Unpacking Indigenous Self-Governance amidst FRA: Comparative Insights from Nilambur and Sigur areas of the Nilgiri Biosphere Reserve

Principal Investigator: Jyotsna Krishnakumar, Director-
Community Wellbeing and Water & Sanitation, Keystone
Foundation (email: jyotsna@keystone-foundation.org)

Proposal for Local Democracy

Introduction

Ambitious *de jure* legislations and less-than appealing *de facto* conditions portray a chasm. What causes for this chasm to become deeper and complex has been the subject of constant concern. One of the reasons consistently cited is reluctance on the state's part to devolve powers to local institutions despite having progressive legislations, such as PESA, 1996, and FRA, 2006, in place. It is in this regard that it has previously been amply reiterated that equating 'decentralization' to "devolution of power" and a mere portrayal of engagement in "democratic" processes would be an oversimplification of the *de facto* workings of such legislations.

Legal and democratic processes become further complicated when equally-relevant, pro-environmental exclusionary laws try to function in tandem with inclusive legislations. From a human dimension perspective, this has to do with the multiple stakeholders that have stake over the landscape with different priorities making democratic processes and governance rather perplexing.

Local democratic processes in the context of forest-based governance have always had a complicated narrative due to the presence of powerful stakeholders such as the forest department, conservation groups, pro-people NGOs, and the primary stakeholders who have been subjected to historical injustices and still seeking justice. These complications are evident in the context of the Forest Rights Act (FRA) 2006, a constitutionally-approved legislation that incorporates democratic processes and offers indigenous communities full property rights over their traditional lands. Although, FRA implementation in India began in 2008, progress has been slow, particularly of the community forest rights (CFR), which stands at approximately 3%.

The Nilgiri Biosphere Reserve (NBR), given that it is a biodiversity rich landscape of 5,520 sq. km., cutting across the states of Tamil Nadu, Kerala, and Karnataka, and home to various Particularly Vulnerable Tribal Groups (PVTGs) upholding tribe-specific, community-specific, and area-specific cultural and traditional practices, offers an excellent context to observe these democratic processes pertaining to forest governance, at work. Keystone Foundation has worked in the landscape for over 27 years with local indigenous groups. Over this time, we have observed and experienced the complex dynamics embedded within the

local democratic processes and the nuanced differences apparent in the different socio-political settings. A classic difference has been in the context of FRA implementation in Tamil Nadu versus Kerala. These differences are particularly obvious at the local institutional level. The collective strength expressed by the communities, capacities to govern, and political assertiveness among other factors, appear to be much stronger and effective in the Kerala context. Still, progress on CFRs has been slow in both the states.

Thus, there is a compelling opportunity here to understand the reason for this slow progress particularly in "progressive" states like Kerala and Tamil Nadu and what factors influence the local democratic and governance processes that manifest into certain outcomes.

Review of Literature

On the face of it, some of the selling points for the decentralization-fervour beginning in the 1980s were greater "participation"; "ownership of local resources"; "decision-making power" and (partial) "autonomy" for the local communities.

In order to understand why or why not decentralization has worked in a particular setting, it is crucial first to identify the form of decentralization practiced. Perhaps even more pertinent is zeroing-in on the motive behind the form of decentralization chosen.

Decentralization, with a catch?

Based on their analysis of six case-studies from Africa and South Asia, Agarwal & Ribot (1999) define two forms of decentralization: administrative decentralization and political decentralization, wherein the former is characteristic of reallocation of powers to central government appointees who are, in turn, upwardly accountable. While the latter means an actual devolution of powers to local actors/elected representatives and are downwardly accountable.

