

## **WHAT JUSTICE DO THE FOREST RIGHT ACT OF 2006 HOLDS FOR THE ONE IT IS MADE FOR?**

**Upasana Roy Barman**

---

### **Abstract**

Aristotle notably referred to the concept of Justice as “ To be conscious of that we are perceiving or thinking is to be conscious of our existence”. Aristotle couched the idea of Justice into a larger frame for understanding the relation between Justice and Equality. The essence of the interdependence between Justice and Equality is stated in his idea of Distributive Justice. The central claim of Distributive Justice states that, Justice attains its platform when the share distributed to a person is in ratio to the worth or ability of the person to uphold the burden itself. In a more elaborated statement, Justice attains its notion, when shares are equally distributed between two persons is in proportion to their equal worth or value and unequally distributed is in proportion to their unequal worth or value. Equality avows the idea of Justice even in Unequal distribution of shares based on the pedestal of the worth of an individual. The substantiality of Distributive Justice attains its connotation and inference only when it is related to the existential reality. In respect to that, the Aristotelian idea of Distributive Justice is set forth as a casing to understand the arena of the Forest Right Act 2006 of India. The Forest Right Act of 2006 is an attempt by the Government of India, not only to safeguard and have sustainable use of Forest Resources. But also to bestow Justice to Tribes and Forest Dwellers whose identity and livelihood is entangled with the unruffled breath of the Forest Land. In a crux the research done in the chapter is an attempt to explore three different aspects - first, a theoretical understanding of the work of Justice, more precisely the idea of Distributive Justice as premeditated by Aristotle. Secondly, to briefly study the scaffold of the laws that were carved out in independent India for the known yet unknown Land and its people. Thirdly, to recount the Forest Right Act of 2006 in order to understand the practicality and implementation of Distributive Justice from the stand of Merit. Justice will enlighten itself only when the line between imagination and knowing is beclouded and Truth arises from the facet of reality.

**Key Words:-** Merit, Partial Justice, Distributive Justice, Symbiotic, Nistar Right

Upasana Roy Barman

Assistant Professor, Serampore Girls' College

Research Scholar, Jadavpur Univeristy

24/1 Jessore Road Dum Dum Kolkata- 700028

Email- tua12002@gmail.com

## Introduction-

At the end of the Novel Aranyak, by one of the eminent Bengali writer-Bibhuti Bhushan Bandopadhyay, the protagonist Satyacharan bids a Forgive Farewell to the Serene, Undisturb Beauty of forest land of Azamabad — Fulkia — Lobtulia — Baihar in the state of Bihar. His forgiveness has expressed the foreseen atrocious deforestation of the unruffled Forest land, which behold the unknown, unrefined history, culture and society of the dwellers of the Land. In one of the parts of the Novel Satyacharan pays a visit to the unknown traditional burial ground of the Santhal along with their old king- Raja Doobru Panna. He visualizes the presence of a Banyan tree, matured by the senectitude of time. The unfathomable roots of the Banyan tree clinch the relic of the cardinal member of the clan reflecting the connubial relation between man and nature. But what, Satyacharan vision sees forth is the existential crises of the habitat of the Santhal. He brings forth a comparison between the mystifying, uncharted burial ground of the Santhals and the stupendous and famous Egyptian- ‘Valley of the King’. His understanding and comparison end with the statement that- this burial ground of the Santhal is no less in its content and in comparison with the Valley of Kings. But what differentiates the history of the two is the element of exposure, wealth and glaze whose luminosity has ornamented the Valley of Kings as a spectacular sight. But its obscurity has pushed down the history, culture and custom of the Subaltern class into the frame of uncharted, coarse and uncivilized identity. Satyacharan comprehend, that the identity of being Subaltern (Santhal)defines the understanding and distribution of Justice towards them by the Majoritarian and Dominant Power holder. The merit and the capability of the Santhal to preserve the culture, history and life of their woodland never counted equal before the sectarian framework of development. The distribution of Justice would have been counted as Just only when it is distributed to people who have the capability to maximize it. This in effect contributes to the development of the Society. The Sectarian dissection within the sheets of the society creates a Justice ruled by factional politics, which is indeed unjust in its nature.

