

are on the same economic and social path that most urban and rural dwellers are. In the long run they will surely choose, or at least aspire, to move on from forest areas and assume consumerist identities like the rest of us. But for the time being one needs to pay attention to studies that have shown, time and again, that tenurial rights play a significant role in the sustainable use of resources by communities as long as they depend on them. The terms on which people leave the forests, and the sharing of ownership

and benefits, may ultimately be critical.

Converging for conservation

Unlike certain protectionists who have been viscerally opposed to the RFRA, the responses of academicians and activists who engage with conservation have been more constructive. They seek to ensure that the RFRA has positive consequences for both forest dwellers and the environment. They genuinely believe that the goals of conservation have much in common with the concerns

of livelihoods of local communities, and that, working together, these common goals can be achieved.

This article has been modified from a previous article in *Tehelka Magazine* with inputs from Siddhartha Krishnan

Kartik Shanker is Assistant Professor at the Centre for Ecological Sciences, Indian Institute of Science, Bangalore, India, & Adjunct Fellow at the Ashoka Trust for Research in Ecology and the Environment, Bangalore, India (kshanker@ces.iisc.ernet.in).

Right direction, but long way to go

Sharachchandra Lele

Conservation and 'sustainable use' are fuzzy terms. Nevertheless, together they encompass the two broad goals of forest management: the former about ensuring a wider set of environmental benefits in the present, and the latter about ensuring resource availability for the future. Ironically, neither dimension was explicitly articulated in the Indian Forest Act of 1927, leaving the colonial state free to take over and manage forests for whatever objective it desired. Later, the Wildlife Act of 1972 focused on conservation objectives alone. More recently, the National Forest Policy of 1988 set 'environmental balance' and 'meeting local needs' as the priorities of forest management, but these concepts were never internalised into the forest laws. The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 (RFRA), is thus a landmark legislation, because for the first time a forest law explicitly recognises both the objectives of forest management, namely, conservation and sustainable use, right in its preamble itself.

Besides a better definition of 'goals', the RFRA also provides a radically new 'means' for forest management, namely, community-based management. It does so in steps: first—requiring that the land rights (rights to habitation and cultivation) be recorded and settled, second—that the right to a community forest resource be identified and settled, and third—asking the communities (through their Gram Sabhas) to take up the management of this resource. The first, to which the RFRA pays most attention, is a pre-condition for participation in forest management, because forest dwellers would not be willing to engage in forest management if the land they dwell on or cultivate is itself disputed. All along, it had been assumed that land rights are generally well settled, with the exceptions of conversions that may have taken place after the Forest Conservation Act 1980 was passed. However, as the movement that led to the passing of the RFRA convincingly argued, a large fraction of forest-dwelling communities, especially in the central Indian forest belt, had been declared encroachers in their

ancestral lands or in forest villages created by the government itself. The RFRA and its rules address this problem head-on, by providing a mechanism for members of scheduled tribes and other forest-dwelling communities to stake their individual (or community) claims to lands already under their use for dwelling and cultivation.

Further, going beyond the problem of arbitrarily drawn forest boundaries, the RFRA also asks for a more systematic and transparent procedure for identifying the boundaries of 'critical wildlife habitat' within the forest. And the Act provides for assigning community rights over forests that communities wish to manage for sustainable use.

Missing institutional road-map

After boundaries are (re-)drawn, the question of institutionalising the management of both community forest resource and critical wildlife habitat looms large. The institutional arrangements will necessarily be complex and nested, as they need to ensure long-term sustainability and the balancing of interests of different beneficiaries of the forests, onsite and off-site. Here, however, the RFRA seems to have fumbled. It does not provide a clear institutional road-map for institutionalising and democratic forest management in the long-run.

