoples (Barry *et al.* 2010). In Latin America, Nicaragua and Bolivia in particular, the indigenous peoples’ movement has successfully struggled to get formal recognition of traditional rights over their historic territories and forests (Larson *et al.* 2010).

Forest tenure reform entails state recognition of traditional rights for people already living in and around the forests, as well as their customary laws. Often, forest tenure reform is comparable to the agrarian reform of the 1960s. However, unlike the latter, forest tenure is often not about property or ownership rights, but about use and access rights. There is a lack of agreement among scholars about the advantages of state recognition of identity-based forest tenure rights. For example, Von Benda-Beckman (1997) explains that, if the state in an attempt to bring (abstract) equality does not recognize identity-based rights, then it may deny traditional rights of the several indigenous and traditional forest-dependent communities. In contrast, Marfo *et al.* (2010) argue that state recognition of identity-based traditional laws and practices of tenure reform could lead to inequitable or discriminatory outcomes that may possibly continue to exclude certain sub-groups within the identity-based category. This dynamics of identity-based rights makes India’s recent forest tenure reform – the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights Act), 2006 (henceforth Forest Rights Act) – a complex issue.

The *Adivasis* or the scheduled tribes (henceforth used interchangeably with tribal people) of India is an administrative category used to bestow constitutional rights and privileges to marginalized ethnic groups. About 84 million tribal people are acknowledged as the original inhabitants living in isolated areas in forests and mountains. The scheduled tribes are not recognized as indigenous people even though India has voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in September 2007.

The present-day struggle over scheduled tribes’ forestland tenure can be traced back to India’s colonial history. In general, tribal women are highly dependent on forest resources, with or without forest tenure rights. Yet, few studies have focused on women’s forest access and tenure rights among the tribal populations of India. Many tribal societies were

traditionally matrilineal and conferred women with higher status, inheritance rights and privileges than in mainstream Hindu society (Mitra 2008). This situation has been changing with the trend towards adaptation to the mainstream patriarchal society. In general, women’s rights under forest tenure reform are not given priority, just as in the past they were not given priority under state agrarian reforms, and this has resulted in gendered discrimination within the family due to inheritance laws and alienation rights, and control of property (Agarwal 1994).

Larson *et al.* (2010: 4) explain that the range of forest tenure rights varies from “the titling of vast territories to indigenous communities, to the granting of small land areas for forest regeneration or the right to a share in timber revenues.” Nevertheless, ownership rights and key decision making in forest management remains with the government. Sunderlin *et al.*’s (2008: 15) study on global forest tenure reform states that “the extension of statutory tenure rights to communities and households does not mean women will enjoy the benefits of full citizenship and equity.” This will depend on the kind of rights and resources that are transferred by the state, who are included or excluded and why, and how recognition of forest tenure affects access rights of traditionally excluded groups like tribal women. There is a huge knowledge gap in the scientific literature regarding tribal women’s access to forestland and forest resources, primarily because property rights, particularly in South Asia, have been a gendered issue (Agarwal 1994). The fundamental question, therefore, is how the Forest Rights Act 2006, which is meant to be a rights-based decentralized forest tenure reform, affects the access rights of forest-dependent tribal women.

This article investigates two dimensions of tribal women’s access to forestland and resources based on a mixture of national level legislation and customary rules. Forest governance in areas inhabited by tribal groups is based on a mixture of the newly formed village forest committees of the national Forest Rights Act (henceforth, the village FRA committees), *gram panchayats* (the elected government administrative body for one or more villages), the Joint Forest Management (henceforth, the JFM) committees and customary rules. The first dimension focuses on the tribal women’s individual ability to claim, control and access forestland and resources. The second dimension reflects tribal women’s collective capacity to gain access to forest resources and their ability to participate in local level institutions. In this article, the individual and collective dimensions of access rights are examined using access theory as proposed by Ribot and Peluso (2003) and applied in an empirical case study of Bhil tribal women in western India.

The paper proceeds as follows. The next section outlines the broad context of forest tenure reform with emphasis on India’s new decentralized Forest Rights Act (2006). Further, it summarizes the importance of a rights-based access approach in property rights. The third section provides background on the research site, the Bhil tribal people and the research methods used. The research results and discussion based on 54 in-depth qualitative interviews and two focus group discussions of forest-dependent Bhil tribal women is

presented in section four. The discussion highlights the implications of the Forest Rights Act for Bhil tribal women's individual access rights in terms of their social identity and their collective ability to participate in forest governance decision making. In section five, some conclusions are drawn and the future implications of the Forest Rights Act for tribal women's access to forest are discussed.

FOREST TENURE REFORM AND RIGHTS-BASED ACCESS

Forest tenure reform

Colonial forest tenure reforms in many countries of Africa and Asia were based on the principles of scientific forestry, and these justified the centralization of decision-making power over forests (Gadgil and Guha 1992, Ribot 1999). In francophone Africa, for example, all forestland became state property and was categorized into classified forests and protected forests managed by the state for commercial use. Communities were given rights to use forests for subsistence purpose (Berry 1989, Ribot 1999). The colonial state recognized chiefs' authority to allocate land, but chiefs received no power to manage forests (Ribot 1999). In India, the customary institutions or chiefs were not recognized by the British colonial administration. The British colonial forest policies generally converted customary rights into privileges that were either exercised partially or totally abolished, thereby curtailing local communities' access to forest resources. The 1878 Forest Act classified state forests into three types: reserved forests, protected forests and village forests. Reserved forests were meant for commercial timber exploitation that prevented the practice of customary rights. In protected forests, villagers' rights and privileges were recorded but not settled. The third type, village forests, was never formalized. The implications are best summarized by Gadgil and Guha (1992: 135, italics in original):

"[...] each family of 'right holders' was allowed a specific quantum of timber and fuel, while the sale or barter of forest produce was strictly prohibited. This exclusion from forest management was, therefore physical – it denied or restricted access to forests and pasture – as well as social – it allowed 'right holders' only a marginal and inflexible claim on the produce of the forests."