## Research Method

This methodology provides the basic structure for the work under taken in the article. The method used is primarily based on Secondary Data Analysis. In case of analysis of the Secondary data we have studied different Acts in its crude form, writings from different Journals and Books and newspaper cutting along with talk of different eminent scholars. The enigmatic stands of Law can best be comprehended by reading between the lines. The writing below is subdivided into three parts to give a clear understanding of the premeditation of the understanding and thought.

**The Aristotle idea of Distributive Justice:-** The whole spectrum of understanding Justice, holds different meaning and conceptualization. What hold Just for me, Might not be Just for others. But different theoretical avenues have explained the Fairness of the concept in various fashions. Out of those plethoras of understanding, the perspicacious stand of Aristotle on the concept of Justice is what elucidates certain section of Forest Right Act of 2006 in India under the framework of this writing. The history of Justice did take a leap with the City State under the aura of the Polis. For Socrates, he drew Justice on the ground of administration of fairness. According to Socrates Justice states that by people should get what they want. But Plato differed from the Socrates understanding of Justice. He comprehended Justice from the platform of righteousness and duty of a Man. Platonic idea of Justice states- ‘Justice in doing one’s own job’ ( *Plato, Book IV 443 b* ).

In an explanatory sense, Justice is a sort of specialization where one fulfill the duties of one own class and do not meddle with the duties of another class. This very principle laid down the foundation of a State. For Plato the State is a perfect whole where each and every individual functions not for itself, but for the interest of the whole. But the casting of the idea of Distributive Justice made its way with the writing of Aristotle. He divided Justice into two parts- Complete Justice and Partial Justice. The idea of Complete Justice denotes itself as an attribute of character with the virtue that it is exhibited by human beings in their relations with others. This interaction promotes a better life and lead to happiness for the members of the political community. While on the other hand, Partial Justice meant the share of benefits that individuals should receive and the burdens they should bear off. The benefits which partial justice states are honour, material goods, and security. For Aristotle ‘Injustice in the partial sense occurs when a person receives an unfair share of benefits or burdens’ ( *Johnston, 2011* ).

Aristotle further divided the idea of Partial Justice into two sections 1- Distributive Justice and 2- Corrective Justice. Distributive justice calls for honour or political office or money to be apportioned in accordance with merit—“all men agree that what is just in distribution must be according to merit” ( *Wolterstroff, 2008* ). Corrective justice on a different stand calls for the wrongdoers to pay indemnity to their victims in accordance to the

extent of the injury they have caused. In a more comparative framework the understanding of the concept of Distributive Justice and Corrective Justice is more categorized out. First in case of Distributive Justice, the idea of equality comes with the fact that everyone is rewarded in proportion to his or her merits. So that it is unjust for unequal in merit to be treated equally or equals in merit to be treated unequally While in the case of Corrective Justice, that the concept of equality requires every victim of wrongdoing to be compensated equally, regardless of their merit. Hence forth the idea of Corrective Justice "...makes no difference whether a good man has defrauded a bad man or a bad man a good one . . . ; the law looks only to the distinctive character of the injury" (*Fleischacker, 2005*). But the idea of "Distributive justice provides the principle underlying the distribution of goods and honors in a political community; it is the principle embodied in a regime. Secondly the general principle where the equal persons must have equal shares and unequal have unequal shares, can be stated with the certitude, clarity, and precision of a mathematical formula and Distributive justice in a proportion. While Corrective justice provides the principle applied in courts of law when contracts must be rectified. Here persons are not to be taken into account, but the gain reaped from inflicting loss of a partner in a contract is to be equalized by a judge who, again with impressive mathematical rigor, imposes a fitting loose on the one who has gained unjustly" (*Winthrop, 1978*). Thirdly, Aristotle states that Distributive Justice is based on Geometric Proportion by which treating Equal Equally and Unequal Unequally. While Corrective Justice is based on Arithmetic Progression where parties are regarded as equal and Justice is implemented on the basis of the calculation of the crime committed by a person and the suffering faced by another in respect of that crime. In a more teleological sense Distributive Justice phrases up the fact that 'To everyone in proportion to his worth or rank' and Corrective Justice states "Equal shares to equals, unequal shares to unequal" (*Arnardóttir, 2003: 9*).