Further, they show that despite several pro-community legislations in place, central authorities have tended to have the last say. For instance, in Senegal, Rural Councils, despite having the 'power' to approve or disapprove of a particular development, were inescapably tied to an exploitative central regime whose primary aim was to bind local communities in a commercial set-up, thereby, having influence over how the forests were used. Within the Nepal case-study it is interesting to note how user-groups were 'allowed' increased decision-making power and retention of profits from community forests by the state. At the same time, however, the very state played a limiting role in giving impetus for user-groups in the Terai region, due to the presence of high-valued Timber forests. Basis their findings, the authors steer the conversation towards how (economic and governance) reforms can in fact prove influential on how the process of decentralization gets acted out. To quote the authors "…it is political and economic calculations and pressures that actually prompt and thus shape reforms" (Agarwal and Ribot 1999). Further, Shylendra (2020) quite poignantly asks through his work informed by the Gujarat landscape- If economic reforms pursued by nations today are fundamentally predicated upon logics of capital-accumulation, how are disaggregated bundles with nullified power (local institutions) expected to thrive?

The other factor that may undermine 'democratic decentralization' is its mode of implementation. Especially speaking about forestry-decentralization policies Lund, Rutt, & Ribot (2018) point that most often the implementers (e.g. central/state government departments) of these policies tend to work with "…project committees, non-governmental organizations, customary authorities, and forestry department appointees in the local arena". This, they argue, undermines the very powers of the local governments, thereby, not manifesting into actual democratic decentralization.

In what could be taken as an extension of the central authorities' tendency to retain power in some form or the other, Ribot, Chhatre, & Lankina (2008), borrowing from Bates' (1981) concept of "institutional choices" and "recognition", demonstrate how certain choices made by the government and/or international organizations can have implications for on-ground decentralization efforts. Larson's work with Guatemalan indigenous leaders, destabilizes the long-standing rhetoric of whether liberal democracy that equates to giving various stakeholders equal opportunities to voice their opinions through participation in integrationist models of working, can be taken as a thumb-rule to move ahead (Ribot, Chhatre and Lankina 2008). According to Larson and Ribot (2007), authorities who implement/enforce participatory rules or legislations, systematically favour more powerful stakeholders and create multi-layered access-barriers to communities and smallholders despite them holding secure rights to the forest land. Therefore, a rights-based approach is successful only when the power dynamics of access is altered and favours the marginalized right-holders. The case-study by Chhatre on Himachal Pradesh, India demonstrates how the local people's "political articulation" in having their panchayat to be chosen as their local interlocutor influenced the legislators' decision to recognize and ordain the same (Ribot, Chhatre and Lankina 2008).

Democracy: High cost for everyday lives!

However, for most, going the democratic-route does not come at an easy price. Shackleton et al (2002) poignantly notice that the effects of devolution vary across local communities. Most importantly they point out that "negative-trade-offs" associated with devolution are quite commonly encountered among the marginalized sections. Shylendra (2020), about two decades later makes a similar argument in noticing that certain social and economic inequalities may in themselves act as hindrances to active participation. Similarly, while presenting quite a contradictory yet intriguing finding to the one proposed by Larson and Ribot (2007), Kashwan (2010) observes how, in India, the presence of strong local leaders can have negative implications on a community's claim-making process for rights under FRA. This argument draws attention to how private interests of local leaders (by associating with entities that they stand to privately benefit from) can, at times, act as impediments to the overall growth of a community.

The FRA, 2006 has drawn as much flak for its subscription to vagueness as it has received praises for its right intent. In fact, it would perhaps be safe to assume that the country still hosts a plethora of Gram Sabhas finding themselves in a flux of identity-crisis, especially, with several conflicting laws in place, viz., Wildlife Protection Act, 1986; PESA, 1996; FRA 2006; and a controversial DWAP in the pipeline. After a short stint of JFMs, Forest Department (FD) -backed Vana Samarakshana Samitis (VSSs) that continue to be promoted

against the FRA-backed FRCs, appear to be just another manifestation of the state's inability to fully devolve powers to local institutions. Satpathy (2017) notes that the presence of FD in the Mayurbhanj district of Odisha, is perceived as deliberately attempting to obstruct the claim-making processes. Satpathy also points to the inherent incompetency within and among the various line departments, evident through uncoordinated nature of working and interests. The author cites this as a case of misplaced sense of autonomy because the officers-in-charge often do not feel obligated to report to officers not belonging to their own departments/verticals. The author also points to the simultaneous and often overlapping presence of legislations and government welfare schemes such as MGNREGA that can have implications on the implementation of long-term, "legislative projects" such as the FRA. Further, Satpathy argues that devolution, thereby, establishment and formalization of new forms of institutions may not actually be effective if the state itself is fraught with opacity and self-serving intentions.

