Forest Rights

The micro-politics of decentralisation and forest tenure reform in tribal India

Purabi Bose

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dedicated to my loving ma

TABLE OF CONTENTS

LIST OF FIGURES AND TABLES

FIGURES

TABLES

ABBREVIATIONS AND ACRONYMS

BPL	Below Poverty Line
DFO	Divisional Forest Officer
EC	Executive Committee
FRA	Forest Rights Act
FRC	Forest Rights Committee
GoI	Government of India
ha	Hectare
hh	Household
JFM	Joint Forest Management
Km	Kilometer
MDGs	Millennium Development Goals
MoEF	Ministry of Environment and Forests (Government of India)
MoTA	Ministry of Tribal Affairs (Government of India)
NGOs	Non-Governmental Organisations
NRM	Natural Resource Management
NTFPs	Non-Timber Forest Products
PESA	*Panchayats* Extension to Scheduled Areas Act
REDD+	Reducing Emissions from Deforestation and Forest Degradation
RO	Range Officer
SHG	Self-Help Group
ST	Scheduled Tribe
TSP	Tribal Sub-Plan
VFIs	Village Forest Institutions
ZP	*Zilla Parishad*

PREFACE

On a misty Monday morning I arrived in Dahod railway station in Gujarat, India. I was in this newly created tribal district (previously Dahod had been part of Panchmahal district) to join, as a social scientist, a renowned non-governmental organisation working on natural resource management and tribal development. My interest in working with Bhil tribal people arose during my Master's degree educational fieldtrip to Bhil-dominated Dang district, Gujarat, in 1995–97. This first view of Dahod's crowded railway platform mesmerised me. Bhil tribal women were wearing *chaniya-ghagro* – a long colourful cotton skirt – and were adorned with traditional silver jewellery on their anklets or *kadla*, *tagli* on their neck, *kandora* on their waist, and *bormendli* on their forehead; while men were in classic *jhuladi* – a blue shirt with white embroidery – and colourful turbans or *paagdis* on their head. These Bhil people were migrating to cities in search of work because the *kharif* crop had failed due to drought.

One of my immediate professional tasks was to familiarise myself with these forest people. My image of 'forests' with lots of trees, grass, shrubs, and wild animals fell apart. The forest in this region looked useless to me. In most instances, the mud houses of tribal families were inside the demarcated forest area. Degraded deciduous forests were a typical scene in the adjoining poor tribal districts in three states in semi-arid western India: Jhabua district, Madhya Pradesh; Dahod district, Gujarat; and Banswara district, Rajasthan. The majority of the tribal villages were without tarred access roads, sanitation, electricity, safe drinking water, primary healthcare, and functional primary schools. My first encounter was with a government forest guard in one of the villages who explained to me, 'tribals encroached upon our (government) forest lands. Forests are state-owned property.' The same day I met a 70-year-old Bhil man, a customary chieftain, who asserted, 'we have traditional rights over these (forest) lands to access, use, and manage the forest land and its resources, but government do not recognise our traditional rights.' Informal talks with tribal women soon made me realise that the degraded dry deciduous forests, which looked useless to me, were not only the major source for Bhil households' subsistence needs, but also of significant cultural value.

During three years of project management experience in this region, I found that policies addressing tribal development failed to understand the crucial aspect of tribal people's traditional forest tenure rights. The Bhil people had access to non-timber forest products as a benefit in return for regenerating teak (*Tectona grandis*) and sal (*Shorea robusta)* trees in the degraded forests under the famous Joint Forest Management (JFM) programme. However, not everybody was convinced by the idea of 'jointness' in the JFM. The main issue of Bhil people's individual and/or collective forest land tenure and access rights to forest resources

ix

remained neglected under the JFM programme. I finished my assignment in these tribal districts, but my quest to know 'why national forest policymaking excludes tribal people' kept me pondering.

AUGUST 18, 2008

Ten years later, I re-visited this region to conduct my PhD research fieldwork on forest tenure policy reform in several tribal villages in Banswara district, Rajasthan. In a decade, things had changed in this tribal region, albeit slowly and differently. Most tribal families still did not have safe drinking water and sanitation, but many were connected by mobile phone! Tribal people's traditional attire, practices, and food habits had to a large extent been replaced by mainstream costumes and customs. Many villages were comparatively greener as a result of agro-forestry, floriculture, and horticulture plantation, which were introduced a decade ago by the non-governmental organisation. Income from marigolds and roses, papaya, lemon, amla (*Phyllanthus emblica*), and mangoes provided supplementary annual income to the relatively well-off families who could afford to irrigate their land. Also, during my initial interaction with Bhil people, I realised that there were instances where young men had temporarily migrated for wage labour outside India, mainly to Dubai and Kuwait. This was unheard of a decade ago. A general observation was the increasing economic disparity in this otherwise poor region. From my initial transit walks, I found evidence of fewer rich families and a higher number of poorer households in this district than on my first visit. Moreover, the village elders who had been actively involved in local management of natural resources had been replaced by a younger generation with different forms of institutions. One thing that had not changed was the humbleness of Bhil people.

A major change was the introduction of the Central Government of India's historic decentralised forest tenure reform. For the first time since India's independence, the traditional forest tenure rights of tribal people and other traditional forest dwellers were recognised through the enactment of the Forest Rights Act 2006. I saw the excitement about this reform among Bhil people. They were excited to receive recognition of rights to land that was 'theirs' traditionally. Yet, there was lack of clarity on issues such as who would claim the land, who would benefit, and how collective forest land would be managed under JFM. However, this forest tenure reform brought chaos to local institutional arrangements within tribal communities with regard to individual forest land claims and collective forest management. It is in this context that my research examines the social and politico-legal role of the new decentralised forest tenure transition vis-à-vis Bhil communities of Banswara tribal district, Rajasthan.

In brief, this research analyses and explains the micro-politics of forest decentralisation and its implications for poor Bhil communities. Describing how and why Bhil's traditional forest

x

tenure rights matter is imperative because the governments of many developing countries in the South are in the process of introducing rights-based forest reform for forest-dependent and indigenous peoples. This book is therefore relevant to policymakers, scientists, students, and practitioners with an interest in the rights of indigenous and forest-dependent communities, decentralisation, and forest tenure policies and laws.

ACKNOWLEDGEMENTS

Today, like every year, the first day of spring in India (the fifth day of Indian month *Magh*), many toddlers are taught by their parents to write the first letter of the alphabet. It is celebrated as a day of knowledge, arts, education, and science. For me, the first vowel letter was অ [pronounced as ô] of my mother tongue. As a mark of respect, the vowel ô is represented on the cover page in a symbolised Omega, the great O, which is the last letter of Greek alphabet. It represents a full circle from অ to Ω, a cycle that contains all of human knowledge. I take this opportunity to express my gratitude to all who enlighten me in various ways, every day.

My sincere appreciation goes to *ma*, Latika Bose. I was four year old when you became a widow. You sold your property to meet household needs and to provide me with schooling. You gave me space, delicious Bengali food, and managed the house so that I could get what you, father, or our ancestors did not get – a university degree. Humble admiration goes to my brother, Prabir Bose, fondly *dadabhai*, who from the age of fourteen took on a fulltime job to take care of us, and introduced me to *avant garde* theatre, film, and literature. Thanks to my charismatic 17-year-old nephew, Savyasachi, for being there with me even during fieldwork at 45°C and helping me to see things from his inquisitive perspective. You make me proud to be your Polly *bua*!

trekking and football team, TISS batch of 1995–97, Beahrs ELPers 2004, SI/MAB 2005, CERES cohort 2008, and dear friends across the globe for giving me unconditional support to pursue my interests even when the interests went beyond the boundaries of traditions. I am glad you ensured that wines and pleasant surprises are part of life along with fantastic research debates.

Let me also acknowledge the constructive comments of anonymous reviewers from behind the scenes who not just pointed out areas for improvement, but played a crucial role in making me persistent in accomplishing goals, having patience, and performing better. Thank you all from the bottom of my heart.

To wonderful Wageningen(*ers*) and mesmerising Mumbai(*kars*): *dank je wel* and *dhanyavad*!

Purabi Bose
Wageningen, the Netherlands
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1 GENERAL INTRODUCTION: THE MICRO-POLITICS CONTEXT

"Why is the government hogging our land? We are adivasis [original inhabitants], but without forest rights. We are excluded and considered as encroachers on our own ancestral land. This land is priceless and represents what we have, who we are, where we belong to, and why."

- Taajudi-*ben*, an elderly tribal woman (2008, Banswara, Rajasthan).

1.1 BACKGROUND

1.1.1 Decentralisation and Forest Tenure Reforms

The quotation above focuses on the bundle of rights – human rights, tenure rights, and citizenship rights – which has become the nexus of forest land tenure reforms. Forest land and forest resources play a significant role in the better livelihoods of marginalised forest-dependent populations, particularly indigenous communities (Agrawal et al., 2008; FAO, 2011; Larson et al., 2010). In many places, historically, forests were managed locally by forest-dependent communities. With the introduction of scientific forestry and forest policies by colonial governments, forest-dependent people lost their traditional rights (Peluso, 1990; Guha, 1983). In the 1990s, the second wave of political decentralisation for natural resource management, particularly forest tenure reform, was pushed as a developmental agenda in many developing countries. The intention was to remove forest policies that were selectively implemented to avoid reproduction of double standards such as decentralisation without representation, and to involve marginalised forest-dependent rural and tribal people in local forest management (Ribot, 2004; Larson et al., 2010; Sunderlin et al., 2008). This second wave of decentralisation – which resulted from pressure from international donors to downsize the government and bring transparency and accountability – differed from earlier decentralisation processes in that there was increased institutional proliferation and stricter laws and regulations (see also Ribot, 2001; Wardell and Lund, 2006). Scholars, policymakers,

and development practitioners believe that decentralisation may benefit rural development and enhance poverty alleviation and also increase political participation by forest people, which in turn will increase democracy (Agrawal and Ribot, 1999; Agrawal and Ostrom, 2001), efficiency, and the equity of local institutions (Ribot, 2004). The World Bank (2000) acknowledges that decentralisation is pro-poor and increases participation through political decentralisation that directly improves the lives of the poor with an increase in distributional equity and a decrease in civic conflict.

Political decentralisation is different from the earlier wave of deconcentration, delegation, deregulation, or administrative decentralisation that was limited mostly to the transfer of functions and resources to lower levels of the national government (Agrawal and Ribot, 1999). The effective implementation of political decentralisation requires the devolution of decision-making powers over resources from the central government to local democratically elected institutions and representatives (Ribot, 2007). Political decentralisation aims for greater citizen participation in the decision-making process in local institutions to make the political system transparent and elected representatives accountable to citizens (Ribot, 2004). It aims to rectify the failures of centralised forms of interventions by devolving decision-making power to local elected representatives, improving representation of citizens, increasing distributional equity, reducing civic conflict, and increasing community participation in natural resource management, especially forests, in developing countries (Crook and Manor, 1998; Ribot, 2001; Agrawal and Ribot, 1999; Baviskar, 2004; Pacheco, 2004). However, it is to be seen to what extent local institutions and individuals are capable of utilising the newly acquired decision-making power. Examples from country case studies on decentralisation and devolution in Latin America and West Africa indicate that central governments limit the ability of local authorities to exercise real power, and that, despite local people's participation being promoted, they were excluded from discretionary decision making (Pacheco, 2004; Ribot et al., 2006; Ribot, 1995).

Numerous civil society organisations, activists, and donors have emphasised the significance of political decentralisation in the hope that the state would provide citizens with discretionary decision-making power to manage local forest resources. Thus, several governments in different countries, under pressure from international donors and local social movements, have introduced some form of deconcentration (Ribot et al., 2006). On paper, decentralised forest management has progressed from deconcentration – i.e. partnership arrangements by government for community forest management – to devolving authority to local people to use and access forests. The international human rights campaign for a decentralised forest management process has also taken a rights-based approach to demand the reinstatement and recognition of the traditional forest land and forest resource rights of marginalised forest-dependent people (see Colchester, 2008; Sunderlin et al., 2008; Larson et al., 2010). The main reasons for promoting forest tenure reforms are the failure of government forest management, decentralisation and resource management devolution, the decrease in

natural forest timber rents in various countries, and democratisation (Sunderlin, 2011). One of the most positive aspects of the recognition of forest rights is the commitment through the signing of international treaties by many governments to respect, protect, and fulfil human rights. This recognition has opened up the scope in many developing countries for marginalised populations to re-claim their forest land and resources, which were appropriated by the colonial and post-colonial state (FAO, 2011). It remains unclear whether the existing conditions are conducive enough for the betterment of marginalised forest people's livelihoods through the strengthening of rights to local land and resources (Larson et al., 2010; Sunderlin, 2011). The intended beneficiaries of decentralisation who belong to socially and economically weaker sections are often ignored, resulting in the loss of livelihood for many poor forest users (Edmunds and Wollenberg, 2003).

The word 'property' in common contemporary usage refers to the 'things' over which a person claims more or less exclusive rights of ownership. Property relations as it exists, as Hann (1998: 5) explains, is more than just social relations, but refers to a 'vast field of cultural as well as social relations, to the symbolic as well as the material contexts within which things are recognized and personal as well as collective identities are made.' Scholars like Sikor and Lund (2009: 8) argue that 'property rights have something in common with citizen rights as two fundamental aspects of social life: what we have and what we are – *avoir* and *être*. Property rights and citizen rights in their broadest form exist only to the extent that they are produced, endorsed and sanctioned by some form of legitimate authority.' Hann (2007) states that 'property ownership, and in particular the private ownership of land, was considered a basic human right and a precondition for full citizenship as more democratic societies emerged in the nineteenth century, notably in the United States' (Hann, 1998:14), but in the twenty-first century the ownership of private property, such as land, was no longer a precondition for political citizenship. Property, especially land tenure, could be understood not just as alienation, but as a bundle of rights (e.g. use, access, control, manage), and changes in one dimension of rights affect another dimension and social relations (Ribot and Peluso, 2003). The majority of forest-dependent people in many countries are indigenous people and/or marginalised populations without secure (statutory) forest rights. The determination of the human and citizen rights of marginalised populations in the new global trend towards forest tenure is complex. Citizenship rights and property rights take a different shape depending on whether the legitimate authority is a legal statutory or an informal traditional institution. Property rights are always contested depending upon the capacity and legitimacy of right holders to exercise effectively the rights they hold (Agrawal and Ostrom, 2001). Property rights to forest land and forest resources are rarely about ownership rights. As compared to agrarian reform, forest tenure reform rarely transfers individual or collective ownership rights to forest-dependent people (see Larson et al., 2010; Sunderlin, 2011). Whereas ownership rights include transfer, sale, and/or inheritance rights, forest tenure reform is a more generic term and may refer to the transfer of a variety of arrangements such as

statutory and/or customary rights, individual and/or collective rights, and one or a combination of rights that may include right to use, manage, control, exclude from, or access resources, among various others. In other words, decentralisation of different types of forest rights – use, management, access, exclusion/inclusion, and alienation – enable people to benefit from forest land and resources and self-organisation. This book focuses on tenure rights over forests land and forest resources in its broadest sense. An important measure of how effective the world's forest tenure transition will be depends on who will have rights to use, access, exclude/include, and to manage the forests, who claims and who benefits from forest resources, and who loses, and how.

The extent of forest people's realisation of citizenship rights and human rights is dependent on government's decision to recognise their forest rights (Colchester, 2008; Sunderlin et al., 2008). At global level, this concern was expressed through the urgent and timely adoption of the United Nations Declaration on Rights of Indigenous People in 2007. Against this background, recognition of forest people's rights seems to emerge as a priority in the rights-based agenda of international development. Sikor and Stahl (2011: 7) point out that the rights-based agenda 'does not require the empirical assumption that local people are better forest stewards than other actors, which is difficult to uphold in practice. [...] Neither does the focus on rights rest on a problematic assumption about the role of forest in poverty alleviation to justify forest people's inclusion on the grounds of their needs.' The human rights and citizen rights of forest people are crucial elements for effective forest tenure transition to overcome inequalities, and to increase people's participation in decision making. The success of forest management depends on a multitude of factors, including local governance, tenure, and regulatory frameworks for appropriate implementation (FAO, 2011). Dahal and Adhikari (2008) warn, based on country case studies in Asia, that secure tenure alone is not sufficient for desired outcomes, but there is equal need for transparency, accountability, political representation, and empowerment. There is an urgency to analyse the implications of decentralisation and new forest tenure reform for forest-dependent marginalised populations.

This book seeks to contribute an insight on the complexities and specificities of India's decentralisation process and new forest tenure reform – particularly the Forest Rights Act of 2006 – and its effects on a marginalised scheduled tribe,[1] the Bhil of Rajasthan.

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[1] The 'Scheduled Tribes' (henceforth interchangeably used with tribal people) are marginalised populations inhabiting mostly resource-rich areas. Scheduled Tribes are defined by the Constitution of India in Article 366(25), which describes them as "such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this constitution."

The book offers an insight into the emerging consequences of the micro-politics of decentralisation and forest tenure reform in tribal India,[2] as highlighted in the title of this book. Tribal India's decentralisation and forest tenure reform is an understudied issue compared to the many studies on forest governance reforms involving the mainstream population in India. Therefore, research insights from tribal India are pertinent for India's (and other developing countries') attempt to introduce decentralisation and forest tenure policy reform for all forest people. The book tries to take a novel approach in that it encompasses: (1) empirical evidence from different temporal (colonial and contemporary) and spatial (village, household, and individual) scales, and (2) analysis of these temporal and spatial dimensions with a common framework. It is expected to provide different perspectives on the outcomes of forest tenure reform.

1.1.2   Research Problem

India's forests have been the location of more social conflicts and ecological changes than other landscapes in history, and more particularly in tribal areas (Rangarajan and Sivaramakrishnan, 2012). During the early British colonial period, the Indian Imperial Forest Service was established in 1864, which introduced the first Forest Act of 1865 as a legal basis to assert authority over forests and forest people (Guha, 1983). This was the beginning of state intrusion into local customary forest use, which was followed by subsequent legal frameworks that demarcated economically valuable forests important for revenue generation for government (Sivaramakrishnan, 1993). In many cases, local customary rights were never settled and/or the forest people lacked understanding of the British colonial concept of property and did not register their claims, thus failing to secure their legal rights (Guha, 1983; Sivaramakrishnan, 1995). Many tribal areas were declared as falling under special administrative arrangements by the government under the pretext of protection, but in fact reduced the local people's customary rights to privileges and in most cases extinguishment of customary rights (Rangarajan and Sivaramakrishnan, 2012). Most of the common lands were demarcated as forests, and large tracts of these forests were nationalised after India's independence, often without surveys.

As compared to other government departments, the Forest Department controls over 22 per cent of land designated as forest and has a large number of staff that are well represented at all administrative levels (see Appendix I for an overview of the staffing structure of the forest administration vis-à-vis the Tribal Department and the Panchayati Raj Department). The Forest Department has the unique authority to map forests, claim new territories, designate forest land, control revenue from timber and forest resources, but also has control over the

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[2] Here, 'tribal India' refers to the administrative and legislative terms used for the 'Scheduled Tribes' inhabiting the 'Scheduled Areas.' Scheduled Areas (henceforth interchangeably used with tribal districts) are explained by the Constitution of India in Article 342 as those areas with a high percentage of inhabitation of groups categorised as Scheduled Tribes. The President of India and Governor of the state hold direct authority to cease, increase, alter, or rescind the area of the Scheduled Areas.

production of official policy narratives and knowledge discourses (Sivaramakrishnan, 1995; Jeffery and Sundar, 1999; Khare et al., 2000; Baviskar, 2001). For the past two decades (1990-2010), the Indian Forest Department has been put under pressure and criticised for being inflexible and not recognising people's rights, for overlooking environmental degradation, and for claiming an increase in forest cover while having difficulties in protecting existing forests (Sivaramakrishnan, 1993; Baviskar, 2001; Sarin et al., 2003). The most recent political challenge to the Forest Department, as Blaikie and Springate-Baginski (2007: 77) explain, is from

> tribal land rights, which challenges the legality of the forest reservation of extensive tracts of land in tribal areas and which takes the form of the Tribal Forest Rights Bill that threatens to contest the Ministry of Environment and Forests' exclusive control over lands designated as 'forest', particularly in majority tribal areas.

The severest criticism and widespread protest from local civil societies, academicians, activists, and local communities came when the Forest Department conducted evictions of tribal and other forest dwellers from forest lands as 'encroachers' in 1992.

In fact, the last two decades (1990-2010) can be considered as a historic milestone for India's forest legislation because of the enactment of progressive laws and policies and mainstreaming local people's involvement in forest management (Rangarajan and Sivaramakrishnan, 2012). This change in forest legislation happened as a result of the important role played by international non-governmental organisations, donors, and financial institutions[3] in making forest programmes more people oriented. In India, forests are the second largest land-use category after agriculture. It is estimated that about 70 per cent of India's population depends on fuel wood, mainly from forests. More than half of India's forest-dependent tribal people, about 40 million out of 80 million people, depend on the forest for subsistence needs. People and forest issues are particularly relevant for the forest-dependent tribal people's struggle consequent to a lack of recognition by the forest administration of resource access, tenure rights, customary practices, cultural identity, forest-based livelihoods, and institutional arrangements. Blaikie and Springate-Baginski (2007: 5) argue that 'in the Indian case, many entire indigenous communities, not all of whom were originally deprived, have been made poor through the disenfranchisement and appropriation of their ancestral resources by forest administration.'

The central government undertook several legal reforms to rectify the situation and to make forest laws and policies more inclusive and responsive to people's rights. In the 1990s, the Joint Forest Management (henceforth JFM) programme was introduced as an initial attempt to involve people with a general idea of *we decide* (the Forest Department) and *you*

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[3] International donor funding such as from Danish International Development Agency (DANIDA), UK Department for International Development (DfID), German Agency for Technical Cooperation (GTZ), Japan International Cooperation Agency (JICA), among others.

participate (the forest people). Forest people were largely allocated 'degraded' forest to regenerate and protect in exchange for some privileges, such as the use of some non-timber forest products through the JFM committees. However, participatory mapping by involving forest people to demarcate forest areas became a way for the forest administration to extend control over 'degraded' common land and classify it as forest, whereas in reality that land could have been valuable for open-grazing or grasslands (see Jeffery and Sundar, 1999; Sundar, 2000b; Khare et al., 2000). Joint forest management has reported many successes over the past two decades. However, most of these successes were partial and short lived (Crook and Sverrisson, 2001; Blaikie and Springate-Baginski, 2007; Sundar, 2000b). Also, the community management failed to consider women's participation in decision making and their rights in relation to land and forests (Agarwal, 1997, 2001; Sarin, 2005).

In 1992, India's decentralisation process through Panchayati Raj excluded the tribal areas. This led to nationwide protest by social movements and human rights activists among others. In 1996, decentralisation became a reality in tribal areas with the provisions of the Panchayats (Extension to the Scheduled Areas) Act (No. 40 of 1996), popularly known as the PESA passed on 24 December 1996 for the Fifth Schedule areas.[4] The legislation aimed to devolve power to tribal *gram panchayats* – elected third-tier village-level government institutions.[5] Decentralisation enforced through this statute was intended to bridge the gap between the tribal tradition of self-governance and the *gram panchayats*. This political decentralisation to locally elected self-government potentially challenged the bureaucratic top-down approach of the Forest Department. Unlike JFM village committees, the *gram panchayats* would be democratically elected, hence decentralised bodies with legitimate authority. The ability to have discretionary decision-making power at local level would bring empowerment to marginalised forest-dependent tribal people, which according to Mamdani (1996) would create a sense of people becoming citizens rather than being subjects. However, the success of the decentralisation of *gram panchayats* is critically dependent on a number of factors, including implementation by respective state governments, devolution of power and finance, downward accountability of the elected representatives, and collective management of local natural resources, particularly forest land and forest resources (Crook and Sverrisson, 2001; Johnson, 2003).

In 2004, with increasing social upheaval and criticisms from human rights activists, one of the political agendas of the then newly elected national government (United Progressive Alliance) was to put an end to the Ministry of Environment and Forests' eviction drive (that had begun in 2004) of forest dwelling tribal and traditional communities. The government gave the task of drafting legislation – the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Bill 2005 – to the Ministry of Tribal Affairs. The

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[4] The Fifth Schedule covers nine states including Rajasthan, excluding the north-eastern states of India, which are covered in the Sixth Schedule of the Constitution of India.
[5] *Gram panchayat* is the lowest of the three-tier government body at village level. The elected *gram panchayat* can include one or more villages.

draft bill was openly opposed by wildlife conservation lobbies and the Ministry of Environment and Forests, who asserted that forests were their domain for jurisdiction. After an open debate, the revised draft bill was approved by parliament on 19 December 2006 and received the assent of the President on 29 December 2006. The bill was passed as 'The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006' No.2 of 2007 (henceforth, the FRA). On 31 December 2007, as required by sub-section 1 of the FRA, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules were notified; these supplement the procedure to implement the FRA. The final Rules and FRA were enacted on 1 January 2008. This is a historic piece of legislation that aims to undo injustice by recognising the traditional individual and collective rights of forest people. The nodal agency for implementation of this legislation is the Ministry of Tribal Affairs. However, this was again initially contested by the Ministry of Environment and Forests with the argument that forests came under their mandate. The underlying strategy of this legislation is to involve multi-stakeholders in forest tenure transition by introducing a new committee with representatives of government line departments (Panchayati Raj, Revenue, Tribal Affairs, and Forest) at each administrative tier – state, district, and village level. This has added another form of authority to the already dynamic and complex forest management system in tribal India.

One observation from the above complexities of forest governance is that new institutional arrangements have emerged out of new formal legal provisions. Law can be seen as a mode to empower and enable people, but could potentially have the exact opposite effect because statutory laws may not incorporate traditional practices and local customs about forest use. The legislation and institutions are a necessary, but not a sufficient, condition for local forest management. The impact of these laws critically depends on how they are implemented and who participates in their implementation, given the administrative mechanisms in India. In this context, there is need to examine the historical pattern of annexations of forests land by government, and the resistance and struggle of people to gain their forest access. To understand the micro-level intricacies of political decentralisation and forest tenure reform, it is essential to take a holistic approach to patterns of change following legislation and new institutional dynamics, authority relations, and mechanisms of inclusion/exclusion. In other words, taking a holistic approach means that one needs to consider these processes at different temporal scales (colonial and contemporary legislation) as well as at different administrative and spatial levels (village, household, and individual) and analyse each level with specific concepts. Understanding the effects of these different dimensions helps us to identify approaches that will benefit the strengthening of local decentralised institutions while facilitating the needs of marginalised tribal people in the broader context of their forest rights. In this book, this multi-dimensional approach leads us to a study of the micro-politics of decentralisation and forest tenure reform. The idea of micro-politics acknowledges the complexity of the formal and informal power of individual and collective action in attempting

to influence others to achieve particular goals (Willner, 2011). Micro-politics is neither a paradigm nor a method. The notion of micro-politics is further discussed in section 1.2 on the conceptual framework. For the purpose of this research, the third-tier of government at village level, the *gram panchayat*, is considered as the unit for the micro-politic analysis.

Numerous problems emerge from the current dynamics of decentralisation and forest tenure reform as presented above. At the level of *gram panchayat,* the book focuses on four dimensions to provide different perspectives on decentralisation and forest tenure reform.

Centralisation

History		*Present trend*
Colonial legislation		Contemporary reforms
Traditional authority		Institutional pluralism
Tribal identity		Citizenship
Gender exclusion		Gender inclusion

Political decentralisation
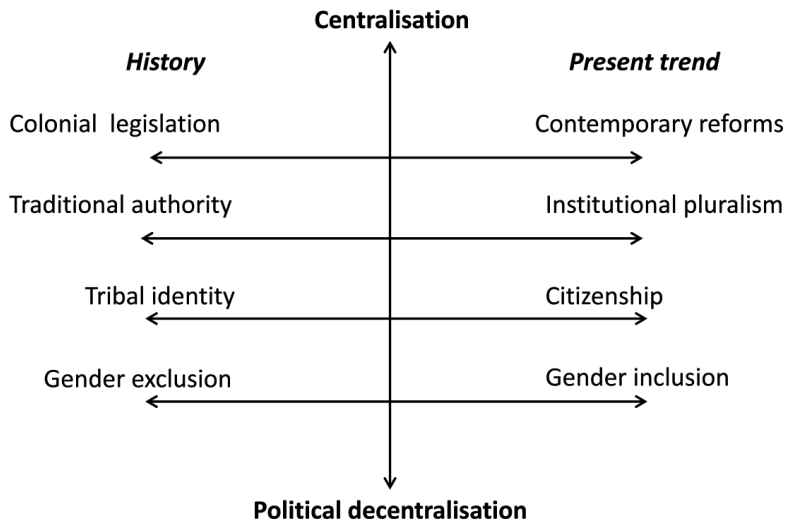
Figure 1.1: Four dimensions of the research problem

Figure 1.1 schematically shows the two ends of a continuum for each dimension that cross-cut with the centralisation and decentralisation axis of forest management. The reasons for choosing these four dimensions are now briefly explained.

- First and foremost, there is the issue of the nature of the interconnection between history and contemporary forest governance. The scientific forest management approach introduced in the British colonial era is inherently related to the current dynamics of decentralisation and forest tenure reform in tribal India. The underlying assumption is that one can better understand the present by knowing its historical dimension.

- The second dimension relates to the emerging contrast between (new and existing) interest groups, different frames of law, and local practices that simultaneously use strategies to influence the outcomes of decentralisation and forest tenure reform in their favour. Understanding the working of different institutions and authority can

determine the way in which diversity adds value, contradicts, or dominates and favours certain types of local forest tenure arrangements over others.

▪ The third substantive concern is about the lack of scientific knowledge on forest-dependent tribal people's strategies to align their identity with mainstream citizenship rights. Taking into account the dimension of emerging tribal people's citizenship can elucidate their social struggle to claim their traditional belonging to forest land and their struggle for tenure rights.

▪ The fourth dimension is that of gender inequity. Mainstreaming gender equality is an essential element, especially for the inclusion of tribal women in decision making and recognising their bundle of rights. Addressing women's rights can explain the need for gender mainstreaming in decentralisation and forest tenure reform.

These four dimensions are partial rather than whole in gaining in-depth knowledge on decentralisation and forest tenure reform. Neither are they water-tight compartments. Together these dimensions subtly explain the influence of the past in shaping the current forest governance and the ways in which pluralism and identity determine outcomes for forest-dependent tribal people, including (the lack of) women's forest tenure rights. Each of the outlined dimensions contributes to frame a related key research question as presented in section 1.1.3.

1.1.3   Research Objective and Key Questions
The objective of this research is to critically investigate the emerging – sometimes unintended – consequences of decentralisation and new forest tenure legislation for marginalised tribal forest people in India.

Based on this general scientific objective and taking into account the dimensions distinguished in section 1.1.2, the following four broad key research questions are proposed:

1. How has the history of forest legislation shaped the current decentralisation process and forest tenure reform in tribal India?
2. How do the new formal tenure arrangements add value to, contradict, or dominate existing local authority in collective forest management?
3. How does forest tenure reform influence tribal households' perspectives on individual forest tenure claims and their idea of citizenship?
4. How are tribal women's forest-related rights determined by the new decentralised forest tenure reform?

Each research question is addressed individually in the following four chapters, which are peer-reviewed research papers. Each of these research questions consists of a couple of sub-questions that help to make the question operational and relevant to empirical reality.

The sub-questions are presented in *one-pagers* before each research paper. These one-pager presentations act as connectors that shape communication between the preceding and

the next research paper. The one-pager helps the reader to relate to each chapter's main question and its operational sub-questions along with its specific concept(s) for analysis.

1.2 MICRO-POLITICS OF DECENTRALISATION AND FOREST TENURE: CONCEPTUAL FRAMEWORK

The complex process of decentralisation and forest tenure reform that involves different actors and varied contextual dynamics is understood from a micro-analytical framework in this thesis. This framework refers to a combination of concepts and qualitative designs for micro-political analyses in socio-political science research. The term 'micro-politics' used in the sub-title of this book is extensively defined in the study of the politics of education, with theoretical roots in political science and organisational theory (see Burns, 1961; Webb, 2008) and less so in the area of natural resource management. To overcome the limitations of understanding the concept of micro-politics as used by the different schools, Blase's (1991: 11) description provides a comprehensive perspective:

> Micropolitics refers to the use of formal and informal power by individuals and groups to achieve their goals in organizations. In large part political actions result from perceived differences between individuals and groups, coupled with the motivation to use power to influence and/or protect. Although such actions are consciously motivated, any action, consciously or unconsciously motivated, may have political 'significance' in a given situation. Both cooperative and conflictive actions and processes are part of the realm of micropolitics.

Politics can be used in a broader way and consists of macro-politics and micro-politics, which change as society changes. This book uses the term 'micro-politics' in the sense that 'everything is political, but every politics is simultaneously a *macropolitics* and a *micropolitics*' (see Deleuze and Guattari, 1987: 213 - italics in original). In short, micro-politics analysis is more insightful because 'the specific context of action is reflected theoretically and empirically' in small-scale research settings (Willner, 2011: 162). In order to investigate the micro-politics of decentralisation and forest tenure reform for tribal people in India, it is crucial to go beyond the limits of one specific concept. To illustrate, identity-based politics and/or decision making is just one of the many micro-political arenas in decentralised forest tenure reform. By bringing together several concepts, the framework enables an analysis of micro-politics, particularly explaining how historical and macro-political decision making shapes identities, institutions, and authority at local level.

To answer the proposed research questions, the book brings together concepts that will prove useful for the analysis of micro-politics and the outcomes of colonial and post-colonial forest tenure policy reform, and at different scales, ranging from the individual, via the household, to the *gram panchayat*. Figure 1.2 indicates that each dimension relates to a social,

political, and/or legislative issue or problem. Each dimension corresponds to a research question and is analysed through the lens of a specific concept. These concepts are: governmentality, institutional pluralism, authority, citizenship, and access rights (see Figure 1.2).
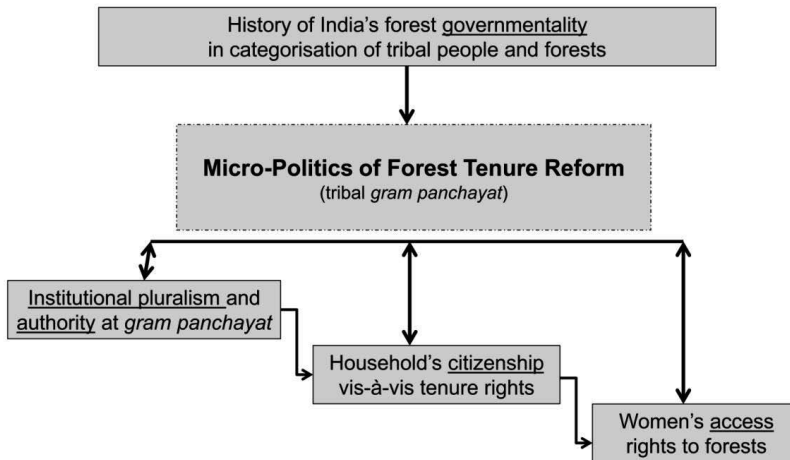
Figure 1.2: Conceptual framework

One of the conceptual approaches central to the micro-political framework originates from the French philosopher Michel Foucault's (2000) lecture on genealogical analysis of the art of government. Foucault (2000: 208) explains:

> what government has to do with is not territory but, rather, a sort of complex composed of men and things. The things, in this sense, with which government is to be concerned are in fact men, but men in their relations, their links, their imbrications with those things that are wealth, resources, means of subsistence, the territory with its specific qualities, climate, irrigation, fertility, and so on [...].

The analysis of the art of government is called governmentality, which characterises most contemporary power relations (Foucault, 2000). This first analytical concept is helpful in analysing India's colonial and post-colonial forest management (see Agrawal, 2005). Scholars of governmentality have broadly focused on three analytical domains: the rationality of government, the technologies of government, and the making of subjects of government

(Dean, 2010). The rationality of government helps us to understand on the one hand a diverse range of 'external' ways in which governmental practices and social relations construct subjects by disciplining, organising, mainstreaming, and imposing a particular type of identity, whereas on the other hand individuals adopt certain techniques that shape their own 'self' identity. Through the interaction of 'external' and 'self' aspects, forms of identity are constructed. Fraser (2000) argues that with the identity model the subordinated group produces a self-affirming identity and culture of its own that will give them status and recognition similar to those of the dominant group. This self-affirming identity, Fraser (2000: 122) argues, puts moral pressure on the members of the subordinated group to conform to 'a single, drastically simplified group-identity which denies the complexity of people's lives, the multiplicity of their identifications and the cross-pulls of their various affiliations.' The significance of studying subject-making is to describe how government seeks to shape the conduct of individual and collective identities by using rules of law to discipline and promote practices of particular identities, while focusing at the same time on how individuals negotiate to accept, adapt, or resist those rules of law. In this context, governmentality becomes a meaningful concept to trace the genealogy of *subject*-making (of the forest-dependent tribal people) and the *things* that (made through law and tenure reform) are the subject's relation to the territory (forest land and forest resources) not just in a post-colonial, but also in a colonial context.

The concept of governmentality is evident in the state's interest in taking control and governing through the instrument of legislation. The government attempts to legitimise certain forms of institutions and authority and/or create a new set of rights, rules, and regulations through new forms of tenure legislation. In political decentralisation, Ribot (2001) argues, local government can be representative, downwardly accountable to local communities, and integrate multiple local interests. However, most often in the name of decentralisation, alternative institutions are empowered that undermine the authority of an existing representative body. In this context, at the g*ram panchayat* level, the concepts of institutional pluralism and authority are important to analyse the role of new and existing institutions vis-à-vis decentralisation and forest tenure reform. Christian Lund explains (1998: 25) that 'in societies where multiple state institutions perform roles as definers and enforcers of law – where legal pluralism prevails – contradictions and ambivalence characterise the legal norms and incongruence and competition characterise relations between various institutions.' The decision to legitimise (or to de-legitimise) an institution is under the control of the government, as ultimate authority. In addition, the government holds authority over resources and distribution of rights and claims to resources, in this case forest land and forest resources. Nevertheless, politico-legal institutions are not homogenous. Most African states' politico-legal institutions, for example, have a 'polycentric character because different authorities in different fields of regulations use different source of law' (Lund, 1998: 26). This polycentric character of politico-legal institutions emerges out of struggles relating to land

entitlement and has contributed to legal pluralism resulting in institutional proliferation, which makes people choose between different forms of law, including formal and informal institutions (Berry, 2009; Lund, 1998). Such dynamic functioning of institutional pluralism and authority, more often than not, disrupts the democratic process of governance, thereby changing the functioning of the micro-politics of local natural resource management.