For Aristotle distribution will account as Just only when the ratio between the person and the things distributed, is drawn on the scale of Equality, where the scale of Equality is drawn in accordance to Merit. " If in a democracy the ground of equality determines Justice where the Goods are distributed to citizen on equal share, then in Oligarchy where inequality is based on wealth determines the scale of Justice by which Goods are allocated to citizen in proportion to their wealth . "Aristotle says that a distribution will be just if the difference in the amount allocated to the parties in the distribution is in proportion to some relevant difference between them"( *Frank, 1998* ). As Aristotle quoted- "It is not proper to give an advantage in respect of flutes to those of better birth, for they will not play any better, but it is superior performers who ought to be given the superior instruments". Martha Nussbaum explains this analogue by stating that- "that Aristotelian justice in distribution is need based, not merit based. Goods in general and political offices in particular are to be distributed to everyone except those who cannot use them". (*Frank ibid*) The moot point of Distributive Justice lies with the concept of Equality and Merit ( in terms of Clean air structure by Air purifier) which Aristotle has stated that " Justice, which allots burdens according to the individual's ability to carry them and accords support in amounts which vary with the needs of the individuals and is called "distributive Justice." (*Churust, 1942*) Men are not of equal worth and values and it is the differences which add diversity to the graph of survival of each and every mien of humankind. As Aristotle states "Distributive justice is a form of justice that is not blindfolded; it allots the goods of the polis with distinction of the persons and in view of their qualities. As different persons generally have different qualities, they usually get allotted unequal shares. In a just distribution, these shares should be bestowed on the persons in proportion to their different qualities, or as Aristotle puts it, in proportion to their unequal worth or merit. In a just distribution everyone gets allotted equal shares in proportion to his unequal worth or merit" (*Aristotle, Book V*).

Aristotle divides the idea of Merit under two heading- Firstly , Intellectual and Second- Moral. The idea of specifying Merit as the ground of Distributive Justice is based on three major components- first component is for securing different allocations of resources for people whose need are at varying levels for leading a flourishing life. This requires the government to distribute sufficient goods, services, and conditions to achieve human functioning. But by respecting human dignity and giving individuals the freedom to choose the life they want to lead. As Nussbaum stated "... aim of political planning is the distribution to the city's individual people of the conditions in which a good human life can be chosen and lived. This task aims at producing capabilities. That meant, it aims not simply towards the allotment of commodities, but at making people able to function in certain human ways .... The task of the city is, then, to effect the transition from one level of capability to another" ( *Ruger, 2006*). In the case of Second Component Aristotle argues, "[Clearly, wealth is not the good we are seeking, since it is [merely] useful, [choice worthy only] for some other end. It means that the resource is seen as an end not mean' ( *Ruger, ibid* ). Nussbaum also noted that resources "are not good in their own right; they are good only insofar as they promote human functioning."(*Ruger, ibid*). This formulation is important to understand by the fact that the distribution of resources which is the primary function of Public Policy, will attain its end only when it fosters the proper functioning of an individual based on their merit/ capability. Capability as defined by Sen denotes the alternative combination of function that is feasible to achieve, or the substantive freedom to achieve alternative

functioning (alternative lifestyle). The Aristotelian view of Justice and the concept of Capability allow people to make choices in accordance with the goods or rewards attributed to them. The third component concerns with the evaluation of political arrangements- namely, that political arrangement which aims at enabling people to function at its best. “It is evident that the best... is that arrangement according to which anyone whatsoever might do best and live a flourishing life given their natural circumstances”(Pakaluk, 2012). In a crux the idea of Distributive Justice holds its kernel, when Justice is properly executed and distributed on the basis of good functioning and the merit one holds upon.<sup>18</sup> “In a political society, for example the offices and honours should be distributed on the basis of how much the member contribute to the nurturing of virtues in others and to the building of a good quality of life for all” (Challenger, 1994). Equality does not behold the idea of Distribution on Equal standing. Rather, it calls forth for a distribution in terms of Equity, so that the starting line can be drawn where everyone can stand on equal footing. The Distribution attains its value only when entitlement is distributed to everyone on the basis of equality. But the measurement of the scale is done in terms of the balance between the resources and the merit one clench for. Merit determines the valuation one can add to the resource distributed in order to capitalize of its value.

