India’s Forest Rights Act, 2006
Stuck in a Maze of Bureaucratic Interpretations?

ROSHNI KUTTY, ARPITHA KODIVERI, SHARACHCHANDRA LELE AND SIDDAPPA SETTY

Using the varied legal forest categories and forest property regimes in Karnataka, India, the authors showcase the ingenuity with which the Forest Rights Act (FRA) 2006 has been interpreted in various districts of the state. This article examines the reasons for these different interpretations among the implementing agencies and the outcomes of such interpretations on the community, targeted by the law to benefit. The range of administrative interpretations of the FRA has resulted, in most cases, in the dilution of the spirit of the law. There have been multiple factors that have influenced these administrative interpretations, including social formations, political power, histories of forest tenure, ideologies of conservation and inter-departmental mandates. The interplay of these multiple tensions, compels genuine claimants to struggle with accessing their rights under the Act and realising its full potential. The expression of administrative discretion often results in the creation of a cumbersome process of getting forest rights legally recognised, thus limiting the scope of this Act.

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INTRODUCTION

Forests have long been a contested space – by local, regional and global actors. Forest policies formulated by national governments seek to bring about a balance to meet the aspirations of all these actors. The Indian Parliament responded to a demand for recognising the rights of forest dwelling communities whose rights over forests were either ignored or not recorded during the consolidation of state forests during British as
well as post-Independence governments, through the enactment of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter referred to as FRA). Right from its inception the FRA has met with resistance (Kumar and Kerr, 2012; Gopalakrishnan, 2017) and it was evident that its implementation in the states would not go unchallenged, especially by the forest bureaucracy. Such bitter opposition to the FRA stems, especially, from conservationists, the Central Ministry of Environment, Forests and Climate Change (MoEFCC) and respective state forest departments against the rights granted to forest communities to protect, conserve and govern their traditional forests, given under Sec 3 (1) (i) commonly termed as Community Forest Resource rights (CFR rights); hitherto inconceivable large swathes of forest could now potentially be governed by local communities, relegating the role of the powerful Forest Department to that of a supporting agency. Even during the drafting of the FRA Bill, the MoEFCC had registered their strong opposition to the Bill, fearing that denotification of forest tracts would "lead to irreparable ecological damage" (Ganapathy, 2005: cited in Kumar and Kerr, 2012).

This article maps out how perceptions about social and ecological systems by district-level bureaucracy has led to varying interpretations, and therefore, implementation of community rights\(^1\) under FRA in Karnataka. By interpretations we refer to the manner in which bureaucracy has understood some of the definitions set out in the first chapter of the law, as well as the way they have decided the applicability of certain rights specified in their administrative regions. For example, the Forest Department in the southern zone has interpreted Section 13 of the Act, as that, the FRA is in addition to an already existing law — The Wild Life (Protection) Act 1972 (WLPA), whose rules would be applicable prior to FRA rules being applied there. In other words, WLPA takes precedence over FRA in protected areas. These interpretations were documented based on interviews with some of the implementing bureaucrats as well as group discussions that were carried out with the stakeholder villagers.

The article explores how these interpretations have been influenced by the social, ecological and historical context of forests in Karnataka. The article then proposes that in order to understand the outcomes of forest policy implementation, it is necessary to locate bureaucratic behaviour within the geographical, social, ecological and historical context that shape people's response to forests. While the article is aware that external

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forces also play a role in shaping bureaucratic behaviour, decentralised institutions are far more affected by local forces, be it local communities or local level administration (Fleischman, 2016), in determining forest outcomes, as they are downwardly accountable. Therefore, this article restricts itself to analysing the local contexts in shaping bureaucratic behaviour toward implementation of forest policies.

A recent report indicating that only one percent of the potential CFR area has been recognised as actual CFRs in Karnataka (CFR-LA, 2016), would, on the surface, give the impression that this is due to the resistance put up by the forest bureaucracy. While, to some extent, this is true, we find that the reality is more complex. This article attempts to showcase the distinctive ways in which the rights recognition process within FRA is followed, and identifies three zones of categorisation that simultaneously combines the social and historical realities of these zones. These, in turn, have influenced the implementation of community rights in Karnataka.

The article begins by laying out the context in which the FRA is being implemented, through a brief description of the forest tenure history and social composition of the study area—demarcating the study area into three zones. This is then followed by a description of different administrative interpretations of FRA at the local level and demonstrates how these differences have its origins in the political and social contexts of those landscapes. It then goes on to show how this has had an effect on the rights recognition process in particular zones. This article hopes to address the gap in policy implementation literature, which has mostly focused on Western policy implementation and has seldom addressed implementation problems of developing countries.