After India's independence in 1947, the forest tenure reforms further marginalized the rights and privileges of the tribal people. The Forest Policy Act of 1952 took over three quarters of the land that was the traditional habitat of scheduled tribes as forests in order to achieve 33 percent forest cover, a target set by this policy (Gadgil and Guha 1992). One of the most controversial Indian laws was the Forest Conservation Act 1980 that abolished the tribal and forest dwellers' privileges and access rights. With this legislation, a majority of tribal people inhabiting the forests whose rights were either not recorded or settled, or who were not residing inside the forest but dependent on forest resources, became encroachers. In

India and elsewhere, it has become evident that the decision of policymakers to deny "local communities access and management rights to forests worked as a disincentive, exacerbating forest degradation, conflicts and poverty" (Larson *et al.* 2010: 7).

Criticism of this exclusionary approach created pressure to adopt the Joint Forest Management programme in 1990. It was initiated in an attempt to protect and regenerate degraded forest with the participation of village communities. The Joint Forest Management programme was successful in some ways because it gave tribal communities rights to minor forest products. However, the programme had two major problems. First, it failed to devolve resources to local authorities, and secondly it did not recognize customary forest tenure rights in tribal areas (Hildyard *et al.* 2001, Shah and O.G. 2009). To rectify these problems, the decentralized forest tenure reform, the Forest Rights Act 2006, was introduced by the Ministry of Tribal Affairs. The Forest Rights Act is the first legislation that duly recognizes the rights of tribal communities as stated in clause 3, "to hold and live in the forestland under the individual or common occupation for habitation or for self-cultivation for livelihood."

The Forest Rights Act recognizes individual rights of those who do not have any documentary proof of their landholding, but they can claim land if they are cultivating it themselves for a livelihood. Moreover, those whose land is in dispute between the forest and revenue department, or whose land has been claimed by the forest department thereby making tribals encroachers on their own land, are also eligible to claim land. At the collective level, the Forest Rights Act recognizes traditional forest rights of tribals that include *nistari* (community forests), minor forest products, fish and other produce of water bodies, grazing land, traditional seasonal resource access of nomadic or pastoralist communities and community rights to intellectual property and traditional knowledge relating to biodiversity and cultural diversity. In addition to the existing JFM committees at village level, the Forest Rights Act instituted the FRA committees to scrutinize the individual land claims. The Forest Rights Act is national legislation. The way in which the collective rights are administered differs from one state to another depending upon the ways in which each state has implemented the reform. In recognition of tribal and women's participation, this identity-based reform reserves a quota on the village (as well as district and state) FRA committees as mentioned in the Clause 6(9) that among three members "[...] two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed."

As compared to Joint Forest Management, the Forest Rights Act is seen as an important tenure reform for the scheduled tribes and other traditional forest dwelling communities. From a purely identity-based rights perspective, there is no doubt that the Forest Rights Act on paper will potentially be beneficial to many tribal communities living in forests. The FRA committees at village, district and state level provide a multi-stakeholder (from the forest department, revenue department, *panchayat*, and tribal men and women) executive committee to make decisions about forestland claims. Interestingly, globally and in India the struggle for the recognition

of indigenous and tribal people's traditional forest rights has assumed that both men and women have an equal bundle of rights, either at collective or individual level. Considering that the forest tenure reform has adapted the earlier agrarian reform, it may have similar flaws relating to the issue of gendered property and access rights, and decentralization, for example a lack of recognition and devolution of power to women's groups (Capistrano and Colfer 2005, Meinzen-Dick *et al.* 1997).

Schlager and Ostrom (1992) talk of five property rights applicable to forest tenure transition: access, withdrawal, management, exclusion and alienation rights. These five property rights in agrarian reform neglect the gender dimension (Agarwal 1994). Interestingly, the tenure rights granted through the Forest Rights Act do not provide these five rights exclusively either to individuals or to the community. The forestland remains the property of the government. To what extent the gender dimension is addressed in the Forest Rights Act promoting these five property rights for tribal women demands immediate research. The conceptual issue of rights-based access, and in particular gendered access, is briefly discussed below.

Rights-based access

Access and property have been used interchangeably in the study of resource management. In recent years, however, scholars of common property resources have begun to distinguish property from access (Meinzen-Dick and Mwangi 2008, Ribot and Peluso 2003, Sikor and Lund 2009). Ribot and Peluso (2003: 154) argue that, distinguishing access from property allows a better understanding of "a wider range of social relationships that can constrain or enable people to benefit from resources without focussing on property relations alone". Sikor and Lund (2009: 4) explain that, in post-colonial contexts, "property regimes are negotiable and fluid to some degree because of the multiplicity of institutions competing to sanction and validate (competing) claims in attempts to gain authority for themselves." If property is about a web of interests (Meinzen-Dick and Mwangi 2008), then access could be considered as a more complex web of negotiations between individual, collective and public rights and powers over forestland and its resources.