**The Colloquy of the Law and Justice in Independent India:** The imperial Masters didn’t comprehend the symbiotic relationship between the Man and the unruffled yet serene flora and fauna of the Forest Land in India. For them the Forest hold the great basket of resources primarily Timber, and which need to be exploited. The division of the Forest Land within the barricade of Reserve Forest, Protected Forest and Village Forest and the India Forest legislative Act of 1865, 1878 and 1927 was primarily stated as Imperial policy of conservation and development of Forest Land. But the statistical data of exploitation and bewilderment of imperial Law, in fact imposed the act of Power under the emblem of British Empire both on the unknown Forest Land and its intertwined relationship with the people of its own soil.

The night of 15<sup>th</sup> August 1947 and the vibrant sound that echoed the words of Nehru made every soul of Bharat to taste the essence of Freedom, Independence of India. But, did the Forest Land and the sons of its soil taste the Freedom in same fashion. Freedom can itself acts as a façade by changing only the Hands of Power, but continuing the Power play between Dominant and the Dominated. In simple term the rule and its acts continued but under a new mask, where the ruler is chosen by the subject of Power rather than free individual. The face of Forest and its dwellers didn’t light up with the mark of independence of India in 1947. In 1952 the first Forest Policy of independent India was written down. The policy didn’t mention about balanced and systematic utilization of Forest resources. But the primary aim was to focus on protecting forest resources with centralized control in order to pave the way for commercial exploitation of the forest land and its resources in the name of national interest. In fact in reference to forest dependent community it stated- “Village communities in the neighborhood of a forest will naturally make greater use of its products for the satisfaction of their domestic and agricultural needs. Such use, however, should in no event be permitted at the cost of, national interests. The accident of a village being situated close to a forest does not prejudice the right of the country as a whole to receive the benefits of a national asset.”(Ganguly, 1952). From the 1950s to the 1970s India’s industrial expansion relied heavily on the exploitation of commercial timber. This was a period of large-scale deforestation due to government policy favouring subsidized forest access to industry. Natural forests were replaced with commercial plantations and forest land were also diverted to development projects and agriculture purposes. By the 1970s deforestation was occurring at a rate of 1.3 million ha per annum.(Kothari, 2009)

More specifically, with the 42<sup>nd</sup> amendment of the Constitution of India forests was transferred from the State List to Concurrent List, under the 7<sup>th</sup> Schedule to the Concurrent list. This passed the Forest Land and its resources within the purview of the Centre under (Section 57, The Constitution (Forty-Second Amendment) Act, 1976). The pace of exploitation was somewhat curbed down with the Forest Conservation Act 1980, which was later amended in 1988. This amendment happened after the Forest Department which was under the Ministry of Agriculture was transferred to the Ministry of Environment and Forests. This act thus shifted the focus of the Forest Land and resources from revenue-earning section to conservation plant. This Act aimed at conservation of forests and its wildlife with greater State control in Reserved Forests, and provided for penal measures in case of contravention of these provisions (*The Forest Conservation Act, 1980*). It also reduces the act of using forest for non- forestry purpose. Under this law, it was stated that it is mandatory for private enterprises who wishing to divert forest land for the development project, to obtain forest clearance from Ministry of Environment and Forest of India. With the amendment of the Act in 1988, the rights and needs of the tribal and forest dependent community was taken into consideration. The concept of Joint Forest Management was put forward by the government in the amended Act. In accordance with the idea, Joint Forest Management meant regeneration, management and conservation of the forest land and its resources. This work was appropriated through a Joint Committee, where the local communities along with Forest Department officials, were partakers. In 1992 the PESA

Act was extended to Scheduled areas. This Act gave the Gram Sabha, Panchayat and local community' right for the ownership of non- transferable forest products. It was also stated in the Act that these bodies are needed to be consulted before undertaking any developmental project. But most of the states didn't adapt it in its spirit because it contradicted other laws like Joint Forest Management process. In addition to that for the legal adaptation of the Act, the States excluded community ownership over the most valuable non- transferable forest product- tendu patta and bamboo.