The third concept focuses on citizenship from a tribal household's perception. Citizenship, as defined by Marshall, is the 'basic human equality associated with the concept of full membership of a community' (1950: 8 as quoted in Sundar 2011: 421). The citizenship concept in this book is not only about people without legal citizenship rights such as nationality or voting rights, but also about people who are marginalised in a country and are therefore not able to exercise their rights despite being citizens. The academic literature on citizenship in the context of forest-dependent tribal people (in India) remains relatively scarce but has increasingly gained attention in recent years (see Sundar, 2011). Patterson (1999) shows that citizenship could be understood from rights and responsibilities of individuals towards the community, other than the right to vote and residency status. The citizenship of an individual changes when the politico-legal institutions, by design, may exclude them (by making them marginal subjects) and promote the ideas only of those who dominate society. The idea of citizenship is shaped by the rules of law relating to tribal self-governance and forest land (Sundar, 2011). Explaining the concept of citizenship in India, Nandini Sundar (2011: 422), aptly summarising different theories of citizenship (from libertarian, liberal, and Marxist perspectives), states that 'citizenship has always been underwritten by a rule of law that preserves negative liberty – one that ensures a citizen is not subject to arbitrary whims of the sovereign. However, any more substantive or positive understanding of citizenship must necessarily engage with the question of how laws get made, and what kind of political economy they imply.' Even when marginal people resist government decisions, they look upon the government as the ultimate rule of law to provide justice for their rights (Sundar, 2011). The citizenship concept is not understood in a homogenous way, thus leaving space for different expectations among people. In the context of post-colonial India, tribal people express their desire as citizens through a range of activities from seeking equality and justice by collectively demanding implementation of existing laws, and social movements resisting reform, to the other extreme of social conflicts for competing forest tenure claims.

The last concept for the micro-politics analysis framework is access rights. There is a thin line distinguishing access and property rights; this explains the dynamics of ownership of forest land versus usufruct rights to forest land and forest resources. In their article 'A theory of access,' Ribot and Peluso (2003) argue that the ability to benefit from things (material objects, persons, institutions, and symbols) is about access. Sikor and Lund (2009: 19) nicely sketch the difference between access and property and between power and authority, explaining that 'just as many people struggle to turn access claims into legitimate property, many are stripped of property rights to their possessions when the institutions that guaranteed

them are weakened.' Access from a rule of law perspective is not necessarily claimed only through statutory law, but can also be enforced through force or illegal claims, or based on informal customary systems such as practices, norms, and rules of the local community, personal abilities, knowledge, social relations, status, and gender. The gender aspect in the ability to claim access to resources needs to be understood from the angle of what government can do to maintain *participatory parity* (which means being at *par* with others) between men and women (see Fraser, 2000). The micro-politics framework of this research would be limited if the gender dimension was underplayed – especially the political exclusion of tribal women and the differences within the tribal women's group (elite vs. marginalised) in the context of their forest access rights.

The micro-politics concept relates to the Foucauldian notion that where there is a power relation there are opportunities for resistance and negotiation. Although this conceptual framework purposefully avoids explicit use of the term 'power,' it maintains that power exists at different levels and forms within each concept described above.

1.3   RESEARCH AREA AND POPULATION

The Republic of India is the second most populous country in the world with over one billion people, and it is estimated that the country has a third of the world's poor. About 40 per cent of India's population lives below the poverty line (BPL).[6] The Government of India aims to achieve the United Nation's Millennium Development Goals (MDGs) to reduce poverty to 22 per cent by 2015. In 2011, a new survey was conducted as a reference tool for the Right to Food Bill. On the basis of the new survey, the Government of India is planning to change the existing criteria to identify BPL families. The new proposal plans to reduce the minimum standard of living cost in rural areas from approximately US $1 to US$ 0.30 cents/day per head. This has been contested by Right to Food activists because a change in this criterion would mean a change in the standard used to measure India's poverty and help India superficially attain the MDGs without any effort. The interconnection of forest tenure with poverty reduction is significant in improving the livelihood conditions of marginalised people dependent on forest resources.

Of India's over one billion population, approximately eight per cent, that is, 84 million, are administratively categorised as belonging to scheduled tribes (henceforth, tribal people, see section 1.1.1). They are a heterogeneous set of ethnic and tribal groups and form ethnic minorities in the country. The terms *adivasi* (original inhabitants), *vanvasi* (forest dwellers), and *girijan* (hill people) are often used synonymously for tribal people by the mainstream population. Most tribal people live in isolated and vulnerable areas, including forest. The

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[6] BPL is an economic benchmark used by the Government of India to identify an income of less than US $1.25/day per head (based on the 2002 survey used by the Planning Commission of India).

majority of them are socio-economically deprived and struggle to secure basic minimum rights such as food, shelter, and housing. India's major developmental activities such as the construction of large-scale dams, roads, and industries displaced large numbers of the tribal population in the country (Baviskar, 2004), in most cases without proper rehabilitation and compensation.

Tribal people continue to face threats from mining companies, and in many cases tribal people resist and struggle to maintain their land, resources, and culture. For example, in a recent case (2010–11) involving Vedanta Resources – one of the largest mining companies in the world – the company had planned to mine bauxite on the sacred hills of the Dongria Kondh tribe. This was eventually blocked by the Minister of Environment and Forests after protests from tribal people and civil society organisations. In recent decades, the government through the Tribal Sub-Plan strategy (TSP) has been making an attempt to address tribal people's socio-economic development and protect tribal people as well as tribal areas against exploitation. Integrated Tribal Development Plans/Agencies are among several development programmes launched by the government, but tribal people continue to be deprived of these benefits and statutory rights, partly due to lack of awareness and the apathy of implementing agencies.

Compared to urban and rural India, in tribal areas people are more vulnerable because they are socio-economically and politically marginalised, and lack secure means of sustenance as a result of ecological changes such as climate variability. The new approach to mitigating climate change, Reducing Emissions from Deforestation and Forest Degradation (REDD+) in developing countries, could intervene by reversing decentralisation and the forest tenure rights of tribal people (Bose et al., 2010a; Phelps et al., 2010). In such a circumstance, there is even more urgency to understand the changing policy reform of forest governance in tribal India. The study area for this research is semi-arid Banswara tribal district in the state of Rajasthan in western India, and Bhil tribals are the study population.

1.3.1   Banswara District, Rajasthan

Rajasthan is geographically the largest state in India with 342,239 km^2 or about 11 per cent of the country's total geographical area (Figure 1.3). The state's land area is equivalent to that of some European countries, for example, Italy (301,200 km^2), Norway (324,200 km^2), or Poland (312,600 km^2). In total, there are 33 districts, 41,353 villages, and a total population of 56.51 million with population density of 165 per km^2 (Census of India, 2001). Rajasthan is located in the north-western part and lies between latitudes 23º 30'and 30º 11' North and longitudes 69º 29' and 78º 17' East. Most of the land is arid. The total natural forest covers about 9.5 per cent of the total area – one of the lowest compared to other states in the country. In contrast, the state has the largest amount of 'wasteland' – about 20 per cent of the total wasteland in the country. As per the 2001 census, the Scheduled Tribe of Rajasthan numbers

7 million, constituting 12.6 per cent and 8.4 per cent of the total tribal population in Rajasthan state and in India, respectively.

Figure 1.3: The study area in Banswara tribal district, Rajasthan, India

Banswara district has the highest concentration, 72.3 per cent, of tribal people in Rajasthan. The majority of the tribal population households in Banswara district are below the poverty line and illiterate. Banswara district forms the eastern part of the region known as Vagad and is located in the southern part of Rajasthan. There are two stories regarding the

etymology of Banswara. One tradition believes that Banswara got its name because of *bans* or bamboos which were found in abundance in the forest. Another version is that a Bhil tribe ruler Bansia ruled the area and thus the region was named after him around the sixteenth century. This former princely state ruled by the Maharavals was created as a separate district with the merger of princely states – Banswara State and Kushalgarh Chiefship – and became part of Greater Rajasthan in 1949. Banswara is a tribal district[7] with a total geographical area of 5037km^2 (453612 hectares) and lies around latitude 23° 30' North and longitude 74° 24' East. The Tropic of Cancer passes south of Banswara town. Banswara is bounded by neighbouring tribal districts to the southeast by Jhabua in Madhya Pradesh state and to the southwest by Dahod in Gujarat state. These contiguous tribal districts are inhabited mostly by Bhil tribes. Administratively, Banswara district is divided into three sub-divisions which are further divided into five *tehsils* and eight development blocks.

The soil type in this semi-arid region is generally black cotton soil, sandy clay loam with moderately organic fertile soil, and quite a lot of stony land. Annual rainfall is approximately 750mm, and the bulk of precipitation occurs in the monsoon season from August to September. The region has a rugged terrain with undulating ridges and 20 per cent of its total area is classified as forest land. The biotic and climatic potential in this region allows for dry deciduous forest, dominated by *Tectona Grandis* (teak), *Shorea Robusta* (sal), *Buteamonosperma* (palash), *Maduca Longifolia* (mahua), *Gmelian Arorea* (sevan), *Azardirachta Indica* (neem), and *Diospyros Mesamoxylon* (timru) among other species (see Table 1.1).

Table 1.1 Administrative structure and land use in Banswara district

Administrative set-up	*Units*	Land use and climate	*Units*
Sub-divisions	3	Total district area (in hectares)	453,612
Tehsils	5	Forest area (in hectares)	91,200
Development blocks	8	Sown area (in hectares)	224,605
Gram panchayats	307	Irrigated area (in hectares)	80,210
Revenue villages	1505	Annual average rainfall (cms)	82.59
Total population	1,420,601	Population density (per km^2)	298

Source: Census of India, 2001

1.3.2   Bhil Tribals

The Bhil tribe is the third largest scheduled tribe in India and forms the predominant tribe (913,932 of a total national population of 1,420,601) of Banswara district and its adjoining tribal districts. The name 'Bhil' is believed to have been derived from a Dravidian word, *Billu*, meaning bowman because of their renowned archery skill. *Bhilli* is the most common

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[7] Banswara is a tribal district as per the Fifth Schedule of the Constitution of India.

language spoken in this region. Historically, Bhil identity has been transformed through a complex history of rule and resistance in relation to forest livelihoods, particularly struggles with dominant groups (Skaria, 1999; Mosse, 2005). In other words, the loss of power, influence, and control over land and forest resources is closely associated with the making of the contemporary Bhil tribe – a poor, marginal, ignorant, uncivilised community, and 'encroachers' on forest land. The dry deciduous teak forest areas are mostly devoid of trees and degraded. For the majority of the people, forest including *gaucher* (communal grazing land) and wasteland (administrative term for land with a low economic value) is one of the main sources of livelihood. The average household size is seven, and an average agricultural land holding is 2.5 acres (1 acre = 0.4045 hectares) per household. Smallholder agriculture is rain fed and labour intensive. Poor soil quality due to soil erosion and low rainfall are major determining factors for the choice of crops. Crops grown during the *kharif* (summer) season are largely rain-fed crops such as non-hybrid varieties of maize and millets such as *bajra* (Pennisetum typhoides), *kutki* or little millet, which form the staple diet of the Bhil.

A typical Bhil village is composed of several *phaliyas* (hamlets) spread across hillocks and ridges. The social composition of *phaliyas* is cultural and historical in that it reflects a history of settlement, because traditionally land was allocated and/or offered in lieu of bride-price, locally known as *dej*, to men who were invited to marry and stay in the village in order to clear forest, expand cultivation, and increase security (Mosse, 2005). This is different from the mainstream traditional Hindu practice of dowry (money or valuables given by the bride's family to the groom). The weekly traditional market (*haat*) continues to be important in selling and buying for tribal households. The tradition of the yearly harvest festival, *Bhagoria*, around March–April displays the unique cultural practices of Bhil people in this region. *Bhagoria*, apart from being a trading harvest festival, serves as a custom for tribal men to elope and marry a woman (often with mutual consent), whereas for the village elders *Bhagoria* is a time to settle for example property right disputes by fighting with bows and arrows. Tribal women may have a certain degree of freedom to choose their partners, but often traditionally they become a *thing* for property claim negotiation; for example, her natal family claim a bride-price on marriage from her in-law family, or her in-laws claim compensation if she separates or remarries (see Hardiman, 1987; Skaria, 1999, Baviskar, 2004; Mosse, 2005).

1.3.3   Study Villages

The selected case study villages are about 60 kilometres from Banswara city and about 80 kilometres from Dahod town, Gujarat. Table 1.2 gives detailed characteristics of four villages B1, B2, B3, and B4 from the Lankai group *gram panchayat*[8] [P1] in Bagidora *tehsil* cum block, and two villages K1 and K2 from the Khutachatra group *gram panchayat* [P2] of Sajjangarh block, Kushalgarh *tehsil*.

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[8] Group *gram panchayat* refers to a village-level government body comprising more than one village.

Table 1.2 Characteristics of selected villages in Banswara

Tehsils (sub-district)	Bagidora (B)				Kushalgarh (K)	
Development blocks	Bagidora				Sajjangarh	
Revenue villages	**B1**	**B2**	**B3**	**B4**	**K1**	**K2**
Group *gram panchayat* (GGP)	**P1**				**P2**	
Ward members of GGP	1	2	1	1	1	1
Joint forest management (JFM) committee	B1+B2 1999-2006 & B3+B4 2002-08				1996-2006	
Village FRA committee formed	2008	2008	2008	2008	2008	2008
Number of households	46	139	70	76	73	35
Total population of the village	340	923	455	471	438	233
Below poverty level households	10	41	18	51	10	5
Land area in hectare	189	311	298	143	121	245
Village forest area in hectares	110	140	110	51	50	100
Other caste		2%			1%	
Other settled groups		3%				
Scheduled Tribes	100%	95%	100%	100%	99%	100%

Notes: Village FRA committee: committee formed as part of the Forest Rights Act 2006 (FRA); Below poverty line (BPL) income less than US $1/day per head; B1–B4 tribal villages from Bagidora sub-district; K1 and K2 tribal villages from Kushalgarh sub-district; P1 gram panchayat for B1–B4 villages; and P2 *gram panchayat* for K1 and K2 villages. Source: Bose 2008–2010 field work

Each village has one or more hamlets (*phaliyas*) and delegated elected ward members (village block representatives) on the *gram panchayat*. In terms of population, village B2 has the highest number of households (139) and village K2 has the lowest (35). The Joint Forest Management (JFM) was initiated by a local non-governmental organisation in collaboration with the Forest Department, and in most cases a JFM committee was formed between two villages. At the time this study was conducted, JFM committees were either not functional and/or had merged with the newly formed individual village Forest Rights Act (FRA) committee.

The criteria used to select these six study villages included remoteness of tribal villages, presence of a forest-dependent tribal population, households below the poverty line, village with land classified as forest, joint forest management programme being implemented, individual forest land tenure claims, new forest rights village institutions constituted, and presence of women's self-help groups.

All six selected case study villages are predominantly inhabited by Bhil scheduled tribe members. The villages are devoid of tarred or paved roads, electricity, secondary schools, sanitation, or piped tap water. More than 60 per cent of people in this area are illiterate.

1.4   RESEARCH METHODOLOGY

This section explains the fieldwork data collection, qualitative research, and data analysis methods used for this research in general. Each research question uses specific empirical data (for example, group discussion, individual interviewing) for the micro-politics conceptual analysis. Each research paper, constituting chapters 2 to 5, has a methodology section explaining the method and data used therein.

1.4.1   Fieldwork Techniques

A combination of random and non-random sampling techniques was used for data collection. Simple random sampling was used as it gives an equal and independent chance of selecting a probability sample (Kumar, 2005). The results using a random sampling technique can be generalised to a larger population, which is one of the objectives of this study. Purposive non-random sampling was also used to construct a historical reality and to describe a phenomenon for which limited information is available. Being familiar with the region and having knowledge of the local dialect and local issues for the past ten years proved beneficial in re-establishing contacts and in understanding the local context. At the same time, care was taken to maintain a neutral position when ethical and sensitive topics were involved in order to ensure open-minded observation during data collection.

Seeking informed consent is a very common feature of medical and social science research (Bernard, 2002). Therefore, before each interview, the consent of each respondent was obtained, including explaining to them individually and in detail the purpose of the data collection and its use for this research. With prior consent, it was easier to talk about sensitive and intrusive information such as forest land encroachment, forest land tenure claims, or gender division in forest rights. All respondents were interviewed without any form of inducement, and none of the respondents had any kind of expectations about compensation for their time and information.

The survey sample included a total of 274 individuals (133 women and 141 men) from 105 households in six villages [villages B1, B2, B3, B4, K1, and K2] as shown in Table 1.3. Of the total 105 households interviewed, 25 households are BPL according to the Rajasthan state survey list of 2009. Focus group discussions with the abovementioned six villages, along with key actor interviews (officials from government departments and non-government organisations), gave diversity in data collection and an opportunity to gain multi-dimensional views.

Primary data were collected with the support of a senior field assistant from the local host, a non-governmental organisation, Sadguru Foundation, based in Dahod, Gujarat. The field assistant had 25 years of work experience in tribal development, was fluent in local dialects, and had higher secondary education with a community-based forestry training background. This skill proved helpful in translation and in explaining to the respondents the complicated

questions on concepts like citizenship rights. After a pilot study, the fieldwork was conducted in the selected villages for a period of fifteen months in three main phases. The first phase of data collection was from June to November 2008, the second phase was from January to April 2009, and the final round was from July to December 2010. During the first phase of data collection, the region was facing its second consecutive drought year. Therefore, Bhil men and women had migrated to neighbouring cities for wage labour. Phase two of the fieldwork was therefore needed to conduct interviews with those household members who had migrated because they were back in the villages either to cultivate the *rabi* (winter) crop, or to engage in wage labour provided by the Rajasthan government through an employment guarantee programme, or to collect *tendu pattas* (i.e. leaves of *Diospyros melanoxylon* used for rolling *beedis* – local cigarettes) from the forest.

Table 1.3 Respondents to the semi-structured interviews and focus group discussions

Tehsils	**Bagidora**				**Kushalgarh**	
Village name	**B1**	**B2**	**B3**	**B4**	**K1**	**K2**
Households interviewed (incl. BPL hh)	15 (4)	25 (10)	10 (3)	20 (8)	16	19
Female respondents	9	43	12	10	29	30
Male respondents	15	27	12	24	25	38
Total population interviewed	24	70	24	34	54	68
Focus group discussions	**P1**				**P2**	
Key actor interviews	46				18	

BPL: below poverty line; B1–B4 tribal villages from Bagidora sub-district; K1 and K2 tribal villages from Kushalgarh sub-district; P1 *gram panchayat* for B1–B4 villages; and P2 *gram panchayat* for K1 and K2 villages.

A social science technique of 'saturation point' was used to determine the sample size of the study population. According to Guest et al. (2006), one has reached saturation point in data collection when interviewing more informants would not provide any additional valuable and new information. It was ensured that the sample size was proportional to the size of the village household population and each stakeholder group. At village level, respondents were from different backgrounds, making it possible to gain a broader perspective to analyse and compare whether their points of view were similar or varied on the interpretation of decentralised forest governance implementation and management (see Appendix II). These backgrounds included:

(i)   institutional and political status such as chairperson, secretary, *sarpanch* (*gram panchayat* president), *upa sarpanch* (*gram panchayat* vice-president), ward representative, traditional leader, *gram sabha* (village council) members; and

(ii)   social and economic position such as BPL and non-BPL families, collectors of non-timber forest products, cultivators, and agricultural labourers.

Almost 20 per cent of the interviews and meetings were either audio and/or video recorded with the respondents' prior consent.

1.4.2 Qualitative Data Collection

Micro-politics as an approach does not have one analytical toolkit for empirical analysis. However, the most common methodological designs used are open and semi-structured interviews, ethnographic data collection methods, and focus group discussions (Willner, 2011). This study selected a qualitative data collection approach because it allows description of the nature of a situation, event, or phenomenon. Because of the high illiteracy rate among the study population, individual interviews with semi-structured and open-ended questions were employed for this study. Weiss (1994) argues that close-ended questions limit the opportunity to obtain detailed information, whereas semi-structured interviews are data rich, inexpensive, flexible, and stimulating to respondents. Focus group discussions were used to gain in-depth understanding of the villages, context, and phenomena within the *gram panchayats* (Kreuger and Casey, 2000). In addition, participant observations, transit walks with villagers in the forest area, and the timeline method were used to understand the Bhil's history of forest tenure rights, and stakeholder analysis was used to understand better the authority relationships. Such participatory techniques helped to gain better understanding of the community's perception of land use and their dependence on forest.

For the purpose of this study, a combination of primary and secondary data is used. Secondary data were collected from government publications, archives, scientific literature, conference proceedings, PhD theses, personal records, and print and electronic media.

Household interviews: From each household, I interviewed the household head plus one or more additional adult household members using a flexible semi-structure household interview schedule (see Appendix III, section III.1). Each face-to-face interview took approximately 45–90 minutes. Interviews with individual women lasted between 30 and 60 minutes and were conducted in the afternoon when generally women had some 'free-time' from household and agricultural activities. In contrast, interviews with men happened either early in the morning or in the evening. An additional unstructured interview with 22 women from B3 and B4 villages was conducted to get the women's perspective on how forest tenure rights are important (see Appendix III, section III.2). As compared to other villages, there were more women-related development activities in B3 and B4 villages, including women's self-help groups, a women's horticulture farm, a former woman *sarpanch*,[9] and women nominated to executive committee positions on village forest institutions.

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[9] *Sarpanch*: literally meant five heads of village-level local self-government in former days. Now, a *sarpanch* connotes a democratically elected head of the statutory village-level self-government, the *gram panchayat*, and together with other members is a contact between government and the village community. Panchayati Raj initiated gender mainstreaming by introducing a quota system reserving seats for women.

Focus group discussions: The focus group discussions were conducted in two phases. Each focus group discussion lasted about three to four hours, and almost all stakeholder groups from *gram panchayats* P1 and P2 were represented and participated. The location for the focus group discussions was chosen by the villagers for convenience. Bhil women in this region are not veiled (unlike other villages in India), and this makes it easier for them to participate in meetings along with men. However, out of respect (an aspect of Bhil culture) the women sat separately in the front rows. In all the P1 and P2 discussions, women and men participated equally (in P1 women outnumbered men). In addition, 64 individual key actors from local institutions in six villages were interviewed in detail using open-ended questions as a protocol to facilitate the discussion (see Appendix IV).

Meetings: Meetings were conducted with other stakeholders in addition to villagers. This included government officials from the Forest Department (district forest officer, range forest officers, beat guards), the Tribal Welfare Department and the Revenue Department at sub-district level, and senior as well as field officers from local non-government organisations.

1.4.3   Data Analysis

During the fieldwork, the primary data collected were transcribed on a personal computer and supplemented with audio and video recordings and field observations. Often, for weeks, transcription of the interviews was delayed due to lack of electricity at the fieldwork sites. The text of interviews was crosschecked with the fieldwork assistant to clarify the concepts and to identify the main issues discussed by the respondents. The qualitative texts of focus group discussions were verified together with the fieldwork assistant and local experts to enhance the validity and reliability of the data.

According to Kyburz-Graber (2004), triangulation of methods enhances the reliability and validity of the findings. To analyse the descriptive responses, content analysis of the interview texts was used; this is considered a useful qualitative analysis technique to identify and analyse data (Mayring, 2000). The interview qualitative texts were condensed and then coded on the basis of a database code developed after transcribing the texts (Miles and Huberman, 1984).

The data analysis used for each of the four research papers assesses decentralisation and forest tenure reform from the micro-political unit of tribal *gram panchayat*, household, and individual women's perspective. Different qualitative data inquiry techniques employed in this study offered empirical findings specific for each of these three tiers as explained in Table 1.4.

Table 1.4 Empirical data analysis for the research papers

Papers / Villages	B1	B2	B3	B4	K1	K2
Literature review combined with empirical evidence Paper 1: *Colonial and Post-colonial Legislation* 'Forest Governmentality': A Genealogy of Subject-Making of Forest-Dependent 'Scheduled Tribes' in India	X	X	X	X	X	X
Empirical evidence using mainly focus group discussions, meetings, and interviews Paper 2: *Gram Panchayats (village institutions)* Authority, Institutional Pluralism, and Forest Rights: Insights from Tribal Communities in India	X	X	X		X	X
Empirical evidence mainly through household interviews, focus-group discussions and meetings Paper 3: *Households* Individual Tenure Rights, Citizenship, and Conflicts	X **P1**				X **P2**	
Empirical evidence mainly through focus-group discussions and interviews Paper 4: *Women* Forest Tenure Reform: Exclusion of Tribal Women's Rights in Semi-Arid Rajasthan, India			X	X		X

B1–B4 tribal villages from Bagidora sub-district; K1 and K2 tribal villages from Kushalgarh sub-district; P1 *gram panchayat* for B1–B4 villages; and P2 *gram panchayat* for K1 and K2 villages.

1.5   ORGANISATION OF THE BOOK

This book is organised in six chapters (Figure 1.4) with an introduction followed by four peer-reviewed international journal papers and a final chapter on discussion and conclusions. This first chapter begins with an overview of global emerging concerns relating to decentralisation and forest tenure policy reform for indigenous people, and then explains the problem situation in India. It also outlines the key objective, research questions, and methodology, along with an analysis of current theories to develop a conceptual framework for decentralisation and forest tenure reform.

Chapter 2 briefly analyses broad historical trajectories of national-level forest land demarcation and the construction of tribal people's identity, particularly that of the Bhil.

Chapter 3 investigates at *gram panchayat* level whether (and how) institutional pluralism affects collective rights and joint forest management; who benefits; its effect on formal and informal authority in decision making in decentralised formal tenure reform; who is excluded (and why)? Chapter 4 explores household-level tenure rights by focusing on how tenure rights change perceptions of forest tenure and citizenship rights of tribal households; whether (and how) new forms of inter-household conflicts take place. Chapter 5 addresses the gender perspective, i.e. tribal women's inclusion and/or exclusion from access rights to forest land and forest resources; and whether (and how) the law and decentralisation in practice guarantees tribal women's forest rights. Finally, chapter 6 concludes with an analysis of decentralised forest tenure reform through the lens of micro-political analysis of the tribal *gram panchayat*, followed by the general discussion and lessons learned.
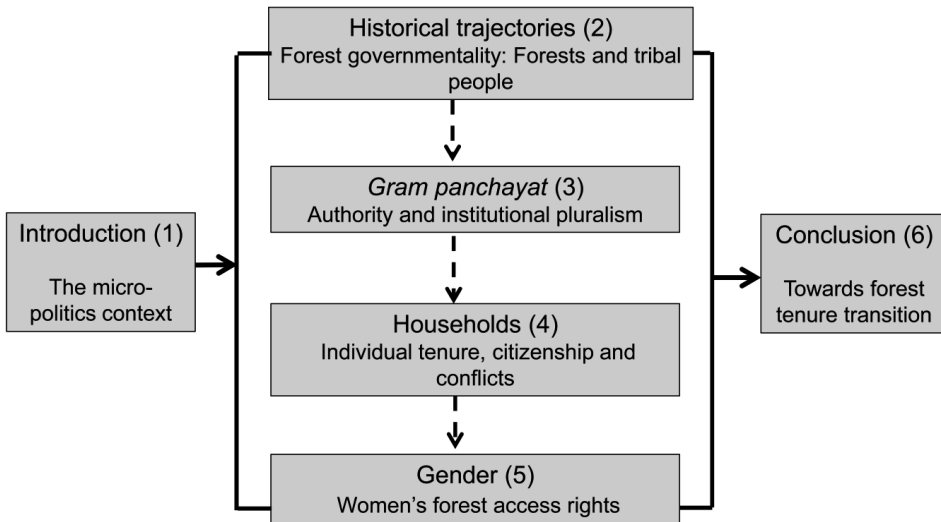
Figure 1.4: Organisation of this book

As mentioned earlier, a one-pager is provided at the beginning of each of the four paper-based chapters. The one-pagers act as a connector between the research papers because they briefly introduce the chapter, reflecting on the main question and introducing the two operational sub-questions, and the concepts used for micro-politics analysis.

1.5.1 Related-Research Outputs

The overall research project outputs, in addition to four peer-reviewed papers, include an international symposium, a documentary film, and an info-brief. These outputs were initiated outside the scientific requirement and financial budget of this research. These outputs, however, have proved to be a valuable addition in supplementing the scientific outputs and reaching out to a range of audience other than academic scholars. The international symposium, an infobrief, and the film are not explicitly used in the analysis of this research, but some of the elements relevant for this research are summed up in a section in the concluding chapter.

1.5.1.1   *International symposium (2009)*

An international symposium titled 'Decentralisation, Power, and Tenure Rights of Forest-Dependent People' was initiated and organised with the intention of bringing together international scholars, lawyers, and practitioners to share and exchange empirical research papers for two days. The symposium was hosted by Sadguru Foundation in Chosala village in Dahod district, Gujarat, 27–29 October 2009. About thirty people participated and presented their research papers. The symposium provided a platform to gain insight on the dynamics of power in decentralisation and forest tenure reform from Benin, Brazil, Burkina Faso, Canada, Ethiopia, India, Nepal, Philippines, and Tanzania (see Appendix V for the list of presenters).

1.5.1.2   *A short video documentary film (2010-11)*

A short video documentary film (12 minutes) 'Forest Rights' *Jung Jungle aur Jungle ke Logon Ka:* voices of Bhil tribal people in semi-arid Rajasthan was produced and directed based on the fieldwork data collection (see 'Forest Rights' DVD inside back cover). One of the purposes of using visual and audio media is to supplement this research with a more human face for this book's readership. A desired consequence of visual and audio media (over oral or text) is that it stimulates emotions and feelings, especially in cases where the extent of local conditions (e.g. degraded dry forests or drought in the semi-arid areas) cannot be visualised or guessed. Moreover, a video-audio media has the potential to make isolated situations more close and real, to allow voices of local communities to be heard, and to facilitate interaction with a range of viewers in communicating information. However, there is a potential risk of misuse or misinterpretations of the video-audio media if the audience is less connected with the context.

The film complements this research study by using the voices of marginalised scheduled tribes, in particular the Bhil tribal of Rajasthan, to express the complexities of tribal India's decentralisation and forest tenure reform in their lives and in tribal self-governance of forests. This documentary film aptly coincided with the United Nations' Year of Forest (2011), and was screened for academic courses, workshops at Wageningen University, and other academic institutes outside India and the Netherlands. The film premiered for a mix of

international and national academicians, foresters, and social scientists at the 13th International Association for the Study of Commons Conference, held at Hyderabad, India, January 08–14, 2011. Generally, it is assumed that video-audio media, such as this short documentary film, are of great advantage to influence policy arenas. However, there is little documentation of scientific studies exploring the use of video-audio in natural resource management, especially forests, to inform policy arenas (see Petheram et al., 2012).

1.5.1.3   *Infobrief (forthcoming)*

The Center for International Forestry Research (CIFOR) infobrief titled 'Forests: Gender, Property Rights and Access' (see Sun et al., forthcoming) draws on Bose (2011a) in addition to two research papers from Africa and Latin America respectively. The infobrief provides a scope for this research study to identify the applicability of the forest tenure reform in the global comparative analysis. This infobrief together with the international symposium and the film is briefly discussed in the concluding chapter.

historical perspectives

A wooden plough used by smallholders in the tribal villages, Banswara.
Photo credit: Han van Dijk

History plays a crucial role in analysing the current state of affairs of forest governance, because the origin of many of the current institutions governing India's forests can be traced back to the British colonial period. Not only is colonial forestry the oldest legacy of legislative forest governance in India, it also reveals an interesting pattern in the way forest-dependent people and forests were categorised in the development discourse. The question, then, is how much of the colonial scientific forestry legacy continues to define twenty-first century forest governance.

In this context, chapter 2 broadly reflects on how the historical trajectories of the scheduled tribes' categorisation and forest land demarcation have shaped current forest governance processes and outcomes. More specifically, the chapter seeks an answer to two operational questions:

- What are the implications of the history of categorisation for the Bhil people and for forest governance?
- To what extent does the identity of the Bhil people enable or constrain them in claiming forest rights?

The micro-political analysis conducted here uses Focault's governmentality notion in view of government's past efforts at subject-making of scheduled tribes and territorial demarcation and present tribal forest governance.

2 'FOREST GOVERNMENTALITY': A GENEALOGY OF SUBJECT-MAKING OF FOREST-DEPENDENT 'SCHEDULED TRIBES' IN INDIA

ABSTRACT

This paper analyses the historical trajectories of both British colonial rule and independent India to categorise scheduled tribes and to appropriate and legalise forests in tribal areas. It builds upon Foucault's notion of *governmentality* to argue that the history of the scheduled tribes' subject-making and the related history of forest demarcation is indispensable for understanding the current politics of decentralised forest management in India. Three dimensions of 'forest governmentality' – the history of categorisation, the politics of social identity, and the technologies of forest governance – are discussed to show how recent efforts to politicise forest tenure rights have reinforced political control over the scheduled tribes through new forms of authority, inclusion and exclusion. However, to claim their individual and community right to forestland and resources, the scheduled tribes have internalised their 'new' ethnic identity, thereby creating countervailing power and room to manoeuvre within the current forest governance regime. This is supported by a case study of the Bhil, a predominantly forest-dependent scheduled tribe in the semi-arid region of western India.

Keywords: Scheduled tribes, identity, semi-arid forests, governmentality, India

2.1 INTRODUCTION

The term 'scheduled tribes' (henceforth interchangeably used with the term tribal people) is a vague and ambiguous denomination to identify India's eight per cent of ethnic minorities. They are the so-called *adivasis* – or original inhabitants – of India and should not be confused with the 'scheduled castes' at the bottom of the Indian caste system (although *adivasi* in itself is a complex 'governmentalized identity' and a relatively modern concept subject to different interpretations; see Hardiman, 1987; Skaria, 1999). The term scheduled tribe is used for a group of more than 400 so-called deprived communities listed in an official schedule. During British India, the term was chosen to identify hill and forest tribes, and in 1950 this schedule was adopted and added to the Constitution of India. At its basis, there is no clear definition or set of criteria for the classification of the tribes and/or tribal people in the country. Nevertheless, there exists a common understanding about classifying tribes on the basis of their geographically isolated location, deprivation, use of tribal language, practice of animism and physical features, among other factors (Ghurye, 1963). The majority of tribal people live

in or around forest areas and are dependent on forestland and forest resources for their livelihoods. Their claim to be recognised as tribal people is intertwined with their claim on traditional access rights to natural resources. The issue of whether some 84 million people categorised as scheduled tribes can also be referred to as 'indigenous people' is politically contested within the country, because such terminology might grant them additional rights (Béteille, 1998; Xaxa, 1999), despite the fact that India has voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly in September 2007.

In recent years, several marginalised communities have contested decisions of the Government of India to exclude them from the Indian Constitutional List of Scheduled Tribes. Such contestation occurs because the scheduled tribe category is closely associated – since the colonial period – with special benefits through the Constitution of India (Ghurye, 1963). In May 2008, for example, several people belonging to the pastoralist Gujar community in Rajasthan state were killed while protesting against the state government. The Gujars were demanding recognition as a scheduled tribe to get economic benefits from the government. This incident is not an isolated case, and often such social movements attract political attention. The problem of categorisation also exists for those tribal communities who are already included on the scheduled tribes list. Most of these scheduled tribe communities have struggled for a long time to gain formal recognition of their traditional rights to resources, including forests (Guha, 2001). Historically, some of these struggles in remote tribal-dominated forested areas have taken the form of armed conflicts (Guha, 2001; Skaria, 1999). For the tribal people inhabiting the forest, the demarcation of so-called forestland during a hundred years of colonial exploitation is representative of a violent past and a history of subjugation. Assessing current armed conflicts in the tribal areas, the Planning Commission of India Report – *Development Challenges in Extremist Affected Areas* – indicates land alienation, poverty, illiteracy, degraded natural resources, lack of access to resources and flawed governance as the root causes of the growth of armed conflicts in tribal areas (Government of India, 2008). The report highlights the displacement of tribal people from their ancestral land, degradation of the forest and the categorisation of traditional forest dwelling tribal communities as encroachers on forestland as some of the major issues demanding immediate attention.

The social construction of the scheduled tribes category has become entangled with the history of forest management. When scientific forestry was introduced in the early nineteenth century by the British, new ways to govern forests emerged in India, based on the production value of timber, statistical representations of forests and redefined ways to use them legitimately (Agrawal, 2005). The forest-dependent and forest-inhabiting tribal people were directly affected by the centralised regulations implemented by the British colonial state and later by independent India. It was only in the early 1990s that the local communities were involved in co-managing and regenerating degraded forestland. However, the new forest

policies failed to recognise the traditional rights of the tribal people. The failure of centralised forest management combined with civil society and human rights activism, demanding statutory recognition of forest rights, created pressure on the Government of India. Thus, the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act – henceforth, the Forest Rights Act – was introduced in haste by the government in 2006. The Forest Rights Act concerns rights of forest-dwelling communities to land and other forest resources that were denied to them due to the continuance of colonial forest laws in independent India. This forest tenure reform is presented by the government as India's effort to realize political decentralisation of forest management. Political decentralisation involves the transfer of resources, including discretionary power, to elected local authorities (Ribot, 2003). Generally, political decentralisation is believed to benefit local communities, particularly forest-dependent indigenous people, and promote equitable use and sustainable management of natural resources (Agrawal et al., 2008; Ribot, 2003). However, in practice, the Forest Rights Act does not effectively devolve such decision-making powers to democratically elected local institutions, a necessity for political decentralisation (Bose, 2011a).

In this paper we aim to show: (1) that the process by which the state made the formerly excluded 'wild' hill tribal people into subjects implied both domination and recognition; (2) that this categorisation process is intrinsically related to the demarcation of forests by the state as well as to the changing nature of forest governance and management in India; and (3) that the current forest policy reform can only be understood when these political-historical trajectories of Indian forests and people are taken into consideration. In the paper, the Bhil of the semi-arid western region of India serve as a case study, and the analysis below draws on secondary and primary data collected during fieldwork between 2007 and 2010 (conducted by the first author). The rest of the paper is divided into five parts. The first part explains the term 'forest governmentality,' drawing inspiration from the work of Foucault (1979) on governmentality and of Agrawal (2005) on environmentality. Forest governmentality, we argue, provides an analytical lens for a genealogy of tribal subject-making and of forest governance reform. The second part deals with the history of Bhil categorisation and of forest demarcation. The third part examines the politics of identity, showing how various forest-related and externally imposed Bhil identities (from encroachers to guardians) have determined their inclusion in, and exclusion from, forest rights and forest resources. The dynamics and 'technologies' of decentralised forest governance are discussed in the fourth part. Finally, the paper draws some conclusions on the future implications of forest governmentality. It shows that new meanings of forest governance and of tribal identity are currently in the making.

2.2   FOREST GOVERNMENTALITY

Governmentality, as conceived by Michel Foucault (1979), is the association of the rationalities of the state, the technologies of power and the processes of subjectification, which needs to be understood in the broad sense of governing human behaviour. Subjectification, as coined by Foucault (Dean, 2010; Foucault, 1977, 1979, 2002; Lemke, 2000, 2001), refers to the construction of the individual subject. Subjectification is about ruling and controlling others by shaping their self-determination. It precedes the subject in the same way as the process of individuation precedes the creation of the individual. In the Foucauldian sense, the concept of governmentality refers to conduct, or, more precisely, to 'the conduct of conduct,' which ranges from 'governing the self' to 'governing others' (Lemke, 2001). Thomas Lemke (2000: 3) stresses that governmentality as an analytical tool 'offers a view on power beyond a perspective that centres either on consensus or on violence; it links technologies of the self with technologies of domination, the constitution of the subject to the formation of the state; and it helps to differentiate between power and domination.' Governing others dominates the art of governing – the techniques in which the state and its power intervene into and manage the habits and activities of subjects (Rose et al., 2006). Governing people, then, is 'not a way to force people to do what the governor wants; it is always a versatile equilibrium, with complementarities and conflicts between techniques which assure coercion and processes through which the self is constructed or modified by himself' (Foucault, 1978, as cited in Lemke, 2000: 4). Given these perspectives on governmentality, a very relevant question for this paper is whether the trend of contemporary decentralised forest tenure reform in India – which seems to point to more opportunities for self-governance at regional and local levels – is not implicitly a *continuation* of 'the conduct of conduct' by the central state. This question becomes even more pertinent in view of the limited literature on decentralisation of tribal forest governance that uses a governmentality approach.