**Literature Review**

Studies on FRA implementation have consistently pointed to lack of awareness (Münster and Vishnudas, 2012; Sarker, 2011; Sathyapalan, 2010) and opposition from the forest departments (Dash and Kothari, 2013; Springate-Baginski, Sarin and Reddy, 2013; Sarker, 2011) as a predominant factor in explaining the poor implementation of the FRA. Kashwan (2011) has also pointed to a lack of political will among elected representatives to push for recognition of rights. Studies on FRA implementation in Andhra Pradesh bring out the government’s hastiness to complete the implementation of FRA, as a factor that has resulted in deprivation of rights (Reddy and others, 2011). More specifically, looking at studies that have examined implementation of FRA in the
Western Ghats, Sathyapalan’s (2010) rigorous study identifies the lack of co-ordination among responsible government departments as one of the important factors that hinders FRA implementation. Yet another study on FRA implementation in the Western Ghats of Wayanad district in Kerala, identifies lack of awareness among the tribal communities as well as inter-departmental conflict as factors (Münster and Vishnudas, 2012). However, Sathyapalan (2010) fails to elaborate on this point as to how different departments have interpreted the Act based on the objectives of their department. Münster and Vishnudas (2012) too make a very brief mention of how community rights under FRA have been perceived as NTFP collection rights and the existence of a previous Act had influenced the way community rights were implemented in Wayanad. This article intends to take this argument further by showing that the tenurial, social, and ecological contexts have an important role in shaping the way the Act is perceived by different departments involved in its implementation. And this, in turn, leads to implementation outcomes that do not match those envisaged under the Act.

**Forest Governance in Karnataka Prior to FRA**

Karnataka, having 20.19 percent of its geographical area under forests, which amounts to about 34,700 sq km, is one of the important forest-covered states in India. Forests with different local names are spread over diverse administrative categories and controlled by the Forest Department and/or Revenue Department.

Broadly, the forest tenure regimes have been classified into: (i) state-controlled; (ii) de-facto open access; (iii) privately controlled; and (iv) community-controlled (Figure 1).

Within these categories there are various nomenclature reflecting varying rights, allocation rules and administrative responsibilities. Of these, some are administered under the Land Revenue Act, while others come under the purview of the Forest Act and still others fall under both.

The forest tenure regimes in Karnataka that control access and governance of forest areas are typically characterised by a wide range of individually controlled access regimes, a near total absence of community controlled regimes (the only probable exception being sacred groves of Kodagu district called Devara Kadus), and large areas of de-facto open access forests that are vulnerable to encroachment and conversion to plantation agriculture (Lélé, 2001). Administratively, privately-controlled
and *de-facto* open-access forest tenure regimes are overseen either by the Revenue Department alone or jointly by the Forest and Revenue Departments. Largely state-controlled regimes are overseen by the Forest Department, except in case of Amrut Mahal Kavals, which are jointly administered by the Forest and Animal Husbandry Departments.

**Figure 1: Extent of Different Tenure Regimes Within the Forests of Karnataka**

![Pie chart showing the extent of different tenure regimes within the forests of Karnataka.](chart.png)

*State-controlled 47%
Open-access 16%
Community-controlled 37%
Privately-controlled*


Nearly half of the state’s forests (47 percent) come under largely state-controlled regimes — Reserve Forests and Amrut Mahal Kavals. Most of the dense forests and forests having a large proportion of commercially valuable species, and usually located in steep and remote areas, come under this regime. It also includes dense forests that were used by humans. Local communities were given access only to fuel wood and fodder in these forests, which again depended on the discretion of the forest officer.

*De-facto* open access regimes comprises 37 percent of the forests of Karnataka and are located close to settlements and cultivated areas. These are under the dual control of both, Forest and Revenue Departments, where land is the responsibility of the Revenue Department and the trees come under Forest department. This particular regime was created to meet the local communities’ need for fuelwood, fodder, leaf manure, small timber, and so on. However, due to the highly insecure tenurial rights to communities (they could use the resource, but were not authorised to manage it) and confusing responsibilities of the State agencies, it has
resulted in heavy encroachment, forest degradation and deforestation, as they are treated by State agencies as ‘no-man’s land’.

A remarkable and unique feature of the Western Ghats forests of Karnataka (and to some extent, of the contiguous southern state of Kerala) is the considerable presence of privately controlled forest tenure regimes, comprising the remaining 16 percent. Partly, this is explained by the social geography wherein individual homesteads of a village are scattered, as opposed to close village clusters of houses, as seen in the plains. Thus, it becomes a practical necessity to individually manage the day-to-day operations of the forest. This type of forest regime is seen in forest patches adjacent to cultivations across all districts of the Western Ghats of Karnataka. These forest patches are for exclusive individual household use with varying degrees of ownership over the forest, depending on the local nomenclature in different districts. The private rights could range from being simple usufruct rights for self-consumption, limited timber extraction rights, complete timber sale rights or rights to change land-use including sale of land.