Another important factor to be considered as a potential hindrance to realization of democracy is the presence of external entities with conflicting (often exploitative) self-interests viz. private players staking claims on natural resources often found in heavily forested tracts and extremist groups as shown through a case-study on Jharkhand (Tatpati 2015). Further, the author argues that for democratic processes to function effectively, bringing-in external intervention in the form of NGOs etc. may be helpful.

Beyond Devolution: India's Forest Rights Act 2006

An important question to also consider is what happens once the FRA claims have been approved and received. Various studies (Larson and Ribot 2007; Satpathy 2017) have highlighted instances of how despite having the right (whether legislated or not), community-members often face restrictions, get charged or fined for collecting MFPs from their own forests. This depicts the tumultuous relationship between forest-communities and representatives of the state. But, the pertinent question is, what could be the factors that keep local communities from organizing after claiming their titles? Is it a lack of capacity of the right-holders, or the state's inefficiency to facilitate post-claims support processes?

Gupta, Lele, & Sahu (2020), opine that NGOs may, in fact, be essential mobilizers to fill-in the gaps left behind by the state's inefficiencies and giving forest-communities with the much-needed exposure and tools on their journey from learning about their rights to, developing management protocols, and finding market-connections.

Proposing a more inclusive and equitable approach, Rana & Chhatre (2017) warn against 'segmentation' of resources and, thereby, power promoted through lobbying for single-entity management of natural resources, i.e. state-managed forests or community-managed forests etc. The authors further argue that entities such as the state; community; and elected-government are unequipped in their isolated and rather linear workings. Instead, they propose for a 'hybridization' of forest-governance where all these entities come together synergistically to ensure positive outcomes for all stakeholders involved. However, it requires cautioning that while such an approach may seem enticing on-paper, the basic premise of the state's larger intention is still in question.

Our review highlights some of the key factors that are likely to influence local democratic process and outcomes, specifically in the context of decentralized forest-based governance, and more devolved approaches to governance as in the case of India, with the implementation of FRA 2006. Some of the insights are relevant and generally applicable to effective forest governance, irrespective of the geographical, and the socio-political context. However, it is also important to recognize the nuanced insights context-specific assessments may offer. This is particularly relevant in the context of FRA implementation, where differences in the pace of implementation, receipt of claims (both IFR and CFR), and the post-claim status, are noted. With "progressive states" of the south such as Kerala and TN, continuing to lag in terms of FRA (particularly CFR) implementation, it requires an in-depth scrutiny to understand the key factors influencing decision processes and governance outcomes.

Problem Statement

FRA in Tamil Nadu and Kerala and the gaps in the local democratic process:

While the FRA came into effect nationally in 2006, an untimely ruling ordaining a stay on its implementation by the Madras High Court severely hampered the integration of the FRA into Tamil Nadu's state politics, hindering the creation of the bureaucratic and institutional bodies necessary to ensure effective processes for vesting rights to traditional forest-dwelling peoples, until 2016.

On-ground, the relationship between the FD in Tamil Nadu and indigenous communities is a fairly contentious one, particularly around any economic enterprise pursued by the latter. The FD severely limits indigenous people's access to the forest, and even if community-members do manage to engage in traditional collection of NTFPs, they often must sell them through Village Forest Committees (VFCs) set-up as part of JFM. These organizations act as intermediaries between the community and the market. The system of participatory forest management was designed to include indigenous and other forest-dependent communities in forest management and to give them a voice in the decision-making process, and yet, what is evident is- participation in title but much less so in practice. Post 2016, the FRA implementation process continues to be met with resistance on the ground.