Foucault's idea of governmentality is attracting increasing attention in studies on the environment, including in India (Agrawal, 2005; Birkenholtz, 2009; Guha, 1996; Sivaramakrishnan, 1995, 1999; Skaria, 1999). It has even been applied in the physical sciences, particularly geology. For example Braun (2000: 28) shows that 'territory' does not exist in the 'objective' problem of population, but when 'the "right conduct" of citizens becomes a problem in ever new ways in response to nature's construction.' Governmentalisation of the environment has been a process of reshaping forest institutions, practices and subjectivities by the colonial and independent Indian states through the creation and execution of new laws, regulations and procedures for forest management (Agrawal, 2005). Poor forest-dependent communities living in and around forests were directly affected by many of the new regulations implemented by the colonial government (Guha, 1996; Skaria, 1999). Often, these forest-dependent communities resisted the processes of forest

governmentalisation that redefined or denied their existing forest rights (Agrawal, 2005; Gadgil and Guha, 1992; Guha, 2001). Such forms of resistance by people against the external governance and control of environmental resources, be they water or forest management, are not exclusive to India. Generally, social struggles by people against forms of domination (ethnic, social or religious) and forms of subjugation have always been part of our society (Foucault, 2002). These struggles exist, as Foucault explains, due to a form of political power produced by the state that takes an interest only in the totality of the group of citizens, ignoring individuals.

In his interesting book *Environmentality: Technologies of Government and the Making of Subjects*, Arun Agrawal (2005) uses the term 'environmentality,' referring to a fusions of the concepts of the environment and Foucauldian governmentality, indicating the 'simultaneous redefinition of the environment and the subject as such redefinition is accomplished through the means of political economy' (Agrawal, 2005: 23-24). Through the lens of environmentality, Agrawal shows us how technologies of power and government have been instrumental in shaping environmental subjects. Environmental subjects are 'those for whom the environment constitutes a critical domain of thought and action' (Agrawal, 2005: 16). The verb 'subjects' in environmentality, draws inspiration from Foucault, being a 'form of power that subjugates and makes subject to,' that is, 'the way a human being turns him- or herself into a subject' (Foucault, 2002: 331). Environmental subjects, being the forest-dependent communities in Agrawal's study, not only adapt to the environmental regulation practices as set by the state, but also change their behaviour from initial resistance to state regulation to pro-active participation in forest management. However, the making of such environmental subjects – as non-identity-based categories, in contrast to ethnicity, caste or class – raises the question of how new social categories created by the state are instrumental in the inclusion and exclusion of the old identity-based subjects in forest governance.

Birkenholtz (2009) in his paper on groundwater deals with this latter issue. He exemplifies the state's efforts to introduce new decentralised groundwater regulations in Rajasthan, India, and the ways in which these efforts were resisted by the villagers. His study examined the political-economic motivation of the state and other agents to produce 'willing' environmental subjects within the new decentralised groundwater reforms. However, in contrast to Agrawal, Birkenholtz's case study indicates that social identities of farmers, namely caste and class, played a crucial role in influencing the groundwater reform policies. Stressing the idea that these farmers had multiple subject positions – related to state, caste, class and ecological change – he shows that such complex multiple subjectivities led farmers to either accept or resist the new groundwater governance reforms. However, the subject-making in Birkenholtz's analysis is devoid of any history – or *genealogy*, as critical analysis of historically contingent discourses and practices (see Dean, 2010; Foucault, 1979; Peluso and Vandergeest, 2001) – of governmental authority and of people's resistance against the domination of the state. One assumption of a genealogical approach is that the processes of

producing (environmental) subjects in (colonial) history and its continuation in recent decentralised policy reforms inform scholars about current struggles (including resistance) by forest-dependent people. Tracing these historical processes helps us to understand the making, inclusion and exclusion of subjects, and the consequences – both intended and unintended – of new forms of environmental regulations for local people.

In this paper, we use governmentality as an analytical perspective to explore the history of changing forms of forest governance, institutional authority and social practices relating to scheduled tribes and 'their' forests, and its evolution over time. In doing so, we advance the notion of forest governmentality as a perspective on colonial and present India by taking into account scholarly work on subaltern (or tribal) studies (such as those of Guha, 1983; Skaria, 1999) and by focusing on less discussed issues in political ecology and in the study of the commons, namely tribal people as an identity category in forest governance. The tribal people as a 'new' social identity category have been an important phenomenon in India's adoption of scientific forestry and in its recent shift towards decentralised forest tenure rights. While taking insights from the environmentality (Agrawal, 2005) and governmentality (Foucault, 1979) approaches into account, the paper examines how 'subject construction' and 'forest demarcation' has happened during colonial and independent India, how subjects were and are represented in laws and regulations, and how this has influenced the socio-political struggles of forest-dependent scheduled tribes. Doing so advances our understanding of identity-based categorisation of the scheduled tribes – in relation to historical re-definitions of forest ownership, access and rights – shaped by India's new decentralised forest tenure reform for tribal people. Forest governmentality, we argue, is a perspective that – contrary to more mainstream accounts of forest governance – can critically scrutinise the legal and political-ecological dimensions of the subject- and object-making of the scheduled tribes and 'their' forests in India.

The paper discusses three dimensions of forest governmentality: (1) the history of categorisation, (2) the politics of social identity, and (3) the technologies of forest governance. These dimensions are based on the three general axes of government, as distinguished by Dean (2010: 27) in his much cited book on governmentality: *episteme, ethos and techne*. The first notion, the history of categorisation, refers to two intertwining entities, namely forests and the scheduled tribes inhabiting these forests, which together represent a strenuous past and a forgotten history of forest governance. It explains the historical construction of the scheduled tribes and forest categories in contemporary India. The second concept, the politics of social identity, though related to the above processes of categorisation, emphasises the ways through which the externally imposed social identities of ethnic communities – such as encroachers in or guardians of the forests – play a role in their inclusion in and/or exclusion from 'their' forestlands. Constantly, these communities struggle to identify themselves with or distinguish themselves from these imposed identities. This makes them all the more crucial to examine, because the imposed identities (or the process of subjectivation, whereby new

moral subjects come into being via practices of the self) imply not only subjugation, but also certain degrees of empowerment (gaining benefits). The third concept, the technologies of forest governance, is concerned with the exercise of power, with the many means, mechanisms and instruments through which the governing of forests and people is accomplished. The new modes of decentralised forest governance policy, of which the recently adopted Forest Rights Act is one such instrument, have revived the century-old debate on rights versus privileges, and on forests versus human society.

2.3. HISTORY OF CATEGORISATION

2.3.1 Subjectification of the Bhil

The name Bhil is believed to have been derived from the Dravidian word, *Billu*, meaning bowman, as the tribe is renowned for its archery skill. With around twelve million people, the Bhil are the third largest group (among the 624 recognised scheduled tribes in India) inhabiting hilly, dry deciduous forest areas in the semi-arid tribal districts of western India (see Figure 2.1). Various local terms have been used to describe people living in forests, such as the *Adivasis, Vanputra*, *Jangli*, *Vanavasi, Vanyajati*, which literally mean *original inhabitants* of forests. Reference to this oldest ethnological group dates back to the pre-medieval period around 325 to 273 BC (Jha, 1994). Heterogeneity among the scheduled tribes is immense and sometimes observed within the same tribe across geographical boundaries having distinct languages and dialects, habits, modes of dress, beliefs, religion and customary practices, although this heterogeneity may not apply to all Scheduled Tribe groups today, if we take for example seasonal migration and trends of modernization into account. This sheer diversity puts it beyond the scope of this paper to attempt a comprehensive analysis of all tribal communities. Nevertheless, our analysis of the Bhil tribe illustrates implications of subjectification of the forest-dependent scheduled tribes within the forest governance domain.

Around the eighteenth century, during the reign of the Rajput warrior rulers, the Bhil politically dominated the teak and sal forested regions of many western and central hilly parts of India. These regions were divided into a number of small princely states, which were governed with the support of Bhil chiefs. The region witnessed several battles; the Rajputs employed the Bhil as bowmen to defend their territory or to raid peasant villages in the adjoining areas (Baviskar, 1995). Hereafter, this region came under the control of Peshwas-Maratha rulers who introduced agriculture by clearing forests and settling peasants. During this period, the Bhil were able to maintain their political and cultural independence to a great extent by maintaining local customary rules for forest governance (Deliège, 1985; Skaria, 1999).

Figure 2.1: Bhil tribal districts in semi-arid western India

Citing work of several scholars, Mosse (2005: 49) states that 'during the colonial period, the stereotypical image of "wild hill tribes" was based on the discourse that viewed Bhils as a people forced by powerful pre-British Rajput and Maratha rulers into the remote forest tracts, from where they became a source of raiding and dacoitry.'

Identity-based categorisation and subject-making of the original forest inhabitants, such as the Bhil, began during British India (see Table 2.1). Around 1860, various marginalised castes

and tribes in British provinces in India were all grouped together as 'Depressed Classes' in order to provide them with socio-economic benefits (Revankar, 1971). In 1919, the Indian Franchise Committee created a separate sub-category within the Depressed Classes to recognise the identity of ethnic marginalised minority groups to provide them with job opportunities. The Government of India (Scheduled Castes) Order of 1936, contained a list, or schedule, of castes to implement reservation of seats in educational institutions and to create government jobs for them (Government of India, 1935). The Government of India Act (1935) defined the term 'scheduled castes' as 'such castes, races or tribes or parts of groups within castes, races or tribes, which appear to His Majesty in Council to correspond to the classes of persons formerly known as the Depressed Classes, as His Majesty in Council may prefer.' This scheduled caste list was inclusive of tribal communities; and the list was a yardstick to recognise rights and privileges of communities living inside the forests.

After India's independence in 1947, the categorisation of tribal communities was formalised through a detailed separate statutory list of the Scheduled Tribes Order of 1950 that came into force following the reorganisation of the Indian states (Ghurye, 1963). The criteria applied by the different state governments to identify a community as a scheduled tribe were ambiguous, however, and are contested to the present day (Srivastava, 2008). The Constitution of India fails to provide a clear definition of the category, since Article 366(25) describes them as, 'such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be scheduled tribes for the purposes of this constitution' (Government of India, 1950). In addition to the categorisation of scheduled tribes as a *socio-ethnic* identity, the Constitution of India also creates a *spatial* identity by specifically recognising areas with high percentages of scheduled tribe inhabitation. It reads:

> … the Governor in the scheduled areas states may make regulations for peace and good governance particularly to: prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such areas; regulate the allotment of land to members of the Scheduled Tribes in such areas; regulate money-lending to members of the Scheduled Tribes in such areas (Government of India, 1950).

Table 2.1. Overview of forest governmentality in relation to scheduled tribes in India

Year	Scheduled tribe	Forest
Pre-colonial India Before 1850 Discretion: Princely states.	*Adivasis* or original inhabitants. There was no category of scheduled tribe.	Princely states managed forests. Rights to forestland and forest resources varied among states.
British colonial India Around 1850 to 1946 Discretion: British rule.	**1860s:** Category of Depressed Classes was created for socio-economic benefits of marginalised groups. **1936:** Scheduled Caste Order (included caste as well as tribal) – gave job opportunities for Depressed Classes. Forest dwellers resisted because village forest was not formalised.	**1864:** Indian Forest Department and scientific forestry established. **1878**: Indian Forest Act: ownership of forestland as right vs. privileges became prime issue, and faced resistance from forest dependents. **1927:** Indian Forest Act classified forests into three types: reserved, protected and village forest. **1930s:** Establishment of Forest Department at state level.
Post-colonial India From 1947 to 1989 Independence in 1947 Discretion: President of India. Central rule.	**1950:** Constitution of India adopted the definition of the scheduled tribes **1950:** Scheduled Tribes Order: gave recognition to a separate statutory list of scheduled tribes.	**1952:** Forest Policy Act: state took control of more forestland to achieve 33% forest cover. **1976:** Creation of separate Ministry of Environment and Forests. **1980:** Forest Conservation Act - attempt to evict so-called encroachers.
Contemporary India 1990s Discretion: On paper, trend towards decentralisation.	**1992:** National Commission for Scheduled Tribes created **1999:** Creation of separate Ministry of Tribal Affairs.	**1990s:** People's participation. Joint Forest Management programme involving Forest Department and local people to protect forests. **2000:** Proposal to revisit the definition of forest by the Ministry of Environment and Forest. **2002:** Ministry of Environment and Forests' directive to evict illegal encroachers on forestland (MoEF 13/1-90)
2006	**2007:** India voted for United Nations Declaration on the Rights of Indigenous Peoples adopted by the General Assembly. Ministry of Tribal Affairs (and not Ministry of Forest and Environment) initiated a key piece of forest legislation: the *Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act* 2006, also called the Forest Rights Act. The Forest Rights Act aims to undo historic injustice done to the scheduled tribes and other traditional forest dwellers by recognising their traditional forest rights.	

The construction of categories of scheduled tribes as a subject, and the 'scheduled areas' as a territorial demarcation, were further institutionalised through the creation of separate constitutional bodies – the National Commission for Scheduled Tribes in 1992, and the Ministry of Tribal Affairs in 1999 – to ensure the development of the marginalised communities involved.

Thus, the scheduled tribes have been subjected to purposive classification and to legislative processes of inclusion and/or exclusion from their access rights to forests. The idea of exclusion in Foucault's thinking, as Dean (2010) suggests, refers to 'dividing practices,' which happen when certain categories are created by the state by dividing the population into sub-categories. Consequently, the parts of the population that have different ways of life or fail to possess or display the criteria set by the state are excluded from certain practices and rights, with the intent to discipline them through exclusive juridical and political status, or to eventually mainstream them. The dividing practices for India's scheduled tribes have led to the subjectification of the Bhil and to a consolidation of their social identity (see section 4).

2.3.2 Classification of forests (as an environmental category)

A similar process of conscious categorisation took place in the field of forests and forestry. With the recent advent of decentralised forest tenure reform in the dry, deciduous, almost degraded teak (*Tectona grandis)* and sal (Shorea robusta) forests in the Bhil populated areas of western and central India, this categorisation has again become a political subject. Since the British colonial period, forests have been state property. The state monopoly on land and forest resources began with the creation of the Indian Forest Service in 1864, which also marked the beginning of full state control and of intrusion into the existing traditional resource access rights. E.P. Stebbing (1982), a historian, had in the 1920s criticised the Forest Service for extending its control and territories, and considered the British forest administration as a unit for the production of timber revenues only. Any land that was not economically productive, according to the British colonial Forest Service, was categorised as wasteland, even though the land had high value for local forest-dependent people. However, the term wasteland continued to prevail in independent India. Stebbing (1982: 70) also documented that in 1807 a proclamation by the British India Company asserted that 'a royalty rights in teak claimed by former governments were vested in the Company, and all unauthorised felling of the teak by private individuals was prohibited.' A Bhil chief in Dang district who protested against the government of Bombay Presidency for demarcating the rich teak forest in 1880s said: 'we do not wish to let the Dang jungle [be] demarcated, for thereby we shall lose our rights and we and our poor *rayat* [cultivators] shall always be under the control of Forest Department and the Department will always oppress us' (as quoted in Skaria, 1999: 216). The eminent Indian historian Ramachandra Guha (2001) explains that the European model of scientific forestry with strict state control over forests, when exported to

India by the British, caused the resistance of forest-dependent tribal people to become a recurring trend.

However, there were also efforts within the Forest Department to recognise the rights of the communities living inside the forests. Dietrich Brandis, the first Inspector General of Forests, expressed an interest in reviving and strengthening village communal institutions and indigenous forest management practices (Guha, 2001), but his ideas were never implemented. Instead, the Indian Forest Act, adopted in 1878, started the process of forest reservation that effectively meant that forest inhabitants were dispossessed of the forestland and of the forest resources. This Act classified state forests into three types. The first type, reserved forests, was meant for commercial timber exploitation that prevented the practice of customary rights. In protected forests, the second type, the rights and privileges of original inhabitants were recorded but not settled. The third classification, formalisation of village forests, implied that any revenue from village forests was meant for village communities managing such forests. The formalisation of village forests was never implemented however. Interestingly, after this legislation, the protected areas were gradually converted into reserved forests where the state could have more power. Gadgil and Guha (1992: 134, citing Stebbing) said that 'the 14,000 square miles of state forest in 1878 (the year the act was passed) had increased to 56,000 square miles of reserved forests and 20,000 of protected forests in 1890 – the corresponding figures of a decade later being 81,400 and 3,300 square miles respectively.'

An era of debate on rights versus privileges emerged with the Forest Act of 1878 that advocated total state control over India's forests by ignoring the existing customary rights, norms and practices about having access to forestland and forest resources (Gadgil and Guha, 1992). Traditional rights were converted into privileges that were either limited or abolished at the will of the Forest Department. Importantly, the duty of reporting violation of rights fell to the forest people, who failed to register as such primarily because they were illiterate and lacked the western notion of property rights. The Forest Department's interest in owning and managing land became the prime issue in tribal conflicts. Gadgil and Guha (1992, p.135) write,

> … 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.

Attempts to re-invigorate the provision of village forests were made through the revised Indian Forest Act of 1927, which by the way still governs independent India's forest administration today, but to no avail. Instead, this legislation introduced a clause that required

claims relating to practices of shifting cultivation or access rights to land and forest produce by tribal and other forest-dwelling communities to be settled by the forest settlement officer. It further aggravated the ongoing tribal resistance including in western India, as Guha (2000: 39) recounts, 'in all kinds of ways: through arson, breaches of the forest law, attacks on officials and on government property, and quite often, through co-ordinated and collective social movements aimed at restoring local control over forests.' By 1930, the state-level Forest Department was set up so that the respective states would control their own forests. Mosse (2005: 51) says that 'unruly mosaic forests were disciplined into ordered high-value timber-producing reserve forests of teak, protected from Bhils and their hunting, gathering and shifting cultivation. Bhils lost the forest by stealth, as colonial knowledge ("scientific forestry") created Bhil ignorance.'

Thus, about a century ago, as a consequence of scientific forestry and political subjectification of tribal people, forests were demarcated on the basis of statistical calculations of valuable timber harvests, and tribal people were categorised as new ethnic groups without recognising their customary forestlands and rights. In cultural, ecological or geographical terms however, the scientific definition of the term forest explains little. At present, all that remains of the previously demarcated rich teak forest in semi-arid western India is now categorised as degraded forestland. Thus, the historic construction of forests and tribal relationships explains that those demarcating the forest are not only in control of how the forest is managed and exploited, but also liable for categorising what is considered a forest. These embedded histories are crucial components in the re-construction of contemporary forest tenure reform, in particular, in the recognition of the current forest rights of the Bhil.

2.4 THE POLITICS OF BHIL'S FOREST-RELATED IDENTITY

In this part, we examine the changing, forest-related social identity of the Bhil as shaped by the government and by the Bhil communities themselves. Below we elaborate this identity politics, which is twofold: first, the (mis)use of Bhil identity by the government – to be summarised as subjectification – and second, the internalisation of this imposed identity – or subjectivation – by the Bhil communities. The making of the present-day tribal identity of the Bhil – a poor, marginal, ignorant, uncivilised community and encroachers on forestland – combines the history of colonial oppression and exploitation with the loss of power, influence and control over land and forest resources (Mosse, 2005). In brief, the political and cultural identity of the Bhil people is enmeshed with the making of forests as an environmental category.

2.4.1 Bhil identity imposed by the state

Representations of tribal identity by the state have been paradoxical and have moved between two perspectives: (1) tribal people as protectors and original inhabitants of forests vs. (2) tribals as encroachers and main agent of deforestation. A classic example of tribal people as protector emerges from ecological and cultural identity movements that include the Appiko movement against illegal over felling of forests in the state of Karnataka, the Chipko peasant movement in Uttarakhand in response to deforestation (Kapoor, 2003), and the Bhil tribal movement against the Narmada River Valley Dam Project in Gujarat and Madhya Pradesh (Baviskar, 1995). These discourses have been institutionalised into practices of law, particularly the encroachment school of thought, which has had the most influence in governing the relationship between forest and tribal people (Suykens, 2009). The identity of the Bhil has emerged with the inception of exclusive policies since the early nineteenth century in British India. Skaria's (1999) extensive study on Bhils in Dang district in Gujarat focuses on constructions of 'wildness' through the changing meaning of *jangal* (forest wilderness) and *jangli* (inhabitants of jungle). Skaria (1999: ix) argues that, 'the values associated with the jangal and being jangli were crucial to the construction of power, authority and identity in both Dangs and surrounding plain societies; it was in this sense that a discourse of wildness was influential.' Further, he points out three common strategies adopted by the state to civilise the tribes and the forests: (i) 'protecting from the outsiders' because Bhils had to be protected from the liquor merchants, and forests from timber traders; (ii) 'protecting from themselves' because the Bhil's high-spirited boisterousness had to be kept in check, and forests too had to be managed through silvicultural techniques; and (iii) 'excluding each from the other' because it was considered that Bhils became lazy because of their dependence on the forest, which in turn wrecked the forests (Skaria, 1999: 199-200). David Mosse (2005: 54) explains that their current identity is shaped by discourses and policies: 'Bhils have been patronized and disciplined, displaced or protected, integrated or excluded, reformed or rescued, ennobled or accused in colonial or post colonial policies on the tribal or in contemporary environmental debates on deforestation or dams.' Thus, with the establishment of the Forest Department in colonial India in an attempt to discipline them, the Bhil's traditional rights were suppressed; instead, they were granted privileges to use fuel woods, fruits and other non-timber forest produces for livelihood purposes. Moreover, the customary (informal) local institutions to manage resources were replaced by the statutory institutions, particularly the Forest Department. The rights of the scheduled tribes, as described by B.H. Baden-Powell, were 'strict legal rights which unquestionably exist, and in some instances have been expressly recorded in land settlement records, while *privileges* defined as concessions of the use of grazing, firewood, small wood, etc., which though non-claimable as of legal right, are always granted by the policy of the government for the convenience of the people' (as cited in Gadgil and Guha, 1992: 125).

In contemporary India, one of the most controversial Indian laws has been the Forest Conservation Act of 1980 (with amendments in 1988) that requires mandatory central permission for diverting forestland for other uses. This law dealt the biggest blow to the forest dwellers' claim on property rights. Large number of tribals inhabiting the forests, whose rights were either not recorded (due to oral tradition) or settled or who were not residing inside the forest but dependent on its resources, became encroachers on the basis of this Act. However, with the introduction of the Forest Policy of 1988, community participation, conservation and subsistence needs became important issues too. This resulted in formal acceptance of the Joint Forest Management (JFM) programme in 1990 that gave certain rights to the community to protect and manage the – by now – degraded forestland themselves. However, during 1995, with the systematic enumeration and demarcation of forestland, most forest-dwelling tribal communities and original cultivators were still categorised as encroachers. In May 2002, the problem of demarcation re-surfaced when the Ministry of Environment and Forests (MoEF 13/1-90) unilaterally issued a directive to all state governments to evict illegal encroachers on forestland (settled post-1980s), and to complete the process within five months. The consequence was perceived as unfair eviction in various parts of tribal areas. In July 2004, acknowledging the injustice done to tribal people, the Ministry of Environment and Forests, in an affidavit filed in the Supreme Court, admitted the following:

> That, for most areas in India, especially the tribal areas, record of rights did not exist due to which rights of the tribals could not be settled during the process of consolidation of forests in the country. Therefore, the rural people, especially tribals who have been living in the forests since time immemorial, were deprived of their traditional rights and livelihood and, consequently, these tribals have become encroachers in the eyes of law. That these guidelines, dated 5 February 2004, are based on the recognition that the historical injustice done to the tribal forest dwellers through non-recognition of their traditional rights must be finally rectified. It should be understood clearly that the lands occupied by the tribals in the forest areas do not have any forest vegetation. Further, that because of the absence of legal recognition of their traditional rights, the adjoining forests have become 'open access' resource as such for the dispossessed tribals, leading to forest degradation in a classic manifestation of the tragedy of commons (as quoted in Blaikie and Springate-Baginski, 2007: 77).

So far, we have highlighted narratives that have influenced the forest-related identity of the Bhil with the changing political scenarios. They have successively been categorised as protectors, encroachers, managers and/or rightful access holders of forests. The image of

encroachers has very much determined their relation with the Forest Department. At the same time, the Bhil have resisted this subjugation by the state to maintain their identity as forest dwellers.

2.4.2   Being Bhil people

The second aspect of Bhil identity concerns their perception of being Bhil. Today, the Bhil community is uncertain about the longevity of their recognition by the government as a scheduled tribe. Although the Bhil have resisted subjugation and categorisation on the one hand, they currently fear exclusion from the recognised scheduled tribes list. This uncertainty stems from a provision in the Constitution of India, Article 342(2), that states '[p]arliament may by law include or exclude from the list of the Scheduled Tribes specified in a notification issued under clause (1) a tribe or tribal community or part of or group within any tribe or tribal community' (Government of India, 1950). A loss of scheduled tribe status would imply a loss of political recognition of their ethnic identity as well as a loss of support for their traditional rights-based claims on natural resources. This paradox of the Bhil simultaneously resisting *and* internalising the scheduled tribe identity is hard to understand, but as David Mosse (2005: 7) notes while reflecting on the centrality of the Bhil's struggle for identity and forest tenure: 'historically, Bhil identity has been forged from a complex history of forest livelihoods, rule and resistance, and a history of relationships with dominant groups in society.'

Unlike the colonial history, the current politics of tribal identity occurs on two scales. First, the *social* scale relates to the current distinctions between scheduled tribes (Bhils), the 'reformed' scheduled tribes (Bhilalas) and the non-scheduled tribes. In general, the Bhil people are identified as animist, but many claim to be atheists. Hardiman's book 'Coming out of devi' (1987) on Bhil tribal suggests that it would be very difficult to make this claim of being atheists. In recent years many tribal villages have constructed religious places, and several households, known as Bhilalas, have given up their tribal cultural practices of drinking alcohol and eating meat in an attempt to gain societal status with the mainstream (non-scheduled tribe) community (information derived from fieldwork conducted by the first author in western India between 2008 and 2010). Such identity-based re-categorisation of the scheduled tribes exemplifies the state's (historic) attempt at strategic divide-and-rule practices, excluding those who fail to fit within the state's rationalities. Nevertheless, it also shows – being the other side of the governmentality coin – the self-control of people to match society's dominant values and norms. The second scale, which is political in nature, concerns the different macro policies of the Ministry of Environment and Forests, and the Ministry of Tribal Affairs. Whereas the former claims many tribal lands to be forestlands, thus excluding tribals as illegal encroachers, in contrast the latter claims these to be tribal lands, giving forest rights to tribal people. This schizophrenic situation of course creates additional tension and anxiety for the Bhil.

Over time, the Bhil have become subject to a complex array of laws, policies and administrative structures, in both colonial and independent India. Their identity as people belonging to the socio-economic and political category of the scheduled tribes has been part of this complex interaction. In myriad invisible ways, they have also tried to identify themselves with mainstream society. Yet, this change in adapting to cultural mainstream practices does not signify that the Bhil want to renounce the political identity category of scheduled tribe. A narrative of a Bhil (customary chief) villager explains: 'In the past, we faced the exploitation of *Raj* (British India). Some Bhils had resisted the cutting down of the (then) dense teak forests, whereas others had been made part of the process. Today, we protest with a non-violence approach; we collectively make use of our legal rights of Bhil identity to claim back our land rights.' For example, a Bhil farmer from Banswara tribal district in south Rajasthan stated that, 'it is our [Bhil's] pride and responsibility to protect the forest (land and resources) from being claimed by the non-tribal settlers' (data derived from in-depth qualitative household interviews conducted in August 2008 by the first author). Claiming the land as part of their traditional rights from the government-demarcated forest area could be seen as the Bhil's current strategy to exercise their identity. Consequently, the way in which they use their tribal identity as a tool to change from being encroachers on the land to rightful claimants of the land reflects their struggle against the state's efforts to make them into subjects. Paradoxically, this further reinforces their subjectification in the form of a separate object of policy making.

2.5   DECENTRALISED FOREST GOVERNANCE

From restitution to rights, Bhil communities in western India have experienced alienation from forestland and denial of access to forest resources. Although their classification and recognition as scheduled tribals indicate a certain extent of identity-based representation in forest legislation during British India and in recent reforms for decentralised forest governance, customary forest rights have not been properly addressed so far. Currently, though, a rights-based approach seems to be emerging in India's forest governance, although such an approach is not new to India. As far back as the 1860s, as indicated in section 3.2, Brandis proposed to recognise the customary rights of people residing inside forests (prior to their being classified as scheduled tribes). However, this idea was never implemented, resulting in contestation over much forestland.

A similar rights-based approach seems to have been implemented, although under popular pressure, with respect to administrative decentralisation. In 1992, when the decentralisation process was first introduced through the Panchayati Raj in India, it excluded the tribal areas. It was only in 1996, after nationwide protest by tribal groups and human right activists, that decentralisation became a reality in the tribal areas as well, with the provisions of the Panchayats (Extension to the Scheduled Areas) Act, (No. 40 of 1996), popularly known as

PESA (henceforth, the PESA). The PESA aimed to devolve power to the tribal *gram panchayats* – the elected third-tier village-level government institution. Decentralisation enforced through this Act aimed to bridge the gap between the hitherto respected tribal traditions of self-governance on the one hand and decentralisation of the administration through elected *gram panchayats* on the other. Below the level of *gram panchayat*, the PESA stipulated the establishment of a *gram sabha* at the level of the hamlet. Moreover, section 4.a of the PESA determines that 'a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices, and traditional management practices of community resources.' It required state governments to amend their existing laws to make them consistent with the federal legislation. Just like the recognition of customary rights proposed by Brandis in 1860, the PESA had to date not been adopted.

For forests in particular, decentralised governance was also introduced in India with the launch of Joint Forest Management (JFM) in 1990. JFM aimed – and still aims – at involving rural people in the protection and management of forest, jointly with the Forest Departments. So far, there has been some positive outcomes of JFM, such as a betterment of forest quality and quantity in several areas, but on the negative side, villagers did not gain any decision-making powers through JFM, there has been a lack of transparency and democracy within the villages involved and exclusion of poor, landless and female members of communities has been rather common (Banerjee, 2007; Poffenberger and Singh, 1996). Moreover, tribal rights to forest produces remained unclear (Das, 1996). In 2004, one of the items on the political agenda of the then newly elected national government (United Progressive Alliance) was to put an end to the eviction drive against forest-dwelling tribal and traditional communities and to overcome the shortcomings of JFM. The government gave the task of drafting the so-called Forest Rights Act to the Ministry of Tribal Affairs. The Ministry of Environment and Forests opposed the decision, claiming that forests came within their domain of jurisdiction. Nevertheless, the Forest Rights Act was passed.

The assumption is that the implementation of the Forest Rights Act will benefit forest dwellers. Its paradigm shift towards a rights-based approach seems to be producing a new meaning for tribal communities' involvement in forest management. Nonetheless, the concept of forest has long been debated in Indian legislation and still does not have a clear definition today (Rastogi, 2007). Thus, forestland tenure and forest resources have been contentious issues as a result of the Forest Department's authority to reserve forests for exploitation and protection on the one hand vis-à-vis the constitutional rights of tribal communities to access the forests on the other. After 60 years of independence, the Forest Rights Act is the first legislation in India that duly recognises those who do not have any documentary proof of their land holding but can claim that they are cultivating the land themselves for a livelihood. Thus, the Forest Rights Act recognises that many scheduled tribe communities and other traditional forest dwellers can legitimately reside on demarcated forestlands without any formal (colonial) records or prior recognition of their rights.

There are several aspects of the Forest Rights Act that demand special attention in the context of future tribal forest governance, and we elaborate below on the following four: (1) the creation of a new social category; (2) the implementation problem; (3) the dilution of existing authority; and (4) the individualisation of tenure rights. First, the law not only applies to the identity-based category of the scheduled tribes, but also creates a new vague social category of 'other traditional forest-dwellers', without, however, clearly communicating who belongs to the latter category. This is important because, on the one hand, non-tribal elite communities have – in the name of 'other traditional forest dwellers' – already claimed encroached land in several Bhil-dominated villages (Bose, 2011a). On the other hand, a too restrictive interpretation of the term may pose a threat to the claims of vulnerable pastoralists and nomadic tribes, who have been traditionally dependent on natural resources. For example, there is evidence of an increase in conflict due to Bhil people's denial of the traditional barter system of nomadic pastoralist communities (first author's field work 2008-2010). This legislation considers December 13, 2005, as the cut-off date for consideration of land rights. For traditional forest dwellers other than scheduled tribes, a lease will be given for land that they have occupied for three generations, or 75 years prior to 13 December 2005, for bona fide livelihood needs. At least on paper, the Forest Rights Act recognises traditional forest rights of tribals that include *nistari* (community forests), minor forest produce, fish and other products of water bodies, grazing land, traditional seasonal resource access for nomadic or pastoralist communities, community rights to intellectual property and traditional knowledge relating to biodiversity and cultural diversity. Prior to the Forest Rights Act, most of the Bhil people had been either displaced or regarded as illegal settlers by the state Forest Department, but through the Forest Rights Act, those whose land is in dispute or whose land has been taken by the Forest Department are eligible to legitimate land claims.

Secondly, besides creating confusion about who is addressed by the Forest Rights Act, other problems have emerged with its implementation. For implementation, the Forest Rights Act has different tiers – state, district, sub-divisional and village – of committees. Each tier committee will consist of officers each from the Revenue Department, Forest Department, and Tribal Department of the state government and three members of the *Panchayati* institution at the appropriate level, of whom two shall be scheduled tribe members and at least one shall be a woman. Such judicial clauses for reservation of seats provide for mere representation of minority groups on the committee without actually devolving any resources to local people or empowering tribals, particularly women, to make decisions themselves (Bose, 2011a). Moreover, these multi-stakeholder committees at higher administrative level are not accountable to the *gram sabhas*. There are several inconsistencies between the rules of the Forest Rights Act and the PESA, for example regarding the definition of the *gram sabha*. The Forest Rights Act rule 3.1 defines *gram sabhas* of the panchayat as the larger entity that may oversee more than one village (or several hamlets); this contradicts the PESA, which defines a *gram sabha* in tribal areas as being at the level of one hamlet. There is concern that,

although the Forest Rights Act envisages the involvement of democratic institutions at the grassroots level, the *gram sabha* does not have the power to recognise forest rights or enforce such rights.

Thirdly, there is no doubt that on paper the Forest Rights Act could be regarded as a step towards political decentralisation, since it clearly gives sole authority to the *gram sabha* (village assembly) as the competent authority for initiating the process of determining the nature and extent of individual forest rights. However, different tiers in the decision-making process dilute the authority of the *gram sabha* to form village-level forest-right committees to assess the individual and collective forest tenure claims. An individual or community can appeal within 60 days to a sub-divisional committee if they are dissatisfied with the village-level committee decision. Although the village committee can veto the decision of the sub-divisional-level committee, the decisions of the district level committee remain final and binding. Moreover, the district-level committee holds the authority to decide the period for which forest rights should be 'derecognised' in the event of repeated contravention of the provisions of the Forest Rights Act. Moreover, due to high levels of illiteracy and a lack of empowerment, Bhil people hardly know about their rights to claim forestland, let alone appeal against a higher authority's decision (first author's field work data 2008-2010). Our case of decentralised forest governance in Bhil communities corroborates Ribot's (2003) extensive findings in developing countries, suggesting that common problems of political decentralisation in the forestry sector are related to the choice and the form of representation in local institutions, to accountability, transparency and the general lack of devolution of resources.

The fourth aspect is that the emphasis in the Forest Rights Act on the statutory forestland rights of the individual (tribal) household undermines collective forest rights. Under customary law, land was held by the village as a whole, guaranteeing the continuity of the community and ensuring that each household had access to resources to sustain its livelihood. With the individualisation of tenure rights, inequality is created within the village, and this may potentially lead to opportunistic behaviour by tribal (and non-tribal) individuals. On one hand, those who acquire individual tenure rights enter into institutional arrangement with the state (instead of a relation as a kinship group: the Bhil), and therefore acquire an interest in the new situation created by the Forest Rights Act. On the other hand, those whose individual tenure rights are not recognised are faced with identity-based exclusion both from the government and within their own tribal community. The other related issue is about the rights-based approach in forest governance, because in reality, in the case of the Bhil, such rights are not true rights, but rather privileges because they do not have alienation rights. In general, the perception of the Forest Rights Act can best be summarised by quoting a Bhil respondent who explains that, 'the rightful land that belonged to us was taken away, and it was classified as forestland. Now, our land is returned (through the Forest Rights Act) to us as a privilege – without giving us any alienation rights – making the forestland totally state-

controlled.' Another challenge of the Forest Rights Act is the way the decision making about rights is organised. The formal institutions (for instances *panchayat*, sub-division committee, district committee) can influence the allocation of forestland within the tribal villages, superseding local customary arrangements. This means that the government (through Revenue, Forest, *Panchayati*, and Tribal Welfare Departments) increasingly has the ability to influence local practices of land use and land allocation because they have the mandate to intervene in disputes about forestland, triggered by the implementation of the Forest Rights Act. Thus, the individualisation of forest rights not only divides the tribal people politically, but makes both forest and tribal people easier subjects of more centralised governance.

The success of the decentralised Forest Rights Act depends upon the respective state governments of India adopting specific forest and tribal rights laws, which may or may not recognise all the clauses of this legislation. Furthermore, implementation of the decentralised forest tenure reform also relies on coherence with other existing statutory laws and the extent of collaboration among different government department officials.

2.6   CONCLUSION

In this paper we have analysed three dimensions of forest governmentality – the history of categorisation, the politics of social identity and the technologies of decentralised forest governance – in relation to the Bhil tribals and their forests. As we hope to have shown, forest governmentality offers an insightful analytical lens to explain the mechanism that created the scheduled tribes category during the British colonial period and governed the inclusion and exclusion of tribals in respect of forest use and management on the basis of this categorisation. This same categorisation process produced the tribal people's resistance against and – later on – embracing of these identity-based categories, and helped maintain state control over forestlands through new modes of forest governance in historical and contemporary contexts. A long lineage of commonalities is evident between colonial state forest policies oriented at categories such as village communities, and independent India's Forest Rights Act recognising traditional forest rights for the scheduled tribes and other traditional forest dwellers. Yet, India's land or agrarian reform in the past was different compared to the current forest governance that promote – at least on paper – political decentralisation. The distorted land classification of the past (dispossession of forest inhabitants) therefore poses a challenge to future forest governance.

Despite codified edicts, laws and policy discourses, for several reasons tribal forest tenure rights in India do not necessarily match with reality on the ground. One of the biggest future implications of forest governmentality is the forest tenure transition from customary collective ownership to individualisation of forestland, mainly because it fails to identify distinctions between different local customary property arrangements, often managed through kinship or hamlet. The fact that most tribal people have specific tenure systems of collective

forest rights based on *customary* arrangements leads to their exclusion from the Forest Rights Act's scope, which is – ironically – supposed to defend their forest rights.

This paper has deliberately chosen to examine the making of categories of forestland and scheduled tribes that have become part of modern legal-political and environmental discourse. Our point is straightforward. First, with the construction of the scheduled tribes during the colonial period, this socio-ethnic identity category has been internalised by the post independent state to control practices of certain groups of marginalised people. Consequently, the state is able to maintain *domination* over the scheduled tribes by new modes of regulation of forestry resources. Second, the unchanged hierarchical structure of forest administration that continues to function uses a traditional authoritative approach by implementing rules that apply uniformly, ignoring difference in forest–people relations, and further perpetuating social identity through identity-based tenure reforms. Finally, the Bhil have adopted this state-imposed identity category as their own 'indigenous tradition' to further claim and control forest rights in their favour. This process illustrates the articulation between techniques of state control and the self-constitution of the 'subject' (Foucault, 1977).