The most primary thing that was observed was the fact that Forest land was snatched away from the community who by merit have the ability to function prolifically. This functioning will indeed advance proper utilization, conservation and management of the resources. In fact, in reality the jurisdiction over Forest Land and its resources was placed under different headings of the authority and other partakers, whose main purpose was the maximization of profit. The unbalanced stand of the ratio between the resource and the individual ability/ merit to develop them resulted in massive deforestation and discrimination of the rights, livelihood and security of the forest dependent community. In a metaphorical sense the democratic protector ( State) crooked itself into a transgressor over the rights and protection of Scheduled areas and the forest dwelling communities, who are also a part of its own democratic structure. Democracy failed to bolster the Subaltern class, because the Power holder understanding of Justice was not counted as Just in the livelihood and Land of the Subaltern Class. Colonialism still exists in the inhalation of Independent India, but under the realm of a different Power Structure.

### **What Justice do Forest Right Act 2006 holds forth?-**

The Forest Right Act of 2006 marked a severance in the vicious circle of exploitation and profit maximization. The Act legally materializes the vision of understanding the Forest Resources and the forest dwelling scheduled tribe and other forest dwellers from a welfare and conservation perspective. There are various sections under the FRA which talks about the above mentioned areas, but only certain segments are emphasized here in respect of Distributive Justice.

First, Section 2 and 3 of the Act emphasized on Individual and Community Right on the use and access to Forest Resources and its Land. A detailed understanding of the Rights as catalogued in the Act is stated below.

- 1- "Right to hold and live in the forest land under the individual or common occupation for habitation or for self cultivation for livelihood by a member or members of a Forest Dwelling Scheduled Tribes or other Traditional Forest Dwellers" ( under Section 3(1) (a) FRA, 2006).
- 2- In a comprised outline the Community rights conferred (under Section (3) (b, c, d) FRA, 2006) states that the community rights conferred include nistar rights, right of ownership- access to collect, use and dispose of minor forest produce, rights of uses or entitlements such as fish and other products of water bodies, grazing rights and rights of traditional seasonal resource access of nomadic or pastoralist communities.
- 3- "Rights in and over disputed lands under any nomenclature in any State where claims are disputed ( under Section 3 (1) (f) FRA). Right for conversion of Pattas, or leases or grants issued by any local authority or any State government on forest lands to titles" ( under Section (3) (1) (g) FRA, 2006).
- 4- "Right to in site rehabilitation, including alternative land in case where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from the forest land of any description without receiving their legal entitlement to rehabilitation prior to 13 December 2005( under Section (3)(1)(m)) . The Forest Right recognized and vested under this Act shall include the right of the land to forest dwelling Scheduled Tribes and other traditional forest dwellers, who can establish that they were displaced from their dwelling and cultivation without land compensation without due to the State developmental intervention, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition"( under Section 4 (8)) FRA, 2006).
- 5- An important provision in the Act under (Section (3) (1) (i)) is the right to protect, regenerate, conserve and manage any community forest resource which the communities have been traditionally protecting and conserving for sustainable use. The Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity ( under Section (3) (1) (k)) is also recognized under the Act. In addition to that the Section 5 of the act empowers the Gram Sabha at the village level to protect, conserve and manage the ecologically sensitive area and cultural heritage and habitat of the forest dwellers scheduled tribes and other forest dwellers. ( FRA, 2006)

The Rights that are counted above are assigned to the Forest Dependent Scheduled Tribes and Other Forest Dwellers and are drawn along the Aristotelian idea of distributive Justice. The rewards given to each person as Rights through

the Act are in ratio to their worth/ merit which indeed foster the proper functioning for the development of the Society. The most pertinent example that explains the mark of Distributive Justice is the issue of Sustainable development and Conservation of Environment. Rights allocated under (Section (3) of the Act are drawn in order to institute Justice towards the community by accepting the worth/ merit of their symbiotic relationship with Nature. This act indeed acknowledges their capability, by making them function in their way as the protector of that Forest Land which crafts their existence and identity. This indeed helped the State to accomplish the goal of a good quality life for all in terms of Sustainable Development and Conservation of Resources. Community participation is a mechanism for implementing and attaining the goal of Sustainable development. The Convention on Biological Diversity (India is a Signatory) , recognizes and respect the indigenous peoples' and local communities' knowledge and practices relating to biodiversity conservation and the sustainable use of natural resources in particular. A recent RRI-WRI report found that "when Indigenous Peoples and local communities have no or weak legal rights their forests tend to be vulnerable to deforestation and thus become the source of carbon dioxide emissions." "When indigenous people and local communities have legally recognized and enforceable rights to their forests, both deforestation and carbon emissions can be significantly lower compared with areas outside of community forests" (Report 2016: 15-16).