The forests of Karnataka are also distinguished by the near total absence of community-controlled forest regimes. Here, community-controlled regimes refer to regimes where day-to-day operations are carried out by the local community while the State plays only a regulatory role. The Indian Forest Act, 1927 recognised such regimes through the categorisation of certain forests as village forests. Village Forest Panchayats were set up in the 1930s in Uttara Kannada and Shimoga districts, for the purpose of allowing villagers to manage these forests. In these forests, the State allowed the regulated removal of timber and even quarrying of laterite bricks apart from extracting all the forest products that were permitted in open-access regimes. However, most of the village forests were derecognised in the 1960s by the State. This left only some sacred grove patches in Kodagu district as community-controlled tenure, which are mere concessions for religious purposes rather than for meeting the livelihood needs of villagers. This distinct absence of community-controlled forest tenurial regimes in Karnataka can be explained, as mentioned earlier, due to the social geography of the Western Ghats landscape which encourages scattered settlements rather than compact ones.

Forest Dwelling Communities in Karnataka

About 66 percent of the total population of Karnataka live in rural areas of which about 28 percent reside in and around the forests (MoHA, 2011).
This is about 10.5 million people. A distinct feature of Karnataka is that most of the forest-dependent people do not belong to homogenous tribal communities, but to heterogenous rural communities. These heterogeneous communities range from the socially, economically and politically powerful upper caste Brahmmins to the weaker sections of the society, such as Scheduled Castes (SC) and Scheduled Tribes (ST).

The Scheduled Tribe population of the state is about 4.25 million, which amounts to 6.95 percent of the total population of the state (MoHA, 2011). This includes about 51,000 people belonging to the Particularly Vulnerable Tribal Groups (PVTGs). Of the fifty ST communities in the state, only ten come under the category of forest dependent tribes (Karnataka Social Welfare Department, undated; Madegowda, pers. comm. 2017). Forest-residing ST communities mostly practiced hunting, gathering and shifting cultivation till these practices were banned by the British government during State appropriation of forests in the 1850s. Some of these tribal communities were settled within the forests to contribute towards forestry labour. These communities are now mostly dependent on income from sale of NTFPs, subsistence agriculture, animal husbandry and by migrating to cash crop plantations in other districts as labour.

STUDY AREA AND METHODS

The state of Karnataka is located in the south western region of India (Figure 2). The modern state of Karnataka has been formed by the amalgamation of four different administrative units — Mysore Princely State (Shimoga, Chikmagalur and Mysore), Bombay Presidency (Uttara Kannada), Madras Presidency (Dakshina Kannada), Nizam of Hyderabad (north-west districts) — each with their own land settlement history adding to the complexity of tenure regime. The state can be broadly divided into six agro-ecological zones (Gajbhiye and Mandal, 2000) and helps in understanding the contestation around the role of forests in the landscape. The Western Ghats, a biodiversity hotspot, runs from North to South on the western side of the State covering the eight districts of Uttara Kannada, Shimoga, Chikmagalur, Dakshina Kannada, Udupi, Kodagu, Mysore and Chamarajanagar. Most of Karnataka’s dense evergreen and semi-evergreen forests lie in this landscape. Moist and dry deciduous forests are located on the eastern slopes of the Western Ghats, while scrub and thorny forests as well as un-wooded forests (mainly grasslands) are located in small patches in the drier eastern plains.
The data for this article comes from recce fieldwork carried out for doctoral research, as well as for a status report on FRA implementation in Karnataka (Kutty and Kodiveri, unpublished). The fieldwork was conducted in three phases — Kodagu and Uttara Kannada during September-October 2016; Chamarajanagar and Mysore during November-December 2016; and Chitradurga, Chikmagalur and Shimoga during April-May 2017. Data has been collected from each district through semi-structured interviews with government officials from the Tribal Welfare Department, Revenue Department and Forest Department. Group discussions were held with villagers whose claims for community forest resource rights or community rights were recognised in Chamarajanagar, Chitradurga and Chikmagalur districts. Interviews with field staff of the Tribal, and Rural Development and Panchayati Raj Department were also conducted wherever possible, in the districts mentioned.