Our paper shows the urgency for in-depth socio-political research on three dimensions of forest governmentality to examine, for example, how forest governmentality influences exclusion and inclusion within the scheduled tribes. If tribal resource governance systems are to be sustained, there is a need for thorough investigation of tribal people's changing individual and collective forest rights. In addition, critical assessment of changing authority relations and institutional arrangements for forest management in the scheduled areas is required. Addressing these research questions could facilitate the next generation of forest tenure reform efforts to effectively integrate people's interest in forest governance in tribal India.

authority & institutional pluralism
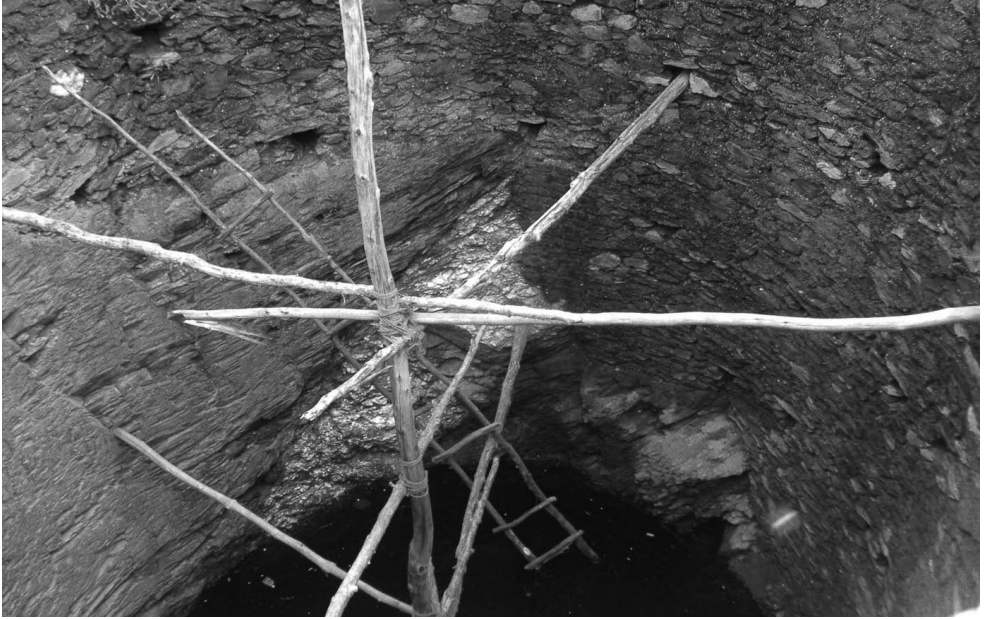
A groundwater well in Kushalgarh semi-arid tribal sub-district in Rajasthan.
Photo credit: Purabi Bose

Authority changes with the introduction of new institutional arrangements, and this holds true for the various actors contesting for secure forest tenure rights. India's decentralised forest reforms have brought new forms of authority and institutions, on top of traditional ones. An optimist would argue that institutional pluralism enhances equity, accountability, and decision-making participation in collective forest management, whereas a pessimist would consider exactly the opposite. The question is not about a romanticised choice 'for' or 'against' certain institutions or authority; rather it is about how pluralism influences local forest governance.

Following from chapter 2, the future and outcomes of current tribal tenure reform remain unclear. Chapter 3 therefore investigates how institutional pluralism and diverse forms of authority are changing tribal people's collective forest management today.

The two operational sub-questions proposed for this research are:
- In what ways do customary and statutory institutions simultaneously function in villages in recognising collective forest rights (who gains and who loses)?
- What is the interaction between different types of institutions and authority in decentralised local forest management?

The micro-political analysis conducted here uses the concepts of authority and institutional pluralism from the spatial level of the tribal *gram panchayat*.

3 AUTHORITY, INSTITUTIONAL PLURALISM AND FOREST RIGHTS: INSIGHTS FROM TRIBAL COMMUNITIES IN INDIA

ABSTRACT

Institutional pluralism is generally believed to provide a level playing field with polycentric sources of authority and institutional choice that would benefit local people. Forest tenure reform has created such a polycentric system of institutions for local-level forest management in India's twenty-first century tribal villages. Historically, the traditional forest rights of tribal people were denied. Recent decentralisation and forest tenure policy reforms to formalize and transfer traditional rights to forest people have created new institutions and new forms of authority. This paper examines the effects of institutional pluralism and authority relations on tribal people's struggle for collective forest tenure rights. Empirical evidence is drawn from qualitative case studies of the functioning of multiple institutions – customary, joint forest management, *panchayati raj*, women's groups and Forest Rights Act committees – in five Bhil tribal villages in Banswara district, Rajasthan. The findings indicate that institutional pluralism restricts Bhil people's collective forest rights because no real authority has been decentralized, and gives the elite and line ministries more discretionary authority to control forest management.

Keywords: Authority, institutional pluralism, collective forest tenure, forest rights, decentralisation, tribal, India

3.1 INTRODUCTION

In many countries, governments are giving land titles and devolving authority to their indigenous people to manage forestland and its resources. Within this global wave of decentralisation,[10] attempts are being made to identify the rights of those customary actors or institutions historically excluded from official decision making about forest management. Several countries, for example, are beginning to recognize customary rights of traditional forest peoples by devolving part of the 'bundle of rights' (use, access, withdrawal, exclusion), but alienation rights are retained by the government (Larson et al., 2010; Sunderlin et al., 2008). The direct effect of this forest tenure reform is the emergence of a variety of institutions covering various aspects of forest management. Forest tenure reform, therefore,

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[10] Decentralisation is any act by which a central government formally cedes power to actors and institutions at lower levels in a political–administrative and territorial hierarchy (Ribot, 1999).

has become a complicated process because multiple stakeholders make competing claims in relation to different institutions mediating access to forest resources. Forest tenure reforms create new local institutions and new forms of authority on the assumption that polycentric systems of resource governance open up space for bargaining for the disadvantaged groups as they can rely on multiple institutions to make their claims (Fairhead and Leach, 2001; Ostrom, 1999). A new form of authority may strengthen or weaken a pre-existing authority of an institution and/or actor. However, little is known about the impact of institutional pluralism and authority relations on local natural resource governance. What are the interactions and conflicts between different layers of authority and local institutions, and what effects do they have on traditional forest people's tenure rights? How does institutional pluralism promote or restrict collective forest tenure rights? Similar questions are beginning to emerge among academics, policy makers and practitioners with the global trend towards forest tenure transition (Larson et al., 2010).

Despite the fact that local resource management in India has been extensively studied (Agrawal, 2005; Edmunds et al., 2003; Rangan, 1997; Schug, 2000; Sivaramakrishnan, 1999), this has rarely explicitly been done in relation to India's scheduled tribes (Bose, 2009c; Springate-Baginski and Blaikie, 2007). British colonial rule and its influence on forest management in tribal India have had an enormous impact on customary institutions and the way in which they adapted to, and accommodated, the changing socio-political and legal environment. Despite the fact that about 500 tribal communities have been recognised as scheduled tribes living in or around forest areas and form 8 per cent of the nation's population, their recognition as indigenous people is politically contested in India. As a result, tribal people's (henceforth used interchangeably with scheduled tribes) access to forest resources has become dependent on the discretion of state authorities and institutions. Following a number of tenure reforms over the past decades, there is a growing concern about the effects of institutional pluralism and new authority relations on tribal people's access to forest resources. This has become even more crucial with the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (henceforth the Forest Rights Act) that recognizes traditional forest rights of tribal and forest-dependent people.

In this paper, we examine the effects of institutional pluralism and multiple authority relations created through various forest tenure reforms, on tribal people's collective forest rights in Banswara district, Rajasthan. The analysis of institutional pluralism and authority in in relation to the collective rights tribal people on forestland and its resources will highlight the way in which tribal people perceive their forest rights, and the way in which authority is created, maintained, gained or lost due to forest tenure reform and the interaction between institutions. We will argue that, multiple new institutions that are uncritically introduced to address traditional rights and ignore customary authorities may help to maintain and even

deepen unequal authority relations so that rights of poor tribal people to forest resources may be jeopardized.

After this brief introduction, the second part outlines an analytical argument by considering current literature on local authority and institutional pluralism in forest tenure reform. The third part summarizes tribal India's colonial and post-colonial institutional pluralism before describing the study area and method. In the fourth part, in-depth case studies on institutional pluralism in the five tribal villages of Banswara district, Rajasthan, are presented, showing the functioning of the institutions and authority relations currently in place from the Bhil tribals' perspective. In the fifth part, we analyse and discuss the two key issues emerging out of the studied decentralised forest governance reform: (1) the creation of contradictory authority relations and rights; and (2) the dynamics of institutional pluralism. Finally, we draw conclusions with respect to institutional pluralism and authority relations in tribal forest governance.

3.2   AUTHORITY AND INSTITUTIONAL PLURALISM IN LOCAL FOREST MANAGEMENT

Over the past decade, there has been a growing body of literature on forest tenure reform, decentralised forest management of forest resources and the dynamics of authority relations. This body of literature covers the emergence of a new global to local forest regime by assessing a variety of issues such as legal and institutional pluralism, the regulation of forest access rights, changing relations of authority and their implications for traditional forest people.[11] Institutional pluralism in forest management can broadly be understood as the co-existence of multiple institutions that guide or regulate the interaction of multiple actors, cultures, practices, policies and individual interests that have a bearing on forest resource management. In the case of India, this refers to the interplay between self-initiated and externally introduced institutions and their sources of authority that govern the management of forestland and forest resources. Often, pre-existing customary institutions co-exist and/or overlap with statutory modern rule and territorial administration. For example in Ghana, the constitutional right to manage resources is vested in the president, but ownership remains in many places in the hands of the traditional tribal chiefs who each control a specific portion of land – different from the state administrative boundaries – called 'stool land' (Larson et al., 2010).

Authority is referred to as the power or the ability to make decisions that is recognised (or not recognised) by certain individuals and/or institution while contested by others (Larson et al., 2010; Sikor and Lund, 2009). As Lund (2006: 693) notes, authority is closely linked to the legitimacy of the specific institution not because 'an institution has to be legitimate to

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[11] For example see Bose et al., 2010; Larson et al., 2010; Ribot et al., 2008; Sikor and Lund, 2009; Sunderlin et al., 2008; von Benda-Beckman, 1981.

exercise authority, but especially because the actual exercise of authority also involves a specific claim to legitimacy.' Recognition or creation of a new authority strengthens or weakens the authority of existing institutions and may render their practice legitimate or illegitimate. The recognition of authority is a political act, and territoriality, for instance making and enforcing village and forest boundaries, is a core aspect of the exercise of authority (Lund, 2006). Any reform by the government, international donors, NGOs or activists therefore brings change in authority relations. However, rarely does the government take into account the need for consultation with the local community to legitimize authority.

In the theoretical literature on the management of common property resources, the existence of multiple institutions with different (polycentric) sources of authority is considered beneficial to the interest of citizens. These polycentric systems are able to provide for institutions for self-organizations on the one hand, whereas problems of equity and discrimination can be handled by larger general-purpose governmental units 'that are responsible for protecting the rights of all citizens and for the oversight of appropriate exercises of authority within smaller units of government' (Ostrom 1999: 528). Institutional pluralism provides an opportunity for different people to rely on different institutions to support their claims to environmental goods and services and shape different ways in which people access, use and derive well-being from them (Leach and Fairhead 2001: 238). They can also choose between institutions, which may be beneficial with respect to inclusiveness and accountability (Ribot et al., 2008) because it gives actors a certain degree of freedom to choose the one that favours and recognizes their needs. Von Benda-Beckmann (1981) labels this situation 'forum shopping', to pinpoint the ability of an actor to shop, bargain, negotiate and choose the best option among the available institutions. They can choose between institutions, which may be beneficial with respect to inclusiveness and accountability (Ribot et al., 2008) because it gives actors a certain degree of freedom to choose the one that favours and recognizes their needs. Multiple institutions also help to prevent state authorities or a single centre of local power to acquire too much power at the detriment of local communities (Ostrom 1999: 528). By creating new authorities and giving them executive, legislative and judicial power, the state creates new institutions and opens up new space for recognition, negotiation and interpretation (Buur and Kyed, 2006; Ribot et al., 2008; Sikor and Lund, 2009). Yet, multiple actors empowered through multiple institutions as an alternate to democratic institution also form a risk because they may not be representative and may undermine the legitimacy of the local democratic institution (Ribot 2001; 2003).

Equally important is the recognition (or non-recognition) by the state of a pre-existing institution and authority. However, the assumption that customary authorities and institutions are democratic and accountable by nature would be naive. Law within customary systems was contested and continuously reconstituted and was primarily and was primarily administered through interpretation by an authority whose legitimacy is based on the ways he addresses the interests of his constituency. However, with British colonial policies, which made customary

chiefs part of the administration and the recognition of customary law, customary chiefs and political hierarchies meant solidifying and privileging specific cultural and legal ideas and relationships into reproducible rules, which led to a multiplication of new claims to resources, labour and authority (Roberts and Mann 1991:4). As a result traditional authority came to serve the purpose of upholding as well as internalizing the colonial order on the basis of so-called traditional institutions labelled 'decentralised despotism' (Mamdani 1996: 37). These hierarchies continued to exist in the post-colonial states. Therefore, what is labelled customary law was formed in the interaction between indigenous society and European colonialism (see Roberts and Mann 1991: 4).

Extrapolating from a number of African case studies, Ribot (2007) therefore warns against the uncritical acceptance of customary authorities in forest tenure reform because this may threaten democratic decentralisation of forest management. Other scholars argue that not all traditional leaders agreed to play the role of colonial despots and that some resisted (Buur and Kyed, 2006; Keulder, 2000). So even with reforms and the creation of new institutions, authority remains contested. The reasons may vary from lack of popularity of the leadership among people, to mistrust, to an overlap of decision-making responsibilities between one or more actors or institutions. Often, government's choice of an institution is not satisfactory for the local marginalised groups because such recognised institutions may have a long history of denial of rights and lack of accountability. Even though the institutions chosen to represent communities to some extent is based on traditional authorities and takes into account existing customary arrangements, Fitzpatrick (2005) warns that the chosen authority may not act in the interest of the community. The interests of higher authorities are obvious in acknowledging, selecting or appointing certain authorities, thereby creating new identities and a sense of belonging among the locals, which may fragment communities (Agrawal, 2001; Ribot, 2007).

Although institutional pluralism is expected to improve local participation, the issue of accountability remains crucial. The creation of decentralised authorities without making them accountable in practice to their constituency may fail to ensure local participation and empowerment (Larson et al., 2010; Ribot et al., 2008). It also rests on the assumption that local actors have access to the same level playing field and are able to exercise the same powers as higher-level institutions. Agrawal (2001) shows that, despite being accountable to locals, elected local government is easily susceptible to political manipulation and domination by local political elites, thereby further isolating the marginalised poor. On the basis of findings from francophone West Africa, Ribot (1999a) suggests that with democratic decentralisation of rural institutions and representation rarely genuine powers and rights of decisions are transferred to representative local bodies. One of the downsides of institutional pluralism is that it could result in community fragmentation, conflict between institutions and locals, and competition between different institutions (Bose, 2009c; Larson et al., 2010).

3.3   CONTEXT, STUDY AREA AND METHOD

3.3.1   Tribal Forest Institutions in Colonial and Post-Colonial India

Many of the struggles for rights to use or exploit land and forest have been critical in Indian politics, particularly those in the so-called scheduled areas (henceforth interchangeably used with tribal areas).[12] The forest in these areas is not just an economic resource for livelihood, but also forms a basis for the social and cultural identity of tribal people. Before the eighteenth century, the small kingdoms and princely states managed the forest, land and natural resources in their territories. During the eighteenth and early nineteenth century, British colonial rule in India introduced scientific forestry and 'acquired by conquest and cession large tracts of forest land' (Schug, 2000: 230). In 1864, the Indian Forest Department was established along with forest-related laws and policies that served the purpose of timber extraction for the colonial government of India (Gadgil and Guha, 1992). This so-called scientific forestry demarcated and categorized villages and forest areas, and created forest reserves by excluding and evicting forest people (Gadgil and Guha, 1992; Sivaramakrishnan, 1999). The rights of forest-dependent people to forestland were simply ignored rendering them illegal (Bose et al., 2012) Given the increasing demand for timber, the number of forest officers to guard the forests (to keep forest people away) increased from 10,000 to more than 132,000 during the twentieth century. The demarcated forestland under the control of the Forest Department increased to over one-fifth of India's total land area (Gadgil and Guha, 1992; Schug, 2000). Explaining the situation of forest people's loss of forest resources due to dispossession by the Forest Department under the British India regime, Wilson (1961: 64) narrates:

> [Forest resources] were vital to [villagers'] well-being and always they had taken them where they could find them. And then an authority came into being which denied them what they had always looked upon as their rights. They fought most bitterly, and indeed understandably, against the new tyranny. They had neither the education nor the intelligence to realise that their little village forests were fast disappearing and that, if the process continued, the country would become uninhabitable.

As a result of the strict enforcement of forest legislation, the number of forest offences committed by forest people increased dramatically.[13] Any new statutory forest laws that made

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[12] Scheduled Areas under the Indian Constitution is an administrative term to designate an area with a high density of tribal population. We use tribal areas interchangeably with the scheduled areas without changing the legal definition.

[13] Forest offences from a formal statutory legal perspective; local communities in contrast perceived their use of the forest as legitimate on the basis of their system of customary rights pertaining to the use of forest and its resources.

another customary forest right of the tribal people illegal only aggravated the ongoing tribal resistance that led to all kinds of retaliation such as breaches of the forest law or attacks on forest officials and government property. In many parts of India, collective social movements during the colonial period gained momentum because of the will to restore local forest rights, but most of these tribal movements lost against the repressive capacity of the forest administration (Gadgil and Guha, 1992; Sivaramakrishnan, 1995). Even in post-colonial India, the forest administration considered traditional forest rights a hindrance to sustainable forest management and made no attempt to recognize the customary local institutions and legitimize customary authority (Gadgil and Guha, 1992). In other words, there was continuity between colonial and post-colonial forestry regimes in the sense that the ownership of forestland remained under the authority of the Forest Department.

However, in response to the national human rights movement and the global trend towards decentralised natural resource management, the tribal areas also became an object of national legal reforms. Since the beginning of the 1990s, the politico-legal and administrative provisions have promoted various new participatory and decentralised institutions as an attempt to involve local people in protecting degraded forest. These reforms have led to a situation of legal pluralism in tribal areas and in turn have resulted in institutional pluralism, with new institutions that overlap and compete with customary practices of regulation of access to forestland and its resources.

Informal institution	Formal institution externally-induced by line ministries			
Customary institution	JFM committees	Gram panchayats	Mahila samitis	FRA committee
Individual and collective rights	Protection and management jointly with forest department	Authority over minor forest produce	No mandate, but claims over forest resources	Recognition of individual and collective rights
Elders	Chairperson	Panchayat	Chairperson	Chairperson
Customs and practices	Ministry of Environment and Forest (MoEF)	Ministry of Panchayati Raj (MoPR)	Ministry of Tribal Welfare (MoTW)	MoEF, MoPR, MoTW and Reserve Department
Since generations	1990's National JFM programme	1996 PESA	2000 Tribal welfare dept	2006 Forest rights Act

Source: fieldwork of lead author (2007–10)

Figure 3.1: Institutional pluralism and authority in decentralised forest management in a tribal village, India

Figure 3.1 gives an overview of the existing institutions and authority relations in decentralised forest management in the study area and their date of introduction. Initially, the forest was managed under an informal customary institution, based on shared customs and practices, with flexible rules changing over time to accommodate the needs of local community members. Unlike in several African countries colonized by the British, neither tribal customary institutions nor forest people's rights were deemed legitimate under the law during colonial rule, and tribal people were stripped of their forest rights. However, to date in many parts of tribal India, these customary collective and individual forest rights are considered legitimate by the local communities (Bose et al., 2010b).

The Joint Forest Management (JFM) programme was introduced in the 1990s by the central government and executed by the Forest Department, to protect and regenerate degraded forestland with villagers' participation. The Indian Forest Department '*has policing and quasi-judicial powers*, with powers to judge, fine and imprison offenders' (Blaikie and Springate-Baginski, 2007: 73 - italics in original). The JFM programme failed to recognize the traditional rights of tribal communities because the traditional forest boundary and the term 'degraded forestland' remained open to the discretion of the Forest Department (Saigal, 2000; Saito-Jensen and Jensen, 2010). The top-down 'participation' approach that was adopted lacked downward accountability and imposed Forest Department rules and management plans had to meet criteria of scientific forest management that directly conflicted with the existing local practices and rights (Sundar, 2000a; Sunderlin et al., 2008).

The third type of institution relevant for forest management in tribal areas is the *panchayati raj*. Formal political decentralisation in most tribal areas came into effect under the constitutional provisions of the Panchayat Extension to Scheduled Areas (PESA) legislation in 1996. With this legislation, the *sarpanch* (elected head) of the *gram panchayat* (village government body) became downwardly accountable to the *gram sabhas* (village council consisting of all persons aged 18 years or more who live in the area covered by the *gram panchayat*; the *gram sabha* elects the *sarpanch* for five years), as was already the case in the rest of India, and was given decision-making authority over minor forest products. There was confusion about what constituted minor forest products. However, the implementation of PESA has failed for many reasons, particularly local elite capture, the lack of empowerment of the poor in the villages, the non-devolution of discretionary decision-making powers to the village council and a general lack of accountability of the *panchayati raj* (Bose et al., 2010b; Kurup, 2008; Sarin et al., 2003; Sundar et al., 2001).

Another relevant institution is the *mahila samitis*, meaning women's groups, which were created with the financial support of the Ministry of Tribal Welfare. Forest management is not a mandatory role, but many *samitis* take initiatives to protect and manage non-timber forest products. Agarwal (2009) suggests that the higher proportions of women in forest committees increases their knowledge of group rules and political participation. The fifth institution refers to the landmark attempt of the central government to undo historic injustice perpetrated on the

tribal communities by recognizing their traditional forest rights. The Forest Rights Act 2006 (FRA) introduced FRA committees at village, district and state level to assess the individual and collective forest tenure claims and recognize these rights if the right holders could provide sufficient proof to underscore their claim. At village level, the FRA executive committee includes the village-level government officials from multiple line ministries, including the departments of *panchayati raj*, tribal welfare, revenue and the Forest Department. Apart from being upwardly accountable to the sub-district-level FRA committee, the village FRA committees are downwardly accountable to the village council.

3.3.2   The Study Area: Banswara Tribal District, Rajasthan

Rajasthan is the largest state of India in terms of total geographical area: 342,239 sq. km. The majority of the area is arid or semi-arid land. The total natural forest of Rajasthan is about 9.5 per cent of that state's total land area, which is one of the lowest compared to other Indian states. In contrast, the state has the largest proportion of 'wasteland', about 20 per cent of the total wasteland in the country. As per the 2001 census, the scheduled tribe population of Rajasthan is seven million, constituting 12.6 per cent of the population of Rajasthan and 8.4 per cent of the total scheduled tribe in India. District-wise distribution shows that the state's highest tribal population concentration (72.3 per cent) is in Banswara district, which is located in the southernmost part of Rajasthan. The Bhil are the third largest scheduled tribe in India. Banswara district is sub-divided into three sub-divisions which are further divided into five *tehsils* and eight development blocks. Until the 1980s, Bhil communities were able to maintain their customary practices over forestland and its resources to a large extent, despite pressure from the Forest Department (Deliège, 1985).

The fieldwork for this research was conducted in five Bhil dominated villages, which were part of two *gram panchayats*, P1 and P2, in Bagidora and Kushalgarh sub-districts respectively of Banswara district.[14] Three villages (B1, B2 and B3) from the P1 *gram panchayat* and two villages (K1 and K2) from the P2 *gram panchayat* were selected. Geographically, the research covers two development blocks of Banswara district where the JFM programme was implemented in the 1990s, and the implementation of the Forest Rights Act was started in 2007. The total population of the five villages is approximately 2,000, and the majority (99 per cent) of the population consists of Bhil tribal people. The region is drought prone and poverty stricken, and in the past five years two consecutive droughts have led to out-migration of male members from these villages (Bose et al., 2010b). An average land holding is two to three acres (about one hectare) per household. The majority (90 per cent) of households do not have access to piped water, electricity or tarmac roads, and some families inhabit *falias* (hamlets) inside the village forest area. Typically, the land is undulating hilly terrain and agriculture is rain-fed. The region's dry deciduous forest is either degraded or

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[14] The *gram panchayats* P1 (in Bagidora sun-districts' B1, B2 and B3 villages) and P2 (in Kushalgarh sub-districts' K1 and K2 villages) are pseudonym, as are the names of the five villages used in this chapter.

devoid of trees. Fodder, leaves, fruits, bamboo and fuelwood are the main non-timber forest products and highly valuable for the poor Bhil tribal households, particularly for women and the landless.

3.3.3 Method

The empirical data are drawn from fieldwork conducted between 2007 and 2010 by the lead author of this paper. A combination of qualitative methods, such as in-depth interviews, observations and focus-group discussions, was used to collect data about the existing local institutions in each village. In each village, interviews were held with up to 142 villagers about the functioning of decentralised forest management. Focus-group discussions were conducted in two phases: before and after the FRA committees were created. Each focus-group discussion with customary institutional authorities, executive committee members of JFM and FRA committees, women's groups and *gram panchayats* lasted about three to four hours. Individual in-depth semi-structured interviews were conducted with Forest Department authorities (two beat guards, one range forest officer and an interim district forest officer) and two senior staff of an NGO to understand their perspective. Field observation – regarding functioning of multiple institutions and authority – included attending executive committee meetings, leadership training and *gram sabhas*; visits to the forest area with local communities (for example during harvesting and distribution of fodder); assessing individual and collective forestland claims; and attending traditional leaders' informal meetings. The discussions and interviews were conducted in Hindi, the Bhilli tribal dialect and the Rajasthani language and later translated into English, coded and used for qualitative analysis. Most of the focus-group discussions were audio and/or video recorded with the prior consent of the respondents.

3.4 CASE STUDY FINDINGS

This section provides the findings about Bhil tribal people's perspective on both modern and traditional collective forest tenure rights and authority relations under the various reforms. We begin with the customary institution, followed by the JFM, *gram panchayats*, *mahila samitis* and the FRA committees (see Table 3.1).

3.4.1 Customary Institutions

Customary institutions – those rules and norms arising from the shared customs and practices of local communities – are not legitimized by the government in the study villages, but they are legitimate in the eyes of poor tribal villagers. Because their forest use was rendered illegal by the Forest Department there were no formal rules with respect to their use of the forest and therefore customary ways of using and managing resources remained important also as a way to claim (collective) access to forest resources, which was particularly important for the poor.

Table 3.1. Profile of study villages in Banswara District, Rajasthan

Panchayats	P1			P2	
Villages	**B1**	**B2**	**B3**	**K1**	**K2**
Village profile					
- Forest area (ha)	110	140	110	50	100
- Population	340	923	455	438	233
- Households	46	139	70	73	35
- BPL hhs[a]	10	41	18	10	5
- STs[b]	100%	95%	100%	99%	100%
- Others	Nil	5%	Nil	1%	Nil

Customary group
   - Role in forest
     management
	Jointly manages forestland and its resources		Inactive	Resolves conflicts and claims collective forestland	

JFM committee - Active years - Forest status - Committee	1999–2007 Degraded forest Defunct		2002–09 Denuded Defunct	1996–2006 Teak and sal trees protected Dissolved	
Gram panchayat a. *Sarpanch* b. Forest	Male from elite tribal family; in 2nd term Before FRA, *panchayat* had shown no interest			Male from elite tribal family *Panchayat* involved partially	
Mahila samitis - Established in - Forest rights	2002– Inactive	1997– Inactive	2000– Active role	1998–2005 Active without authority	

FRA committee
- Established in
  - Household forestland
    claim
  - Collective forestland
    claim
	2008
	44 claims
	Not claimed
		2008
		110 claims
		Not claimed
			2008
			61 claims
			Not claimed
				2008
				58 claims
				Rejected
					2008
					24 claims
					Rejected

Source: fieldwork of lead author (2007-10)

Note: a. Below Poverty Line households (BPL hhs) constitute 23 per cent of the total households in the five selected study villages as per the Census of India (2001). b. STs or the Scheduled Tribes are mainly Bhil tribal people.

Local customary authority positions are held by elders – men and women – from a group of neighbouring hamlets that may or may not be similar to administrative (revenue) village boundaries. Prior to the state forest demarcation, households from the study villages collectively managed the forest under customary arrangements. This is evident, for example, in the P2 *panchayat* villages (K1 and K2) where the customary elders negotiated on the forestland boundaries, managing the local conflicts related to the forest access and use, and in the management of collective forest rights. Thereafter, under the state forest regime, they managed forest resources within the limits set by repression through the Forest Department. Despite the fact that many local customary practices of forest management are illegal

according to the government, Bhil people in the study area use to customary authority whenever there is need to settle inter-village conflicts over usufructs benefit sharing rights or to make a plan for protection of forestland to generate fodder. For example, during the consecutive two-drought years (between 2008 and 2010), the functioning of customary authority was critical (in B1, B2, K1 and K2) because they solved the problem of fodder distribution (without consulting the forest officials) by enclosing the wasteland. The customary authority decided to distribute the fodder based on the household's socio-economic demands (as against 'equal' bundles for all rules introduced by the JFM committees).

The perspective of tribal people towards customary authority was in general positive, particularly among the poor and landless households. The major reasons put forward by people interviewed in the study area were:

- transparent decision making on rights access, and management of forest;
- resource sharing was on the basis of the livelihood socio-economic situation of the tribal households, so that the poor and landless tribal families could benefit;
- conflict resolution over benefit sharing between hamlets or kinship groups; and
- elders provided proof for individuals to claim forestland under the – the FRA.

However, in village B3, the majority of new generation male relatives of the village elders (customary authorities) joined the *gram panchayat*, resulting in manipulation of customary forest rules. This young group of elite tribal family members misleadingly claimed individual rights on forestland, which was collectively managed forestland according to the villagers. In contrast, the forest area of villages B1 and B2 was managed jointly by customary authority (approximately 250 hectares), but their claims on collective forest management were ignored by the district Forest Department. Likewise, villagers of K1 and K2 reasserted their collective forest rights through claims on historical custom, but failed to gain any statutory recognition.

The village-level Forest Department officials neither supported nor openly opposed customary institutions. One of the beat guards explained that the risk associated with legitimizing customary institution was that the forest administration would lose authority over forestland and its resources, which is an important source of revenue for the Forest Department. A range forest officer suggested that the local customs were not rigid and therefore allowed room to manoeuvre claims, making them difficult to implement or acknowledge, unlike the formal rules that are easy to generalize, implement and monitor. However, the customary authorities are finding themselves in the important role of providing proofs to those individuals applying for forestland title claims through the newly created FRA committees.

3.4.2 Joint Forest Management (JFM) Committees

As per the Rajasthan state guidelines, the JFM programme was implemented by creating JFM committees in the study area by the Forest Department with financial aid from a Japanese development agency. Despite the fact that the forest area map was prepared by means of a

participatory approach involving local people, the end result was always at the discretion of forest officials. There existed no consensus or criteria on what constituted degraded forest and what constituted forest, and this helped the forest service to extend control over land by classifying it as forest and put it under a more strict management regime. For example, in B1 and B2 villages the *gauchar* (grazing) land as well as forest fallows were categorized as forest and came under JFM regulations, along with some forestland with root-stock of teak (*Tectona grandis*), tendu (*Diospyros melanoxylon*) and sal (*Shorea robusta*) trees. After the JFM official map was prepared, these newly categorized degraded forests were no longer available as pastureland, which otherwise was highly valuable to poor tribal households for open-grazing their livestock.

The Forest Department created the JFM committees in the study villages. In doing so they excluded village elders (particularly those involved in customary forest management) and women from active roles. Instead, those who had a close relationship with the forest beat guard and range officer were 'offered' (not democratically chosen) a post on the executive committee. Although the village elders were excluded, they occasionally used their customary authority to bypass the village JFM regulations, for example by allowing non-members to access non-timber forest products. Typically, a JFM committee was created in the forest area demarcated for a village, but not all villagers became members by default. Those who failed to pay the monthly membership fees and/or offer voluntary service, mostly the poor and landless, were left out. In villages K1 and K2, a combined JFM committee was created due to pressure from the village elders to follow the traditional forest boundary. Later, B1 and B2 villages also demanded that the JFM committee in their customary forest boundary be combined for the two villages plus a hamlet from an adjoining tribal village. According to the ex-chairperson of the JFM committee, this was possible because of the customary authority's strong hold over the villagers. The JFM committee members (excluding the landless and other non-members) became actively involved in protecting, regenerating and even planting on what was otherwise grazing land in return for parts of the revenues of these activities and in the expectation of being granted statutory recognition of their collective forest tenure rights.

The chief executive of a local NGO argued that the JFM created hope among different groups of tribal people that they would gain collective rights. However, in practice, funding that brought in development work such as construction of village wells, plantations (for example, bamboo and jatropha), stone-wall fencing of the forest area, collective purchase of tractor and generator, and partial funding support to women's credit groups, was more of an incentive to participate in the JFM. The major changes resulting from the JFM from the Bhil people's perspective were:

- standardized and conditional participation based on the requirement to pay membership fees instead of inclusive membership of all villagers;
- entitlement of members to 25 per cent of income from timber sales;

- equal distribution of revenue among members from the sale of non-timber forest products;
- fodder was shared equally among those who were members of the JFM; however, those excluded lost resources (as compared to the need-based distribution in the customary system); and
- creation of the village forest boundary wall as a safeguard against intruders.

This was a *de facto* enclosure of the forest, and reduced possibilities for open-grazing or fuelwood collection, because the non-members were excluded from access to otherwise common resources. Lack of access to forest resources forced members of Bhil households from this village to migrate for seasonal labour and tribal women to breach forest management rules imposed by JFM institutions and often created conflicts. However, according to JFM members, it was accepted in the hope of receiving benefits from the JFM's village development investment. The forest officials introduced the concept of 'guarding' the forests by making Bhils rotationally take charge of protecting the forest and collect fees from every household to manage the forest. The defaulter and trespasser or those who breached the rules, mostly women and landless Bhils who may or may not be JFM members, were fined (non-negotiable) by the JFM committee members. The authority to collect fines was delegated by the Forest Department.

In all the study villages, JFM committee members were denied income from the final tree felling by forest officials claiming that the JFM benefit sharing agreement about timber sales had been amended. This led to massive 'illegal' collective felling of regenerated trees, according to villagers, to express their discontent with the JFM executive committee members and forest officials. Similarly, in village B3, villagers had to fight with a local forest guard – an ex-officio JFM authority – who was trying to harvest fodder from their forestland. The majority of the villagers reverted to village elders to secure their individual and collective forestland and forest resource rights claims. By 2006, all the JFM committees in the study area had become defunct and dissolved mainly for the above reasons, in addition to the end of donor funding, failure to devolve the authority and lack of statutory recognition of the JFM committees.

3.4.3 *Gram Panchayats* – Elected Local Government

Through the PESA of 1996, in tribal areas the *panchayat* was supposed to be legitimized by the state to have political, financial and administrative authority to manage village land and its resources. In the study area, the *gram panchayats* managed more than one village and the elected chairman belonged to a politically well-connected elite family (see Table 3.1). Our enquiry in the study villages revealed that the majority of tribal households have no idea of the role and authority of PESA. About three-quarters of elite households including executive members of the *gram panchayat* have heard about PESA, but are unaware of what functions and resources it delegates to the *gram panchayat*. The PESA act provides the *gram panchayat*

with authority to control, manage and trade non-timber forest products. This on the one hand meant loss of local communities' rights to forest products and on the other hand meant an unexpected liaison between the Forest Department and the *gram panchayat* to monopolize the revenue earned from the sale of the resources.

The *sarpanch* of the P1 *panchayat* mentioned that, despite the fact that in practice political and administrative devolution from the state government was absent, the *panchayat* made its own rules to control, manage and sell non-timber forest produce. However, this was done without the consent of the majority of the village council. The decision of the *sarpanch* to appropriate non-timber forest products was challenged and rejected by the majority of the *gram sabha* members (mostly poor forest-dependent tribal households), which made the *panchayat* withdraw the decision. Nevertheless, the *panchayat* continues to hold the sole authority to market the *tendu* leaves in the area under its jurisdiction (villages B1, B2 and B3).[15] The income from this sale, according to the *sarpanch*, helps in village development work. However, villagers are unaware about any village development fund because of a lack of transparency and accountability on the part of the *panchayat*.

Interestingly, the P2 *panchayat* had played an active role in executing its authority over access to, and use of, forest resources such as *mahua* (*Maduca longifolia*) flowers, *jatropha* seeds and *tendu* leaves. Along with some of the JFM executive committee members, the *sarpanch* of P2 *panchayat* created a new *panchayat* rule with regard to distribution of benefits. The sale of non-timber forest products to traders came under authority of the *sarpanch* and denied access to poor forest-dependent Bhil families (after 2006). However, this decision of the *sarpanch* cost him his political office in the next *gram panchayat* election, and the newly elected *sarpanch* immediately amended the marketing rule in favour of the villagers. So, there was a degree of democratic control over non-timber forest products managed through PESA. Moreover, the newly elected *sarpanch* gained his popularity during his election campaign by promising to use his authority (if elected) to give title deeds for all individual forestland claims made via the FRA, irrespective of whether the land had been occupied for the specified time period. Almost all well-to-do households (K1 and K2) paid Indian Rupees 100 (approximately US$ 2.5) off the record for the application form to make their individual forestland claim to encroach on forestland that they had not been using. According to a tribal woman, chairperson of the P2 JFM committee, those households unable to pay the bribe to get their individual 'customary' land title deeds opposed the *sarpanch* and local forest officials.

In none of the study villages, had *sarpanchs* or other executive members of the *panchayat* ever attended the JFM committee meetings. According to the executive members of the *panchayats*, the JFM committee was not a statutory body, and it was not necessary to create another institution alongside the *panchayat*, because it diluted the *panchayat's* authority.

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[15] *Tendu* leaves are used for rolling *beedis* (local cigarettes) and provide high revenue from their sale. The villagers get a daily wage based on the number of leaves collected, dried and rolled in bundles.

Nonetheless, the *sarpanch* and JFM committees often collaborated to control forest resources to earn revenue. In general, the *gram sabhas* of *panchayats* are held bi-annually mainly to report the progress of village developments. The majority of the villagers interviewed suggested that they were either unaware of the *gram sabha* meetings or did not attend because such meetings were not participatory and their opinions were never sought. Although the *gram panchayat* is not ruled by party politics, political parties try to influence its decisions through the *sarpanch* – for or against – the collective forest management rights of tribal people.