As Siddarth Krishnan points out in his article in this issue, some fairly technocratic, centralised and muddled norms for functioning were sought to be introduced by the bureaucracy (vide section 24 in the draft rules) — norms that imposed harmonisation with official prescriptions and working plans and a back-door legitimisation of Joint Forest Management and watershed management committees. But in shooting down this attempt, the tribal rights groups may have thrown the baby out with the bathwater. In their final form, the RFRA rules only require the Gram Sabha to ‘constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members.’ There is no attempt to clarify the internal structure and functioning of these committees, nor their external relationships with and roles of other legitimate agencies (Forest Departments or otherwise).

Internal powers and democracy

The rules, as they stand today, do not specify the legal status and powers of the committees constituted for forest protection, or the land over which they would have rights. Will the members of the committee set up by the Gram Sabha for protection have statutory powers to stop unsanctioned forest felling? Will the community forest resource recognised under the Act have the legal status of, say, a ‘Village Forest’ under the Indian Forest Act? What happens to other rights and privileges that have been granted earlier, for instance, individual forest privileges granted in the Western Ghats of Karnataka? In the absence of such specification, there is a danger that individual rights holders will also get rights in the community forest resource, aggravating existing inequalities, as has happened in the Joint Forest Management (JFM) context.

Similarly, the rules do not pay attention to the fact that the so-called

‘forest-dwelling communities’ are often undemocratic in their functioning and are often (if not always) afflicted by hierarchies of caste, class, and gender. This requires rules about election of the committees and some *a priori* structuring of the decision making to ensure representation of and a voice for the marginalised groups. The JFM programme, for all its faults, at least paid some attention to this issue by specifying processes and composition in some—sometimes too much—detail. It is nobody’s case that specifying this will automatically ensure a democratic process, but it is a first step towards that. Furthermore, learning from the JFM experience, the rules should have incorporated provisions to ensure that the rights holders can generate income from the resource without the elite capturing the surplus.

Redefining mandates

Externally, the RFRA and its rules do not specify how the local forest management committees will interact with or fit within the larger structures of forest governance (and, indeed, how the larger structures need to be redefined in light of the RFRA). The draft rules did specify that the Forest Department must respond to requests for assistance from the Gram Sabha, and the omission of this specification is a weakness of the final rules. But even this specification would have been hardly enough. The mandate and jurisdiction of the Forest Departments need to be redefined. The notion of ‘assistance’ must be clearly defined and its mechanisms clarified. If communities require assistance in forest protection, this should be provided by a specialised forest protection force. On the other hand, ensuring that the hamlet- or village-level committees set up under this Act actually discharge their responsibility of protection and conservation will require a statutory agency that is more democratic, transparent and knowledgeable about

sustainable use than the current Forest Departments.

The absence of an institutional roadmap will hamper the management of critical wildlife habitat or other conservation-oriented zones. On one hand, the wildlife wing of the forest department should probably become an independent, differently-trained, wildlife management service, on the other, local communities must also be given a role in the management of critical wildlife habitat.

And finally, the Forest Conservation Act must be amended to ensure that the informed consent of the Gram Sabhas that have been recognised under the RFRA is necessary in any conversion of their forest lands to non-forest uses.

Conclusion: The need to engage

The RFRA faced tremendous opposition from the Ministry of Environment and Forests and therefore its proponents were forced to convert the issue into one of tribal development and bring it up through the Ministry of Tribal Affairs. (Although other forest dwellers were included in the interest of equity, the focus of the RFRA is on tribal communities.) But if the radical restructuring of forest management envisaged by the Act is to become a reality, the lessons of almost two decades of experiments with JFM have to be taken on board, and new multi-layered arrangements and mandates will have to be created. The onus for this is on the foresters and their ministry, who have to shed their resistance and engage with the restructuring, if they truly share the goals of conservation and sustainable use.

This article has been written for *Current Conservation*.

Sharachandra Lele is a Senior Fellow at the Centre for Interdisciplinary Studies in Environment & Development, Institute for Social and Economic Change, Bangalore, India (slele@isec.ac.in).