Ribot and Peluso (2003: 153) define access as "the ability to benefit from things - including material objects, persons, institutions, and symbols." They emphasize that the term ability - to benefit from things - refers to access as opposed to rights, which are associated with property. Access patterns change over time depending on the social actor's (individual or collective) position (identity, class, caste, status, etc.), interests and authority (Berry 1989). Therefore, access needs to be understood as a process mediating the social actor's ability to claim, control, use and maintain resources. Explicitly, property and access overlap in many ways, particularly with regard to benefits or values - "through appropriation, accumulation, transfer, distribution and so forth" (Ribot and Peluso 2003: 155). Access recognizes different mechanisms that are not necessarily legal. It includes claims that are made

through statutory law, force or illegal claim, or based on informal customary systems such as practices, norms and rules of a local community, personal abilities, knowledge, social relations, status and gender.

The key difference between the legal vs. illegal access mechanisms is that the former is a rights-based claim sanctioned by politico-legal institutions, while the latter is about extra-legal and/or illegal. The main distinction between extra-legality and illegality is that "the former refers to properties held not against the law, but not protected or recognized by law, whereas the latter may be held 'in direct violation of the law'" (Assies 2009: 576). Illegal or unsanctioned access often becomes a source of conflict; therefore, there is an increasing need to recognize extra-legal and illegal access by the national, positive, legal system. Ribot and Peluso (2003: 154 - italics in original) argue that access analysis explains "why some people and institutions benefit from resources, *whether or not* they have rights to them." It helps to analyse the micro-dynamics of who is included and excluded from resources, and how the ability of an actor (or collective) to benefit from resources is based on access qualifications, "particularly capital and social identity, which influence who has resource access priority" (Blaikie 1985, cited in Ribot and Peluso 2003: 164-165). Capital and social identity are interrelated. For example, in a study in Africa, Berry (1989: 42) shows that "control over capital goods - cattle, granaries, gold - was also often based on social identity or status." This suggests that social identity and status are dependent on a combination of ascribed and achieved qualifications.

Gendered differences may exist within rights-based access qualifications, for example through access to knowledge, markets, technology, authority and labour opportunities. Rocheleau and Edmunds (1997: 1354) explain that the analysis of gendered access rights to forestland and its resources is important because "land titling often underplays the significance of women's existing resource use and ownership rights". In addition, gendered access varies over time, products and the choice of institutions that represent them politically. In many countries, including India, property policies, be they agrarian land reform and/or forest tenure reform, tend to overlook the issue of gender differences (Agarwal 1994, Meinzen-Dick *et al.* 1997, Meinzen-Dick and Mwangi 2008, Rocheleau and Edmunds 1997). In this context, the main objective of this paper is to examine how the Forest Rights Act has changed in practice tribal women's access rights to forestland and its resources.

THE STUDY AREA AND RESEARCH METHOD

Banswara district and the Bhil tribal people

The study area is the semi-arid Banswara district of Rajasthan state - geographically the largest state in India. Banswara district is one of Rajasthan's politically and economically isolated districts and categorized as a scheduled area. The scheduled area is an administrative term in India to designate areas with tribal domination, which have special legal and

governance arrangements to protect the tribal people and the natural resources. Banswara's predominant population is the Bhil tribal people. With around twelve million people, the Bhil are the third largest of the 600 recognized scheduled tribes in India (Census of India 2001). Bhil people are forest dependent mostly inhabiting hilly and dry deciduous forests in a number of adjoining tribal districts of the Gujarat, Madhya Pradesh and Rajasthan states of western India. The region has a tropical climate with temperatures reaching 45 degrees Celsius during summer months and has an average rainfall of 650mm to 950mm. In most areas, the dry deciduous forests are either denuded or severely degraded. In some areas, there are some regenerated Teak (*Tectona grandis*) trees. The *gauchar* – communal grazing – lands are often encroached by settlements, or banned for use as open grazing. Agriculture is mainly rainfed and labour intensive. On average, the agricultural landholding of a Bhil household is less than a hectare. Each year, forest-dependent Bhils are forced to migrate (to neighbouring towns) to earn supplementary income because of low production of forest resources and recurrent crop failures due to droughts.

The name Bhil is believed to be derived from the Dravidian word, *Billu*, meaning Bowman, as the tribe is renowned for its archery skills. Before the eighteenth century, under the Rajput warrior rulers, the Bhils politically dominated many western and central hilly and forested regions of India. These regions were divided into a number of small princely states, which were governed with the support of Bhil chiefs. During this period, the region witnessed several battles; the Rajput employed the Bhils as bowmen to defend their territory or to raid peasant villages in the adjoining areas (Baviskar 1995). Citing work of several scholars, Mosse (2005: 49) notes that "an image of 'wild hill tribe' was firmly rooted in a colonial discourse which contrasted the ordered society of the plains under Rajput royal authority with the unruly hill tribes and forest dwellers (jungle log)." To civilize the tribes and manage the forests there was a common notion in the strategies adopted, that is, that both wild tribes (Bhils) and forests had to be protected from the outside. Thus, scientific forestry introduced during the colonial period set the Bhils and forest apart (Gadgil and Guha 1992, Skaria 1999). In this process, the Bhils' traditional rights to forestland and forest resources were denied.