3.4.4   *Mahila Samitis* – Women's Committees

The formal *mahila samitis* (see Table 3.1) in the study villages were created with the financial assistance of a local NGO. Their main aim was to empower women and help them become economically independent. With funding from external institutions, women were asked to participate to receive endowment grants – starting capital for collective enterprise – that would raise their household socio-economic status. Mainly women from middle-income households were excluding those who belonged to well-off and poor households because the well-off women were considered to be manipulative in credit activities, while the poor households did not had secured income and often were defaulters in paying back credits. In the absence of a JFM in the villages, women took the initiative even though it was not a mandate of their committee to protect and share the non-timber forest products equitably among the households. At present, these women's group are active in promoting credit schemes, thereby limiting the activities of tribal elite families' land mortgaging business as well as an external money lender's role in the village. In villages K1 and K2, there were no women's groups because the ex-*sarpanch* withdrew his approval to create the *samitis* under the influence of local money lenders who feared competition in credit provision. A minority of women respondents held the opinion that such committees further promoted the mainstream definition of women's gendered domestic roles.

Women participated very little in forest management projects. The main reason given by women in the study area for minimal participation in externally driven projects was that it was unclear what their role would be and how their active involvement would benefit their household subsistence. According to the *mahila samiti* president of villages K1 and K2, women were excluded from village planning and JFM decision making. Likewise, according to women, the reservation quota in the JFM, *panchayat* and FRA only further excluded their active participation and gave limited scope to a few elite selected or elected women to voice poor tribal women's problems (see Bose, 2011a). Illiteracy and changing expectations of women's roles within households, and to some extent the gender-biased perception of project development workers including male forest officials and NGO staff, further hampered women's participation.

According to the Bhil women, the role of *mahila samitis* in forest management was marginal due to:

- the exclusionary structure of *mahila samitis* – that is, through the creation of a separate entity without men and apart from men-oriented activities of distribution of property rights or forest resource access;
- the general perception of the village-level forest officials and ward members of *panchayats* that illiterate tribal women hinder development activities;
- the pressure on women to assimilate into mainstream culture, thereby limiting tribal women's traditional participation in public life and eventually their active involvement in JFM and panchayat meetings;
- the promotion of literate women from elite and politically connected households (with little or no interest in forest-based activities) to represent women on JFM, *panchayat* or FRA committees;

The majority of women from villages B1, B2 and B3 expressed the view that lack of statutory recognition of traditional collective forest rights may have a negative impact on their struggle for forest rights. Furthermore, the women's perspective about pre-existing customary practice was that it gave them unrestricted authority to collect fuelwood and fodder, and they had an important position in the forest management decision-making process. This was in contrast to external institutions that required them to be passive participants (because of illiteracy, the reservation quota and changing restrictive social gender ideologies) in forest management (see also Bose, 2011a).

3.4.5 Forest Rights Act (FRA) Committees

The Tribal Welfare Department is in principle the nodal agency for implementing the FRA. They created village-level FRA committees in the study area. A unique feature in the implementation of the FRA is that, even though the Tribal Welfare Department is the nodal agency, the Forest Department as well as the Revenue Department are in practice equal partners in the village FRA executive committee, in addition to representatives from the villages. Interestingly, the JFM executive committee members were excluded; instead, people who were well-connected to *gram panchayat*s were nominated for these positions. Exclusion was justified by the local Forest Department officials on the grounds that authority should be delegated in a new institution to new people. More than 50 per cent of respondents said that this exclusion further adversely affected the already defunct JFM programme in the villages because the JFM committee members lost credibility. The FRA executive committee members were selected by the government officials without the knowledge and consent of the *gram sabhas*. Nevertheless, they were given authority to approve or reject the forest tenure rights of their fellow villagers. From the executive committee's perspective, their authority was limited because the ultimate decision about approval (or rejection) remained with the FRA committees at the district and the state level.

The majority of FRA committee members interviewed explained that the FRA process is decentralised in such a way that the preliminary decisions about the allocation of tenure rights happen at the village level, whereas the final decisions are still made by the powerful state-level monitoring committee. None of the executive committee members in the five study villages was fully aware of the individual or communal land tenure provisions of the FRA. The executive committee members expressed the view that their knowledge of the FRA was limited to the information provided by the village-level Forest Department as well as Revenue Department officials, and that there was no information from the Tribal Welfare Department in the case study area. The key responsibility and authority delegated to the FRA committee was to scrutinize individual forestland claims and to approve or reject them in consultation with the *sarpanch* and the ex-officio members (from Forest, Revenue and Tribal Welfare Departments) before forwarding them to the district-level FRA committee.

The functioning of the village FRA committee, according to more than three-quarters of the interviewees, hindered the existing institutional arrangements for community forest management. The main hindering factors were that the village FRA committees:

- approved individual tenure rights claims to forestland that had previously been managed collectively under the JFM programme and informally by customary institutions that were not in actual use by the individuals filing a request;
- sought approval of the village elders for individual land-claim proofs without recognizing their authority or traditional rules and practices of collective forest management;
- attempted to establish new claims of authority and legitimacy by negotiating with those people favouring their (the FRA committee's) actions and justifications – this further divided the people with respect to the issue of collective rights. In village B3, for example, the FRA committee persuaded the JFM committee and elders to approve their decisions; and
- re-defined the very concept of access to forestland and forest resources and nullified all the rights local people held previously by custom or practice by changing the village bye-laws with respect to forest management.

The active attitude of customary elders in villages K1 and K2 led to an initiative for claiming collective forest tenure rights through the FRA committees. However, their claim was rejected by the district-level FRA committee. With this experience, the villagers felt neglected because they were excluded from the decision-making process and from setting the criteria for determining collective rights. The other study villages did not make any such attempt to apply for collective forest rights. One of the reasons was that the village level forest officials managing the FRA process did not make any deliberate attempt to mobilize the community despite its legal provisions on collective right.

3.5   ANALYSIS AND DISCUSSION

In this section, we focus on the two key issues emerging out of the studied decentralised forest governance reform: (1) the creation of contradictory authority relations and overlapping claims and rights; and (2) the dynamics of institutional pluralism. The case studies of the five tribal villages show the complex dynamics of institutional pluralism affecting the management of already degraded forests in the tribal areas of India.

   Tribal people have a history of contestation about forest rights that traces back to the establishment of the Forest Department. Colonial law annulled customary rights of tribal people, however in practice they continued using forest resources illegally, which was regulated by their own customary rules and authorities. Since the early 1990s, a number of newly introduced institutions have further restricted tribal people's access to forest resources. It started with the JFM programme, which was meant to increase participation in forest management but in reality led to the exclusion of specific user groups and the extension of control of the Forest Department over forest use through the JFM committees, which operated under the technical guidelines of the Forest Department. This form of community-based forest management led to the exclusion of (mostly marginalised) people from grazing and NTFPs. Then, with the PESA implemented by the Ministry of the *Panchayati Raj*, the *gram panchayat* was given authority over minor forest produce that overlapped and contradicted both the JFM and informal customs and practices of tribal people. Even though the *panchayat* is an elected local government body, they were in practice not accountable to the *gram sabha*. In fact, *panchayats* often misused their authority in the research area. *Mahila samitis* can be considered as an attempt by another line ministry to empower women by creating an exclusive women's group. This enabled women to some extent to raise their claims for collective forest rights even though the *samitis* did not have a mandate in forest management. Lastly, the introduction of the FRA committees, under the aegis of the Ministry of Tribal Affairs introduced hopes about the recognition of the collective rights of tribal people, but in practice it has so far focused on individual forestland rights. The individual forestland rights overlapped and contradicted the collective forest management within other existing institutions.

3.5.1   Contradictory Authority and Rights

A core policy dilemma in the implementation of decentralisation and forest tenure reform is the complex relationship between customary practices and rights, and formal rules and institutions put in place by the government. Interestingly, although the government does not recognize customary institutions and authority, has appropriated forestland, and claimed full management authority in the past, it has now recognised and even legalized some rights (excluding land alienation rights) of the forest people through the introduction of the FRA. However, this is something different from recognizing local authority. What binds the

customary institutions, as in the case of Bhil tribal villages, is that (1) who can access the forest and when and how the harvest will be distributed can be negotiated on the basis of needs and availability of resources, and (2) sanctions can be negotiated by the rule-breaker depending on the degree of offence. Precisely this power to negotiate rights is taken away by the various line ministries through the new institutions (JFM committee, FRA committee, *mahila samitis*) they set up over the past decades.

The easiest way for the government to deal with the customary land tenure system was to codify some of the customary practices, lay down collective rights on forestland and resource use in a written law – the FRA (Bose et al., 2012; Sivaramakrishnan, 1995). However, the new institutions (JFM, PESA, FRA) still did not recognize the decision-making authority of the village elders to manage these collective resources, and this created contestation within the village. In practice, in all five case studies, the recognition by the state government of collective forest rights (either existing and/or externally-induced) in favour of the local Bhil committees did not even happen. Instead, the poor were excluded from access to forestland and resources through the JFM, the panchayat claimed authority over NTFPs. Individual rights for a few people have been approved at the village level as a result of the discretionary decision-making power of the FRA committees. In addition, the promise of the candidate for *gram panchayat* to provide individual forestland titling rights to everyone (who elected him as *sarpanch*) led to a fundamental change in the tribal people's perception of, and identification with, customary practices of collective forest management. Tribal people fear losing access to their forestland and therefore rush to get title deeds to that land and to obtain individual land rights (see Bose et al., 2012). So, both in its legal texts (FRA) and in practice, the India government privileges some rights and authorities above others, which leads to new claims and conflicts (cf. Roberts and Mann, 1991).

Top-down, various government departments have created and delegated new authorities that cover various aspects of forest management, such as non-timber forest products by the *panchayat* and collective forest management through the JFM programme, which compete with the existing authority. This is qualitatively different from allocating collective rights to manage forestland and constructing authority from below by the tribal *gram sabhas*. The authority and discretionary decision-making ability of customary authority became marginal with the creation of, and the authority attributed to, new local institutions by the state.

3.5.2   Institutional Pluralism

Despite the claim that institutional pluralism is able to bring benefits to local communities and opens space for claim making and negotiation (see Ostrom, 1999; Leach and Fairhead, 2001), our case study findings indicate that institutional pluralism has become a way of subjugation by the line ministries. Even though the Tribal Welfare Department is the nodal agency for the FRA, they are dependent on the Forest Department for the execution and planning, primarily because the land under question is controlled by the Forest Department (since its

establishment during the colonial period), and also because of the sheer manpower capacity of the Forest Department, which is the only line ministry with sufficient outreach to reach village level. Therefore, the Forest Department was able to exert control through a few elite members within the tribal villages through this new institution. In this way, new authority was created at grassroots level which helps the Forest Department to extend its influence, while avoiding direct confrontations with the tribal people. For the village-level JFM and FRA committees, every intervention needed approval from above under the guise of participation and representation. These externally induced institutions became an object of competition between line ministries, lack an inclusive approach and fail to provide for poor tribal people. Institutional pluralism is not promoting transparent and accountable governance of forest resources if (a) new institutions are promoted to serve the interest of government ministries without taking into account the local people's custom, identity and history of struggle; (b) an elected local representative 'is forced to compete and struggle with other local institutions for legitimacy' (Ribot et al., 2008: 7); or (c) newly created parallel institutions obstruct or overlap with existing customary authority. In practice, this leads to a lack of legitimacy and representation of democratically elected institutions.

3.6   CONCLUSION

The findings indicate that rather than recognizing, reorganizing or running pre-existing local governance institutions, the government has instead invested in creating multiple new institutions in tribal areas of India. In this way, the state has been able to gain more control through decentralised forest tenure reform rather than devolve authority to locally representative democratic institutions and retains enough discretionary decision-making power not to acknowledge collective rights of forest land. Giving an example of rural Senegal, Ribot (2009: 121) argues that 'rights are empty when the claims are not enforceable. Without being able to make significant decisions over material resources – forest, pastures, schools, hospitals, clinics and infrastructure – rural councils have no role. They are elected but cannot serve'. Like Senegal's rural councils, *gram panchayats* in India are elected councils. *Sarpanchs* took decisions discretionarily without being accountable to the *gram sabha*. JFM committees managed forest resources within the directives developed by the Forest Department. Similarly, the FRA committees function under the administration of multiple line ministries without being representative of, or accountable to, local communities. These new institutions associated with new positions of authority have become the object of competition between different governmental ministries and continue to practice exclusionary approaches to forest resource management.

Second, newly created institutions have brought new contradictory forms of authority relations. The typical approach adopted by government to deal with elite capture was to exclude the old elites. The government by choosing to work with the multiple institutions and

not completely devolving authority to *sarpanches* further encourages elite capture by empowering new elites at the cost of those who were considered legitimate before the tenure reform. This cannot be labelled democratic decentralisation. Avoiding one elite by legitimizing another has done nothing to enhance collective forest management. As Lund (2006: 700) points out, people are classed because although 'plurality of institutions may open alternate avenues for some – also for poorer people – … the more affluent, the better connected, and the more knowledgeable tend to have the upper hand in such contexts'.

Third, we illustrated that forest resources are still centrally controlled by the multiple line ministries in tribal India. Each of these line ministries issues and follows its own policies, which concern the same limited forest resources at local level. The new democratic decentralisation laws such as PESA and the FRA call for the immediate need to expose what Ribot (2009a: 121) calls the 'frontier of decolonization', that is, to prevent the line ministries from further colonizing the forestland and its resources. Without devolving the authority and organizing appropriate representation of the poor who primarily use the forest, any future attempts by the government to empower the local people (*gram sabhas*) will be futile.

Fourthly, by recognizing and uniformly defining the 'traditional rights' of the forest people, through the FRA, the government has opened up a Pandora's Box. Traditional rights are associated with the customs and practices of customary institutions and authority, which are dynamic and flexible to the changing situation in the tribal areas. Formalization of the traditional rights (through land title deeds and property rights) without recognizing customary authority and practice and its history fails to capture the flexibility and adaptability that are core characteristics of customary institutions. Moreover, it will fragment the tribal people's collective hamlet-based approach towards forest access, use and management, and will promote further individualization of forestland rights.

Thus, in this case, institutional pluralism restricts forest people's collective forest rights and democratic decentralisation, and in turn gives the elite and line ministries more discretionary authority to control forests. There is a pressing need to address tribal people's forest tenure reform by sorting out the ambiguities of local institutional pluralism and authority relations. This may contribute towards more strategic intervention in collective forest governance that may eventually lead to real empowerment of tribal people.

Individual Tenure, Citizenship & Conflicts
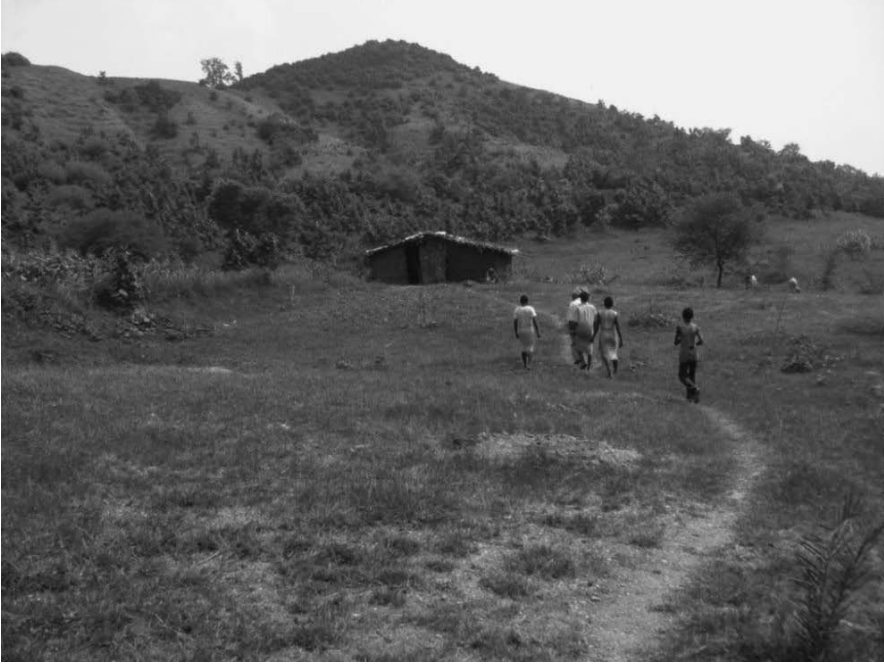
Individual forest tenure claim in Bagidora sub-district in Rajasthan.
Photo credit: Purabi Bose

Citizenship is emerging as a key concept in the global debate on 'belonging,' particularly with respect to minorities like tribal people. Historic (customary) and present (legal) forms of belonging complicate the understanding of equality, rights, and entitlements. Identifying the dimension of emerging tribal people's citizenship can elucidate their social struggle to claim their traditional belonging to forest land and their struggle for formal tenure rights.

Previous chapters discussed the ways in which inherited colonial forest laws continued with making tribal people subjects rather than reinforcing their citizenship rights, and how institutional pluralism failed to empower them in claiming collective forest rights. Chapter 4 examines how the new forest tenure legislation shaped tribal households' ideas of citizenship and their related individual forest rights struggle.

In particular, the three operational sub-questions are:
- Why and how are choices for specific forest tenure rights made by tribal households?
- In what ways are tribal households' notions of forest rights related to citizenship?
- How do conflicts prompt and/or suppress households' forest tenure and citizenship claims?

The micro-political analysis conducted here uses the concepts of individual tenure rights, citizenship, and conflicts at the tribal household level.

4 INDIVIDUAL TENURE RIGHTS, CITIZENSHIP AND CONFLICTS: OUTCOMES FROM TRIBAL INDIA'S FOREST GOVERNANCE

ABSTRACT

In India, forest-dependent tribal peoples' right to forest land is gaining attention on the national political agenda. This paper examines how the new Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (also called Forest Rights Act) shapes tribal households' claims to forest land rights. The paper analyses the micro-dynamics of the Forest Rights Act using three dimensions: individual tenure rights, citizenship, and conflict to discuss the contested nature of household-level tenure rights to forest land. The arguments are based on data collected over fifteen months (2008–10) using in-depth semi-structured interviews with 105 households (274 individual respondents) from six Bhil tribal villages and 34 line department officials in Banswara district, Rajasthan. The findings indicate that the forest tenure reform promoted the individualisation of forest right claims – thereby increasing Bhil tribal inter-household-level conflicts – and that households' forest land tenure claims relate primarily to the formal recognition of their citizenship rights.

Keywords: Forest Rights Act, tenure rights, citizenship, conflicts, tribal, India

4.1 INTRODUCTION

The traditional forest tenure rights of indigenous people are increasingly recognised in many developing countries. Forests are an important source of income, and their actual contributions to rural and tribal livelihoods vary considerably (Sunderlin et al., 2003). This depends, in particular, on the interaction between locally specific forest property relations and larger political forces (Sikor, 2006; Larson et al., 2010). In general, tenure can be understood as who owns and who can use what resources and how. Current forest tenure reforms 'range from 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' (Larson et al., 2010: 4). In most countries, forests are public property over which the government exercises jurisdiction on behalf of the nation (FAO, 2011). Different tenure systems exist that are based on exclusive rights (of an individual or collective), or for certain time, for example access only during particular seasons, for specific products ranging across dry fuel wood, fodder, timber harvests, and/or for certain type of lease depending on purpose (Larson et al., 2010). Forest tenure reform also creates new contradictions among various institutions that legitimise different tenure rights, and may create competing claims for resources (Fortmann, 1985;

Sikor, 2006; see chapter 3 of this book). For example, Couillard et al. (2009) argue, on the basis of their study in five African countries – Burundi, Cameroon, Democratic Republic of Congo, Rwanda, and Uganda – that indigenous people have not benefitted from the legislative changes since the pre-colonial era, which have continuously influenced contemporary land acquisition with the land being unilaterally declared as state property.

In a rapidly changing rural and/or tribal pluralist society, forest tenure is characterised by competing claims about who has the right to manage the forest, to make claims, how territory is demarcated, who decides, and who benefits from forest resources. Failure to address these issues in tenure reform may result in new conflicts. The underlying cause of conflicts in forest tenure reform is the creation of a new local institution and authority, often overlapping with the existing traditional institutions (see chapter 3 of this book). These often contradict customary rights and contemporary formal legislation (Colchester, 2008). These competing claims are common in countries that have been colonised (Peluso and Vandergeest, 2001; Lund, 2008; Bose et al., 2012).

An important argument favouring decentralised forest tenure reform takes a human rights perspective which factors in the historical struggles of marginalised indigenous forest-dependent people for traditional rights (White and Martin, 2002; Colchester, 2008; Sunderlin et al., 2008; Sikor and Stahl, 2011). In India, the schedule tribes' struggle to maintain their forest rights has recently received attention through the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (henceforth cited as the Forest Rights Act or in acronym the FRA) that aims to undo historical injustice by recognising their traditional forest rights. For effective implementation of the Forest Rights Act, to overcome inequalities and to increase people's participation in decision making, citizenship rights are considered important. The scheduled tribes in India legally hold full citizenship rights to vote and/or to contest elections. However, citizenship rights are less exercised in many parts of tribal areas as compared to urban areas in relation to basic rights to services such as clean drinking water, shelter, food, sanitation, health, and education. Although the state is obliged to ensure these fundamental rights for its citizens, tribal people's basic needs and rights, particularly in relation to access to natural resources to ensure livelihoods in the form of forest rights, are rarely met (Springate-Baginski and Blaikie, 2007; Sundar, 2011; Baviskar, 2012; Bose et al., 2012). Ideally, an individual's citizenship rights should not be related to his/her identity (caste, class, ethnicity, religion), but in India identity to a large extent determines citizenship rights. Sundar (2011: 427) explains that the 'Indian Constitution walks a fine line between recognising individual rights in the polity (prohibition of discrimination on the grounds of race, religion, caste, sex, etc.) and legitimising group identity (notably caste and religion).' Identifying the emerging perception of tribal people's citizenship can elucidate their social struggle to claim their traditional belonging to forest land and to fight for tenure rights.

The main objective of this paper is to analyse the current implications of the Forest Rights Act on tribal households' claim to individual forest tenure rights and the way it affects their citizenship rights. The next section explains that individual forest tenure in India is complex and can be understood from the viewpoint of three interrelated dimensions: forest tenure rights, citizenship, and conflicts. The background of the Bhil tribal people in Banswara district, Rajasthan, and the qualitative research methods are described in the third section. The fourth section presents the empirical findings, focusing on the relation between forest tenure rights, citizenship, and conflicts from tribal households' perspective. The last section draws analytical conclusions reflecting on emerging struggles about forest tenure rights in tribal India.

4.2 FOREST TENURE RIGHTS, CITIZENSHIP AND CONFLICTS IN TRIBAL INDIA

Forest tenure reform in India is a complex process that requires the re-organisation of both statutory and/or customary arrangements. This section explains the logic of choosing the three dimensions – individual forest rights, citizenship, and conflict – to analyse the effect of forest tenure reform on tribal India. Most state forest land in India is inhabited by scheduled tribes, who use the forest under a variety of local customary arrangements. Almost 75 per cent of tribal people are directly or indirectly dependent on forest resources for subsistence needs (Sunderlin et al., 2008). Historically, centralised state control over land defined as forest led to the establishment of powerful legal institutions and organisations (Forest Departments) of state forest management. Peluso and Vandergeest (2001: 763) use the term 'political forests' to show that in the nineteenth century governments in Southeast Asia made several attempts to gain control over what they labelled forest 'through various legal means, through the creation of forest police, and by the disciplining of the population to think and act towards the "forest" in specific ways.' The use of the term 'political forest' denotes the struggle that shapes the conflicting claims based on traditional practices and formal rules. These conflicting claims often occur between different actors (state vs. tribal; men vs. women) that create conflicting ideas about landscape and meaning ascribed to forests with different uses and tenure rights (Bruce et al., 1993).

India's new forest tenure reform, the Forest Rights Act, aims to redress the traditional rights of individual as well as collective forest management. At least on paper, this is a major policy shift from traditional centralised forest management towards decentralised reform. The term 'decentralisation' refers to true devolution from central to democratically elected local government that involves transfer of powers, functions, and decision making to citizens themselves (Ribot, 2002; Ribot et al., 2006). The definition of forest in both colonial and post-colonial India served the government's purpose of converting all land with economically valuable tree cover and biodiversity into forest land, settling tribal people outside the newly

created forest territory, annulling their customary rights, and delegitimising their ways of managing and using the forest (see Agrawal and Sivaramakrishnan, 2000; Bose et al., 2012).

The first dimension to consider is individual tenure rights. Forest tenure rights have their colonial historical background in the territorial demarcation of land as forest and in subject-making of the scheduled tribes. Bose et al. (2012), referring to Foucault's notion of *governmentality*, argue that, through the colonial and post-colonial history of categorisation, recent efforts by the national government to recognise traditional forest tenure rights have reinforced political control over the scheduled tribes through new forms of authority, and rules for inclusion and exclusion. Kidder's (1978: 159) essay on Western law in India explains that, although the British Indian legal system was meant to preserve customs, the colonial courts altered processes of expressions of conflict, and litigation; for example, 'the idea of land *ownership* was enforced in place of complex communal relationships as a means of isolating tax revenue responsibility and proprietary privilege with respect to the means of agriculture production' (italics in original). The interaction between British India's law and indigenous society was mixed in such a way as to manipulate the customary law in the interest of the colonial courts, while at the same time the operation of the colonial courts provided new opportunities for marginalised people to challenge identity-based political authority and economic relations.

The post-colonial resistance of tribal people has continued to challenge government power by criticising the violence embedded in the categorisation of tribe, caste, and gender, and in the colonial classification of forests (Baviskar, 2012). The Forest Rights Act emerges out of a rights-based development strategy that challenges duty-bearers (e.g. government officials) to reinstate the rights of marginalised tribal people – the rights holders – and empowers them to claim their rights and responsibilities. Understanding why and how individual forest tenure rights claims are being made helps us to link these claims to individuals' sense of belonging to the forests, the state, and associated conflicts. Any forest tenure policy reform can function only if it is clearly implemented, with minimum standards with respect to the rights of citizens without any double standard in policy implementation, and particularly with all actors on a level playing field (Larson and Ribot, 2007). The Forest Rights Act in itself does not mean that rights will be granted to forest people; it will only be implemented if appropriate by-laws or regulations exist with respect to its execution. Thus, individual forest tenure rights are about rights holders who are entitled to rights, to claim the rights, to hold the duty-bearers accountable, and who have the responsibility to respect the rights of others (Kierkemann Boesen and Martin, 2007). In brief, individual forest tenure rights are about the basic obligation on the state to take care of its vulnerable citizens and to acknowledge their human right to forest land.

The next key dimension used for analysis in the study is citizenship. Citizenship is important in the debate on social justice, particularly with respect to ethnic minorities like tribal people. Current national policy focuses on citizenship wherein being a citizen is based

either on *jus sanguinis* (right of blood) or on *jus soli* (right to land). Citizenship, as defined by Marshall, is the 'basic human equality associated with the concept of full membership of a community' (1950, p.8 quoted in Sundar 2011: 421). Other scholars show that citizenship could be understood as the rights and responsibilities of individuals towards community, other than just the right to vote or hold an identity card (Patterson, 1999). Citizenship is crucial for forest tenure analysis because it encompasses tribal people's sense of belonging and identity (self-identity vis-à-vis state-defined identity), and their idea of social justice. The politics of the social identity of tribal people is closely related to their struggle to secure rights to (forest) land, which has more than just a property or economic value because it holds a cultural significance and a sense of belonging to ancestral land (Colchester, 2008). Highlighting the issue of belonging, Ribot (2007: 46) notes: 'in democracy, belonging, which infers citizenship, is residency based – where citizenship is the ability to be politically engaged and shape the fate of the polity in which one is involved. In private groups and NGOs, belonging is based on shared interests. In customary and religious institutions, belonging is often based on identity – such as ethnicity, place of origin, language or religion.' Fraser (2000: 27) suggests that recognition is an issue of justice and that misrecognition is morally wrong in that it 'denies some individuals and groups the possibility of participating on a par with others in social interaction.' Although tribal people protest against the government's denial of forest land rights as part of their citizenship rights, they continue to see the government as ultimate guarantor of property rights and other development welfare (Sundar, 2011).

The third dimension, conflict, relates to the struggle for forest tenure rights and citizenship. Conflicts are a common phenomenon in forest tenure due to contradictory, overlapping, competing, or unclear legal frameworks to manage forests at various levels (FAO, 2011). It is inevitable that local level conflict emerges due to diversification of forest tenure and its implementation through new forest policies and laws. Forest-land tenure conflicts can undermine the functioning of local institutions and authority that govern resource use, and may increase the vulnerability of marginalised tribal people (White and Martin, 2002). Globally, many countries have introduced constitutional laws and reforms that recognise unique identities and rights of indigenous and tribal people. However, most of these reforms have failed to eliminate the historical discrimination against such people. One of the causes of conflict at national level in India arises from India's official forest tenure system, which discriminates against tribal people's rights and claims to land classified as public forests. Understanding the causes of conflicts and mechanisms to manage them is important, primarily for the better implementation of the decentralised Forest Rights Act.

These three dimensions are now used to analyse the central underlying question of how the Forest Rights Act shaped tribal households' ideas of individual tenure rights. The paper seeks to answer three operational questions: (1) why and how individual forest tenure claims are made by tribal households; (2) in what ways tribal households' notion of individual forest tenure claims are related to citizenship rights; and (3) which factors prompt and/or supress

forest-tenure and citizenship-related conflicts. Finding answers to these questions will lead to a better understanding of the effects of forest tenure reform on the struggle for citizenship rights and social differentiation and the causes and management of conflicts within scheduled tribes.

4.3   RESEARCH SITE

The study area covers six tribal villages from two sub-districts, Kushalgarh and Bagidora, of Banswara tribal district located in the southernmost part of Rajasthan. Forest in this semi-arid region is highly degraded; often, forest areas are devoid of trees. The communal grazing land (*gauchar*) is either degraded or encroached upon, and, in some places, village Joint Forest Management committees and/or *gram panchayats* (elected village-level government bodies) have enclosed the land designated as forest. Banswara has tropical weather with the temperature reaching 45 degrees Celsius during the summer months and has an average rainfall of 650mm to 950mm. The main crops are maize (mostly rain fed) and millets for subsistence with few external inputs. Cultivation is by means of bullock traction. Droughts are a common cause of crop failure.

4.3.1   Bhil Tribal People

The Bhil tribal people are the third largest scheduled tribe in India. In Banswara, with over 72 per cent of the tribal population, the Bhil are the predominant tribe (913,932 out of a total population of 1,420,601). The majority of Bhil people are poor, forest-dependent people with a low level of literacy. The land traditionally used by the Bhil was classified as forest during British colonial India (Skaria, 1999). The Bhil have a history of resistance against colonial and post-colonial rule, in the context of forest demarcation and rehabilitation projects (Skaria, 1999; Baviskar, 1995). During the post-colonial period, the government's objective was to keep forest-dependent people out of forests. In the 1990s, the Joint Forest Management Programme, attempting to introduce a 'participatory' approach, ignored the informal Bhil tribal institutional arrangements for managing the dry forests and for conflict resolution (Bose, 2009b).

The majority of the Bhil tribal people were not traditionally agriculturalists or pastoralists and derived their subsistence needs primarily from non-timber forest products. During the colonial period, most Bhil people were made to practice settled small-scale agriculture without clear land tenure rights. On average, the agricultural landholding of each Bhil household is less than one hectare. Due to the poor soil quality, lack of irrigation, and low rainfall, Bhil women, in particular, bear the worst impact of drought, poverty, land alienation, and scarcity of natural resources (Baviskar, 1995; Bose, 2011a).

4.3.2. Data Collection Method

Between 2008 and 2010, fifteen months of fieldwork was carried out to collect data using in-depth interviews and focus group discussions. In total, 105 households (274 male and female respondents) engaged in in-depth semi-structured interviews, and four focus group discussions were conducted in six Bhil tribal villages in Banswara district (Table 4.1).

Table 4.1 Characteristics of households and key actors interviewed in the study area.

Tehsils	Bagidora				Kushalgarh		Total
Tribal villages	**B1**	**B2**	**B3**	**B4**	**K1**	**K2**	
Households (hh) interviewed	15	25	10	20	16	19	105
(hh below poverty line)	(4)	(10)	(3)	(8)	-	-	(25)
Female respondents	9	43	12	10	29	30	133
Male respondents	15	27	12	24	25	38	141
Total village respondents	24	70	24	34	54	68	274
Officials, other stakeholders	16				18		34

Hh: the household comprises male and female respondents

The first phase of data collection took place when the Forest Rights Act was in its initial phase of implementation, and the second set of data was collected after two years. Households were purposely selected to include all wealth categories within a village, such as elite, landless, and below-poverty-line households. The household interviews focused on socio-economic and political issues, land rights, forest resource use and access, role of forest institutions, and forest dependency for agriculture. A semi-structured interview schedule was prepared that enquired about perceptions of individual forest tenure rights, access to forest land and forest resources, participation in decision making for collective management, and local-level conflict resolutions. In addition, in-depth interview meetings were conducted with 34 officials from government departments (Forest, Revenue, *Panchayati*, and Tribal Welfare Departments) and non-governmental organisations to understand their viewpoint on forest tenure and conflict management.

4.4 FINDINGS

4.4.1 Claiming Individual Forest Land Tenure

Of the total 105 Bhil households interviewed, about 40 per cent have property rights to an average of one hectare of agricultural land, mainly in the area demarcated as revenue land outside the forest. Except for one household that has property under joint ownership (with the man as primary and the woman as the secondary owner), all the remaining households' property was owned by men. About 52 households were cultivating on land categorised as

forest land without any formal tenure rights. Five households were landless, and only 12 households owned three to five hectares of land (outside the forest), mainly the economically well-off Bhil families. The concept of economically well-off household is relative to the local context and in comparison to the other households in the study area, based on criteria such as concrete house, electricity, personal well-being, etc.

About 52 households claimed that they had used forest land without tenure rights before the Forest Rights Act. With its implementation, between 2008 and 2010, the number of households claiming individual tenure rights almost doubled to 97 households, even when people did not use land in the forest area. The former *sarpanch* (elected representative of the *gram panchayat*) of Bagidora explained that, 'even poor households were ready to pay bribes in order to get the proof [given by elders of the village attesting that they have used the land for three generations] of their land claim approved by the village committee established to implement the Forest Rights Act. However, those households with better political connections were more successful than others.' Of the 34 officials interviewed, the majority of them expressed the view that individual forest tenure claims were marred with corruption and conflicting claims. Bhil women, including those from well-off households, were not the primary claimants for individual forest land.

The findings indicate that the Forest Rights Act changed tribal households' traditional perception on individual forest tenure rights, because they claimed private property rather than collective forest rights. In the Kushalgarh villages, the collective perception of forest land rights, that is, the number of households wanting to use forest land as 'reforestation and pasture with access for others' was greater than that in the Bagidora villages (see Table 4.2).

Table 4.2 Bhil tribal household's planned use on claiming tenure rights to forest lands in the study area.

Response of households (numbers)	B1	B2	B3	B4	K1	K2	Total
Use as private agricultural land	8	5	5	4	0	2	24
Use as agricultural land, but open to others for grazing during fallow period	1	7	3	12	2	3	28
Use forest land in other form of private farm – forestry, horticulture, etc.	1	1	0	2	0	0	4
Reforestation	0	2	3	0	8	2	15
Pastureland with access for others	1	10	3	2	6	4	26
Total	11	25	14	20	16	11	97

B1 to B4 are tribal villages in Bagidora sub-district and K1 and K2 are villages in Kushalgarh sub-district.

Almost all households in K1 and K2 villages are dependent on forest resources for sustenance and have struggled in the past against the Forest Department to maintain their customary arrangement of collective forest management (see also chapter 3 of this book). For the Bagidora villages, the forest land that had previously been managed collectively was divided among the four villages during the Joint Forest Management Programme in the late 1990s. Each village now has an independent forest area without collective forest tenure rights. To gain access to forest land, people in Bagidora have claimed individual tenure rights that left little interest among villagers to consider reforestation or to allow access for other traditional forest users outside the village. The planned use of the claimed forest land differed considerably between economically well-off and poor households. The latter intended to allow open access to their kinship group and to the nomadic pastoralists.

Of the total of 24 households that wanted to make use of the forest land for private agricultural use, the great majority (21) were economically and politically well-off families, and the remaining three were marginal households. However, more was involved than just having title to land for economic reasons. This is nicely summarised by one of the respondents from Kushalgarh, 'land is abundant in this region. Despite the forest being degraded, we claimed individual forest land because this forest has social and cultural significance for us. Things have changed politically, and we realised that getting tenure rights from government also means recognition of our identity – as forest-dependent Bhil *adivasi* (original inhabitants) – and our land. At least we can save some of our forest land on the basis of our individual claims.'

4.4.2 Linking Individual Forest Tenure to Citizenship

The focus group discussions indicated that the main reason for getting individual tenure rights was to acquire recognition of their belonging to the forest land as well as citizenship rights, which could be considered as an unanticipated reason for claiming land. The *sarpanch* from the villages in Bagidora *tehsil* explained, 'earlier we, Bhil people, were unaware of the potential benefits of individual tenure rights. Now, we have begun to see linkages between tenure rights, authority, and political gain. Therefore, the Forest Rights Act is our entry point to gain citizenship rights.' For the Bhil households, the political benefits of citizenship such as empowerment and having voting rights were less significant. This is evident from the finding that only 24 households had exercised their right to vote in elections in the previous ten years. The main reasons for the majority of the marginalised (as compared to relatively well-off) tribal respondents to claim individual forest tenure was to gain benefits relating to their citizenship rights such as food, roads, water, shelter, and education from the government (see Table 4.3).

Table 4.3 Bhil tribal respondents' perceived notion of individual tenure rights in the citizenship context.

Link between individual forest tenure and citizenship	Male respondents (141)		Female respondents (133)	
	Well-off 24	Marginalised 117	Well-off 24	Marginalised 109
Gaining higher status in the community	0	9	2	35
Belonging to ancestral forest land	2	21	1	4
Recognition of citizenship services	0	49	4	24
Ability to exclude others	11	7	0	2
Increase chance of going into politics	3	17	3	5
Secure property rights in the future	8	2	12	31
Better participation in decision making	0	12	2	8

When they were further probed about their logic of associating tenure rights with citizenship, the respondents explained that official land tenure rights would create a legal obligation for the government to acknowledge that tribal people have been deprived of their basic rights. On the other hand, the well-off tribal respondents (as compared to marginalised Bhils) mentioned that individual tenure rights would provide them with the authority to exclude others. The majority of the female respondents perceived that the individual tenure claim would benefit their household in gaining higher status in the community and would secure their property rights in the future.

However, this did not mean that the Bhil perceived the recognition of private land rights as recognition of their traditional collective rights to the forest. The findings from the interviews indicate that 84 households thought that the government's bid to recognise individual tenure rights has failed to recognise their traditional kinship relation and belonging to ancestral land. None of the households perceived that the individual tenure rights (even if approved by the government) would alleviate their struggle for livelihoods. However, a new meaning of citizenship through recognition of individual forest land rights seems to be emerging, which may create further dilemmas for the future. One of the officials from a non-governmental organisation explained: 'historically the land belonged to the tribal people. Through the Forest Rights Act the government accepted the injustice done on tribal people by not recognising their traditional forest rights. The government is not giving any real new rights to tribal people, but only returning part of what rightfully belonged to the tribal people.'

During a focus group discussion, one of the participants expressed the view that, 'most households are in a rat-race to claim forest land to enjoy their citizenship rights, even if it means excluding other traditional users, including their own kin within a hamlet. It is a trap, because even if our claims are recognised we will never get the alienation rights as per the Forest Rights Act. We will continue to be excluded from our fundamental citizenship rights.' The reform may also have consequences for other forest users. In all six villages, the forest land and agricultural land were open to nomadic pastoralists during the fallow period. This traditional barter system was mutually very beneficial for both the tribal households and the nomadic pastoralists. However, two-thirds of households mentioned that in future they would be hesitant to give access of their land to the nomadic pastoralists because they might claim that they belong to the land (and eventually claim citizenship status) in the village. Of these two-thirds, the majority of well-off households were of the opinion that pastoralists did not have grazing rights because they were not resident-based citizens of the village.