Figure 2: Study Area (a) Political Boundaries (b) Physical Features

Additionally, four visits were also carried out to the office of the Karnataka State Tribal Department in Bangalore, where the only two officials handling FRA were interviewed and relevant documents, including status reports were collected. Additional information, specifically on history of forest tenure regimes was obtained from secondary data. The outcomes that have been drawn in this article have relied a lot on this data.
Forest Tenure Regimes and Social Context

The potential for FRA, and more specifically CFR rights in Karnataka, is contextualised by the three zones explained below (Figure 3).

The western zone — comprising districts of Uttar Kannada, Shimoga and Chikmagalur — with a large forest area and low ST population, has predominantly State-controlled regimes operating, followed by privately controlled regimes, with the remaining forest patches under some form of *de-facto* open-access regimes. The eastern zone — comprising districts of Chitradurga, Bellary and Raichur — with scanty forest area and high ST population, has no protected areas, nor privately-controlled or community-controlled forest tenure regimes.

The predominant tenure regime here is the *de-facto* open-access regime over grasslands (or tropical savannas) with some amount of State-controlled regimes functioning in the form of Amrut Mahal Kavals. The southern zone with relatively moderate forest cover and moderate to high ST population is characterised by a predominance of State-controlled forest tenure regimes through contiguous protected areas and reserve forests. While the southern zone has moderate forest cover with respect to the total district area, what needs to be kept in mind here is that the forested...
areas are restricted to certain portions of the district. In other words, where forests are located, they are dense patches of mixed deciduous forests coming under protected area category. Remaining forest areas come under different types of open-access regimes. Privately-controlled regimes and community-controlled regimes are absent in this area, except in Kodagu district.

**IMPLEMENTATION OF COMMUNITY FOREST RESOURCE RIGHTS IN KARNATAKA**

**Current Status of Implementation**

Table 1 indicates the status of implementation of community forest rights in Karnataka.

**Table 1: District-wise Claims for Community Rights**

<table>
<thead>
<tr>
<th>Zone</th>
<th>District</th>
<th>No. of claims received</th>
<th>No. of title deeds distributed</th>
<th>Extent of land involved (hectares)</th>
<th>Average land per claim (in hectares)</th>
</tr>
</thead>
<tbody>
<tr>
<td>West</td>
<td>Shimoga</td>
<td>1449</td>
<td>125</td>
<td>27.54</td>
<td>0.22</td>
</tr>
<tr>
<td></td>
<td>Chikmagalur</td>
<td>112</td>
<td>3</td>
<td>570.6</td>
<td>190.2</td>
</tr>
<tr>
<td></td>
<td>Uttara Kannada</td>
<td>3232</td>
<td>688</td>
<td>104.44</td>
<td>0.15</td>
</tr>
<tr>
<td>East</td>
<td>Chitradurga</td>
<td>1</td>
<td>1</td>
<td>1.12</td>
<td>1.12</td>
</tr>
<tr>
<td></td>
<td>Bellary</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Raichur</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>South</td>
<td>Chamrajnagar</td>
<td>67</td>
<td>64</td>
<td>54000.04*</td>
<td>843.75</td>
</tr>
<tr>
<td></td>
<td>Kodagu</td>
<td>66</td>
<td>5</td>
<td>1675.4**</td>
<td>335.1</td>
</tr>
<tr>
<td></td>
<td>Mysore</td>
<td>126</td>
<td>38</td>
<td>0***</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>5741</td>
<td>958</td>
<td>27979.1</td>
<td></td>
</tr>
</tbody>
</table>

Source: Adapted from April 2018 The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 (No.2 of 2007) and Rules 2008 (Amended Rules – 2012) Monthly Progress Report, Karnataka Social Welfare Department, Bangalore.

* Data based on estimate calculated from DLC and SDLC meeting minutes.
** Source: District Tribal Office, Kodagu.
*** Forest area given for community rights undergoing re-survey. Therefore, extent not known.
Nature of Rights in the Western Zone

In the western zone, the number of community claims made is the highest among the three zones, which would point to greater awareness about rights. A simple calculation of the average forest area recognised per claim reveals that, except for Chikmagalur, the nature of community rights that have been claimed and recognised are Public Utility Rights (PURs), such as land for setting up school buildings, community centres, cemeteries and other services. Further investigations revealed that these rights have been claimed by government agencies responsible for the maintenance of the public utilities, such as Block Education offices and Health departments or Gram Panchayats. This explains the high number of claims that were filed in this region. In the case of Chikmagalur, one has to keep in mind that only 3 of the 112 claims have been recognised. While these three are in the nature of CFRs, field observations indicate that the remaining 109 community claims pending to be recognised, would be of the same nature (that is, PURs) as the rest of the districts in this zone.