A typical Bhil village in Banswara district is composed of several *phalias*, or hamlets, spread across hillocks and ridges. Each village has approximately 150 to 200 hectares of demarcated reserve forest area in an undulating terrain. This demarcated forestland is the object of a Joint Forest Management programme as well as the object of land claims under the Forest Rights Act. The social composition of *phalias* reflects their history of settlement. Before the introduction of colonial scientific forestry, the local customary rule was that the forestlands were allocated to men who were invited to marry and stay in the village in order to clear forest, expand cultivation and increase security, or it was already cultivated land that was offered in lieu of bride price (Sjoblom 1999, cited in Mosse 2005). This meant that Bhil women were "relatively more powerful, that power was a deeply contested one, and

was often considered illegitimate" (Skaria 1999: 87). Over the years, the majority of Bhils have become settled agriculturalists, and like mainstream society they use patrilineal kinship to determine land title rights (Baviskar 1995, Mosse 2005). Marriages of Bhil women were different from mainstream Hindu culture. It often occurred through abduction, which was considered an honourable act, and a women's family was offered a *dej*, bridewealth payment. In general, abduction gives more power to women because it is a silent (pre-arranged) agreement between the man (abductor) and the woman (abducted). To the present day, there is an annual fair, *Bhagoria*, where such abduction happens and often conflict results if the girl's family are not satisfied with the bridewealth settlements (Baviskar 1995, Skaria 1999).

Today, the Bhil women's identity, property ownership, and access to forestland and forest resources are derived from their husband, and they may have little or no access to their natal family property (Mosse 2005). Often, those Bhil women who inherit their husband's or in-laws' property may hold power in household agricultural practices and may have a voice (depending upon age and economic status) in collective village decision making. Such women have the ability to participate and negotiate on issues relating to labour and property. In other words, women's identity and position in Bhil society is shaped by kinship-in-relation-to-land that determines resource endowments or political participation (Baviskar 1995, Mosse 2005, Skaria 1999).

Research method

Individual interviews were held with Bhil tribal women and case studies were elicited using a participatory approach. Case study research provides an in-depth understanding of women's land access (Yin 1994). The data were collected as part of larger project of forest tenure reform in ten months over three intensive visits to the study area between 2007 and 2009. Two revenue villages – villages with definite surveyed boundaries – were selected each from Bagidora and Kushalgarh blocks of Banswara district (see Figure 1). The main criteria for site selection were that the villages were in the scheduled area, were dominated by the Bhil tribals and were part of the Forest Rights Act intervention, and that the households were below the poverty line. These selected villages did not have piped drinking water, irrigation, sanitation, electricity and proper healthcare facilities.

The case studies examined in the two villages show diverse histories in relation to the evolution of collective forest access rights, privileges and village forest institutions. The Joint Forest Management programme was introduced in 1995 and within ten years became defunct due to lack of financial support. The Bhil tribal women were active members of the JFM committees and were involved in protecting the forest. The FRA committees in both the research villages had selected (instead of electing) inexperienced tribal women as members of the executive committee, thereby excluding active tribal women members of the JFM committees. Only one woman among the respondents was a member of the executive committee of the *gram panchayat*.

FIGURE 1 Map of study area in Banswara tribal district, Rajasthan



Each of the two focus group discussions involved about 40–50 women and men. In addition to focus group discussions, other techniques were used, such as observation of tribal women's participation in the *gram sabha* (village council) and the village FRA committee meetings under natural conditions, a transit walk inside the forest area to determine tribal women's individual and collective access rights activities undertaken in the forest, and participatory mapping. Three forest department officials and one revenue department officer working at the research sites were also interviewed to understand their perception of the effect of the Forest Rights Act on Bhil women. Data collection provided information about village-level forest governance that functions in conjunction with the national level legislation adopted by the Rajasthan state, *gram panchayats*, customary hamlet by-laws and traditional forestland ownership rights. Semi-structured individual interviews were conducted with 54 Bhil

tribal women selected at random from each of the villages and representing different socio-economic and political status groups (see Table 1).

The interviews and discussion focused on Bhil tribal women's perception of changing forest access rights. Interview questions were qualitative, semi-structured and allowed respondents flexibility to answer. Each individual interview ranged roughly 45 to 60 minutes. Most of the interviews were in the Bhili dialect, Hindi and Gujarati language, and were either audio and/or video recorded with the prior consent of the respondents. The data were coded and translated into English. For the qualitative data analysis, a database of codes was developed, the interview texts were coded and the data were verified. In the next section, the research findings of two focus group discussions and individual interviews about collective and individual access rights to forestland and forest resources are presented.

TABLE 1 *Categories of respondents*

Category of respondents Bhil tribal women	Kushalgarh Block Village K1	Bagidora Block Village B2	Number of respondents
women-headed households	1	3	4
executive committee members of new village forest institutions	2	3	5
representatives of gram panchayats	1	0	1
ex-joint forest management members	6	8	14
non-members of any formal committees	14	11	25
landless	5	0	5
Total	29	25	54

Source: author interviews conducted between 2007 and 2009

RESULTS

The results indicate that the Bhil tribal women's ability to control, manage, access and use village forestland varied depending upon their individual rights and privileges, position and status within their family and community. Forest products such as fuelwood, bamboo, honey, *tendu pattas* (leaves of *Diospyros melanoxylon*), *mahua* (flowers of *Madhuca indica*), *chirota* (*Cassia tora*) and resins form an important part of Bhil people's household needs (Shah and O.G. 2009). Almost 90 percent of the respondents used village forest resources for various household needs such as fodder, fuelwood, fruits, bamboo and timber poles for construction of houses.