Out of 133 Bhil women respondents, 89 were of the opinion that claiming forest land (in the hope that it would be recognised) would improve their household's social status. This, according to them, is crucial to get recognition within the village (including from mainstream rural society) and in turn to demand rights from the government. About 12 women mentioned that an increase in the household's citizenship status directly benefited them, but the majority of women thought otherwise. According to one of the elderly Bhil woman, 'government policies maintain the subordination of women by giving the land rights to the men and only few privileges to women. We are categorised as second-class citizens. How can we be socially equal? Without tenure rights the women are not directly involved in political representation at the community level.' Moreover, a common point of agreement from interviews with the government and non-government officials is that the lack of independent status and empowerment to make decisions in relation to land use and land claims at the *gram panchayat, gram sabha* (village council), or on the village level FRA committee (set-up to implement the Forest Rights Act) – among many other village-level committees – make tribal women second-class citizens with or without forest land tenure rights.

4.4.3. Conflicts for Forest Rights and Citizenship

Several factors prompted and/or suppressed conflicts about individual tenure as the findings indicate. Tenure conflicts can be classified into three main types: (1) conflicts between the government line departments and households, (2) conflicts between the households, and (3) intra-household conflicts.

As the findings indicate, the conflicts between the government line departments and households were due to the formation of the FRA committee in the villages. This new committee was a cause of conflict because of competing claims about authority to manage the same limited forest resources involving existing village institutions including the joint forest management committee, *panchayat*, and local traditional practices. A main cause of conflict

between state institutions and the tribal households in the study area was that the new Forest Rights Act committee failed to take localised practices and rules into account. In total, 37 households had conflicts with this new village-level committee on various issues relating to their claim for individual forest land tenure. One of the households, for example, had made a claim to farm land inside demarcated forest land, which now belonged to another village. This household explained that, under the traditional system, their land claim would have been considered legitimate even if it were in another village. However, such arrangements were no longer feasible consequent to state intervention through the Forest Rights Act. During focus group discussions, another cause of conflict that emerged between tribal households and government officials was the government's inability to address the plural local notions of property rights (such as access to and use of forest land). The government department officials agreed that such conflicts were inevitable for technical reasons such as the lack of a clear demarcation of forest territory and the competition between the different line departments. All 34 district level government and non-government officials interviewed agreed that, although the nodal agency for implementation of the Forest Rights Act should be the Tribal Welfare Department, the Forest Department used its authority to exert influence on the tribal households' tenure claims, resulting in undue delays in the implementation of tenure reform.

The second type of conflict is between tribal households. With households' increasing claims to individual forest tenure rights, inter-household conflicts are on the increase. The primary reasons for inter-household conflicts were that the tribal households claimed individual forest land that was already in use by other households, or that they claimed a share of collective forest land even if they did not use this land in practice. Conflicts are referred to the formal village-level FRA committee set up by the Forest Rights Act. Although the village-level FRA committee is authorised to sanction (or reject) forest claim applications and even takes responsibility for forest-related conflict resolution, for example, when the conflicts cannot be settled at village level, it is referred to the forest beat guard and/or the *sarpanch*. Before the Forest Rights Act such disputes were settled in village-level procedures by the elder(s) through informal negotiations and mutual agreements among parties. According to three-quarters of the interviewed households, this has changed because of the current trend towards formal settlement of conflicts, which has suppressed the conflicts. The households' fear of wrongdoing as a consequence of involvement in the official judiciary system makes them avoid formal registration of their complaint because their illiteracy and poverty will hinder them from following up their cases in the court. Almost all economically poor households thought that the line departments and the *gram panchayat* were gaining influence in the village because the property rights-based conflicts are now reported to these formal institutions, giving these local institutions more power to monitor their activities.

The third type of conflict is intra-household. The focus group discussions suggested that the major cause of intra-household conflict related to the fact that a land claim has to be

officially approved by the government, and this is leading to a breakdown of the traditional kinship bonding that existed in relation to forest land tenure. The focus group discussions suggested that the notion of belonging and tribal identity was closely linked to the kinship group, often covering several hamlets, so that inter-hamlet conflicts about forest use were limited. One household member explained that, 'in the past when we had a fight within a kinship group the matter would be resolved by an elder (man or woman). But now, even conflicts between brothers about a land claim become a court issue.' The intra-household conflicts, as the findings indicate, are mainly between men (father and son or between brothers) and rarely between men and women. About 90 per cent of women interviewed explained that the recognition of their identity and land (tenure and access) was dependent on their belonging to the household (and not as an independent individual). One of the elderly woman explained that 'creating household conflicts will lead us nowhere. We cannot claim any property rights because we are always "outsiders" before and after marriage.'

4.5   DISCUSSION

4.5.1   Dynamics of Tenure and Citizenship

At the outset of this paper, three specific research questions were posed. The findings from this study have pointed to a number of insights and concerns relating to these three question about tribal India's decentralised forest tenure reform, and in particular about tribal people's notion of individual forest tenure rights. Each of these questions is discussed below following a schematic presentation of the overall findings in Figure 4.1.

Figure 4.1 represents the overall findings based on empirical evidence drawn from the Bhil tribal households in western India. The introduction to this paper points out that the global rights-based forest agenda has influenced many governments to introduce forest tenure reform (Sunderlin et al., 2008; Sikor and Stahl, 2011). The rights-based agenda has indirectly pushed India to introduce national legislation, the Forest Rights Act, which aims to undo historical injustice perpetrated on marginalised forest-dependent people. The Forest Rights Act promoted an identity-based tenure right that in a way was promising for the Bhil people to claim restitution of their forest land. However, this proved far too optimistic, since the recognition process is still controlled by the government through the Forest Rights Act. No real authority has been delegated and no collective rights have been allocated in the research area (see chapter 3 of this book). Although the recognition of individual tenure rights is just one component of the Forest Rights Act, it is more emphasised than collective tenure rights. By opening the possibility of acquiring individual tenure rights, the Forest Rights Act effectively undermined the basis for collective forest management. In the figure, the horizontal dotted line connotes that a hierarchical distinction exists and calls for the state (provincial) government to decentralise authority to the forest-dependent tribal communities. The lower two tiers, as shown in the figure, are village and household level. This shows that

the large number of individual forest tenure claims for citizenship at household level has resulted in increased tenure-related conflicts.
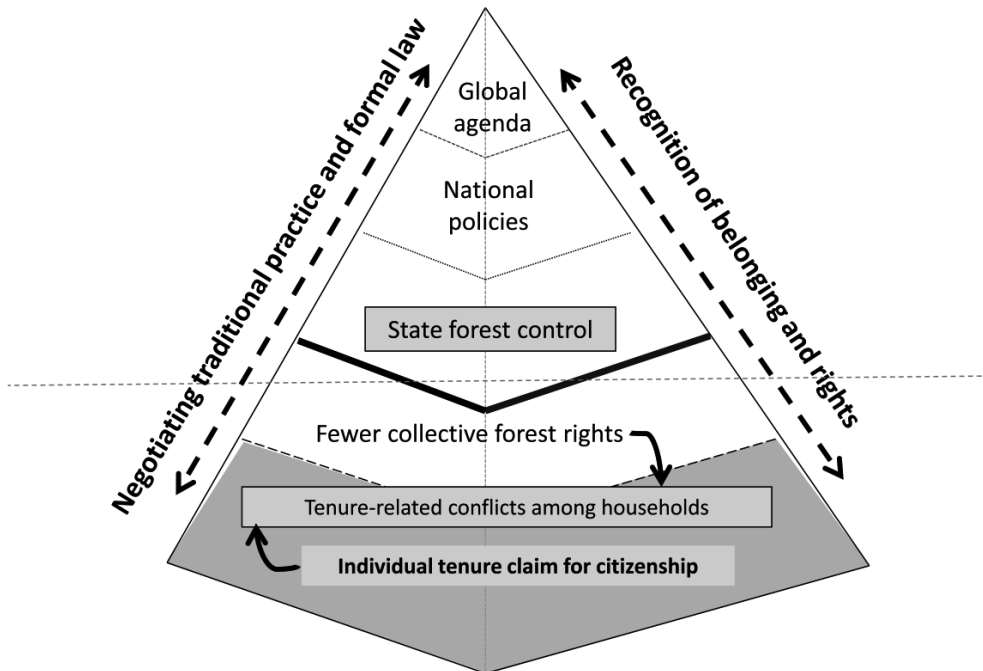
Figure 4.1: Dynamics of individual tenure rights, citizenship, and conflicts at Bhil tribal household level.

The overall findings also reveal that claiming forest tenure is a constant process of negotiation among different actors navigating between existing traditional practices and formal laws. Figure 4.1 also suggests that for households to gain their own recognition of belonging (to forest land) and rights they have to recognise the rights of others.

4.5.2   Identity-Based vs. Residency-Based Individual Tenure Claim

First and foremost, the findings show that individualisation of forest tenure through the identity-based Forest Rights Act raises several issues such as who can claim forest rights, who participates and how do they participate, which resources are managed individually and/or collectively, who will benefit from the tenure rights, and how. Individual household tenure rights are overriding the traditional system of collective tenure rights. For the Forest Rights Act, households are distinct entities. This is different for local traditional practices, which are more adaptive and flexible. Within customary Bhil thinking, every household is first and foremost part of a community. This traditional practice allowed households to collectively access forest land coming under the jurisdiction of another village. Lund (2008: 4) uses the term 'multirational' politics to explain that rights over land come through local processes wherein local traditional practices, government institutions, and individuals with different economic and political connections influence these negotiation processes. The misrecognition of collective forest tenure through the Forest Rights Act is changing the idea of community control due to the preference given to individual tenure rights. In general, the marginalised forest-dependent people are at the losing end because of their poor economic and political status, in particular their inability to pay bribes to local institutions to make a forest rights claim.

The findings indicate that the Bhil people, in particular elite households, embraced and considered their place of origin and tribal ethnicity as an important element to gain individual forest rights. This has posed a threat because, by claiming individual forest tenure rights, the relatively economically well-off Bhil households induced the exclusion of poor households from collective use, including that of non-resident traditional forest land users such as nomadic pastoralists. The construction of identity-based forest law tends toward the institutionalisation of tribal entitlements, rights, and privileges that create a differentiated and unequal status of citizenship within tribal communities. If the government had promoted a residency-based forest tenure reform, this could have reinforced decentralisation through local people's empowerment and building of local partnerships. Thus, the residency-based policy intervention would have promoted de-individualisation of rights, making forest management more of a group phenomenon. In many ways, this finding corroborates Ribot's (2007: 44) view; he explains that 'multiplication of forms of belonging and the strengthening of lineage-based and interest-based forms of belonging over residency-based citizenship appears to be fragmenting the local arena into competing and conflicting identity and interest groups.'

4.5.3   Tribal People's Citizenship through Individual Forest Tenure

Property relations are not just about social relations, but have symbolic value that enables recognition of personal and collective identities (Hann, 1998). Forest tenure reform has introduced a different nuance for Bhil people's traditional understanding of belonging to forest land. The Forest Rights Act is changing their perception of ancestral land in the

direction of property. Due to many decades of government refusal to recognise their traditional rights over the area demarcated as forest land, tribal people now look upon individual forest tenure as a gateway to claim citizenship rights such as electricity, piped water, etc. This process is not egalitarian because relatively economically and politically well-connected tribal people have claimed more forest land, realising that citizenship centres on the capacity to exercise individual rights. Further, the construction of second-class citizens was translated into contesting and subjugating the forest rights of the nomadic pastoralist communities and tribal women.

The trend towards citizenship could be viewed as emancipation from government's categorisation of 'scheduled tribe' as a subject (see Bose et al., 2012). However, this paper indicates that, in this case, being a 'citizen' could also be just another form of governmentality, because, although tribal people wish to have citizenship rights via forest land, they have been appeased by the state with an empty shell. The government has the power to reverse the 'recognition' of individual tenure rights as the alienation rights of forest land remain under its authority. Rather than the government providing a common bond for people through the tie of citizenship, with equal rights, privileges, and obligation, both in precepts and practices, tribal communities have thus become fragmented. Almost similar to agrarian reform (see Agarwal, 1994), this study highlights the fact that tribal women are considered as second-class citizens, limiting them not just at household level, but also from engaging in the public domain at village and national level.

4.5.4   Tenure-Related Conflicts at the Tribal Household Level

Contemporary conflicts are fuelled by competing understandings of legitimate tenure rights. The aspiration to be recognised as a citizen through identity-based rights on the one hand may appear to give Bhil people their traditional rights to the territory demarcated as forest, whereas on the other hand the sense of collective belonging has created conflicts because individualisation of rights gained priority over traditional collective forest management. With the implementation of the Forest Rights Act, the conflict resolution mechanism has significantly shifted from informal local negotiations towards formal registration processes of conflicts as court cases, and sometimes as criminal cases when violence is involved. Although conflicts may have a negative connotation, they can also provide a means to develop a new arrangement for forest management. Lund (2008) points out, giving examples from Africa's land reform, that any form of land reform is a political process and rarely gets implemented at the village level as it was envisaged. Moreover, he explains that state interference through strengthening of formal services such as individual titling and formal dispute settlement mechanisms may only create more disputes and may offer opportunities for manipulation of rights.

 The history of skewed land demarcation during the colonial period (when land was converted to public/private land) makes the current forest tenure reform even more challenging. One of

the biggest challenges, as findings from this study indicate, is the non-alienation nature of tenure rights, which maintains government authorities' control over forest land use. For example, the line departments (mainly the Forest Department) strengthened their control because by gaining authority they have manoeuvred themselves into a position to accept or reject the individual household forest land claims made to the Forest Rights Act committees.

4.6.   CONCLUSIONS

The findings in this paper clearly elucidate that there are strong inter-linkages between the three dimensions of individual forest tenure rights, citizenship, and conflicts through the implementation of the Forest Rights Act. Property rights in forests are a key asset for the government, and in particular for the Forest Department. Any reform brings changes in the relationship between actors within and between communities, as well as between the government and communities, because it changes relationships of authority (Lund, 2008). The paper shows that ultimately the government is not willing to cede control over forest land to tribal people. It also explicitly demonstrates that the local economically and politically well-off households not only manage to capture and/or strengthen their control over forests by finding loopholes in the new legislation, but also shape the outcomes of conflicts. These findings are further confirmed by the findings of De Jong et al. (2006: 454) that well-off individuals base their 'influence in part on [their] economic capacity, as this [gives them] political leverage which [they use] to assure property rights.'

The implementation of forest tenure reform takes place against a specific historical background that has links to local struggles over forests. This struggle shows that a new forest tenure reform reinstating forest rights of forest-dependent tribal people also requires suitable local downwardly accountable institutions and practices, including tribal people's empowerment, particularly marginalised nomadic pastoralists and tribal women. In the long run, tribal people's struggle towards citizenship through identity-based belonging may not be fruitful in achieving their citizenship rights because identity-based policy intervention does not address tribal people's empowerment. The recognition of individual forest land tenure (and even alienation rights) may not necessarily bring a more prosperous and secure future. Moreover, the findings of this study challenge the conventional understanding of citizenship that an identity-based (rather than a residency-based) form of belonging promotes equal tenure rights (see also Ribot, 2007; Sundar, 2011). In fact, for the marginalised tribal people and nomadic pastoralists 'to become citizens entails true participation in the making of binding decisions regarding natural resources (and other public decisions) – or the ability to be able to influence the decision making process by those who represent them and are repositories of decentralised powers' (Bazaara, 2006: 21).

The insight presented in this paper shows that the relationship between individual forest tenure and citizenship cannot be taken for granted. In addition, legislative intervention such as

the Forest Rights Act creates new forms of belonging towards forest land and has minimum influence to realise citizenship rights. In fact, the Forest Rights Act created new restrictions on the use of forest resources, which were previously easily accessible to the community. The new restrictions, which cover grazing and collecting dry fuel woods, fodder, and other non-timber forest products, may affect the livelihood of the marginalised forest-dependent people and may in practice lead to new types of forest tenure conflicts.

WOMEN'S ACCESS RIGHTS

A terracotta sculpture depicting tribal women's rights movement in India.
Photo credit: Prabir Bose

Gendered dimension is present in forest tenure rights. In general, forest-dependent tribal women have primary responsibility as compared to men for collecting forest resources such as dry fuel woods, fruits, leaves, seeds, honey, etc., mainly for daily sustenance needs. However, women frequently lack secure access to resources. Control over forest resources is an important source of power. Marginalised tribal women's tenure security therefore needs attention in view of social equity considerations.

The previous chapters only touched briefly upon addressing the gender dimension, particularly tribal women's rights in forest tenure reform. Thus, chapter 5 investigates the following question: How does the new decentralised forest tenure reform address tribal women's forest-related access rights? And the related two operational sub-questions are:

- What are the differences between tribal women's perceived and actual forest access rights, past and present?
- In what ways has decentralised forest tenure reform addressed tribal women's participation in collective decision making with respect to forest management?

To analyse the micro-politics of tribal women's inclusion in and/or exclusion from forest rights, access is used as a conceptual framework.

5 FOREST TENURE REFORM: EXCLUSION OF TRIBAL WOMEN'S RIGHTS IN SEMI-ARID RAJASTHAN, INDIA

ABSTRACT

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 marginalised 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

5.1 INTRODUCTION

In recent years, the substantial shift towards decentralised 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 decentralised 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 marginalised 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 recognised 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 decentralised forest tenure reform, affects the access rights of forest-dependent tribal women.

This paper 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 (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 paper, 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 decentralised 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.

5.2   FOREST TENURE REFORM AND RIGHTS-BASED ACCESS

5.2.1   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, 1999b). 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, 1999b). The colonial state recognised chiefs' authority to allocate land, but chiefs received no power to manage forests (Ribot,

1999b). In India, the customary institutions or chiefs were not recognised 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 marginalised 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 decentralised 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 the Revenue Departments, 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 decentralisation, 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. In agrarian reform these five property rights 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.

5.2.2   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.

Jesse Ribot and Nancy 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 later 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 recognised 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.

5.3   THE STUDY AREA AND RESEARCH METHOD

5.3.1   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 recognised 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, David 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).

5.3.2   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 a 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. 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 few 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*.

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 5.1).

Table 5.1. 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.

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.

5.4   RESULTS AND DISCUSSION

5.4.1   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.

5.4.1.1 *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 5.2).

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 5.2). These rules imposed by the village FRA committees are local interpretations and not necessarily those 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 marginalised groups.

Table 5.2 Bhil tribal women's individual access to forest land and forest resources before and after the implementation of 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
Jatropha seed collection	65	35	na	na
bamboo	42	23	5	3
stones for construction of houses	3	2	50	27
claims of individual forestland	5	3	98	53

*na refers to zero indicating restriction or ban imposed by the forest institution
Source: author interviews conducted between 2007 and 2009.

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. However, 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 marginalised original users of forestland by showing fake documents and taking over the land. This makes the marginalised 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).

5.4.1.2 *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.
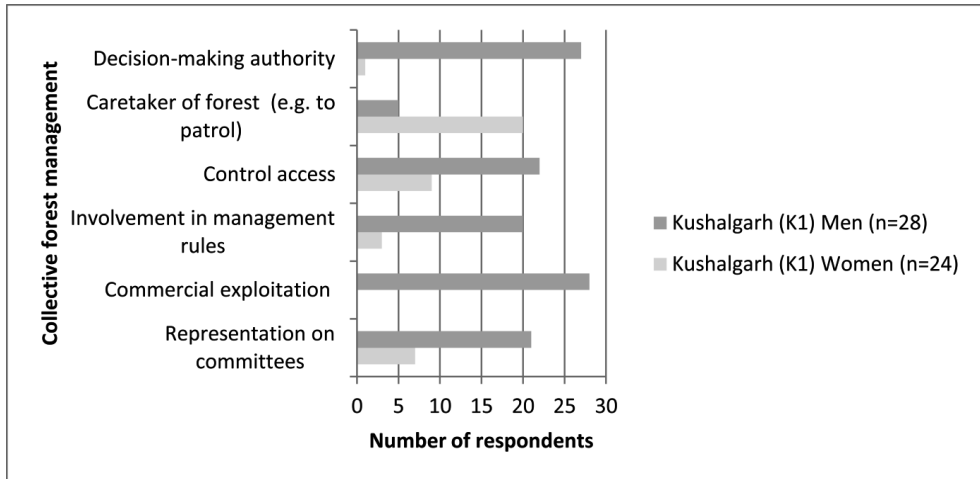
Source: author interviews conducted between 2007 and 2009.

Figure 5.1: Comparative analysis of Bhil tribal men and women's access to forest in K1 village, Kushalgarh

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 recognised. 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 5.1) 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.
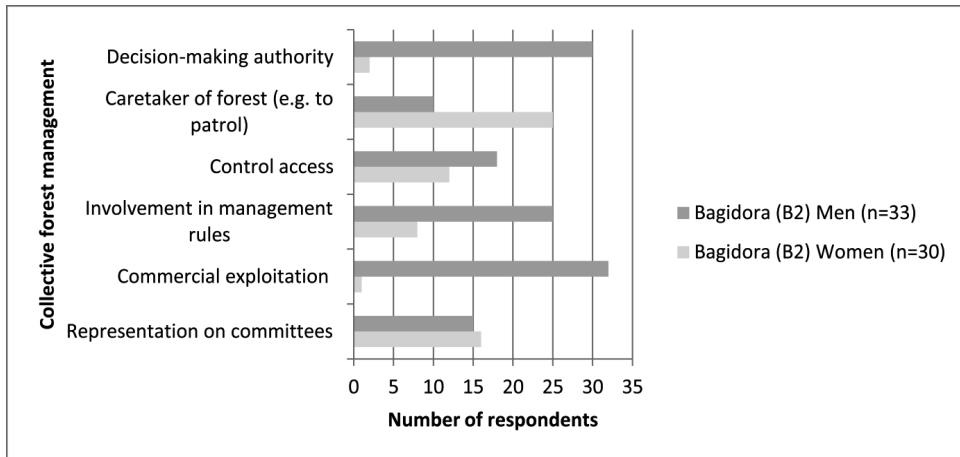
Source: author interviews conducted between 2007 and 2009.

Figure 5.2: Comparative analysis of Bhil tribal men and women's forest access in B2 village, Bagidora

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 5.2). According to a tribal elder man, women actively participated in management roles because 'some of them (tribal women) were animist 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 to 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 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 follow, '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.

5.4.2   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 arrangements 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 (recognised 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 recognised 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.

5.5   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.

The use of three dimensions provided insight into Bhil people's notion about forest rights that may influence future of tribal forest governance. The findings highlighted differences on 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 decentralisation 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.

the future of forest tenure reform

An overloaded jeep with Bhil people in Baswara tribal district, Rajasthan.
Photo credit: Purabi Bose

The future of forest tenure reform is contingent upon many factors, including social and legislative processes, and on the country-specific political-historical context. Forest tenure reform is unique because it is not just about improving livelihoods, but also about reinstating indigenous communities' ancestral rights that were in the past appropriated by the state. Decentralisation is a crucial element in forest tenure reform as it aims to improve the downward accountability of local institutions and to empower marginalised forest-dependent people.

Using a micro-politics perspective, this book has explored the emerging – sometimes unintended – consequences of decentralisation and new forest tenure legislation for marginalised tribal forest people in India.

To summarise the findings and central issues, this concluding chapter is divided into two parts. The first part discusses:
- The four key research questions proposed at the start of this book, with emphasis on the related principal findings reflected in the preceding chapters; and
- The central argument of this research conducted from the micro-politics analytical perspective.

The final part makes an overall argument based on the chapters as well as on experiences from other outputs of this research: an international conference, a documentary film, and an infobrief. Taking into account lessons learnt, it proposes the way forward towards decentralised forest tenure reform.

6 DISCUSSION AND CONCLUSIONS

*"Because things are the way they are,
things will not stay the way they are."*

- Bertolt Brecht (20th century German poet, playwright, and theatre director)

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6.1 INTRODUCTION

This concluding chapter summarises the main findings of this study with respect to the four questions posed at the outset of the research. It discusses lessons learnt, plus the emerging – sometimes unintended – consequences of decentralisation and new forest tenure reform for marginalised forest-dependent tribal people in India. The chapter is divided into four sections. In the next section, the principal findings reported in the preceding chapters are discussed. The third section summarises the central argument of this research from the micro-politics perspective used in the conceptual framework (see Figure 1.2). Further, the sub-sections focus on (i) general lessons learnt on decentralisation and forest tenure reform; (ii) identification of areas that need further research in the light of reflection on the theoretical, methodological, and empirical approach of this thesis; and (iii) experiences from other outputs of this research: an international conference, a documentary film, and an infobrief. On the basis of the lessons learnt, in the fourth section, I propose the way forward in decentralised forest tenure reform by giving some recommendations to render forest tenure policy reform more effective.

6.2 THE REALISM OF FOREST RIGHTS

Over the past two decades, historic changes have taken place in the formal legislation on forest tenure arrangements in many parts of the world, and in particular in tribal India. The underlying aim of this thesis was to understand the extent to which India's decentralisation and forest tenure reform have recognised collective and individual rights of marginalised forest-dependent tribal people. In doing so, it analysed whether decentralisation and forest tenure reform in tribal India achieved their two overall objectives: (1) to empower local

institutions and political participation of marginalised tribal people; and (2) to recognise tribal people's traditional forest rights. This section reflects upon the four dimensions (see Figure 1.1) of the research problem investigated in this thesis. It does so by assessing the outcomes of the reforms as reflected in the empirical evidence collected in poor semi-arid tribal villages in Banswara district, Rajasthan, India.

The four key research questions examined in the context of decentralisation and forest tenure policy reform, particularly the Forest Rights Act (FRA) of 2006, focused on: (1) the influence of the history of forest legislation, (2) the role of different local institutions and authority on collective forest management, (3) the effect of households' perception of individual forest rights, and (4) the consequences for tribal women's forest-related rights. The most salient evidence is discussed in relation to the research questions without repeating the findings of each chapter, and related issues are highlighted throughout the conclusion.

6.2.1   Governmentalisation: Shaping Traditional Rights

"I do not know what is forest right for them [tribal]: traditional practices or modern laws; choosing either/or is a difficult choice."

- Forest Department, Beat Guard (2009, Banswara, Rajasthan)

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The evidence on the first question shows that the historical trajectories of the categorisation of scheduled tribes and forest land demarcation have shaped current forest governance processes and outcomes (see chapter 2) through a process of governmentalisation. The first component of the findings clearly reveals that the categorisation of tribal people continues to be influenced by contemporary legal reforms. By bringing all the tribal communities under the single umbrella of the 'scheduled tribe' category, legislation undermines the scope for specific traditional practices, and it also sets their identity as a separate and unique entity, different from mainstream Indian society. A similar process took place when land that had traditionally been used for various purposes was categorised as single-use forest. However, I argue that any unique and generalised categorisation of forests, the scheduled tribes, the scheduled areas, and traditional forest rights in the current forest tenure policy reform is misleading, because it will lead to further marginalisation of the scheduled tribes, and especially those that are already marginalised. The impact of categorisation from colonial time onwards is evident in contemporary reforms in numerous ways. The principal problem in relation to such categorisation is its ambiguous nature and its dubious definition that fails to

take into account historical context, local customs and practices, and changes that happened due to development project interventions, including Joint Forest Management, but was actively rejected. In the past, the colonial government appropriated land and categorised it as forest, even though it was inhabited by people (often marginalised) and used for their daily sustenance. The systematic appropriation of forests through scientific forestry and colonial and post-colonial legislation (see Table 2.1) legally dispossessed many forest-dependent people, in particular tribal people. The demarcation of forest land is still contested because of the competing claims made by the government and by people who depend on the forest for their livelihood. In other words, categorisation of land as forest has created a fissure that continues to divide the government from forest-dependent people. The authoritarian top-down structure of the Forest Department since the colonial period exercises a strong hold on both the tenure of forest land and its managerial aspect. This unchallenged authority of the forest administration poses a threat for any new intervention of forest-related laws because it allows the forest administrators little flexibility in identifying the diversity of forest use and the forest–people relation (see also Poffenberger, 1990; Skaria, 1999; Tiwari, 2004).

The much-awaited historic legislation in the Forest Rights Act was introduced to undo injustice by recognising traditional rights. However, it is in fact generic national legislation that is a mere extension of the colonial notion of forests, to be administered without any real clarity on the meaning of traditional rights. In reality, the entire notion of traditional rights is complex and cannot be addressed without understanding the locally specific forest–people relations (see also Li, 1996; McNeely, 1995). Chapter 2 further reveals that, because of its long history, the Forest Department, generally and throughout the whole country, has been able to build up a powerful position on all issues relating to forest management. Unlike the Forest Department's historical legacy, the Panchayati Raj Department is a relatively new administration unit. Village-level democracy became a reality in 1992 with the seventy-third amendment to the Constitution of India. However, this law did not cover the scheduled (tribal) areas. It was only in 1996 that the Panchayat's Extension to Scheduled Areas Act (PESA) introduced tribal self-rule, with the provision that the government should not make any contradictory law with respect to the recognition of customary law, social and religious practices, and traditional management practices of community resources, including forests. This decentralisation process through *gram panchayats* had been envisaged to manage natural resources, including forests. However, the efforts to implement decentralised local tribal governance in consonance with the PESA norms failed. A similar effort proposed during the British colonial period had also remained unimplemented. The main hurdle in the proper implementation of the PESA comes from the nexus of forest bureaucrats that have long viewed (from the British colonial period) the resource-rich tribal regions as a source of revenue. In addition, the *panchayats* continue to be dominated by the central government (see chapter 4). The striking (perhaps unintended) outcome of forest categorisation is that the Forest Rights Act proved beneficial for the Forest Department for many reasons, even though

the nodal agency implementing the legislation is the Tribal Welfare Department. To illustrate, the governmentalisation of the forest as a 'territory' of the Forest Department through the Forest Rights Act has reinforced their authority. The Forest Department retains control over the public forest that falls under the geographical boundary of the scheduled areas – the territory to be administered by the Tribal Welfare Department. Moreover, the Forest Rights Act remains vague about what the recognition of traditional forest rights connotes. Historically, traditional rights were not fixed, but rather evolved through a negotiation process between forest-dependent people and their own traditional authorities. Codification of some traditional practices was introduced under the guise of scientific forestry during the British colonial period and these were then defined as traditional rights; these 'rights' were subsequently re-allocated to the population as privileges. The contemporary government perpetuates identity-based reform by allocating rights through legislation, without recognising the role of traditional authority. This further justifies the Forest Department's role in the *conduct of conduct* – to govern the forest-dependent tribal people and their access to forest land and forest resources.

The *conduct of conduct* notion brings us to the second component of this key question, that is, the implication of the historical legal identity of scheduled tribe as imposed by the government. As demonstrated in chapter 2, the imposed tribal identity (or the process of subjectification) of the Bhil in western India is strongly influenced by the statutory legislative classification and has to a great extent been internalised by the Bhil themselves. The depressed class identity established during British colonial rule was formally defined as 'the scheduled caste' and 'the scheduled tribes' in the constitution after India's independence. Such identity has both enabled and constrained tribal people in claiming their forest rights. Typically, laws are intended to "respond not only to citizens' claims, but to their feelings – feelings that are understandable in the shared culture law inhabits" (Cotterrell, 2009: 373; see also Jhering, 1915, on citizens' feelings of what is right and just). However, in the case of the tribal people, the 'feelings of citizens' have not yet been addressed. The Constitution of India formalised their political identity, clearly distinguishing them from the non-scheduled tribes. Unlike the categorisation of the scheduled caste in India, scheduled tribes such as the Bhil were placed outside the caste system.

I make two observations from analysing the influence of legislation on tribal identity: first, their political identity gives the Bhil people the right to exclude 'non-tribals' from benefiting from their traditional forest rights. Losing their statutory identity as a scheduled tribe may lead them to lose their ability to determine inclusion in, and/or exclusion from, the forests. It is evident that the loss of recognition of ethnic identity is immense because of its close link to their claims for traditional rights to natural resources, particularly forests. The second observation is that the internalisation of the imposed political tribal identity has had the unforeseen effect of fragmenting the Bhil community, because some also wish to belong to mainstream Indian society. This can be seen in some Bhils' efforts to be recognised socio-

economically and culturally *at par* with the mainstream community (non-scheduled tribes) by identifying themselves as Bhilalas and making a conscious choice to differ from their ancestral ethnic culture. Because of their status, the majority of them are well-represented in the local institutions, and by imbibing mainstream culture and ideology they indirectly become carriers of the hegemonic Indian norms in their villages. Paradoxically, the Bhilalas also embrace the political identity of tribals, aware that 'ethnic marginalisation' will facilitate their claims to forest rights from the government.

At the micro level, the Bhils are not passive subjects but try to actively perform or resist the imposed identity. They adapt their identity to specific situations at different temporal and spatial scales. The Bhil people are aware of the subject-making process to the extent that they consciously or subconsciously decide to be part of it (for example by claiming to be indigenous people or *adivasis*) or try to remain outside it (for example by showing cultural affinity towards non-scheduled tribes), in order to gain *back* their forest rights. As chapters 3 and 4 demonstrate, I argue that this plurality of identities enables as well as constrains the tribal people. The plurality of identities provides Bhils with a mechanism to defend themselves by creating countervailing power to deploy strategies within the forest governance regime: they shift between informal rules and formal laws; between the past and the present; they manoeuvre forest rights by representing them as collective, or distance themselves from collectivisation; they move between traditional practices and codified rights; they resist territorialisation (of land), but defend and claim their traditional territories; and they even alternate between different identities, demanding to be recognised *at par* with others. By 'playing' with the different imposed categories, they constantly filter their classification and chose one that will fulfil their particular needs at a particular point in time.

6.2.2   Decentralisation of Collective Rights: An Absurd Idea?

> *"Where is the logic of the decentralised collective forest rights*
> *when we are told how and what to do by them [officials]?"*

> -   A former *sarpanch* (2010, Banswara, Rajasthan)
>
> -

The answer to the second question confirms that formal forest tenure arrangements have a big impact on local collective forest management. The top-down notion of collective rights imposed as a project intervention idea (through the Joint Forest Management Programme or Forest Rights Act) to protect forests is an absurd logic from the perspective of Bhil people's traditional knowledge and understanding of their forest rights. There are various reasons to

call it absurd, as shown in chapter 3: the definition of community has a different connotation in the world of the Bhil than in the world of administration. The Bhil communities, rather than being a strictly closed entity defined by demographic and geographic administrative boundaries, value their traditional kinship network structure (through *phalias* – hamlets) that goes beyond the concept of community in its administrative meaning. The paradox of community as defined by practitioners, policymakers, and academicians fails to capture the flexibility of tribal people's networks and leads to misrepresentation of their collective rights. The challenge of the term community is that there is no universally shared specific idea and it cannot be easily defined or measured, yet it cannot be considered insignificant (see also Agrawal and Gibson, 1999; Etzioni, 1996; Guijt and Shah, 1998; Spierenburg et al., 2008). Chapter 3 carefully highlights the concern that the tribal people have historically been marginalised, therefore making it even more difficult for an outsider to distinguish local differences within a tribe (for example, Bhil vs. Bhilalas). Missing out such nuances may create misleading discourses that influence the way projects are implemented, leading to conflicting claims and local struggles over resources (see also Li, 1996; Alden Wily, 2008).

If we look at the case of the Joint Forest Management (JFM) Programme in the study area, it is evident that the government Forest Department persistently uses the imagined sense of the spatial definition of community to impose and to legitimise JFM as shared norms and practices that help to extend their (government) control further. This mandatory top-down collective community participation promoted for political representation, democracy, and conservation has run into difficulties in project implementation, because it has given the government more control in arenas where previously forest management and decision making resided at local level, in the study area (see also Cooke and Kothari, 2001; Nightingale, 2002; Kumar, 2005). Agrawal and Ostrom (2001: 513) criticise the prescript of the community-based project because "not all local groups will self-organize to manage local forests sustainably just because central governments are willing to devolve authority," and because community-based forest management is not necessarily pro-poor (see Hobley, 2007). In contrast, as I have shown, Bhil people have to some degree resisted the government's lack of interest in decentralisation and the imposition of a new 'community' at village level to engage in collective forest management: they would prefer to continue their traditional arrangement. Similar to the territorialisation of forest land and the scheduled areas, the use of the terms community and participation does not take into account the different definitions ascribed to the explicit meaning of forest rights by the government and the tribal Bhil. The divergence hinges on differences in relation to the meaning of collective forest rights. For the Bhil, these rights are open to the bargaining and negotiating power of the tribal kinship groups in the hamlets. This bottom-up collective right has a different meaning than the top-down idea of community and of collective use.

Chapter 3 also illustrates how specific local institutions – designed by the government to represent communities – are not based on traditional authorities, and neither recognise nor

take into account existing traditional practices. In other words, they fail to promote an institutional structure based on the Bhil community's demand for forest rights. This has a historical linkage with the colonial and post-colonial forest governance regime that has either suppressed these rights or superimposed new administrative institutions on customary land rights, and these institutions have become a mere extension of government authority (see also Vandergeest and Peluso, 1995; Hobley, 2007; Bose et al., 2009b). As Figure 3.1 illustrates, the traditional village institutions were removed historically from the decision-making arena and more recently were overlaid first by the JFM committee, then by the *gram panchayat*, and recently by the FRA committee. The risks of all these reforms lie in their implementation because of several intended and unintended consequences. The reform processes are manipulated by filtering, bribing, selective use of information, etc. In this way, the interests of communities become divided. As a result, the government has more control over which community gets collective rights and which community does not. However, the rights and rules embedded in these different institutions and authority cannot, by themselves, act or achieve their goals, but require legitimisation from collective action by a group of individuals (see also Cohen, 1969; Lund, 2008). The Bhils choose and legitimise a specific institution only when they consider their forest rights will be at stake. The legitimisation of an institution happens through negotiation, contestation, and manipulation. Consequently, the ability to choose is not entirely under their control: rather, they are disempowered when they take sides and make their belonging visible, particularly when they choose formal institutions over traditional ones. They are further challenged by not being able to make their customary institution *visible* because there is no one authority or practice that could be identified as a generalised rule. Through strategic formulation of ethnic identities, and by replacing the traditional authority and practices with formal institutions, the government creates visibility. This visibility of an institution acts as an illusion of decentralised future forest tenure arrangements by claiming to recognise traditional rights. Foucault (1995 [1975]) calls this the *visibility trap* because, by increasing the visibility of a formal institution and authority, the government more easily exercises control on individuals and counters criticism of its policies.

The Bhils' struggle for forest rights is linked to the confusion about what tradition means, and in particular what traditional authority means. The risk is that ignoring and/or accepting traditional forest rights without a legitimate institution will lead to a situation of misrepresentation; the need is, rather, to make decentralisation work (see also Bae, 2005; Fitzpatrick, 2005; Tacconi, 2007; Ribot et al., 2006). The recognition of collective rights through the Forest Rights Act is not yet formalised at local level, remains highly uncertain, and may have the same fate as that of previous collective tenure rights through the JFM and the PESA in tribal India. The construction of authority relations at the *gram panchayat* occurs through multiple manifestations of the government and the Bhil people by confrontation and communication among plural institutional arrangements. The Bhil definition of collective forest rights, I argue, is dynamic but rooted in its local history and forest land struggle. A

mutually agreed legitimate collective representation – downwardly accountable authority and decentralised institutions – that balances the forest rights of the government (modern laws) and of the community (traditional practices) can bridge the gap between these two distinct politico-legal and cultural entities.