In Kerala, the FRA was implemented in a similar way as it was in Tamil Nadu, with very limited community involvement or capacity-building on the state level. The challenges surrounding community involvement around the FRA are present in Kerala just as it is across Tamil Nadu. However, in Kerala this is arguably the case for different reasons. Nevertheless, the situation in Kerala today is slightly more favourable to FRA-claimants, but there is still lack of cohesion in the process.

Moreover, rapid turnover at low-level bureaucratic positions in government has caused a delay in processing claims applications. A subsequent challenge we face while working with the various PVTGs of the NBR is that despite receiving awareness on the provisions available

under FRA, the initiative and self-motivation to follow-through with the process of availing IFRs and CFRs, from within the communities, has been largely akin to an inertia. Table 1 presents the status of the FRA claims in the two regions as of December 2019.

Table 1: FRA implementation status in Nilambur and Sigur

AREAS	TOTAL VILLAGES	IFR SUBMITTED	IFR RECEIVED	CFR STATUS
Nilambur (Kerala)	19	112	112 (72 resubmitted)	36 Gram Sabhas submitted claims for approval
Sigur (TN)	20	1004	1004	3 claims distributed but incorrect. Resubmitted for correction. 13 CFR claims submitted for approval

Source: Krishnakumar and Hover, 2019 (in review)

As it stands now, there is a great deal of work to be done before the Act can be implemented to its fullest extent. The FRA 2006 mandates that state governments create systems to raise awareness about the Act, and to fully implement it in communities from the ground-up. The quick and half-hearted way that the state created FRCs is emblematic of the state's failure to implement the law, or at least has made the implementation process a great deal more difficult despite the significant benefits that the FRA stands to give indigenous and other forest-dwelling communities ((Krishnakumar and Hover 2019) unpublished).

It is on this premise that we would like to assess the formal and informal workings of the state, local institutions, and community members to determine how local democratic systems work effectively and under what conditions. Our aim is to carry out a comparative-analysis of two social-ecological zones in the NBR- Sigur and Nilambur, located in the two States of Tamil Nadu and Kerala, respectively, to get a deeper understanding of the on-ground scenarios in the respective states and the particular communities residing in these areas.

Research Objectives & Questions

Our overarching research question is to determine how effective are the various decentralized systems that are in place; how do they work together; and what are the kinds of constraints they face?
Our two specific questions and the key sub-questions we intend to explore under each are:

1. To understand what factors influence democratic processes and its outcomes at the local institutional level:
    Some of the sub-questions include but not limited to are:
    - What are the various traditional governance systems in place in the respective regions of Nilambur and Sigur?
    - What role does the Gram Sabha play and how is it linked to the local Panchayats, in each of the two study areas?

- What is the nature and role of local leadership in the two study areas, at the Gram Sabha level and the local panchayats?
- What kind of presence and influence do external entities (line departments, local government bodies, NGOs, private stakeholders/traders etc.) have on local communities and institutions, in each of the two study areas?
- What are the socio-demographic and cultural factors/norms that exist in each of the two study areas?

2. How have the various bodies of local governance and democracy worked in the context of FRA and other developmental projects?
   This includes:
   - What factors affect the processing of IFR and CFR claims?
   - Does convergence with various line departments and the local panchayat (LSGD) on claiming of developmental rights take place? If, yes, how and if no, why?
   - What is the nature of association/convergence between line departments, LSGDs, and the local village level institutions, in the development of forest management plans?

Methodology

We will focus on the Irula (Sigur) and the Kattunaickan (Nilambur) communities for this study. We have been involved with both these communities through our facilitation work undertaken towards materializing FRA-claims in the two regions.

A sampling and data-collection protocol has been elaborated in the table below. We will be focusing on 2 villages each in Nilambur and Sigur (20% of villages in each area).