Secondly, Section 5 of the Act empowers the Gram Sabha, for the conservation and protection of Forest land, its biodiversity, and the natural and cultural heritage of the inhabitants of the Land . A larger part of the Act, commutes and transfer the Jurisdiction of Forest Governance, to the Gram Sabha at the grass roots level of the system. Thereby changing the top down system of state governance towards the Forest Land and its Resources. The rights enumerated in the Act in relation to the Gram Sabha focuses on certain areas. The focused areas are:-

- 1- In the first session of the Gram Sabha a Forest Right Committee is formed, which undertake the work of the institution. It receives, acknowledge, scrutinize and retain the evidences in support of those claims in a specified form. It also prepares the record of the claims and evidence, including maps of the stated area. In Section6 ( 2,4 ) (FRA, 2006) it is stated that Gram Sabha also acts as a Grievance and Appeal Cell both against the authority and its structure at the lower level. In addition to that under Section ( 7, 8) (FRA, 2006) the Gram Sabha also deals with offences and penalty towards any member of the institution or the committees.
- 2- The Gram Sabhas are empowered to recommend the clearance for projects where diversion of Forest land is required for development facilities (for different types of project). These projects are managed by the governmental authority. This section is stated that under Section 3 (2) (FRA 2006).

The failure of the gigantic Vedanta Aluminum company to mine bauxite on the top of the deity of Dongria and Kutia Kondh tribes- the Niyam Raja- in the Lanjigarh district of Odisha, reflected the proficiency of the FRA, 2006. Hundreds of Dongria and Kutia Kondh through 12 Gram Sabha vociferously rejected the Aluminum plant project in their land and questioned the legality and understanding of development and ecology which was put forward under different headings of the MoU signed by Vedanta Aluminum Limited and the Government of Odessa .Development reckon Growth only when it reflects the development of the Land and its people within its ambit. In fact, there are examples where the Gram Sabha itself has foster developmental project of Forest Land by involving the native of the Land, without harming the biodiversity and serenity of Forest Land. " In 2013, with support from CSOs, 18 Gram Sabhas in Gadchiroli, Gondia and Amravati districts collected and sold tendu leaves worth crores of rupees from their CFR ( community forest resource) areas" ( Hindu, May 23: 2013)

- 3- Under the Section 4 (2) (FRA, 2006) an open and consultative process for the declaration of Critical Wildlife Habitats in the Sanctuaries and National Parks is taken up. In this process the Gram Sabha actively monitors the whole act. In addition to that under Section 5 of the Act, the Gram Sabha is framed as an institution for Sustainable development and protection of Forest Resources and livelihoods of its dwellers. The issues that are focused on the rights and duties of the Gram Sabha are- first, protection of wildlife, biodiversity and ecologically sensitive area. Secondly ensuring that the habitat of the forest dwelling Scheduled Tribes and other traditional forest dwellers are preserved from any form of destructive practices. Thirdly regulating the access to community forest resources and to stop any activity that affects the biodiversity of the forest land.

Durkheim in his pivotal work- '*Division of Labour in Society in 1893*', discussed the concept of Collective Consciousness which describes organic solidarity. It also refers to the fact that how we think in common given our shared culture and collective engagement in rituals. This factor reminds us of the values we share in common and our group affiliation in relation to our shared interests. These all essentials of identity build the solidarity within a

group and creates the Collective consciousness. This consciousness imbues the idea of Collective identity- the pedestal of understanding who we are. In case of Social Movement the distinctiveness of the identity provides the momentum to achieve the aspiration of the movement. What is indeed hidden between the folds of the idea of Collective Consciousness and Collective identity is the concept of capability of the Individual Consciousness. This insight of Individual Consciousness creates the wealth of Collective consciousness and Identity which in effect define the nature of functioning.