6.2.3   Individualisation: An Administrative Desire

"I belong to this place but then I do not know why
I am deprived from using my [forest] rights?"

-      A forest-dependent Bhil elder (2010, Banswara, Rajasthan)
-

Citizens are responsible for asserting legal rights dynamically as a duty to themselves and their society (Jhering, 1915). Throughout this research, one of the basic questions was to see how the tribal people both defend and extend their forest rights by manoeuvring their forest identity of being a 'subject' of the government and as a 'self-conscious citizen.' Chapter 4 shows how, in their struggle to gain forest rights, the Bhil people's perspective on individual (household) rights and citizenship gets shaped. It highlights further complexities about the influence of the Forest Rights Act on tribal households' perspective on individualisation of forest rights. Typically, the idea of individualisation of forest rights may find its root in property rights and is grounded in the fact that a sense of ownership and the secure use of forest land are critical for forest-dependent people's livelihoods. Forest rights are considered to be linked to forest-dependent people's poverty issues. However, it is perhaps naïve to expect forestry interventions alone to reduce vulnerabilities and livelihood insecurities (see Angelsen and Wunder, 2003; Kaimowitz, 2003; Ellsworth and White, 2004). Therefore, tribal households' choice of specific forest tenure rights goes beyond their wish to reduce poverty and their understanding of forest as a safety net. The forest-dependent tribal people have rarely – before the Forest Rights Act – received legal attention in relation to their individual forest rights. Now forest rights may give a new meaning to the recognition of their identity because, by granting forest rights, the government gives them a renewed sense of belonging. The shift towards citizenship rights by claiming their individual tenure rights is not based on abstract ideals. Instead, as my findings indicate, Bhil people are constantly struggling to be recognised as normal citizens as against the identities imposed by the government (see chapter 2).

Von Benda-Beckman (1997) notes that, as a citizen or a stranger, the visibility of one's rights is dependent on one's choice of a specific identity that is constructed out of those

generated by formal government institutions and/or those that challenge these institutions, such as local traditional arrangements. The desire of tribal people to get recognition of their traditional individual land rights does not necessarily coincide with an individualisation of forest rights, but there exists an administrative desire for such individualisation. Through that, the government will be in a better position to control forests and people. Control is easier when it concerns individuals with different interests rather than communities claiming their collective rights. To some extent, the government's imposition of project interventions via line departments influences the adoption of individualisation of forest rights among Bhil households. This, however, differs considerably between (and within) tribal households, because different individuals have diverging notions about the relationship between forest rights and citizenship.

The citizenship rights of India's forest-dependent tribal people have not received much attention, although these are pertinent in contemporary forest tenure rights (see also Sundar, 2011). Citizenship is an illusory concept in India. Mitra (2010: 47), for example, argues that 'citizenship is a specific form of political identity. [...] In this vein, citizenship belongs to a "third space" which constitutes the interface of legal specification of individual citizenship in the constitution on the one hand and the primordial concept of personhood germane to Indian society on the other.' However, forest-dependent Bhil people's realisation of citizenship rights is interlinked with identity-based forest tenure reform. There exist socio-economic and cultural differences that determine who gains and who loses with respect to access, use, and management of forests among the local forest users (settled people and others like the nomadic pastoralists). Table 4.3 illustrates how well-off Bhil households distance themselves from the collective action of forest management to gain more individual rights in order to further enhance their political 'belonging' – within and outside the Bhil community – to mainstream Indian society and to the government. By justifying the significance of collective forest rights, the marginalised Bhil in their daily struggle strategically choose to represent the other excluded forest users, to promote their interests as a community, and emphasise their group identity as tribal people. There is to some extent a realisation that the institutionalisation of individual entitlements, rights, and privileges will create a differentiated and unequal citizenship status, and potentially harm their claim for collective rights. Nonetheless, the Bhil households' wish for individualisation of forest rights is reinforced by the association that they perceive between it and receiving fundamental recognition from the government of their citizenship rights, in particular when they cannot secure their collective rights.

Just as it has imposed top-down collective rights (as shown in chapter 3), the government has imposed individualisation. The granting of individual rights – where the Bhil's forest rights are recognised – with the rationale of legitimising traditional rights is mere tokenism. By transforming oral history into a specific interpretation of customary rights, the government fails to recognise the specificity of forest-dependent Bhil people's historic, cultural rights and

current needs (see Skaria, 1999). This, in fact, ends up strengthening conventional mainstream Indian society's biases. Individuals know that forest rights recognition will not be able to shield them from different forms of local-level conflicts and forest rights struggles as shown in Figure 4.1. Such recognition will remain utopian without local empowerment. The individualisation of households' forest tenure prompts new conflicts among community members and within households and suppresses old conflicts with the Forest Department. Often, the decision-making authority for statutory forest tenure policy reform is assigned to those who are socio-economically and politically well-off, and also on the basis of gender (see Chapter 5). It is not surprising that the well-off households (with minimum interest in forest conservation) control the other forest users by including them in, or excluding them from, accessing and managing forest resources. Conflicts are inevitable in the local management of natural resources and constantly take place between as well as within communities (macro level) and individual households. It is unclear whose forest rights claims are to be recognised and considered as constituting real access rights.

In this context, I argue, on the basis of my findings in chapter 4, that conflict analysis of forest tenure must be approached by identifying the differences between individuals (well-off or marginal) in their ability to get their forest rights recognised as legitimate. Such a process is challenging because the socio-economically and/or politically well-connected households try to exclude the marginal forest users' access, use, and management rights to forests. One of the challenging tasks is to actually recognise rights because the underlying issue of tribal people's claims and the struggles for rights among multiple rights is dynamic and context specific (see Larson et al., 2011; Sikor and Stahl, 2011). Recognition of a uniform 'individualisation' of forest rights is unlikely to level the uneven playing field. This calls for re-visiting rights in order to ascertain which form of legitimacy asserted to claim forest rights (for example, Bhil tribal residents, nomadic forest users, and officials) should be recognised. Conflict resolution in relation to individual forest tenure rights requires a transparent debate that acknowledges differences and that highlights the fact that recognising the rights of one individual means that another individual will have fewer rights (see also Edwards, 2011). My findings challenge the proposition (e.g. Phuc, 2011) that the devolution of forest tenure rights should grant use rights rather than alienation rights to the households. I argue in chapter 4 that unless forest rights are residency based, that is, vested in the community and give authority to local institutions by empowering the citizens, it is futile to debate for or against alienation rights. The *decentralisation* of forest tenure rights is necessary to prevent the government from being able to re-centralise forest land rights (either by not recognising or by retaining the alienation rights) and to prevent the well-off households from accumulating forest land.

6.2.4 Marginalisation: Women's Forest Rights

"Why does the Forest Department have no women as beat guards or district officer [in the study area]? They call us [tribal women] backward! Let them first change their own system!"

- Harki-*ben*, a former *sarpanch* (2010, Banswara, Rajasthan)

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The results presented in chapter 5, relating to the fourth research question, clearly demonstrate that forestry is male biased and that the Forest Rights Act has left women further excluded from access rights, including from decision making about forest management. Within the village institutions that manage forest land and forest resources in the study area, men rather than women are represented. This is also typical among the government officials, such as those representing the Forest Department. At *tehsil* and/or village level, there are no female officials. By bringing in more female personnel, gender-biased attitudes will hopefully change and the realities faced by the tribal women will be better highlighted (see also Gurung, 2002). The gender literature is unclear about the meaning of gender. Often, gender is denoted as 'women's issues' – a denotation that may (unintentionally) receive negative reactions from men (see also Mai et al., 2011). I deliberately choose not to represent Bhil tribal women's forest rights as just a gender issue; rather, they are intertwined with complex dynamics around their rights, identity, and belonging. One of the pertinent reasons is that project intervention in the study area categorised the Bhil women without acknowledging that these women already had a certain way of participating traditionally. By creating a separate identity, the projects marginalised women by imposing the need for them to be 'included' in new ways of participation. Women are involved in forest management because it is considered *necessary* to involve them for good governance in project interventions of the JFM, the PESA (*gram panchayat*), and the Forest Rights Act (see also Bose, 2011b). To some extent, this has created an image of Bhil women as uneducated, and implies that they need to be educated to participate. I outline in chapters 1 and 5 how the Bhil women traditionally had a matrilineal society and exercised a certain degree of freedom, unlike their counterparts from mainstream Indian society, and were involved in traditional forest use and management before the forest reforms.

Chapter 5 demonstrates that Bhil women's struggle is first to *maintain* their collective tribal identity, then they are expected to *assimilate* the identity of non-scheduled tribe women, and also to *adopt* an identity (ascribed by external institutions) of 'backward women.' Bhil women are jiggling between these identities, and they are struggling (especially older Bhil

women) to resist these images of backwardness and to claim rightful access to forest land and forest resources. I argue that it is not good enough to give women the right to vote or to participate in meetings under the women's predetermined of quota without empowering them. The policy of taking gender into account makes a token gesture towards women and gender issues and often results in a quick fix solution through the women's quota, rather than fixing the root causes of such marginalisation. Even worse, the authority takes the reservation quota literally, preventing women from being in the majority, be it at the *gram panchayat* or the JFM committee of the village-level forest rights committees. Remarkably, as shown in chapter 5, there exists division within the homogenous category of tribal women, that is, elite vs. marginal women. This division occurs when the positions reserved for 'backward' women are taken by women from well-off households (who themselves may be subordinate to their male relatives), creating a further gap in achieving participation and equitable forest management (see also Agarwal, 2009; Bose, 2009a). What is needed is inclusive forest management. As Agarwal (2010) has suggested, women's participation should not be segregated by forming a separate women's group; rather, there is need to increase women's numbers in the meetings in order to encourage them to challenge the existing power relations. The Forest Rights Act has brought all sorts of perceived and actual forest access rights to the Bhil tribal women. Any decentralisation without considering women's rights will be futile (see also Colfer, 2005) and may in fact prevent women from achieving their collective forest rights.

For forest tenure rights to be implemented successfully, it is important that the decentralisation process does not exclude women, or include them just for the sake of the project intervention and make it mandatory to participate without the true essence of participation (see also Bose, 2009b). It is clear that decentralisation of forest management will bring no change for tribal women if they are not considered as individual citizens. Individualisation of tenure rights manifested through the Forest Rights Act makes it necessary for tribal women to contest the emerging masculine ideologies, because men continue to be the primary claimants, as discussed in chapter 3. Tribal women are in a dilemma because they prefer collective forest access rights, but they cannot push for that because then they would have to forego the possibility of their male-dominated household getting access to individual forest tenure rights. In the forest land claim, tribal women have been left behind because their traditional association with forestry has been in collective form to access non-timber forest resources, mainly for the sustenance of their households. In general, in collective forest management, marginal tribal women tend to function as 'we,' as compared to their male counterparts who function as 'I' by being recognised as the rights holder because of the authority they hold over forest land. Figures 5.1 and 5.2 elucidate that the individualisation of forest land tenure is less beneficial to women in their future access rights to forests. Forest access rights, rather than property rights, are more significant for enabling women to collectively organise themselves and to make decisions.

6.3   THE KEY ARGUMENTS

In this section, I summarise the central argument of this research, focusing on the conceptual micro-politics framework used for the empirical analysis in this thesis, as shown in Figure 1.2. This research has demonstrated that the micro-politics framework, by going beyond the limits of one specific concept, is crucial in understanding the intricate dynamics of decentralisation and forest tenure reform. The use of these micro-politics concepts – governmentality, institutional pluralism, authority, citizenship, and access – helps us to understand that these different dimensions of forest tenure reform are intertwined (see Figure 1.1) and at different scales, ranging from the individual, via the household, to the *gram panchayat* (see Figure 1.2). The conceptual framework explains that forest rights are interconnected at various levels and that every activity, as Deleuze and Guattari (1987) suggest, is simultaneously *macro-political* and *micro-political*. The concept of forest governmentality explains the different dialectics in the workings of power of the colonial and post-colonial government through the *conduct of conduct*, *identity*, and the *visibility trap*. It throws light on the fact that governing forest and people is not just about forcing people to do what the government wants. It is also about processes of constructing an identity of 'self' – as a tribal individual and/or group – that is internalised. The coupling of institutional pluralism and authority in the framework allows for a more complete analysis of the current socio-political changes at the *gram panchayat* level, and makes visible the mechanisms of legitimisation – through practices and rules – of certain kinds of statutory institutions and authority. Equally important, the focus on institutional pluralism reveals that having different types of authority is not necessarily a good thing for making legitimate choices about forest rights. The polycentric character of authority based on different local-level institutions interferes with the democratic process of forest governance. The threat for the implementation of the Forest Rights Act is that the institutional pluralism created here as well as ignoring existing traditional authority is likely to impede the collective forest rights of tribal people.

At the household level, the concept of citizenship in the micro-politics analysis explains its linkages with the other two concepts: forest tenure rights and conflicts. At the same time, the concept of citizenship exposes the governmentalisation – i.e. subject-making – of the Bhil people as the other side of the same coin. In other words, although the trend towards citizenship could be viewed as a form of emancipation from the government's subjectification of the scheduled tribes, this is not the case. At government level, the *power* to reverse the recognition of individual forest tenure has remained with the government, since the alienation rights of forest remain under its authority; and at the village level, forest rights-related conflicts have emerged because of the new competing claims on forest resources and land as a consequence of the Forest Rights Act. These conflicts show that the elite households exert control over marginal Bhils through their power to exclude others. The conceptual micro-politics framework shows that, through the *individualisation* of forest tenure rights, tribal

people are fragmented by the state, without actually being empowered with real citizenship rights.

Gender mainstreaming by addressing tribal women's exclusion from their access rights to forest land and forest resources is the fourth domain of micro-politics analysed here. The theory of access has been very significant in framing the analysis because it explains the dynamics of ownership versus usufruct rights to forest land and resources. This concept helps in explaining not only the way access is perceived by women (from legal to traditional notions), but also how new and different institutions and authority undermine the political and social inclusion of women, making them second-class citizens, even in a local society that was traditionally matriarchal.

6.3.1   Lessons Learnt

Decentralisation and forest tenure reform are among several processes involved in shaping tribal people's livelihood outcomes. From the legalistic point of view, legislation in itself does not solve the problems on the ground. Yet, it is important. Decentralisation for tribal India was not an easy legal process. The Government of India introduced the Panchayati Raj in all areas of India except in the demarcated scheduled areas – excluding the majority of tribal India. Tribal people had to struggle for their decentralisation rights, which were recognised only three years after their implementation in mainstream India. The success of *decentralisation* in tribal India is strongly dependent on the choice and recognition of local (forest management) institutions and upon the authority of the *citizens* to hold these institutions accountable. The choice of institution and recognition could either consolidate or lead to fragmented forms of authority (see Ribot et al., 2008). One of the pertinent lessons that I would like to highlight here is that it is not enough that the decentralisation is legalised (as in the case of the Panchayati Raj) and that the decentralised institutions are recognised through a local democratic process (*gram panchayats*/*gram sabhas*). Rather, what is required is that citizens do not fall into the trap of becoming *subjects* as defined by the authority. In other words, the implementation of decentralisation does not automatically empower local marginal tribal people to claim their *citizenship* rights. To ensure a level playing field, decentralisation must take account of the local dynamics, illiteracy, tenure rights, inequality between households, and the political participation of those who have never been involved by the government in the process of decision making (the macro–micro linkages). There are challenges for the tribal people to be *at par* of belonging with the others. To achieve this, decentralisation could be used as an instrument for tenure transition if implemented appropriately.

Forest tenure reform is expected to provide security of the bundle of rights for tribal people that in turn would enhance good governance. However, all kinds of institutional dynamics on the ground make the outcomes of the law often different than expected, and sometimes there are unintentional outcomes. These unintended outcomes can only be

explained by studying the dynamics of micro-politics. Forest tenure policy reform is at the interface of traditional rights and statutory rights, and, most often, superimposing the latter on traditional rights will only result in insecurity. It is obvious that what is needed is 'getting the rights right,' acknowledging both the local traditional dynamics and knowledge in the formal arrangements. Rather than identifying a single institution and/or authority from the existing dynamic institutional pluralism, it is important that the forest people's rights are recognised through *nested institutions* and authority. The term nested institutions refers to a co-ordinated body that reduces the risk of unnecessary overlap of administrative authority and competing claims among different institutions. On a more global level, forest tenure reform is very important in relation to successfully reducing emissions from deforestation and preventing forest degradation in developing countries (REDD+), especially in marginalised areas inhabited by vulnerable populations. The national government, in an attempt to win REDD+ finance, may attempt to do a quick and dirty fix of impending tenure rights that may not directly benefit the rights of marginalised populations and rights holders (see also FAO, 2011). It will also look for justifications to recentralise forest management by retracting actual devolution of power to local institutions and/or by claiming to be the legitimate authority and representative of forest-dependent people (see Sundar, 2001; Ribot et al., 2006; Phelps et al., 2010). There is, therefore, an urgent need for clarity on forest tenure.

6.3.2   Reflections

From the above discussion it is clear that forest tenure policy reforms have been influential in shaping tribal people's forest rights. Given that forest tenure reform is a large domain, it requires different dimensions to understand the implications. I have therefore consciously used different analytical concepts depending on the theoretical implications of the research questions. This thesis, however, has certain inherent limitations in its theoretical, methodological, and empirical approach. For example, this study has not been able to straightforwardly identify the interrelations between the micro-level dynamics and the macro or meso level projects and policy interventions. There is need to elucidate the macro and micro interface in order to ascertain the correlation between tenure rights and other market mechanisms that currently remain unclear, namely, will market-based initiatives provide benefit through loans to the tribal community without alienation rights? To what extent will the lack of collective tenure rights impact the conservation of forests? How will other rights-based reforms, such as the Right to Food campaign or Rural Employment Guarantee schemes in tribal India, affect the Forest Rights Act? What are the rules of the game among the different competing government line departments (Forest Department, Panchayati Raj, Revenue Department, and Tribal Welfare Department) with overlapping authority to manage the resources?

From the methodological perspective, the choice of the *gram panchayat* as the unit of analysis helped to clarify the micro-politics of forest tenure reform. It is evident in the study

areas that there is a high degree of variability in terms of institutional arrangement. Just because Joint Forest Management, the Panchayati Raj, or the Forest Rights Act have been implemented by creating new village-level committees does not mean they will continue to be active without actual political decentralisation in place. This requires further investigation, beyond scope of this thesis, about why decentralisation and forest reforms are subverted by the different government departments in the process of implementation. Above all, what remains to be examined is how India's push for legislation and formalisation of every right can be monitored without stringent rules in place in relation to implementation. When local officials from government departments become *ex-officio* member of the village-level committees, several points remain unclear: the extent to which they are downwardly accountable, whether local people are empowered enough to hold them accountable, and how the legal status of the local institutions differs significantly between different provinces/states in tribal India. This thesis focuses on the lesser researched topics of the *dryland forests, citizenship of tribals,* and *forest rights of tribal people*, which have in general so far been largely ignored by the policy discourses in India. The question is why the policy discourses and donors have ignored the marginal tribal groups and the domain of the dryland forests, especially when livelihood dependence on dryland forest resources is so high. A more comprehensive methodological approach would take into account the policy discourses of international and Indian actors, such as non-governmental organisations, donors, and higher government bureaucrats.

Empirically, this thesis has used more qualitative data analysis, which proved beneficial in establishing a strong baseline for further investigation from the micro-politics perspective. The real allocations of individual forest land through the Forest Rights Act were under consideration at the district level. Further in-depth quantitative empirical analysis is needed to examine the status of approved/rejected forest rights claims. This is important, because the committee set up under the National Advisory Council by the environment ministry reviewed the implementation of the Forest Rights Act and showed that forest officers were not giving forest lands to rightful non-scheduled tribe claimants, and neither were they handing over community rights to forest resources (see Sethi, 2011). Such analysis would provide valuable insights into land use change and the effect of the Forest Rights Act. The extent to which forest tenure policy reform has livelihood impacts in terms of capabilities and assets – social, economic, natural, physical, human, and political – and particularly how to increase the accountability of public institutions to all citizens, demands future attention. Forest rights need to be considered in terms of micro–macro linkages in the context of decentralisation, tenure reform, vulnerability to food security, and adaptation strategies.

6.3.3 Related Research Outputs

As discussed in chapter 1 (see section 1.5.1), I produced several research-related outputs on the basis of this thesis research. These outputs have indirectly generated knowledge that adds another interesting dimension to this thesis, that is, its applicability and generalisation to different regional context. The paper presentations at the international symposium in 2009 on 'Decentralisation, Power, and Tenure Rights of Forest-Dependent People' essentially corroborate that decentralisation and forest tenure reform in tribal India are not a standalone case, but face similar challenges in Africa, South America, and other Asian countries (see section 1.5.1.1 and Appendix V).

The paper presented at this international symposium by Weigelt (2009), for example, analysed the outcomes of tenure reforms in the Brazilian Amazon that aimed to secure forest-dependent traditional people's rights to land and forest. It provides empirical evidence that forest-dependent traditional people lacked the capacities and resources to elaborate management plans, the approval of which by the Federal Environmental Agency is mandatory for concession rights to timber. In effect, these traditional communities remained dependent on small traders who had control over financial resources and contacts to 'legalise' illegally cut wood. The findings suggest that the devolution of timber rights to the traditional communities in the Amazon by the Federal Environmental Agency is the way out. Likewise, in Africa, Idrissou et al. (2009) explain how the devolution of power is shared between the state and forest communities, and how social cohesion evolved in the management of the *Ouémé Supérieure et N'dali* (OSN) forests in Benin. Their study revealed that, after more than fifteen years of implementation of a participatory approach, the involvement of the local communities in forest management has declined. Some roles and responsibilities devolved to local communities in the participatory arrangement plan for the OSN forest have been progressively taken away by the forest administration. Social cohesion was built at the beginning of the process and boosted stakeholder participation. Unfortunately, the cohesion between the stakeholders was deconstructed and led to conflict between the stakeholders. In Burkina Faso, Lingani and Savadogo (2009) analysed how the local institutions and forest policies in force can help in the process of devolution of powers. They also evaluated whether the populations at the local level have influence over, and a voice in, the institutions. Their results show that local institutions/government impede the devolution of power processes regarding forest management, and the local people are excluded from the decision-making process. They show that decision making is a prerogative of influential individuals like traditional authorities, leaders of forest management groups, and local elected councillors. In the Asian context, Khadka (2009) explored how the 'community forestry' policy itself has been involved in creating the problem of exclusion, rather than solving it. The analysis focuses on the problems caused by the dominant perspective of environmental management in the community forestry policy and power/knowledge relationships in the policymaking process. The findings highlight a paradox that exists in community forestry because, on the

one hand, government and international donors consider community forestry to be instrumental in addressing poverty and the Millennium Development Goals. On the other hand, exclusion continues to take place in community forestry, and is possibly even increasing. With research findings from Orissa, Eastern India, Sarangi (2009) demonstrated that, even though participatory forest management projects have increased in number in the tribal area, they still have major faults in their functioning. The study revealed that a number of constraints have resulted in very poor livelihood conditions among the forest-dwelling communities in the state of Orissa.

All the papers presented at this international symposium, along with these abovementioned five studies on traditional forest-dependent people in Brazil, Benin, Burkina Faso, Nepal, and India, show that my research arguments in this thesis are relevant globally on various aspects of decentralisation and forest tenure reform. The main globally relevant arguments include: (1) actual devolution of power to forest-dependent people is absolutely essential; (2) simply decentralising without empowering forest people can create problems in social cohesion (state–community), leading to conflict; and (3) decision-making processes are influenced by elites who hold power to exclude others.

The CIFOR's infobrief 'Forests: Gender, Property Rights and Access' (see section 1.5.1.3; Sun et al., forthcoming) draws on Bose (2011a) in addition to two research papers from Africa and Latin America. It emphasises that the management of forests is intertwined with the human rights of forest-dependent women and their families; that forest tenure reforms in Africa, Asia, and Latin America neglect the property rights of women and their rights to access forest resources; and that the male–female balance in forest management groups influences the quality of forest governance.

This research has also produced output in audio-visual form (see section 1.5.1.2). The 'Forest Rights' short documentary film (see attached DVD) depicts the current status of implementation of the Forest Rights Act in the study area. The story told through the voice of Bhil people provides further insights on the issue of corruption (forgery of forest claims, bribery, etc.) that are prevalent and may have increased due to the implementation of the Act. It shows that the Forest Department officials at local level (range forest officers and beat guards) realise the reasons why the Tribal Welfare Department and not the Forest Department was chosen as the nodal agency for the implementation of the Forest Rights Act. The film also shows that the beat guards follow the instruction of higher level Forest Department officials, even though they know that there are complications in the implementation of traditional forest rights, such as the lack of resources to conduct thorough demarcation, funding, lack of empowerment of tribal people, the sour relationship between forest people and the state, among many other factors. The film further shows that the Bhil people are continuously struggling with different types of forest management intervention projects that are either replaced by a newer version and/or never implemented appropriately, as with the case of the decentralisation process through the PESA. Screening the film at conferences and

workshops has helped to facilitate discussion among participants on emerging forest rights issues within and outside India. The film adds value to this thesis by visually substantiating the different dimensions of the micro-politics discussed in each chapter.

6.4 THE WAY FORWARD TOWARDS DECENTRALISED FOREST TENURE REFORM

From a layperson's perspective, one of the simplest ways forward is to abandon the notion that concepts can be universally defined; rather, concepts should be put into practice in diverse and complex communities across multi-level societies and adapted to specific contexts. This may sound absurd for theorists, legislators, and donors because it does not help them to impart their resources to multiple actors; it is simply *unmanageable* from their perspective. Then, where can one draw a line between the undefined open access world, and the compartmentalised and codified world of forests, water, women, tribals, children, conflict, food, land, seen through different lenses. What is needed to achieve the well-intended decentralisation and forest tenure reform is to move towards a holistic national agenda on development.

For the government line departments: One of the priorities for a way forward is to work towards harmonising the government's own contradictory policies, and avoid competition between line departments. At the national level, there is need to reorganise the Forest Department's control on forest people and forest resources through a number of technical and cultural changes, including: adding a gender dimension to their recruitment strategy at all levels (macro and micro); collaborating with other government line departments; and distancing themselves from controlling local governance through *ex-officio* membership of local committees. The central government as well as the state government should promote a nested institution that will reduce the risks of their own bureaucratic and administrative overlaps and competing claims by different institutions. There is a need for an integrated national level programme that combines forest rights with other human rights, such as the right to food, employment, capital, and the markets. Another priority is to make the implementation process for the PESA and the Forest Rights Act clear and transparent. At district and village level, there is a need to ensure that the implementation of decentralisation and forest tenure reform is conducted appropriately, particularly agreeing upon a legitimate collective representation and by ensuring downwardly accountable authority and decentralised institutions.

For donors, policymakers, and civil society actors: If government departments need a revamp, then the donors, policymakers, and civil society need it too. Given past experiences, funding plays a major role in the implementation of projects. Donor-driven projects can engender the vicious circle of the falling trap, in that the national government – often trying to catch up with new sources of funding – continues changing institutional arrangements and

legislation. This does not help. Donors can in many ways change society. Making a project intervention donor driven may lead to a quick solution to a problem, but in the long run it may risk marginalising people even further. Policymakers and legislators, on the other hand, by creating policies and laws that are too specialised, may only fragment communities by dividing their interests; rather, there is a need to unify these groups. There is a need for actual decentralisation to involve the local marginal people, such as the forest-dependent Bhil, in the policymaking process or in framing the type of project interventions that will help identify a local way of moving forward.

EPILOGUE

AUGUST 18, 2018

On assignment for BBC television, I was travelling to tribal India to co-direct a documentary film series. I took this interesting assignment primarily to grab an opportunity to travel back to a tribal region in western India where I had initiated my research and development work almost twenty years previously.

The ten-part film series would highlight the Government of India's National Mission for Green India, initiated ten years previously as the country's National Action Plan for Adaptation to Climate Change. The Green India Mission had a budget of over US$ 500 million to increase and improve forest and tree cover on 10 million hectares of land and increase the income of about 3 million forest-dependent households, many from scheduled tribes and other forest-dwelling communities. This Green Fund differed from previous forest management initiatives in that it emphasised climate mitigation initiatives like the Reduced Emissions from Deforestation and Degradation (REDD+) and other market-based conservation, rather than addressing forest people's fundamental right to forest land.

On my way to New Delhi, India's capital city, to kick-start filming, my mind was pondering several questions. What changes will I see? Has autonomy and local democracy been realised? Has the government devolved resources and empowered the *gram sabhas* – village councils? Did the tribal people gain their traditional forest land and forest resource rights, and, if so, how? My co-director and I began filming interviews with senior officials from ministries, including the Ministry of Environment and Forests. We were told that the US$ 500 million budget was successfully spent on tree plantations and improving the forest cover. However, due to lack of funding the *gram sabhas* remained outside the ambit of political decentralisation. Forest tenure issues continued to be disputed. Reasons given for failure were the same as a decade previously, for example, lack of foresters for surveillance, and people encroaching on forest land, except that the senior government officials used terms such as democratic spaces, governmentality, access rights for women, and citizenship rights. We received a copy of a proposed new draft policy 'Green India – People Plus,' which promises tribal rights by 2030.

We went to film people's perspectives in tribal areas. To my surprise, not only 'forest land' but also the 'wasteland' and communal grazing land had been transformed into beautiful forests that were fenced. I got the impression that the pastoralist communities had shrunk. After probing several tribal people, I began to understand the change. In an attempt to increase tree cover, government promised the tribal people such as the Bhil that they would

benefit from payment for ecosystem services. In tribal villages, participatory forest management failed because there was (still) no democratically elected institution or any legitimate downwardly accountable authority, and *gram sabhas* were not empowered. The poor Bhils not only lost their forest-based livelihoods, but also received less income from government subsidy programmes due to a shift in the national below poverty line (BPL) indicator from US$ 1/day (approximately Indian Rupee 50) to a mere US$ 35 cents/day (approximately Indian Rupee 20). My optimist co-director tried to show me things through his lenses: first, the increase in highly valuable timber forests was good for the national economy, and, second, there had been an improvement in forest-dependent tribal people's livelihood due to their out-migration as day labourers constructing concrete urban jungles. I sighed. My novice question that I had posed twenty years previously, 'why tribal people are not involved in forest policymaking' will hopefully be addressed in the immediate future.

We decided to choose an optimistic title for our documentary film: 'Tribal People's Rights.'

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APPENDIX I

Overview of the administrative structure of the Forest Department, Tribal Welfare Department, and Panchayati Raj Department

Central Government

Ministry of Environment and Forests	Ministry of Panchayati Raj	Ministry of Tribal Affairs

State Government

Minister of State for E&F	Minister of State for PR	Minister of State for TA
Principal Chief Conservator of Forests	Principal Secretary Tribal Welfare	Principal Secretary Tribal Welfare
Regional Conservator of Forests		Commissioner Tribal Welfare

District Level

District Forest Officer	*Zilla Parishad Panchayat*	District Tribal Welfare Officer

Sub-district

Range Forest Officer	*Tehsil Panchayat Samitis*	Section Officer

Village Level

Beat Guard	*Gram Panchayat headed by Sarpanch*	

Overview of administrative structure of government line departments

158

APPENDIX II

List of respondents to in-depth interviews

II.1 Bagidora *tehsil*

II.1.1   Village B1

NID	Membership position	Gender	Date	Interview	Respondents
B1.01	Ex-JFM chairperson	Male	Aug 2008	individual	1
B1.02	Ex-JFM secretary	Male	Aug 2008	individual	1 (audio rec)
B1.03	VFI chairperson	Male	Aug 2008	individual	1 (audio rec)
B1.04	Ex-women JFM members	Female	Sept 2008	group	2 (audio rec)
B1.05	EC members of VFI	Male	Nov 2008	group	2 (audio rec)
B1.06	Ward member#1, VFI Sec	Male	Nov 2008	individual	1
B1.07	Customary leader elder	Male	Jan 2009	individual	1 (video rec)
Total					9

II.1.2   Village B2

NID	Membership position	Gender	Date	Interview	Respondents
B2.01	Ex-JFM chairperson	Male	Aug 2008	individual	1 (audio rec)
B2.02	Ex-JFM secretary	Male	Aug 2008	individual	1
B2.03	VFI chairperson	Male	Aug 2008	individual	1
B2.04	Sarpanch #P1	Male	Jan 2009	individual	1 (video rec)
B2.05	Upa sarpanch #P1	Male	Jan 2009	individual	1 (video rec)
B2.06	Ward member# 2	Male	Aug 2008	individual	1
B2.07	Ward member# 3	Male	Feb 2009	individual	1 (video rec)
B2.08	Customary leader elders	Male	Sept 2008	group	2 (audio rec)
B2.09	Women rep of VFI EC	Female	Sept 2008	group	2 (audio rec)
B2.10	Horticulture leaders	Female	Nov 2008	group	2
B2.11	Forest resident # 1	Male	Nov 2008	individual	1
B2.12	Forest resident # 2	Male	Oct 2008	individual	1 (audio rec)
B2.13	Forest resident # 3	Female	Jan 2009	individual	1 (video rec)
B2.14	Cooperative leader	Male	Oct 2008	individual	1 (audio rec)
Total					17

II.1.3 Village B3

NID	Membership position	Gender	Date	Interview	Respondents
B3.01	VFI chairperson	Male	Sept 2008	individual	1 (audio rec)
B3.02	VFI secretary	Male	Sept 2008	individual	1
B3.03	Ex-sarpanch P1	Female	Sept 2008	individual	1
B3.04	Self-help group leaders	Female	Oct 2008	group	3
B3.05	Ex-JFM secretary	Female	Oct 2008	individual	1
B3.06	VFI EC women member	Female	Nov 2008	group	3
B3.07	Ward member# 4	Male	Nov 2008	individual	1
B3.08	Self-help group member	Female	Nov 2008	individual	1 (audio rec)
Total					12

II.1.4. Village B4

NID	Membership position	Gender	Date	Interview	Respondents
B4.01	VFI chairperson	Male	Nov 2008	individual	1
B4.02	VFI secretary	Female	Nov 2008	individual	1 (audio rec)
B4.03	Forest residents + SHG	Female	Nov 2008	group	4 (audio rec)
B4.04	Panchayat secretary P1	Male	Feb 2009	individual	1 (video rec)
B4.05	Ward member # 5	Male	Oct 2008	individual	1 (audio rec)
Total					8

II.2 Kushalgarh *tehsil*

II.2.1 Village K1

NID	Membership position	Gender	Date	Interview	Respondents
K1.01	Ex-JFM chairperson	Male	Jan 2009	individual	1 (audio rec)
K1.02	Upa sarpanch P2	Male	Jan 2009	individual	1 (audio rec)
K1.03	VFI chairperson	Male	Feb 2009	individual	1 (video rec)
K1.04	Ex-JFM members	Female	Feb 2009	group	2 (audio rec)
K1.05	EC member of VFI	Male	Jan 2009	group	3 (audio rec)
K1.06	Ward member#1, VFI secretary	Male	Jan 2009	individual	1
Total					9

II.2.2   Village K2

NID	Membership position	Gender	Date	Interview	Respondents
K2.01	VFI EC women member	Female	Jan 2009	individual	1 (video rec)
K2.02	Ex-JFM secretary, VFI chairperson	Male	Jan 2009	individual	1
K2.03	VFI and P2 secretary	Male	Feb 2009	individual	1
K2.04	VFI members	Female	Feb 2009	group	3 (audio rec)
K2.05	VFI EC members	Male	Feb 2009	group	2 (audio rec)
K2.06	Ward member #2	Male	Oct 2009	individual	1
Total					9

II.3 Others: Government and non-government officials

NID	Position	Gender	Date	Interview	Respondents
01	Conservator of Forests	Male		individual	1
02	Acting DFO, Banswara	Male	Oct 2009	individual	1
03	District forest officer	Male		individual	1
04	Forest range officer	Male	Jan 2009	individual	1 (video rec)
05	Forest beat guards	Male	Jan 2009	group	2 (video rec)
06	NGO member # 1	Male	Feb 2009	individual	1 (video rec)
07	NGO member # 2	Female	Feb 2009	individual	1 (video rec)
08	Patwari/Revenue officer	Male	Jan 2009	individual	1
09	Tribal dev. officer	Male	Nov 2008	individual	1
Total					10

APPENDIX III

Open-ended and semi-structure interviews for decentralised forest management and forest land tenure study

III.1 Household interviews

Household (HH) identification

- Name of the village (VID)
- Name of the *tehsil* (TID)
- Household (HID)
- When was the household formed?
- Household head (PID=0) name, age, marital status, gender, edu, ethnicity
- Was the household head born, and how long has the head lived, in this village?
- Name of each household member and PID for each respondent (e.g. PID 1, 2…)
- Relation to household head
- Gender of each household member (0=male; 1=female)
- Education of each household member (0=illiterate; 1=literate)
- Ethnicity of each household member
- Age of each household member

Access and claim to forest land and forest resources

- How much land (in acres) do you currently hold (own/rent)?

Type	Acres	%
Total land		
Total statutorily land owned		
Claimed land		
Rented out		
Rented from others		
Others (details)		

- Did household agricultural land holding increased in last ten years? (No=0, Yes=1)
- If increased, by how many acres?
- Does the land belong 'inside' official demarcated forest land? (No=0, Yes=1). If yes, is it statutorily recognised?
- What was the mechanism (inherit, gift, purchase, claim, or other)?
- Describe land use activities.
- Describe the main products grown by household.

Land type	Total area in acres	Ownership status (code)	Main products grown in last two agricultural seasons		
			Rank 1	Rank 2	Rank 3
Private forest					
Cropland					
Pasture					
Agro-forestry					
Pasture					
Horticulture					
Other land and veg use					

- How many livestock does your household own? Cattle = __, Buffalos= ___, Sheep=___, Goats=___ Other=___
- Do you leave your cattle for open grazing?
- What kind of land do you use for cattle grazing?
- Describe how gauchar (grazing/common) land is used.
- From where do you get fodder for cattle?
- Is fodder free or do you have to buy it?
- Do you have to pay fees or fines for cattle grazing on communal land?
- Does your choice of cattle depend upon land holding? Explain how.
- What are the main livelihood activities? Rank each activity according to importance.
- How much land-related activity contributes economically to livelihood?
- What factors influence your decision to choose land-related activity?
- Do you access forest land? (No=0, Yes=1)
- Who determines your forest land access rights?
- If you access forest land, for what purpose do you use it?
- Is the access right formal or informal (describe)?
- Did you break the forest-land access rules and trespass?
- If yes, explain what kind of trespassing.
- Describe how newly formed village forest institutions determine your access rights to forest land.
- Any forest land claim in last 30 years? (No=0, Yes=1)
- If yes, who (household member) claimed?
- When was it claimed?
- Is it statutorily recognised?
- How many acres claimed, recognised, and controlled by household?
- When it was statutorily recognised?
- Did you have to pay for the land claim, can you describe the process?

- Do you have access to communal forest resources?
- If yes, do you have tenure rights to use forest resources?
- What kind of forest resources do you access?
- Describe the significance of forest resources for livelihood needs.
- Who decides your access to forest resources?

Authority and types of tenure rights for forest land and forest resources
- Describe how informal (non-statutory) tenure rights recognise forest land
- How do informal rights recognise forest resources?
- Which institution in village (at *panchayat* level) has power to determine individual tenure rights?
- Which institution (formal/informal) is preferred for claiming?
- Is decision of an institution on forest land tenure resisted? (No=0, Yes=1)
- If yes, explain why.