Sampling and Data Collection Protocol:

Area	Governance level	Sampling unit	Data Collection method	Sampling design
Sigur and Nilambur	4 villages - 2 each from each area. (Anaikatty, Vazhaithottam in Sigur) + (Appankappu and Pulimunda in Nilambur)	Village-level Gram Sabha	Focus Group Discussion (FGD)	4 FGDs total- 1 with each of the 4 Gram Sabha. Each FGD will have 8-10 GS members.
Sigur and Nilambur	2 for each of two villages	Local self-governance department (Panchayat)	Masinagudi Panchayat (For Vazhaithottam); Denad Panchayat (For Anaikatti)	Semi-structured interviews with Panchayat Secretary and 2-3 Panchayat Members from
			Appankappu (Pothukallu	

			panchayath); Pulimunda (Karulayi panchayat)	each of the four LSGDs (Panchayats)
Sigur and Nilambur	1 each for each of the two areas	Other institutions (SDLC, DLC, Line Departments- tribal, revenue, forest)	SDLC (Ooty) and DLC and Line departments in (Nilgiris District)	Semi-structured interview with SDLC and DLC members who are also representing the tribal, forest and revenue department and community representative. (Approx. 5 interviews for each institution. Total 10 interviews for each of the areas. Total 20 for both the areas)
			SDLC (Perunthalmana); DLC and Line Departments (Malappuram)	
Sigur	2 villages (Anaikatty, Vazhaithottam	Household	Survey: face-to-face	20% of total HH population of 244 (~50 surveys)
Nilambur	2 villages (Appankappu and Pulimunda)			20% of total HH population of 152(~30 surveys)

We will use participatory, qualitative, and survey-based quantitative approaches for data collection and analysis. The former allows for collecting grounded information, contextualizing the results and findings, and interpretation of data; the latter will help standardize data and accurately represent the status-quo. For qualitative approaches, focus group discussions (FGD) comprising 5-8 participants, with community stakeholders will be conducted, using a set of questions to provide a structured direction to the interactions. Using the data gathered through participatory and qualitative approach, a short and comprehensive survey will be designed for quantitative assessments.

Qualitative approaches allow for deeper and nuanced expressions of stakeholders' perceived concerns, benefits/motivations and other key indicators of democratic governance, and also contextualize it. These self-expressions are expected to be more accurate and beneficial in terms of designing and constructing detailed survey that will be administered to the primary stakeholders. Survey data will be statistically analyzed using SPSS software. Descriptive statistics and regression analysis is expected to indicate overall status and trends, and establish significant associations between influencing variables respectively.

Conclusion

We propose to undertake a comparative study and look across two unique socio-ecological landscapes within the NBR. Our study is expected to provide a nuanced understanding on workings of democratic process and local governance mechanisms. The following are the key outputs and outcomes of the study:

Outputs of Study:
- Identify key challenges and opportunities in the effective functioning of local democracies in the two regions
- A report and a peer review article, highlighting key insights.

Outcomes of Study:
- An improved understanding of democratic processes, particularly at the local level of governance
- To design improved strategies and tailor interventions specific to the Tamil Nadu context for better facilitation of FRA claims processes, using insights drawn from Kerala.

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Research Project - Tentative Time Line

Activities	2020										2021	
	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Preparation of data-collection tools for FGD with GSs	▦											
Commencement of FGDs in Sigur(2) & Nilambur(2)		▦										
FGD data-sorting+analysis		▦	▦									
Preparation of semi-structured interviews with LSGDs			▦									
Interview-administration with LSGDs (2+2)			▦	▦								
Semi-structured interview preparation for SDLC+DLC				▦								
Administration of interviews with SDLC + DLC				▦	▦	*	*					
Survey questionnaire-designing for both areas					▦							
Household-level surveys in both areas					▦	*	*	*				
Data-Sorting and Compilation						▦	▦	*				
Data Analysis						▦	▦	▦	*			
Additional literature review and report writing								▦	▦	▦		
Preparation of final report for submission											▦	▦

*: Probable rescheduling in case of contingencies.