In case of the FRA of 2006 the legality and consolidation of the power of the Gram Sabha establish the provision of Distributive Justice. It abides Aristotelian concept of Distributive Justice where everyone is rewarded in proportion to his / her merit which indeed fosters the proper functioning of the resources rewarded to them. But what is more important is the fact that the Gram Sabha provides the platform for the consolidation and representation of the Collective identity of the Subaltern class. This representation of the identity, thereby bring forth the merit that the Subaltern class holds within its crinkle This indeed helps them to voice out their claim of the entitled Justice in relation to their merit/ capability . As Aristotle stated- “ the polis is needed in order for individual human beings to attain their natural ends of life and happiness. And in order to realize their natural ends, the polis must be arranged or organized in accordance with justice or the common advantage. Accordingly, nature, which "does nothing in vain," “endows us with a capacity to speak of advantage and justice and with the impulse to live in communities. Justice or the common advantage is the principle which recognizes the claim of each of the members of the polis to realize their natural ends as far as they are able” ( *Miller: 175-176*). In case of the Vedanta movement of Orissa the non approval for the Vedanta Aluminum Limited project on the soul of Niyam Raja by the 12 Gram Sabha reflected the refusal stand of 8000 Dongria and Kutia Kondh against the project (*Ritimo, 2014, December 18*), which threatens their existential identity which is entangled with the biodiversity and the ambiance of the Niyamgiri hill. The Subaltern can speak only when the Justice acknowledges the heterogeneity of individual on the basis of the merit-capability that an individual holds in proportion to the distribution which establishes Justice. This results in the functioning of an individual which bestow to the whole of the Society we live in.

### Conclusion

It is erroneous to claim the fact that FRA of 2006 is an optimistic stand of the government to unravel the exploitation, discrimination and colonization by the dominant power against the Subaltern class of the Society. Or to state the fact that the Aristotelian idea of Justice puts forth the best criterion of Distribution of Justice. In fact the theoretical parameter of Aristotle idea of Justice is not free from the criticism of Welfare economist. The theory is also subjected to the criticism that- if Merit is considered as a criteria for Justice, then it is necessary to study how much Justice is done in providing the factors that are necessary for enhancement of Justice. In case of FRA, the existence of its legality and implementation is questioned when the forcible eviction of Kutia Kondh in Kandhmal region of Odisha from the traditional land by CAMPA and MGNREGA for shifting cultivation was undertaken, without the authority and consent of the Gram Sabha and the Local community. But such work cannot nullify the fact that the FRA of 2006 brought forth a change in the understanding of Forest Governance. The vision of FRA, 2006 establishes a platform to provide acceptance and legality of the claim of the forest dependent community and foster the work of Sustainable development of the Forest Land and its resources. The symbiotic communion between nature and its craftsmen preserve the serenity and the essence of the unknown whispers of the enigmatic Woodland of India.

**"The country where he lives  
is haunted**

**by the ghost of an old forest.**

**In the cleared fields**

**where he gardens**

**and pastures his horses**

**it stood once,**

**and will return. There will be**

**a resurrection of the wild.**

**Already it stands in wait**

**at the pasture fences."**

**- Wendell Berry, *Window Poems***

Reference:-

**a- Single Author Book-**

Challenger, F Douglas. (1994). *Durkheim Through the Lens of Aristotle: Durkheimian, Postmodernist and Communitarian response to the Enlightenment*, New York : United States of America : Rowmann and Littlefield Publisher

Fleischacker, Samuel.( 2005). *A Short History of Distributive Justice*, Massachusetts : United States of America : Harvard University Press.

Johnston, David. (2011). *A Brief History of Justice*, West Sussex, United Kingdom: Blackwell Publishing

Powell Baden, B.H. (2007). *A Manual of Forest Law*, Delhi:India: Biotech Book

Arnardóttir, MjöllOddný. (2003). *Equality and Non-Discrimination Under the European Convention on Human Rights*, The Hague: Netherland:MartinusNijhoff Publishers

Philip, Gorski, Kim Kyuman David & Torpery John. (2012) (ed) , *The Post-secular in Question: Religion in Contemporary Society*, New York:New York University Press.

Wolterstroof, Nicholas. (2008), *Justice: Rights and Wrongs*, New Jersey: Princeton University Press

**b- Plural Author and Edited Book-**

Boisen, Camilla and Matthew C. Murray (Eds).(2016) , *Distributive Justice Debates in Political and Social Thought: Perspectives on Finding a Fair Share*, New York: Routledge Publication..