Nature of Rights in the Eastern Zone

The eastern zone indicates a near total absence of awareness of the law, as no claims have been filed so far from this zone, except for one in Chitradurga to construct a building for a religious institution. While this zone has the highest ST population, it is not perceived to have much 'forest' that the communities have identified as their customary rights. The notion of forest here is that of densely wooded trees, while the natural vegetation in this landscape is typically tropical savanna locally called as Amrut Mahal Kavals grassland ecosystem and categorised as Deemed District Forest by the Karnataka Forest Department (ESG, 2013).

Nature of Rights in the Southern Zone

While the number of claims filed in the southern zone is less, what is remarkable is the extent of forest area claimed, which is the highest among the three zones. It also indicates that the nature of forest rights claims that have been filed and recognised are CFRs. However, these CFRs fall within some or the other protected area category and, therefore, meets with opposition from the Forest Department for recognition. This is evident from the fact that except for Kodagu, no official figures have been given for the forest extent recognised under CFRs.
VARYING BUREAUCRATIC INTERPRETATIONS OF THE ACT

Apart from the tenurial and social contexts of these zones, the implementation of CFRs in Karnataka is also affected by various bureaucratic interpretations of the Act in these landscapes/zones.

Bureaucratic Interpretation in the Southern Zone

In the southern zone, that has witnessed highest percentage of recognised claims of CFR rights, there is a stubborn refusal by the Wildlife wing of the Forest Department to acknowledge the rights vested in the tribal communities to now protect and manage their traditional forest areas. Protection and management responsibility continue to lie with the Wildlife Department — whether it be in Biligiri Rangaswamy (BRT) Tiger Reserve, Male Mahadeshwara Hills Wildlife Sanctuary or Kaveri Wildlife Sanctuary. This stems from the interpretation of the forest bureaucracy that the provisions of WLPA, 1972 has precedence over FRA, 2006. And, therefore, CFR rights in this landscape has been interpreted as: to collect, use and sell NTFPs for commercial and domestic purpose. Legally, it means that Sec 3 (1) (i) that vests the community with rights to “protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use” has been downgraded to Sec 3 (1) (c) and (d). This means that tribal communities can now reside in these forests without the fear of being evicted by the Forest Department in the name of wildlife protection, have right of access to collect, use and sell NTFPs, fish in the forest streams and graze their cattle in the forest. The right to sell NTFPs, however, has been restricted, for most part, by compelling the tribals to sell the produce to a State administered marketing co-operative. This, effectively, translates into no improvement in economic gain for tribal communities from livelihoods based on NTFP collection. Further, claims under section 3 (1) (m) that acknowledges the right of forest dwelling communities to in situ rehabilitation including alternative land where they have been illegally evicted or displaced from their forest land, have been rejected. The Rajiv Gandhi National Park in Mysore district has been in the centre of several controversies regarding illegal eviction of tribals without due recognition of their traditional rights (Siddhartha, 2013). Even in BRT Tiger Reserve, historically, these communities practiced shifting cultivation and were later forcefully settled in different forest areas of the Reserve in such a manner that rights of some communities to these settlements were not recognised, due to inadequate proof of settlement at the time of verification.
Bureaucratic Interpretation in the Eastern Zone

In the case of the eastern zone, the bureaucracy — whether Forest, Revenue or Tribal Departments — goes by the narrative of forests as densely wooded trees and undergrowth and do not recognise tropical savannahs and grasslands within the ambit of forests. These grassland ecosystems have been historically clubbed either as Amrut Mahal Kavals (a State-controlled regime) or Gomaals (de-facto open access regime) for meeting the grazing requirements of the pastoralist communities here. As a result, interviews with members of the bureaucracy revealed that because the bureaucracy here believes that there are no forests, the FRA is not applicable in this region. Therefore, no attempt seems to have been made to create awareness about this law among nomadic and other rural communities.

What could have also added to this bureaucratic perception about the non-applicability of FRA in this zone is that one single ST community, the Naikas (and derivatives of the same caste), make up for 95 percent of the ST population in this zone. Their history as a ruling class and their current social indicators give us a picture of a relatively prosperous community, who have comparable literacy rates and employment rates (MoHA, 2011). Most of them are urbanised and/or landed farmers, who do not really depend on the grasslands for their subsistence. If this dominant community were to be removed from our analysis, then this region would be characterised as a low forested and low tribal populated region. And this seems to be the perception among the bureaucracy that there are no target communities, that is, ST communities who depend on NTFP collections for livelihood, despite an official record of high ST population here. Thus, a perception of no forest and very few tribal communities seems to have created an impression among the bureaucracy that the FRA does not apply to the region; and therefore, have made no attempts to create awareness about this law to relevant communities. The following remark by the Chitradurga Taluk Social Welfare Officer, will make this perception clearer:

FRA is not applicable for Chitradurga tribal people. This is mainly applicable to Soligas and tribals of Chamrajnagar, Kollegal. Those who are dependent on bamboo, honey, flowers etc for their food. Such as Jenu Kurubas of Mysore, Yelandur and Chamrajnagar. They should be living in forest, dependent for their major livelihood on the forest, whole family dependent on the forest products. Here, nobody lives in the forest. They don’t even have agricultural land (in the forest).
Relevant communities here are those local communities, such as *Lambanis*, belonging to the Other Traditional Forest Dwelling (OTFD) category who graze their livestock in these grasslands—either permanently or seasonally.

**Bureaucratic Interpretation in the Western Zone**

In the case of the western zone, the landscape has a relatively large area under forest (about percent) with a sparse population of tribals (Kutty and Kodiveri, unpublished). Historically, privately-controlled forest tenure regimes such as *Soppinabetas* and *de-facto* access regimes such as minor forests, were demarcated as a result of vociferous opposition from powerful forest-dependent communities in the up-ghat area as well in the coastal *taluks*. But the voices—if at all they were even voiced—of the minority forest-dwelling communities were never heard, during the settlement of forest rights. The settlement of rights by the British Forest Department, resulting in private forest privileges, seems to have left an impression with the implementing bureaucracy that only Sec 3 (2) (that is, for construction of schools, roads and hospitals) is applicable in this zone as community rights. Other types of community rights have been completely ignored by the bureaucracy, as it is perceived to have been settled by the colonial Forest Department during the formation of Reserved Forests. Any claims now, over forests, are treated as encroachments. The bureaucracy views the provision of community rights under FRA as a tool to regularise, what they perceive, as valid encroachments by government bodies, such as schools, hospitals, cemeteries, and so on. This explains why all claims for PURs have been applied by government user agencies and none by communities themselves.

Forest dependent tribal communities in this region are mostly *Siddis* and *Gonds* in Uttara Kannada, *Gowdalu* and *Hasaluru* in Chikmagalur and *Hassalaru* and *Gonda* in Shimoga. Numbering barely a few thousand in their respective districts, these tribes form not only an extreme minority, but are also scattered among different villages. Therefore, the bureaucracy consider them as significant because of their sparse numbers. This has resulted in minimum acknowledgement of their traditional rights over the forest (which the British had not acknowledged during the settlement of rights). The following statement by the DSWO, Uttar Kannada is illustrative:

*Siddis* are open to modernisation and, in fact, they want to get out of the forests and live in towns.
DISCUSSION

Implementation is the end result of the social and political processes that have influenced the course of administrative action (Narain, 2018). As Gordon, Lewis and Young (1977) argue, policy implementation is carried out within the government based on certain implicit understandings about policy aims, which in turn, determine who the relevant actors in the policy will be — either as implementers or as beneficiaries. They term these beliefs and actors as “deep structures of policy” within the government. This argument is taken one step further, in this article, by flagging the role of the social, political and institutional contexts in shaping these “deep structures”.

The outcome in the western zone reflects the tenurial history of the forests here. Reserved forests were demarcated after the colonial forest department had responded to claims by communities over forest rights. The predominantly individualised and heterogenous nature (socially and economically) of the forest dwelling communities here, ensured that the landed class — comprising mostly of upper caste Brahmins — had secure access to forest resources through Soppinabettas, while valid claims of households that depended on de-facto open-access forests for subsistence and livelihood went unnoticed by implementing agencies. Therefore, community rights were merely used as a legal tool to regularise government buildings, such as anganwadis, schools, primary health centres, community centres and so on, constructed on forest land without due process being followed. Operating with such an understanding of community forest rights, no attempts were made by the implementing agencies to make forest dwelling communities aware of the different types of community rights that they could claim for. Throughout the district, there was only one single perception about community forest rights, which is that of PURs {under Sec 3 (2)}. However, the colonial as well as subsequent Indian governments have failed to recognise the rights of tribals, who are, unfortunately, small in demography and scattered across the district. Their voices, therefore, are not heard.

In the eastern zone too, perception among the bureaucracy that neither are there forests nor really any tribals, has led to a situation where communities, especially pastoral communities, may not have been made aware of their rights to claim these grasslands under FRA for protection and management. The complete absence of any kind of claims by village communities support the assumption of poor awareness among...
village communities about their rights under this law. Interviews with concerned government officials in Chitradurga always came up with the same reasoning that the savanna nature of forests and the absence of communities who depend on sale of NTFPs for livelihood make their district unsuitable for implementing community rights under FRA. This is aptly reflected by a Forest department official in Chitradurga Territorial Division who replied “there are no forests here, so FRA does not apply to our district”, when the authors introduced the reason for the interview with him. It is important to note that when the State agency entrusted with the responsibility of implementing FRA looks at the applicability of FRA in this manner, it is not surprising that no community claims — be it even for public utility purpose, have been filed in this landscape. No attempts would have been made to create awareness about the law to communities when the implementing agency is of the view that the law is not applicable in their region.