Individual access to forestland and forest resources

The majority of the Bhil tribal women (n=54) were dependent on forest resources mainly for subsistence use. The general perception among all respondents was that they had customary rights to collect non-timber forest products. Respondents reported that under customary rules they collected fodder, fuelwood, fruit, leaves and bamboo for making baskets, and that they could collect as much of the non-timber forest products as they needed for household needs. Landless respondents were economically dependent on some of the non-timber forest products, selling them during the *haat*, the weekly village market. The formation of the JFM committee to protect the forest in participatory cooperation with the forest department provided most of them with secured usufruct access rights. Only one respondent felt that the JFM committee restricted her customary free access to forest areas. The concept of free access to forest areas, according to respondents, referred to grazing for cattle, collection of bamboo and timber for the construction of houses. Two-thirds felt that, compared to customary rules, the JFM committee's major disadvantage was its emphasis on equal benefit sharing of forest resources among villagers. Respondents said that the principle of equal benefit sharing undermined the customary practice of collection and distribution of forest resources because the JFM committee did not differentiate between households on the basis of family needs, size and economic status.

There was considerable confusion about the content of the Forest Rights Act. Almost 90 percent of the respondents were unaware of the possibility of demanding collective tenure and access rights. The six (11 percent) respondents who represented women in the *gram panchayats* and the executive FRA committee member said that they thought that the Forest Rights Act granted forestland ownership rights to household heads only (mostly men). The respondents were illiterate and therefore relied on literate men on the village FRA committee to explain the rules of the Forest Rights Act.

As compared to the JFM committee's regulations, the majority of respondents (73 percent) mentioned that their access to the forest had decreased, while uncertainty increased due to the village FRA committee formed as part of the implementation of the national Forest Rights Act. They said that new regulations imposed by the village FRA committee, such as the ban on collection of *Jatropha* seed and bamboo as non-timber forest products, had a negative impact on their livelihoods (see Table 2). The village FRA committee restricted the collection of *Jatropha* seed by not recognizing it as a non-timber forest product because of its high commercial value as a source of biodiesel fuel at local markets. Before the village FRA committee was established, *Jatropha* seed was regarded as a non-timber forest product and all respondents had access and rights to collect it in large quantities for sale at the local market. Now that the village FRA committee had taken control of the seed for commercial purpose, the benefits were controlled by the executive committee members and not distributed to the villagers. In village B2, the village FRA committee relaxed the rule (in 2009) because it was a drought year and allowed a women's self-help group to collect *Jatropha* seeds. This gaining of access could be because of women's increased access to social relations, i.e. women represented in greater numbers in this village, and access to labour, i.e. most men had migrated to neighbouring cities for wage labour and therefore there were few men to engage in collecting seeds in the forest. Eighty-eight percent of the respondents who had previously been economically dependent on *tendu* leaves (used to roll cigarettes) were denied access to collect the leaves by the village FRA committee (see Table 2). These rules imposed by the village FRA committees are local interpretations and not necessarily those

TABLE 2 *Bhil tribal women's individual access to forest before and after the Forest Rights Act*

Forest resource access	Before FRA		After FRA	
	Percent (%)	n=54	Percent (%)	n=54
fuelwood	100	54	37	20
fodder	100	54	35	19
tendu leaves	88	48	na	na
livestock grazing	22	12	25	13
timber poles from live trees	7	4	60	33
seed collection (Jatropha)	65	35	na	na
bamboo	42	23	5	3
stones for construction of houses	3	2	50	27
claims of individual forestland	5	3	100	54

Source: author interviews conducted between 2007 and 2009

*na indicates village committee restrictions on the collection of forest resources

of the Forest Rights Act. The Act, however, does not go into details with respect to non-timber forest products, leaving room for local interpretation.

Before the village FRA committee was formed, only poor families were permitted to collect stones and clay from forestland when they were building or repairing mud houses. Only two respondents had used their access rights to collect stones and clay from the forests before. However, after the implementation of the Forest Rights Act, more than half of the respondents who had claimed individual forestland (through their husband or son) were allowed to collect stones and clay, and to cut live trees for timber poles used for building houses from claimed forestland. Almost two-thirds of the respondents claimed that they had lost access to fodder and fuelwood after the Forest Rights Act was implemented through the village FRA committee. In general, respondents agreed that customary rules as compared to the Forest Rights Act were less stringent, promoted equity and, before the FRA was implemented, forest access arrangements were often adopted on the basis of the specific forest resource needs of the marginalized groups.

The increase in the number of individual forestland claims had negative implications for the Bhil tribal women. The large majority (88 percent) of respondents said that their male relatives had claimed individual forestland tenure rights, sometimes on behalf of the respondent or her (male) children. The majority of women were not in favour of individual land claims. A landless woman explained, "claiming the forestland provides future security for our children, and a title deed to land can act as a safety net for the future by renting it out in exchange of money." The respondents (19 percent) who were household heads and those who were active members of the executive committee said that their male relatives (husband or son) had proposed their name for individual ownership as primary claimants of forestland. These women, even as primary claimants, had little or no control over managing and using the forestland; however, they had access to the land to

collect non-timber forest products from their so-called own forestland.

Ten respondents (who were landless and not members of the formal committees) had filed a forestland claim in their own name, but their claims were rejected by the village FRA committee. The perceived reasons for failure to get individual tenure rights were inability to pay bribes, gender bias within household and community, lack of an influential male relative on the village FRA committee, lack of authority to sustain their land claim in the forestland, and lack of information about the Forest Rights Act. Further, they claimed that due to the Forest Rights Act the well-to-do tribal families were evicting the marginalized original users of forestland by showing fake documents and taking over the land. This makes the marginalized users worse off than they were before the start of the process to recognize traditional forest rights.