Bailey. Andrew, Samantha. Brennan, Will.Kymlicka, Jacob. Levy, Alex. Sager&Clark Wolf (Eds).(2008), *The Broadview Anthology of Social and Political Thought - Volume 1: From Plato to Nietzsche*, Canada :Broadview Press

**c- Journal-**

Frank, Jill. (1998) 'Democracy and Distribution: Aristotle on Just Desert', *Political Theory*, 26 (6 ), 784-820

Hermann,Chroust,Osborn, Anton & Osborn, L, David. (1942), Aristotle Conception of Justice, *Noter Dam Law Review*, 17( 2) :2 , 129-143



Ruger, Prah Jennifer. (2006), Toward a Theory of a Right to Health: Capability and Incompletely Theorized Agreements, *Yale Journal of Law & the Humanities*, 18(2) : 3, 273-326

Winthrop, Delba. ( 1978), Aristotle and the Theory of Justice, *The American Political Science Review*, 72 ( 4), 1201-1216.

#### **d- Online Journal-**

Stein, S, Mark., (2009) Nussbaum: Utilitarian Critique, *Boston Law Review*, 50(2), 489-531. Retrieved from <http://lawdigitalcommons.bc.edu/bclr/vol50/iss2/4>

Pakaluk, Michael. ( 2012), Aristotle on Human Right, *Ave Maria Law Review*, 10(2) , 379-388. Retrieved from <http://avemarialaw-lawreview.avemarialaw.edu/Content/articles/AMLR.v.10i2.Pakaluk.pdf>

Roy, Antara & Sroyon, Mukherjee. ( 2008), The Forest Rights Act, 2006: Settling Land, Unsettling Conservationists, *NUJS Law Review*, 1(2), 293-310. Retrieved from [http://nujlawreview.org/wp-content/uploads/2016/12/antara\\_roy\\_and\\_sroyon\\_mukherjee.pdf](http://nujlawreview.org/wp-content/uploads/2016/12/antara_roy_and_sroyon_mukherjee.pdf)

Miller, D, Fred. ( 1988), Aristotle and the Natural Right Tradition, *Bowling Green States University*, 13, 166-188. Retrieved from [https://reasonpapers.com/pdf/13/rp\\_13\\_14.pdf](https://reasonpapers.com/pdf/13/rp_13_14.pdf)

#### **e- Web sources-**

Chapter 3, Aristotle Theory of Justice. Retrieved from <https://is.cuni.cz/studium/predmety/index.php?do=download&did=104852&kod=JPM327>

Willima, K, Frankena. ( 1966), Some Beliefs about Justice, Retrieved from Department of Philosophy, University of Kansas <https://kuscholarworks.ku.edu/bitstream/handle/1808/12382/Some%20Beliefs%20About%20Justice-1966.pdf?sequence=1>

,  
Government of India, Ministry of Environment and Forest. Retrieved from <http://wrд.bih.nic.in/guidelines/awadhesh02c.pdf>.

Hebbar, Ritambara, Centre for Study of Developing Society, Tata Institute of Social Science. (n.d) Retrieved from [http://fra.org.in/document/FRA%20Rule\\_2012\\_complied%20version.pdf](http://fra.org.in/document/FRA%20Rule_2012_complied%20version.pdf)

Dahat, Pravan. ( 2013, May 23), The Hindu,. Retrieved from <http://www.thehindu.com/news/national/other-states/a-new-turn-for-tendu/article4739840.ece>

George, Anjali. ( 2014, December 18), Claiming Niyamgiri: Dongria Kondh Struggle against Vedanta,. Retrieved from <http://www.ritimo.org/Claiming-Niyamgiri-the-Dongria-Kondh-s-Struggle-against-Vedanta>

Kothari, Asish, Neema Pathak & Arshiya Bose. ( 2009), Forests, Rights, And Conservation The Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act 2006. Retrieved from [http://www.kalpavriksh.org/images/LawsNPolicies/IGES\\_FRAPaper\\_Aug2009.pdf](http://www.kalpavriksh.org/images/LawsNPolicies/IGES_FRAPaper_Aug2009.pdf)  
Forest Right Act 2006 by Government of India. Retrieved from <http://angul.nic.in/tribal-act.pdf>