Another perspective that may explain the paucity of community claims over forests here is the poor institutional design of the FRA to meet the legitimate rights of nomadic pastoral communities. FRA briefly mentions about recognising rights of nomadic or pastoralist communities to access traditional seasonal resources and grazing lands. However, it does not adequately address issues of how these nomadic communities can ensure that their traditional grazing lands are not converted to non-forest use during their absence and how they can manage these forests with their transient lifestyle. In a context, where grasslands of this region are literally treated as ‘no-man’s land’ by both locally settled communities (in this case, mostly Naikas) and by the State, nomadic communities such as Lambanis are not guaranteed continued existence on these grasslands, let alone, their rights to access them. Thus, it no longer holds an incentive for communities to claim substantial tracts of grassland under CFR, as the costs of maintaining these lands as grazing pastures outweighs the benefits that they could accrue from getting their rights recognised. Moreover, decreasing grazing pastures coupled with other structural disincentives to pursue pastoralist livelihoods (Sharma and others, 2003), have ensured that the clamour for grazing and other community rights over these Kavals have been muted.

Unlike in the other two zones, awareness about community rights is relatively high among tribal communities in the southern zone. Credit for this, however, goes more to NGOs — such as Vivekananda Girijana Kalyan Kendra (VGKK), Ashoka Trust for Research in Ecology and the
Environment (ATREE) and Coorg Organization for Rural Development (CORD), to name a few — who have been working with the tribal communities on health, conservation and rural development issues. What complicates implementation in the southern zone is that all CFR claims filed in this zone are claims over forests that are under some legally protected area category. This has thrown up a different set of challenges for the tribal communities here, as they now have to contend with opposition from the forest bureaucracy due to a conflict of laws pertaining to wildlife protection (The Wild Life Protection Act, 1972), forest resource extraction and its management by State agencies (Indian Forest Act, 1927), and vesting of forest rights to communities (Forest Rights Act, 2006). The WLPA, 1972 has been enacted for the protection of wildlife and tolerates human presence in these protected areas in varying degrees ranging from absolutely no presence in national parks, to some in wildlife sanctuaries and tiger reserves (Kutty and Kothari, 2001). Consequently, there has been a lot of hesitation in recognising community claims over forest areas, resulting in inordinate delay to issue title deeds; claims are kept pending because the Forest Department does not carry out joint surveys in a time bound manner; or does not actively participate in District level committee (DLC) meetings. Where and when tribal department officials have been pro-active, one can see some movement in the implementation of CFRs. Otherwise, the forest bureaucracy completely dominates the implementing process in this zone.

It is thus interesting to note that while implementation has been affected due to lack of awareness about the law among communities in the western and eastern zones, implementation has been affected due to forest bureaucracy resistance in the southern zone. Lack of awareness among the communities arises due to certain perceptions by the local bureaucracy about the applicability of community forest rights in their respective regions.

The three key government departments responsible for the implementation of the FRA act in a unified manner in the western and eastern zones, whereas we witness the predominance of forest bureaucracy over the other two departments in the southern zone. Several studies corroborate the finding that the forest bureaucracy turns out to be the most powerful decision-making agency within interdepartmental committees that have been created under FRA, be it Subdivisional Level Committee (SDLC) or DLC (Kashwan, 2017; Dash and Kothari, 2013; Springate-Baginski, Sarin and Reddy, 2013). However,
our study also shows that inadequate understanding of the ecological, social and tenurial history can influence other concerned departments to read the applicability of FRA differently, thus leading to non-recognition of community rights to those who are most vulnerable to exploitation. In other words, bureaucratic interpretations need not stem simply from a point of power tussle, but could also arise due to other reasons that have been explained in this article.

At the state government level too, bureaucratic interpretations of the social situation has led to the appointment of Panchayat Development Officers as ex-officio member-secretaries of village FRCs. Their main role is to collect and organise all necessary documents, call gram sabha and FRC meetings and maintain a permanent register containing full details of claimants and records of FRC meetings held. Justification for this intervention is stated to be the inability of remote and illiterate communities to maintain proper documents and records. This now implies that these vulnerable sections of the society are dependent on government officials to initiate and process their claims. Thus, while the FRA had envisaged the gram sabha as a crucial vehicle to determine the nature of their forest rights through a democratic process, the State, through its interpretation and subsequent institution of government authorities in what was supposed to be a completely democratised people’s body, has turned FRA around into a largely administrative decentralisation process.