Consequences of New Forest Rights Act 2006 on forest tenure
- Describe how decentralised forest tenure rights influence individual forest tenure rights.
- From where was the information about FRA received?
- What information about forest tenure rights was received?
- Any household conflicts relating to forest tenure rights as a result of new policy?

III.2 Additional flexible unstructured questions posed to village women

Interviews were kept flexible, and open questions related to access rights, control of forest resources and forest land and women's position (participation and decision making) in decentralised village forest institutions (VFI). The following points were used by the interviewer to elaborate the question and probe during discussion.

Access rights and actual control of forest resources and forest land
- Responsibility in agriculture, labour work, and household activities
- Importance and role of forest resources and forest land
- Types of traditional access rights (formal and informal)
- Traditional role of women in forest management
- Forest resource and forest land access rights for women
- Changes in women's access rights with new forest governance
- Significance of statutory forest tenure rights for women
- Women's work and its significance in forest management
- Ownership of private trees (agro-forestry, horticulture) by women

- Control of forest individual land rights
- Control of forest collective resource rights
- Implications of women claiming forest land and forest resources
- Access and control of forest resources related to economic independence

Participation and discretionary decision-making position at VFI
- Opinion about exclusion of/quota for women on VFI executive committee
- Types of participation in forest management by women
- Who participates (exclusion and inclusion)
- Kind of women's decision-making authority at VFI
- Role of decentralisation on women's forest management practices
- Difference in VFI participation between men and women
- Involvement of women in local (*panchayat*) political decision making
- Motivation and hindrance for participation in VFI
- Importance/challenges of VFI for women's access rights
- Opinion on individual claim to forest land v/s community forest management

APPENDIX IV

Focus group discussions and key actor interviews to study decentralised village forest management institutions

This protocol was used to facilitate the focus group discussion and as an outline for interviews with key actors (including village and panchayat respondents, Rajasthan Government Forest Department, Tribal Development Department, and non-governmental organisations).

Background
Demography
- Name of the village (VID)
- Year this village was statutorily established
- Current total population and households of the village
- Number of person(s) that have out-migrated from, and in-migrated to, the village
- Types of ethnic groups (tribes and castes) in the village
- Name of the village group *gram panchayat* (PID)
- Name of *panchayat* headquartered village
- Number and name of villages in *gram panchayat*
- Average rainfall in the area (district) in past 10 years
- Number of droughts in past 10 years and which years

Resources and infrastructure
- Number of households with electricity
- Number of households with drinking water (piped) supply
- Number of households with sanitation facility
- Presence of functional healthcare centre in the village (0=no; 1=yes)
- Primary school in the village (0=no; 1=yes); in the *panchayat* (0=no; 1=yes)
- Secondary school in the village (0=no; 1=yes); in the *panchayat* (0=no; 1=yes)
- Number of households with access to formal bank (credit)
- Currently any informal credit groups in the village (0=no; 1=yes)
- Village forest land (in hectares); *panchayat* forest land (in hectares)
- Village common land (in hectares); *panchayat* common land (in hectares)
- Village revenue waste land (in hectares); *panchayat* revenue wasteland (in hectares)
- Nearest river to the village (in kms)
- Community irrigation for the village (0=no; 1=yes)
- Distance from the village to the nearest local town market (in kms)
- How many forest managing groups are there in the village? (list)

- How many ward(s) *panchayat* in the village?

Decentralised forest management institutions
History of forest management (20 or 25 years ago)
- How was forest managed before India's independence?
- Any customary forest management practices? (0=no; 1=yes)
- If yes, what kind of practices?
- How many people from the village were members?
- Describe chiefs' roles and responsibilities.
- Were they accountable to locals?
- How did people select a chief?
- Is this customary forest management still in practice?
- If yes, describe how it functions.
- If no, what factors hindered the practice?
- Who owned the 'communal' forest rights?
- Who took the decision about forest-land and resource access?
- Was there any meetings held to discuss the rules?
- When did people meet?
- Did people accept the decisions taken?
- How was consensus reached?
- How were conflicts (if any) resolved?
- Did women make management decisions?
- If yes, what kind of decision?
- Are the decisions accepted by all?
- Describe what kind of forests existed.
- How was forest land demarcated?
- Who demarcated the forest land?
- Did anyone oppose the forest land boundary?
- If yes, who opposed?
- Why did they oppose?
- How was it resolved?
- How was forest land used by people?
- What kind of rights did people have to use the forest land?
- Did people cultivate 'inside' forests?
- If yes, who allocated forest land for cultivation?
- How many households were cultivating or living inside forests?
- Did they have statutory rights from government?
- Describe how forest resources were used.
- Who benefitted from within and outside the village?

- What kinds of benefits were received from the forest?
- Did forest user groups have statutory rights to use forest resources?
- Describe how other common resources (water, gauchar land, etc.) were managed by the local community.

Joint Forest Management (JFM) Programme: community management
- When was the JFM committee formed? (yyyy)
- Is the JFM committee registered by the Forest Department?
- Is the JFM committee still functional?
- If no, when did the committee cease to function?
- Describe how the JFM committee was formed.
- Who initiated the formation of JFM committee?
- How were executive committee members chosen?
- Were the executive committee members the same as pre-JFM authority?
- Describe the main reasons for joining JFM.
- Who (actors) were included as JFM members?
- Who were excluded as JFM members?
- Reasons for inclusion and exclusion of members.
- What are the main responsibilities of the executive committee members?
- Are the executive committee members accountable?
- If yes, to whom? Explain how.
- Did the committee members have authority to decide?
- If yes, what kind of decision-making power?
- Describe the kinds of management changes that were introduced with JFM.
- How do the new rules impact people's livelihood?
- Are the new rules accepted by the people?
- What was women's role in JFM (as compared to past)?
- Did JFM involve women's decision making? If yes, how?
- How did JFM change the sharing of forest resources and forest land?

Village forest institution (VFI): power and tenure rights
- When was the VFI established?
- Who initiated the VFI?
- Is the VFI statutorily recognised by the Forest Department?
- How was the executive committee formed?
- Were the executive committee members the same as for JFM?
- If no, who were excluded?
- Why were they excluded from the VFI?
- If new members, who are they?

- Describe how the new executive committee is different.
- How different or similar is the VFI and the JFM committee?
- What are the roles and responsibilities of the VFI committee?
- Who are the members of the VFI?
- Are any members of JFM excluded from the VFI?
- Did everyone from the village become members of the VFI?
- If not, who are excluded and why?
- What are the main responsibilities of the VFI executive committee?
- Describe whether the new VFI rules are the same as those of JFM?
- If not, what are the differences?
- How are the VFI accountable?
- If yes, to whom? Explain how.
- What kinds of management changes are introduced with the VFI?
- How do new rules impact livelihoods, mainly women?
- How many meetings were held after formation of the VFI?
- Did women participate? If yes, what are their roles in the VFI?
- Describe how the VFI decides on individual forest land tenure rights.
- Did new people claim forest land from the VFI?
- How many new claims have been approved? Why?
- What is the status of community forest rights under the VFI?
- How does the VFI share the forest resources among its members?

APPENDIX V

List of international participants for the symposium titled 'Decentralisation, Power, and Tenure Rights of Forest-Dependent People' held in Dahod, Gujarat, India, 27–29 October, 2009.

	Name of participants	Affiliation	Abstract Title and Study Country
1.	Latifou Idrissou Aboubacary	PhD student at Wageningen University, the Netherlands	Devolution of power to local communities in participatory forests management in **Benin**: The case of the *Ouémé Supérieure et N'dali (OSN)* forest's management.
2.	Jes Weigelt	Faculty at Humbolt Univeristy, Berlin, Germany	Reforming access? Outcomes of forest tenure reforms in the **Brazilian** Amazon, Pará
3.	Pascaline Lingani and Patrice Savadogo	Faculty at Swedish University, Sweden	Decentralized forest management: Challenges, roles, policy implications and people's participation in **Burkina Faso**
4.	Sylvain Fortin	Cegep of Gaspe and Chairman of land and NR board, Canada	Regional land and natural resources board, a Quebec way to address the transfer of governance in natural resources at a regional level **Canada**
5.	Prakash Kashwan	PhD student at Indiana University, USA	No paper presented.
6.	Tapas Sarangi	PhD student at ICSSR, India	An analysis of decentralized forest governance in Orissa **India**
7.	Vivek Vyas	Development Professional at Sewa Mandir, Rajasthan, India	Status of the operationalisation of the Forest Rights Act: Does enacting legislation bring in tenure security? **India**
8.	Manohara Khadka	PhD student at ISS Hague, the Netherlands	Maintaining or addressing exclusion? **Nepal**'s community forestry policy
9.	Gopinath Reddy and Anil Kumar	Centre for Ecological and Social Studies, India	Evolution of forest tenure rights In Andra Pradesh, **India**
10.	Chetan	Team leader FES Dahod, India	Devolution in JFM **India**

11.	Ravi Tripathi, Anuj Singh and Sneha Thaku	National Law University, Lucknow, India	Legal rights forest community and poverty challenge **India**
12.	Josiah Z Katani	PhD student at Wageningen University, the Netherlands	Traditional management of water sources in forest patches: Implication of formal tenure system on land, forest and water resources in **Tanzania**.
13.	Teshale Woldemanauel, Bas Arts, Freerk Wiersum, and Mulugeta Lemenih	PhD student at Wageningen University, the Netherlands	Local processes of ABC use in Borana: Changing roles of traditional institutions **Ethiopia**
14.	Estela C. Itaas, Joy M. Mirasol and Zita I. Dales	Bukidnon State University, Malaybalay City, Bukidnon, Philippines	Environmental management in local governance for sustainable development: The Bukidnon State University experience in the province of Bukidnon, **Philippines**
15.	Clare Barn	MSc student Utrecht University, the Netherlands	No paper presented.
16.	Smriti Das	ATREE, Fellow, Bangalore, India	Politics of policy implementation Orissa, **India**
17.	Purabi Bose	PhD student at Wageningen University, the Netherlands	Conceptualized and organized of the symposium
18.	Harnath Jagawat	Director of Sadguru Foundation, India	Keynote lecture and host institute of the symposium
19.	Bas Arts	Professor at Wageningen University, the Netherlands	Keynote lecture and facilitator , the **Netherlands**
20.	Han van Dijk	Professor at Wageningen University, the Netherlands	Keynote lecture and facilitator, the **Netherlands**

SUMMARY

Forest rights are of utmost importance for the future of forest initiatives, be it for resource use, management, and conservation, or for climate change adaptation and mitigation. The growing trend towards acknowledging the relevance of the sustainable use and conservation of forests is intertwined with the recognition of the forest rights of people who have traditionally depended on the forests for sustenance – especially marginal indigenous and tribal people. Consequently, any decentralisation and forest tenure policy reform must include those who have been marginalised from their traditional forest rights. Forest tenure reform is arguably different from previous agrarian reform, but it has to some extent the same underlying rights-based approach. Given that decentralised forest tenure policy reform is relatively new, there is increasing need to study its implications for the individual and collective rights of forest-dependent people and to analyse concepts such as tenure, property, and access. The implications of forest tenure rights are extremely important, especially in those countries where forest-dependent people's rights have not been recognised by the state. India's changing forest tenure reform may have several implications for forest-dependent ethnic minority communities – the Scheduled Tribes – dwelling in and around forest lands.

This thesis takes an analytical as well as an empirical approach to show how decentralisation and forest tenure policy reform have created new forms of forest rights through new institutions and authority that have resulted in contrasting outcomes – individual and collective, including and excluding people, peaceful negotiations and conflicts, etc. – for forest-dependent Bhil tribal people. It encompasses the historical trajectory of the legislative and political mechanisms that contributed to the categorisations of the current day 'forest land' and 'scheduled tribe' (used interchangeably with 'tribal people'). This thesis focuses primarily on the emerging – sometimes unintended – consequences of political decentralisation and new forest tenure legislation for marginalised tribal forest people in India. By analysing a variety of past and contemporary legislation on decentralisation and forest tenure reform in tribal India, such as Joint Forest Management, Panchayati Raj, and the Forest Rights Act, it initiates discussion on the consequences of these changes from the perspective of Bhil tribal people at different levels: the *gram panchayat*, the household, and the individual.

In **Chapter** 1, I introduce the research topics – decentralisation and forest tenure reform – central to this thesis**.** I elaborate on the research problem and micro-politics as a conceptual framework to analyse the four key research questions that guide the individual chapters. I discuss the main contributions in the literature around the concepts of the micro-politics framework – governmentality, institutional pluralism, authority, citizenship, and access – to show what the chapters contribute analytically. In addition, I set out the methodology of this research, explaining the background of the forest-dependent Bhil tribal people from semi-arid western India, and the data used for individual chapters, along with the different outputs

emanating from this research. Specifically, four key questions guide the research: How has the history of forest legislation shaped the current decentralisation process and forest tenure reform in tribal India (chapter 2)? To what extent does the new formal tenure arrangement add value to, contradict, or dominate existing local authority in collective forest management (chapter 3)? In what way does forest tenure reform influence tribal households' perspectives on individual forest tenure claims and their idea of citizenship (chapter 4)? How are tribal women's forest-related rights determined by the new decentralised forest tenure reform (chapter 5)?

History plays a significant role in providing an in-depth understanding of the current state of affairs regarding decentralisation and forest governance. India's British colonial past continues to linger in post-colonial modern society. Forestry is one such area that cannot be understood without reflecting on why British India established scientific forestry and how it continues to influence the current institutions governing India's forests. **Chapter 2** studies the process of governmentality behind the control over forest rights in tribal India. It analyses the historical influence of both British colonial rule and independent India to categorise scheduled tribes and forests in tribal areas. In doing so, it takes the micro-politics concept of Foucault's notion of governmentality to argue that the history of the scheduled tribes' subjectification and the related history of forest demarcation are indispensable for understanding the current politics of decentralised forest management in India. Within this micro-politics notion of 'forest governmentality,' the discussion focuses on three dimensions, namely, the history of categorisation, the politics of social identity, and the technologies of forest governance. These three dimensions allow us to show how recent efforts to politicise forest tenure rights have reinforced political control to appropriate and legalise forest and the tribal people through new forms of authority, inclusion, and exclusion. The process of forest governmentality is overt, but I argue that Bhil people internalise their ethnic identity. By internalising their political tribal identity, they are able to create countervailing power and room to manoeuvre within the current forest governance regime.

Forest tenure recognition may originate from the top down or from the bottom up, each shaping different forms of collective rights. **Chapter 3** examines the current forest tenure reform from the micro level of village-level committees. I use two relevant concepts for micro-politics analysis, namely, institutional pluralism and authority. Institutional pluralism has become a characteristic of local-level forest management in India's twenty-first century tribal villages. Historically, the traditional forest rights of tribal people were denied. Recent attempts at decentralisation and forest tenure reforms to formalise and transfer traditional rights to forest people have created new institutions and new forms of authority. However, uncertainty about local institutions' recognition, accountability, and representativeness, and the legitimisation of authority among multiple institutions, may hinder formalisation of forest rights. In this chapter, I show some unintended consequences of institutional pluralism and authority relations on tribal people's struggle for forest rights. For example, multiple authority

fragments the local forest management institutions and collective forest rights. Empirical evidence further indicates that institutional pluralism restricts Bhil people's collective forest rights and democratic decentralisation, and in turn gives the elite and line ministries more discretionary authority to control forests.

The forest tenure policy reform in tribal India provides a great opportunity to unravel the nature of individual tenure rights. **Chapter 4** explains how the Forest Rights Act shapes tribal households' claims to forest land rights. I analyse the micro-politics of this forest tenure reform using three dimensions, namely, individual tenure rights, citizenship, and conflict, to discuss the contested nature of household-level tenure rights to forest land. I illustrate how forest tenure reform has promoted the individualisation of forest right claims, which has had a direct influence on Bhil tribal inter-household conflicts. Negative consequences of the conflicts are explained, but I also explore how claiming individual tenure rights is justified by the Bhil primarily in terms of seeking formal recognition of their citizenship rights. The analytical debate in relation to citizenship in this chapter focuses on 'belonging' from both the customary and the current legal perspective. I argue that different forms of belonging to forest land create complexities in understanding rights and entitlements. I specifically examine why and how choices about specific forest tenure rights are made by tribal households. In what ways do tribal households' notions of forest rights relate to citizenship? How do conflicts prompt and/or suppress households' forest tenure and citizenship claims? I demonstrate that knowledge about the tribal people's perceptions can help us understand individual households' socio-political struggle for individual forest land tenure.

Forestry is considered to be male biased, and this hinders the access rights of tribal women. The identity of a tribal woman is invisible within a community and within a household, mainly because she is dependent on her male relative or colleague to enact her rights, including forest rights. **Chapter 5** focuses on the struggles of individual Bhil tribal women for their rights to access forest land and forest resources. The micro-political dynamics of women's access rights as a consequence of changing individual and collective forest rights are illustrated. I argue that the identity-based categories promoted by the forest tenure reform have negative consequences for the marginal tribal women because their identity as tribal women is used to exclude them from forest committees. The current trend in forest tenure reform promotes identity-based categories on the assumption that this provides better access to forest resources for marginalised groups. This chapter shows that there is an interaction between the politics of individual and collective access to forest land and the political representation of Bhil tribal women. A rights-based access approach was used to analyse outcomes of forest tenure reform on tribal women's access to forest land, and inclusion in, and/or exclusion from, collective decision making about forest land management. With empirical evidence, I demonstrate 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.

Finally, **chapter 6** provides a synthesis and general discussion based on the findings discussed in the preceding chapters. The first part of the chapter discusses the four key research questions proposed at the start of this book, with emphasis on the key findings as well as their mutual relationships in the preceding chapters. Also, the central argument of this research as conducted from the micro-politics analytical perspective is presented. The final part makes an overall argument based on the chapters as well as on experiences from other outputs of this research: an international conference, a documentary film, and an infobrief. Taking into account lessons learnt, I propose the way forward towards decentralised forest tenure reform. Also, I highlight a number of research areas that were beyond the scope of this current research and discuss how they might be addressed.

SAMENVATTING

Rechten op bosland en bomen zijn van groot belang in het kader van beheer voor duurzaam gebruik, het beschermen van bos, en het voorkomen van en aanpassing aan klimaatsverandering. Er is een toenemende aandacht voor het belang van duurzaam gebruik en bescherming van bos, samen met een trend naar de erkenning van de rechten van de bevolking die vanouds van bos afhankelijkheid was om in haar bestaan te voorzien – vooral inheemse volkeren en tribale groepen. Daarom moet bij iedere vorm van decentralisatie of hervorming van rechten op bos diegenen betrokken worden die zijn gemarginaliseerd en hun rechten op bos zijn kwijt geraakt. Hervorming van rechten op bos is van een andere aard dan eerdere vormen van landhervorming. Het gezamenlijke onderliggende principe is dat mensen in hun rechten worden hersteld. Gegeven het feit dat hervorming van rechten op bos een relatief nieuw verschijnsel is, is er de noodzaak onderzoek te doen naar de gevolgen van deze hervormingen voor de individuele en collectieve rechten van mensen die afhankelijk zijn van bos voor hun bestaan. De strijd om rechten op bos is erg belangrijk, vooral in landen waar de rechten van mensen die van het bos afhankelijk zijn niet door de staat worden erkend. De recente hervormingen van rechten op bos in India kunnen belangrijke gevolgen hebben voor etnische minderheden die van bos afhankelijk zijn – de zogenaamde *schedules tribes*[16] – die in en om het bos hun woonplaats hebben.

Dit proefschrift zal via een specifieke analytische benadering en empirisch onderzoek laten zien hoe via decentralisatie en hervorming van bosrechten nieuwe rechten op bos worden gecreëerd, alsmede nieuwe instituties en vormen van autoriteit, die tot allerlei contrasterende gevolgen – op individueel en collectief niveau, via het uitsluiten en insluiten van mensen, en via onderhandelingen en conflict – heeft geleid voor de tribale Bhil in Rajasthan, die voor hun bestaan van bos afhankelijk zijn. Deze analyse omvat ook de historische wording van de juridische en politieke mechanismen, die bijdragen aan categorisering en definities van bos en bosland en *scheduled tribe* (gebruikt naast de term tribale groepen). Dit proefschrift richt zich op de steeds duidelijker wordende – en soms onbedoelde – gevolgen van politieke decentralisatie en nieuwe wetgeving ten aanzien van bos voor marginale tribale bosbewoners in India. Door het analyseren van een reeks van vroegere en contemporaine wetten op het gebied van decentralisatie en hervorming van boswetten, zoals Joint Forest Management, Panchayati Raj en de Forest Rights Act, beoogt deze studie een discussie op gang te brengen

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[16] De term *scheduled tribes* gebruikt naast de term tribale groepen in dit proefschrift verwijst naar marginale bevolkingsgroepen in India, die ecologisch waardevolle gebieden bevolken zoals bosland en natuurgebieden. *Scheduled tribes* worden gedefiniëerd in de grondwet van India in atikel 366(25), waarin zij omschrevem worden als ’zodanige stammen of tribale gemeenschappen die als *scheduled tribes* worden genoemd in artikel 342 voor de uitvoering van deze grondwet. Deze groepen krijgen daarmee een speciale status binnen India, die hen bepaalde voorrechten oplevert.

over de gevolgen van deze hervormingen voor de tribale Bhil op verschillend niveau, dat van de *gram panchayat* (gemeente), de huishouding en het individu.

In **Hoofdstuk 1** worden de centrale onderzoeksthema's – decentralisatie en hervorming van rechten op bos geïntroduceerd. Deze thema's gecombineerd met een focus op micro-politieke processen vormen een centraal conceptueel kader voor de vier centrale onderzoeksvragen die leidend zijn voor de vier onderzoekshoofdstukken. Daarnaast wordt de theoretische literatuur besproken met betrekking tot de kernconcepten binnen deze focus op micro-politiek processen – *governmentality*[17], institutioneel pluralisme, burgerschap en toegang – om de individuele bijdrage van de onderzoekshoofdstukken te laten zien. Daarnaast wordt de methodologie voor het empirisch onderzoek en de gegevens gebruikt voor de individuele hoofdstukken, en de uitkomsten van het onderzoek besproken alsmede de achtergrond van de problematiek voor de tribale Bhil in het semi-aride West-India,. Meer specifiek zijn vier kernvragen leidend voor dit onderzoek: Hoe heeft de historische erfenis van wetgeving met betrekking tot bos het huidige proces van decentralisatie en hervorming van bosrechten in tribaal India beïnvloed (Hoofdstuk 2)? In welke mate de nieuwe formele rechtsvormen de positie verstevigen van bestaande lokale autoriteiten in collectief beheer van bos, dan wel hun functioneren tegenwerken of marginaliseren (Hoofdstuk 3)? Op welke manier hervorming van wetgeving met betrekking tot bos het perspectief veranderd van tribale huishoudens op individuele rechten en claims op land en hun eigen idee over burgerschap (hoofdstuk 4)? Hoe worden de rechten van tribale vrouwen beïnvloed door de nieuwe hervormingen in wetgeving (hoofdstuk 5)?

De geschiedenis speelt een belangrijke rol voor het verkrijgen van een beter begrip van de huidige stand van zaken met betrekking tot decentralisatie en het besturen en het beheren van bos. India's Brits koloniaal verleden heeft nog aanzienlijke invloed in de moderne post-koloniale samenleving. Bosbouw is een domein dat niet begrepen kan worden zonder aandacht te geven aan de wijze waarop Brits India 'wetenschappelijke bosbouw' heeft geïntroduceerd en hoe deze denkwijze en beheersvorm nog steeds de huidige instituties domineren die India's bossen beheren. In **Hoofdstuk 2** wordt het proces van *governmentality* besproken dat de controle vorm geeft over rechten op bos in tribaal India. De historische invloed van zowel het Britse koloniaal bestuur als onafhankelijk India om bos in tribale gebieden en tribale groepen als aparte objecten van overheidsbeleid te maken wordt hier geanalyseerd. Dit gebeurt door het concept governmentality van de Franse filosoof Foucault als centraal element te nemen voor het begrijpen van micro-politieke processen om te beargumenteren dat de geschiedenis van de 'subjectivering' van 'scheduled tribes' en de hieraan gerelateerde markering van bossen als een aparte juridische categorie noodzakelijke inzichten oplevert voor het begrijpen van de huidige politieke ontwikkelingen rondom

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[17] De term *governmentality* naar de Franse filosoof Michel Foucault laat ik hier onvertaald, aangezien er geen goed Nederlands equivalent beschikbaar is.

gedecentraliseerd bosbeheer in India. Binnen dit micro-politieke kader van wat ik noem 'forest governmentality concentreert dit hoofdstuk zich op drie dimensies: namelijk de geschiedenis van de categorisering van bos en tribale groepen, de wording van en politieke strijd rondom sociale identiteiten, en de technologie van het beheer en bestuur van bos. Deze drie dimensies stellen ons in staat om te zien hoe recente pogingen om rechten op bos te politiseren, en om rechten op bos toe te wijzen en te legaliseren, de politieke controle over tribale groepen heeft vergroot, door nieuwe vormen van autoriteit en vormen in- en uitsluiting. Door het proces van 'forest governmentality' internaliseren de tribale Bhil tegelijkertijd deze 'opgelegde' tribale identiteit. Echter door deze internalisering van deze identiteit slagen zij erin een politieke tegenmacht te scheppen en enige manoeuvreerruimte te creëren binnen het huidige regime van bosbeheer en bestuur.

De erkenning van rechten op bos kan zowel van de top naar beneden als van lokaal niveau komen. Bieden hebben verschillende invloed op de vormgeving van collectieve rechten. **Hoofdstuk 3** richt zich op de huidige hervormingen van rechten op bos op het microniveau van comités op dorpsniveau. Het hoofdstuk wordt opgebouwd rondom twee relevante kernconcepten voor het analyseren van micro-politieke processen, namelijk autoriteit en institutioneel pluralisme. Institutioneel pluralisme is een kenmerk geworden van het beheer van bos op het lokale niveau in India's tribale dorpen van de 21^e eeuw. Historisch gezien werden de traditionele rechten op bos van tribale groepen niet erkend. Recente pogingen om rechten op bos te decentraliseren en om traditionele rechten te formaliseren en over te dragen aan tribale groepen hebben nieuwe instituties en vormen van autoriteit doen ontstaan. Echter, onduidelijkheid over de aard en de erkenning van lokale instituties, en de verantwoordingsstructuur, de represen-tativiteit en de legitimiteit van autoriteit van deze meervoudige instituties (ver)hinderen de formalisering van rechten op bos. In dit hoofdstuk laat ik een aantal onvoorziene uitkomsten van institutioneel pluralisme en autoriteitsrelaties zien voor de strijd van tribale groepen voor hun rechten op bos. Het wordt bijvoorbeeld duidelijk dat het bestaan van meervoudige autoriteitsrelaties lokale instituties voor bosbeheer uiteen laat vallen en collectieve rechten fragmenteert. Verder blijkt uit de onderzoeksgegevens dat institutioneel pluralisme de collectieve rechten van de Bhil en de decentralisatie van democratisch beheer beperkt en aan nieuwe lokale elites en de vakministeries meer discretionaire autoriteit en controle over bosbeheer geeft.

De hervorming van bosbeleid in tribaal India geeft een goede ingang om de wording van individuele rechten op bos te analyseren. **Hoofdstuk 4** gaat in op hoe de zogenaamde Forest Rights Act aanleiding geeft voor tribale huishoudens om individuele rechten te eisen. In dit hoofdstuk staan drie dimensies van micro-politieke processen met betrekking tot de hervorming en decentralisatie van bosbeheer centraal, namelijk individuele landrechten, burgerschap en conflict, om het controversiële karakter van de rechten van huishoudens op bosland te bespreken. Het hoofdstuk laat zien hoe de hervorming van de wetgeving individualisering van rechten op bos heeft bevorderd, en dat dit heeft geleid tot een toename

van de conflicten tussen huishoudens. De negatieve gevolgen van deze conflicten worden besproken, maar ook hoe het claimen van individuele rechten door huishoudens door de Bhil wordt gerechtvaardigd in termen van dat zij een formele erkenning van hun burgerrechten proberen te krijgen. Het debat in dit hoofdstuk rondom de burgerrechten spitst zich toe op sentimenten van 'toebehoren aan' zowel traditionele als moderne vormen van recht. Verschillen in deze gevoelens zijn relevant voor het begrijpen van de complexiteit van rechten en waarom en hoe keuzes worden genaakt ten aanzien van rechten op bos door individuele huishoudens. Op welke manier is de wijze waarop huishoudens aankijken tegen rechten op bos verbonden met hun opvattingen over hun burgerrechten en burgerschap? Welke rol spelen conflicten in het claimen of het onderdrukken van rechten op bosland van huishoudens? Meer kennis over hoe tribale groepen deze claims zien kan ons helpen om de sociaal-politieke strijd van huishoudens voor individuele rechten op bosland te begrijpen.

Bosbouw en bosbeheer zijn vaak activiteiten die door mannen worden gedomineerd, en dit beperkt de toegangsrechten voor vrouwen. De identiteit van vrouwen is vaak onzichtbaar binnen een gemeenschap en binnen een huishouding, voornamelijk omdat ze afhankelijk zijn van mannelijk familieleden om hun rechten uit te oefenen, inclusief toegangsrechten op bos. **Hoofdstuk 5** richt zich op de strijd die individuele Bhil vrouwen voeren voor hun rechten op toegang tot bos en bosproducten. De micro-politieke processen met betrekking tot toegangsrechten van vrouwen worden geïllustreerd naar aanleiding van de veranderingen in individuele en collectieve rechten. De hervorming van rechten op bos en de creatie van categorieën zoals *scheduled tribe* als doelgroep van de hervorming hebben negatieve gevolgen voor de Bhil vrouwen, omdat hun identiteit als tribale vrouwen wordt gebruikt om hen uit te sluiten van de comités voor de toedeling van rechten op bos. De huidige trend is om via een doelgroepenbeleid rechten toe te delen, onder de aanname dat dit betere toegang verschaft tot bos en bosproducten voor marginale groepen. Dit hoofdstuk laat zien dat er een interactie is tussen individuele en collectieve vormen van toegang tot bos en de politieke representatie van vrouwen. Een benadering via recht werd gebruikt om te analyseren hoe de uitkomsten van de hervorming van rechten op bos en in- en uitsluiting en collectieve beslissingen over bosbeheer uitpakken voor vrouwen. Hiermee laat ik zien dat de hervorming van rechten op bos gebaseerd op identiteit symboolpolitiek is en de toegang van tribale vrouwen tot bos en bosproducten en hun politieke emancipatie eerder hindert dan bevordert.

Tenslotte wordt in **Hoofdstuk 6** een synthese en algemene discussie gepresenteerd op basis van de uitkomsten van de eerdere hoofdstukken. Het eerste deel van het hoofdstuk bespreekt de antwoorden op de vier kernvragen zoals geformuleerd in de inleiding van het proefschrift. Hierbij wordt de nadruk gelegd op de belangrijkste bevindingen maar ook op de samenhang daartussen. Daarnaast wordt het centrale argument, namelijk dat een focus op micro-politieke processen de uitkomsten van dergelijke hervormingen beter duidelijk maakt, besproken. Het tweede deel van het hoofdstuk trekt algemene conclusies uit de bevindingen van dit proefschrift en andere uitkomsten van dit onderzoek waaronder een korte documentaire en

een beleidsdocument. Op basis van de geleerde lessen worden voorstellen gedaan hoe verder te werken aan hervorming van rechten op bosland, en worden een aantal gebieden voor onderzoek geïdentificeerd die niet aan bod konden komen in dit onderzoek alsmede de wijze waarop die zouden kunnen worden opgepakt.
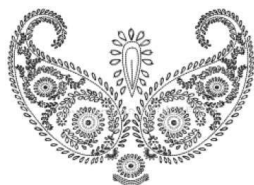
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Purabi Bose was born on 08 June 1975 in Ambernath, on the outskirts of Mumbai, India. She received a BSc in Human Development at Mumbai University in 1995. In 1997, she was awarded 'A' grade in her Master's Degree from Tata Institute of Social Sciences, Deemed University in Mumbai.

In 1998, Purabi began her career with Sadguru Water and Development Foundation, a non-governmental organisation, working in semi-arid tribal districts in western India. In September 2007, she became a PhD student at Wageningen University, the Netherlands, and selected this tribal area as her research site to analyse India's forest land tenure reforms and its effect on tribal people. Earlier, from 2002 to 2005, she had been appointed as an Associate Expert of Impact Assessment by the Centre for International Forestry Research (CIFOR), based in Bogor, Indonesia, where she assisted CIFOR's impact assessment. Before joining CIFOR, she worked with several organisations including Sir Ratan Tata Trust, as a programme officer for a small grants programme on natural resources. She received several scholarships including participation in Beahrs Environmental Leadership Programme (2004) at the University of California, Berkeley, USA; Monitoring and Assessment of Biodiversity (2005) at the Smithsonian Institute, Washington DC, USA; and Gender and Natural Resource Management workshop (2009) at the Swedish Agriculture University, Umea, Sweden. Her ten years of experience on marginalised rural and tribal people's issues has resulted in outputs such as research papers, short films, international conferences, trainings, and documentation.

Purabi is proficient in English, Hindi, Marathi and has the basics of Bahasa Indonesia, Bengali (Bangla), Bhilli dialect, French, and Gujarati. Theatre for development, puppetry, and mountaineering are her preferred pastimes.

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LIST OF PUBLICATIONS (most recent)

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International Scientific Oral Paper Presentations (2008 onwards)

2011. Bose, P. 'Forest Tenure Reform, Citizenship and Conflicts: Outcomes Tribal India's Forest Governance'. Workshop by the Swedish University of Agriculture Sciences (SLU), Sigtuna (21-25 September).

2011. Bose, P. 'Forest Rights of Forest People: a case study of Bhil tribal in India'. Lecture and documentary film presented at the Wageningen School of Social Sciences, Wageningen (14 June).

2011. Bose, P. 'Adaptation Policies: Implication for Forest People's Rights in Semi-Arid India'. Presented at the Initiative on Climate Adaptation Research and Understanding through Social Sciences (ICARUS) program, Ann Arbor (5-8 May).

2011. Bose, P. 'Identity Based Exclusion: Tribal Women's Forest Tenure Rights in Rajasthan'. Presented in the CIFOR-IFRI panel at the 13th International Association for the Study of Commons (IASC) conference, Hyderabad (10-14 January).

2010. Bose, P. 'Community-Based Adaptation of Bhil Tribal Women in Semi-arid India'. Presented in the ICARUS panel at the ICID+18's second international conference, Fortaleza (16-20 August).

2010. Paper 1. Bose, P. 'Community-Based Adaptation of Bhil Tribal Women in Semi-arid India', and
Paper 2. Bose, P. 'Decentralized Forest Management: Implications on Tribal Communities of Rajasthan in India' in sessions 11.4 and 13.3 respectively at the 18th Commonwealth Forestry Conference, Scotland (28 June-2 July).

2010. Bose, P. 'Forest People in REDD+ Forest Governance'. Presented at the REDD+ panel of the 8th Development Dialogue, Institute of Social Studies (ISS), the Hague (21-24 June). With B. Arts and H. van Dijk.

2009. Bose, P. 'Collaborative Forest Governance Policy: Learning from Tribal India'. Presented at IDDRI and ENGREF organized Conference on Change in Forest Governance, Nancy (21-24 July). With B. Arts and H. van Dijk.

2009. Paper 1. Bose, P. 'Assessing "Participation" in Joint Forest Management: Lessons from Tribal India', and
Paper 2. Bose, P. 'Tribal Self-Governance and Common Pool Resource Management in India' in 5A and 5D panels respectively at the 15th Annual International Sustainable Development Research Conference (AISDRC), Utrecht (5-8 July).

2009. Bose, P. 'Decentralized Forest Tenure Rights of Tribal in Western India'. Presented at CERES summer school, Centre for International Development Issues, Radboud University, Nijmegen (2-3 July

2009. Bose, P. 'Decentralized Forest Management: Policy Implications for Tribal Women'. Presented at the 2nd Gender and Forestry Conference, Umea (10-18 June).

2009. Bose, P. 'Forest Governance and Tribal Rights in India: Towards Development Discourse.' Presented at the 7th Development Dialogue Conference, Institute of Social Studies (ISS), the Hague (2-3 July).

2009. Bose, P. 'Community-Based Adaptation of Tribal Women to Climate Change'. Presented at the 3rd Community-Based Adaptation to Climate Change Conference, Bangladesh Centre for Advanced Studies, Dhaka (19-24 February).

2008. Bose, P. 'Forest Governance, Power and Livelihood'. Presented at the CERES Summer School, the Glind (20-24 May).

2008. Bose, P. 'Institutional Arrangements and Forest Decentralization'. Presented at the Decentralization of Natural Resource Management Workshop, University of Copenhagen, Copenhagen (9-10 May).

2008. Bose, P. 'Politics of Tribal Rights and Local Natural Resource Management'. Presented at the Indigenous People's Right Forum Workshop, University of Joensuu (UoJ), Joensuu (17-18 April).

2008. Bose, P. 'Land Reform for Marginal People'. Presented at the BioFach Sustainable Agriculture Meeting at Nuremburg (5-8 March).

2008. Bose, P. 'Rights-Based Approach: Recognition of Forest People'. Presented at the UN South-South Human Rights Meeting, Geneva (27-28 Feb).

Purabi Bose

PhD candidate, Wageningen School of Social Sciences (WASS)

Completed Training and Supervision Plan

Name of the activity	Department/Institute	Year	ECTS*
A) Project related competences			
Writing PhD proposal	Wageningen University	2007-2008	4
CERES orientation programme	CERES, Utrecht	2008	5
CERES presentation tutorials	CERES, de Glind	2008	5.5
CERES summer school presentation	Radboud University, Nijmegen	2009	3.5
CERES summer school presentation	ISS, Den Hague	2010	3.5
CERES summer school presentation	Utrecht University	2011	3.5
Advanced research seminars	Wageningen University	2009-2010	1
PhD Competence assessment	WGS	2008	0.3
Scientific writing	WGS	2010	1.3
B) General research related competences			
Research methodology: From topic to proposal	CERES and MGS, Wageningen University	2007	4
Governance	WGS, Wageningen University	2007	3
Community-based conservation and rural development (MSc course)	Wageningen University	2008	4
Decentralized natural resource management	Research School for Forest and Landscape, University of Copenhagen, Denmark	2008	8
Gender and natural resource management	Swedish University of Agriculture Science (SLU), Umeå	2009	3
Course on SPSS data analysis	IIPS, Mumbai, India	2010	4
C) Career related competences/personal development			
"Tribal self-governance and common pool resource management in India"	The 15th Annual International Sustainable Development Research Conference, Utrecht, the Netherlands	2009	1
"Decentralized forest management: Implications on tribal in India"	The 18th Commonwealth Forestry Conference, Edinburgh, UK	2010	2
"Community based adaptation of tribal women in semi-arid India"	The 2nd International Conference on Climate, Sustainability and Development, Brazil	2010	2
"Identity-based exclusion: tribal women's forest tenure rights in semi-arid Rajasthan"	The 13th International Association for the Study of Commons Conference, Hyderabad, India, Panel: CIFOR-IFRI.	2011	2
Organisation of an international symposium 'Decentralization, Power and Tenure Rights of Forest-Dependent People'	Wageningen University, the Netherlands and Sadguru Foundation, India.	2009	2
Total ECTS			**62.6**

*One ECTS on average is equivalent to 28 hours of course work.