Sixty-five percent of the respondents reported that their control over forestland and access rights to forest resources had been reduced considerably by the individual claims on forestland. The majority of respondents (82 percent) believed that the Forest Rights Act implemented at the village level was detrimental to their more favourable customary rules. The respondents considered that in general forest legislation was gender biased (favouring men).

Collective forest tenure rights

In recent years, there has been an increase in the number of spontaneous non-tribal settlers in this semi-arid tribal district. This immigration has promoted the conversion of forestland to itinerant agriculture and settlements. In an attempt to safeguard the forestland from encroachers, tribal women began to protect and manage their forestland collectively. This self-initiated forest protection institution had its own rules, which villagers (including men) tended to follow. With the implementation of the village FRA committees, the village elders (both men and women) of the customary institution were pushed aside by the formal executive committee in the

research villages. Hitherto, the Bhil tribal women had been in the forefront to collectively control, protect and manage the forestland. Their access to and control over forestland and forest resources were perceived similar to those of the men. The Forest Rights Act was perceived as disadvantageous by respondents (88 percent) because it did not recognize their traditional local collective rights to forest resources. The two focus group discussions briefly presented below explain the current status of the tribal women's collective forest access rights in Banswara district.

With the Forest Rights Act, Bhil tribal women experienced a loss of decision-making authority. Before the Forest Rights Act came into force, there was a tradition of collective forest management by both men and women in Kushalgarh sub-district's village, K1. As one of the Bhil tribal women explained, "in earlier days, we (women) were excluded by the forest department and our rights were not recognized. Today, some of our own community members exclude us from our forests as a result of the new forest tenure reform." A common concern among women is aptly summarized by an elder tribal woman during the group discussion:

"Panchayats and the FRA committee provide thirty-three percent reservation quotas to appoint us (women) to the executive committee as if we cannot participate equally like men. It is due to the reservation quota and the formalization of individual forest land claims that we are made to assimilate rural (non-tribal) women's identity resulting in loss of our collective decision-making authority and control over forest resources."

The quota system in practice may have the consequence of tribal women being less represented and never being able to be in the majority. Even though women attended the village FRA committee meetings, only one tribal woman as compared to 27 tribal men (see Figure 2) was involved in decision making – such as formulating rules, decisions for managing the resources, allocation of land and forestland use planning. None of the women respondents, in contrast to tribal men, had power to exploit forest resources commercially (such as

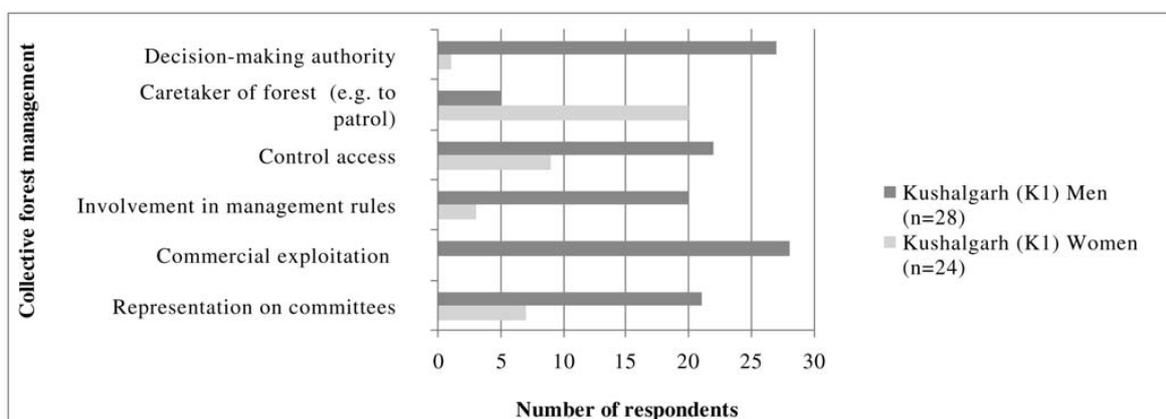
tendu patta, poles from live trees) and sell them at the local market.

In comparison with K1 village, the Bagidora sub-district's village, B2, had a better representation of tribal women in the management of the village forest (see Figure 3). According to a tribal elder man, women actively participated in management roles because "some of them (tribal women) were atheist and did not practice *purdah* (veil) like mainstream society." However, the same tribal identity of women was used by the village FRA committee to exclude them on the ground that they were not well-mannered (unlike assimilated and mainstream Hindu women). Instead, those women were included who had assimilated mainstream women's identity, had no or low dependence on forest resources (higher class) and had no problems with the loss of collective forest management rights. The issue of forest resource collection, such as dry fuelwood and cutting timber poles from live trees for house construction, was a sensitive topic for discussion between those women who had primary tenure rights (though dependent on their male relatives) and those women who were landless, because they were more dependent on forest resources for subsistence.

In both the study villages, K1 and B2, women were actively involved as caretakers of the forest – involving patrolling the forest to protect fodder and fuelwood – whilst their male relatives were engaged in wage labour in neighbouring towns. It was only during the seasonal migration period that the women had more control over forest management decision making. Interestingly, male respondents in the focus group discussion considered that individual tenure rights would provide them with land tenure security that would be beneficial in the long run. The female respondents, on the other hand, thought that individual land rights were the cause of their loss of control and traditional collective forestland rights claim.