In analysing the factors that have influenced FRA implementation in Kerala, Sathyapalan (2010) lists out the inaccessibility of terrain for the implementing bureaucracy to reach out to the tribal hamlets. Moreover, his study has concentrated only on the tribal communities, whereas it is a known fact that the Western Ghats pose a big challenge to the popularly held view of forest villages being only tribal. Münster and Vishnudas (2012) also addresses the practical problems encountered by the bureaucracy in implementation of the FRA in Wayanad district of Kerala. Our study supports most of the findings that earlier literature has put out regarding factors that affect satisfactory implementation of FRA. These factors include poor awareness (Sathyapalan, 2010; Sarker, 2011, Münster and Vishnudas, 2012), conflict of laws (Sathyapalan, 2010), hegemony of the Forest Department (Kashwan, 2017; Dash and Kothari, 2013; Springate-Baginski and others, 2013), inability of civil society to create effective coalitions (Kashwan, 2011; 2017) and, lack of political will among elected representatives (Kashwan, 2011; 2017). But, all of them
stop short of explaining what makes bureaucracy act in a manner as seen on the ground. Understanding the driving forces that influence the way implementing agencies perceive the applicability of an Act or even certain provisions under the Act, would help in policy correction that incorporates special contexts. It may be argued that a law cannot be designed to suit every small special context in a country like India. But, ignoring as vast a stretch of forests and its communities in the Western Ghats or those of tropical savannahs, could undermine the conservation efforts for these ecologically important areas.

CONCLUSION
This article has attempted to show that the variation in the treatment of community rights under FRA across the forests of Karnataka stems from the influence of social, ecological and tenurial history of the forests. Presence of homogenous communities that are dependent on the forests for their livelihood needs; perception of the state administration that CFRs apply only to ST communities; perception of the bureaucracy that forests are largely wooded areas with undergrowth; and supremacy of WLPA over FRA are factors that influence the recognition of CFR rights in Karnataka. The extreme difficulty to produce evidence of 75 years of residence/dependence in the forests by non-tribal/OTFD communities, drawbacks in the institutional design, such as FRA’s lack of clarity on how nomadic pastoralists will manage their forests, have also shaped FRA implementation in the state. Irrespective of the identified zones, claims from OTFDs, whether for individual or community, have been treated more through the lens of land redistribution rather than decentralisation of forest governance. The presence or absence of civil society has also played an important role in the implementation of CFRs. Beginning with helping them to organise and mobilise politically, these communities with the support of civil society organisations have managed to get the maximum number of CFR claims recognised in the state.

Power asymmetry within the local bureaucracy has also played an important role in the implementation of FRA. One can argue that institutionally, the FRA has attempted to subvert the writ of the powerful Forest Department over the rights claiming process, by instituting village and hamlet level gram sabhas to initiate and demarcate their forest areas. This too has been overturned with the institution of Panchayat Development Officers in every village Forest Rights Committee by the state government.
Clarifications about the applicability of the law, design correction in the law, political will, local leadership and correct sensitisation about the applicability of community forest rights is essential for sustainable policy reform. Otherwise, actual outcomes differ from intended outcomes, and may, as in the cases above, actually negate the spirit of the Act — which is to correct historical injustices and to strengthen the conservation regime of India’s forests.

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NOTES

1. It would be pertinent to note that in Karnataka, public utility rights (PURs), community rights (CRs) and community forest resource rights (CFRs) have been commonly clubbed and treated as community rights. The political economy question regarding why these have been clubbed together is an aspect that the current article will not be looking at.

2. By decentralisation, this article alludes to the two principal dimensions of democratic decentralisation — 1) transfer of governance responsibilities (and powers) through top-down administrative measures and, 2) the opportunities now available for participation from below (Larson and Soto, 2008).

3. This sub-section has heavily relied on information from Shrinidhi and Lele, 2001.

4. Forest Dept., Govt. of Karnataka. Available online at http://www.aranya.gov.in/English/forest_glance/forest_at_glance.htm

5. Most dense forests were categorised as Reserve Forests while forest-cum-grasslands of erstwhile princely state of Mysore were called Amrut Mahal Kavals.

6. The scrub forest and tropical savanna vegetation here is not treated as forests for the purpose of recognising forest rights of communities by the government officials. Further, the legal forest area is also relatively small in this region (observations from the field; Prashanth M.B., pers.comm., 2017).

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