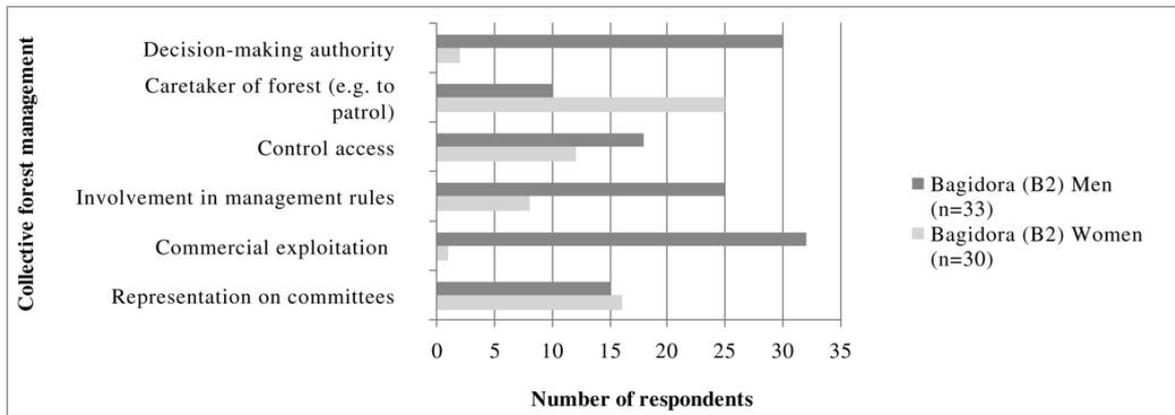
The perceptions of the three forest department officials interviewed regarding the forestland title deeds for the Bhil women differed. The higher ranking forest officer was of the opinion that the Bhil women's social status with or without

FIGURE 2 Comparative analysis of Bhil tribal men and women's forest access in K1 village, Kushalgarh



Source: author interviews conducted between 2007 and 2009

FIGURE 3 Comparative analysis of Bhil tribal men and women's forest access in B2 village, Bagidora



Source: author interviews conducted between 2007 and 2009

the forestland title deeds would make little difference to their existing social status, whereas the two forest officers at the local level believed that Bhil women should be secondary or dependent claimants, because that would enhance their position in the household. The officials considered that there was no point in giving women primary ownership rights of forestland because the Forest Rights Act did not give individual forestland alienation rights. The revenue department official stated: “the Bhil married women often when unhappy in marriage often elope with other (Bhil) men. Under such circumstances, if she holds the property rights, then her husband will be in a difficult situation to control the forestland. Therefore, the primary claimant of the forestland tenure rights should remain with the Bhil men.” Overall, the government official’s perception of the Bhil women’s rights to forestland could be summarized as follows, “the Bhil men are a good choice as the primary claimants because they could be involved in collective decision making for forest landscape planning. The Bhil women always extract forest resources such as fodder and fuelwood, and leave the cattle open-grazing in the forestland, and this hampers the forest management.” In contrast to the official’s comment, Bhil women (84 percent) were of the opinion that forestland title deeds would bring them higher social status as well as more decision-making power within the household and more negotiation ability at the community level.

DISCUSSION

Traditionally, the Bhil tribal communities were matrilineal and therefore women used to enjoy inheritance rights and had some power to use resources that is absent in patriarchal societies (Skaria 1999). Mitra (2008: 1216) suggests that “isolation of the scheduled tribes from the mainstream population for many years led to the continuation of the relatively high status of tribal women and the absence of gender discrimination in many tribal communities.” Increasingly, the Bhil people are being assimilated into Hindu mainstream society. This is apparent from the fact that women cover their

head in front of men, men and women are segregated in collective meetings, a gendered distribution of tasks and workloads is implemented, dowries are paid and idol worship is on the increase. This has changed gender relations with a negative impact for the position of the women. The Forest Rights Act fostered inequality among the Bhil tribal women because women who assimilated into mainstream Hindu society and/or were literate were selected to participate on the village FRA committee. It is evident that the gender identity of Bhil women is a reason for inclusion or exclusion from institutional arrangement at the village level. The village FRA committee promoted forest management institutions that are different from the traditional role of the Bhil tribal women. Moreover, the village FRA committee’s biased interpretation of the clause that provides a quota for women on the committees has undermined the Bhil tribal women’s ability to be involved in decision making and to manage the forest collectively.

This had implications for the Bhil tribal women’s individual and collective claims, access and tenure rights in respect of forestland and forest resources. Prior to the implementation of the Forest Rights Act, collective access rights were based on their extra-legal traditional collective rights, which were neither legal (recognized by the statutory law) nor explicitly prohibited. However, with the introduction of the Forest Rights Act, these extra-legal claim and access rights became either legal or illegal depending on whether the claim was approved or denied by the relevant statutory institution. Collective rights, which were particularly important for women, were not granted in either of the study villages where individual rights were primarily allocated to men and (mainstream) assimilated women. The Forest Rights Act recognizes traditional forest rights of tribals that include *nistar* or minor forest products, fish and other produce of water bodies, grazing land, traditional seasonal resource access of nomadic or pastoralist communities and community rights to intellectual property and traditional knowledge relating to biodiversity and cultural diversity. However, none of these was recognized as a formal collective right by the village FRA committee in the study area.

The poor landless women and those depending on forest produce for subsistence became more vulnerable because of the changing gender-role expectations and denial of access to hitherto collective forest resources. Promotion of women's self-help groups to manage forest resources, particularly recognizing collective rights to bamboo (used commonly for basket weaving and sold at local markets) can enhance livelihoods of tribal communities (Shah and O.G. 2009). Gender bias among government officials further supported tribal men to file individual forestland claims, and women to be secondary dependent claimants. To some extent, the implementation process of the forest tenure reform promoted gender inequality with respect to access rights to forest resources, and in this way reinforced dominant Hindu patterns of gender relations.

The empirical evidence in relation to the Bhil tribal women's access to forest rights reveals two main consequences. The first aspect is that a tribal woman irrespective of her social status holds no primary property rights to forestland. A woman household head may have greater access to forestland, but claiming individual forestland title deeds remains the domain of male relatives. The second dimension relates to collective forest management rights. Otherwise vocal and vigorous Bhil tribal women have now become subject to the new forest institutional arrangement that fails to support their subsistence needs. With the imposition of hard and fast rules of forest tenure legislation on adaptive local customary practice, Bhil tribal women are becoming more and more dependent on their male relatives for individual access to forest resources. The rights-based forest tenure reform presented here indicates that Bhil tribal women's social identity, authority, capital, social relations and knowledge shape their ability to benefit from forest resource access.

CONCLUSIONS

India's Forest Rights Act is undoubtedly a progressive law that overturned centuries-old British colonial legislation. It aimed to undo the historical injustice for tribals and other forest dwelling communities who were not given titles to their landholdings. For generations, these vulnerable poor communities were systematically excluded from their land, categorized as encroachers, and forced to abandon cultures and livelihoods on the pretext of forest and wildlife protection. However, after two years of implementation, this landmark legislation shows signs of falling short of achieving the commendable objective of meeting the legitimate needs of the forest-dependent tribal people, particularly women. It is undisputable that a policy decision has been taken to recognize traditional forest rights of indigenous and tribal people. However, recognizing traditional rights without taking account of gender and intra-ethnicity differences can become a roadblock to development. Any tenure reform that is proposed to assign rights to resources – be it through individual titling or collective holdings – requires thorough analysis to avoid any hindrance to women obtaining rights.

This paper has pointed out a number of issues that demand immediate attention to prevent the Forest Rights Act from

creating chaos among the tribal and forest-dwelling communities and further destroying the remaining forests. First and foremost, this law shows male bias in assigning individual property rights. This bias primarily stems from the influence of mainstream patriarchal property rights, and an assumption that men and women operate on a level playing field without any gendered differential capacity to access resources. The reform enables well-do-to tribals (men) to claim forestland, making poor tribals, particularly disempowered women, worse off.

Second, collective forest access rights have been ignored in the two research villages because of the undue focus on individual property rights. Currently, tribal women are dependent on extra-legal or illegal means to access forest resources for subsistence. This problem has major consequences on the future of tribal communities' dependence on the forest as a common pool resource that is now converted into private property. Recognizing women's traditional collective access to forestland and its resources may empower women in decision-making authority and change institutional rules; this in turn will help women to gain individual property rights. Ownership of forestland and its resources through women's collective titling and formal access rights will contribute to their socio-economic and political empowerment.

Third, the reservation quota for women on the executive committees may show on paper that the law is gender progressive, but on the ground it is not good enough. Tribal women face exclusion from the executive committees because the bureaucrats and *gram panchayat* functionaries take the reservation quota literally and thereby prevent women from ever being in the majority. Lack of tribal women's political representation and involvement in decision making, whether at *gram panchayat* or village FRA committee level, will fail to integrate their forest rights. A gender progressive policy needs a more inclusive approach that empowers all women rather than giving them a few token representational reservation quotas on the committees. The empirical work discussed in this paper suggests that any degree of reservation quota system without empowerment will end up excluding tribal women's voice and rights.

Fourth, the present focus on individual rights and denial of access to collective forest resources threatens tribal women's (and household) dependence on non-timber forest resource products such as bamboo, honey and medicinal plants to meet subsistence needs. What is needed is that the forest tenure transition should focus on traditional, locally adaptable, multiple user, tenure access arrangements. This means that a collective ownership right will take into account the diversity that exists within a homogenous tribal community (those assimilated into Hindu mainstream vs. traditional tribal culture) and be aware of local gender asymmetries between men and women and within women's groups (landowner vs. landless; women household head vs. dependent women).

Lastly, but importantly, the way in which local bureaucrats execute the forest tenure transition calls for urgent attention. For example, there is a history of skewed social relations combined with mistrust and insecurity between the forest department and tribal people. Delays in granting forest title

deeds and a lack of initiative to make tribal communities aware of their collective forest rights will reinforce the existing gaps between bureaucrats and tribal communities. It can be levelled out by recognizing that tribal communities are not static but changing with outside influence, and have a history of struggle and traditional institutional norms that affect the tribal women. At the same time, the state government should promote a gender sensitive decentralization process that devolves power to the local village elected council (e.g. *gram panchayats*) or other traditional committee, which equally promotes women's political participation (Capistrano and Colfer 2005, Ribot *et al.* 2006).

A theoretical point to be highlighted here is that an exclusive research focus on property rights in forest tenure reform will obscure the importance of illegal and extra-legal access of women to forest resources. There is need for more in-depth empirical research to understand the implications of the Forest Rights Act through access analysis as proposed by Ribot and Peluso (2003) – going beyond the bundle of property rights – from the tribal and other forest dwellers gender perspective. Doing so will throw light on how various forms of power, such as identity, authority, knowledge and social relations, affect men and women's rights-based mechanism to access forest resources.

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