

Misreading the Issues and the Landscape

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This response to the comment “Protecting India’s Protected Areas” by Praveen Bhargav and Shekar Dattatri (23 April 2011) points out the authors’ misreading of the Forest Rights Act and also of the report of the Joint Committee on the FRA.

The question of how to govern India’s forests is an enormously complex one, given the inherent socio-ecological diversity of the subcontinent and the procrastination and ad hoc approach of independent India to the problems generated by colonial forestry. The Forest Rights Act 2006 (FRA) is the first legislation to address some of these issues. Differences of opinion regarding the clarity and feasibility of specific elements in the FRA will no doubt exist, and a discussion of the report of the Ministry of Environment and Forests and the Ministry of Tribal Affairs (MOEF-MOTA) Joint Committee on the FRA (FRAC) that was submitted in January 2011 is welcome. But the debate can do without the egregious misreading of the FRA and FRAC report that is apparent in the comment by Bhargav and Dattatri (23 April 2011; B&D hereinafter). As members of the FRAC who contributed substantially to its report, we feel compelled to respond to this piece of non-analysis.

Forest Use Rights

At the outset, B&D conflate protected areas (PAS) in particular (about 5% of India’s landscape) with forests in general (16%-23% of the landscape). While conservation of wildlife is a crucial goal of forest management, it cannot be the exclusive goal for the majority of the forests that are and have historically been under human use. The core demand of forest-dwelling communities since colonial times, including of movements like Chipko, has been for recognition of their rights to both use and manage this larger landscape. Currently, this landscape is predominantly under state control, with even joint forest management (JFM) being state-dominated.

The FRA addresses issues of unsettled cultivation rights and missing forest use rights in this larger landscape. And the

bulk of the FRAC report was also devoted to implementation issues (chapters 2-6) and future governance issues (chapters 7-9) in this landscape. The FRAC’s major recommendation was the need to honestly implement the community forest rights (CFR) provisions, and to replace non-statutory JFM committees with statutory committees constituted under the FRA or FRA-like provisions in a revamped Indian Forest Act (pp 145-46). Moreover, it made a clear recommendation about how a re-structured forest department should play the role of a facilitator and monitor helping to ensure that the conservation and sustainable use mandate was adhered to (pp 149-50). The FRAC broke new ground in the polarised debate between “only state control” and “only community control” by arguing for a *layered* governance model.

Protected Areas

In the case of PAS, the FRA first requires the recognition of rights of forest-dwellers but then allows for the possibility of modification of these rights, or relocation of people. It lays down a more meaningful and fair procedure for identifying critical wildlife habitats (CWH) and for determining when and how people should be relocated than has been the case for PAS under the Wild Life Act so far. Note also that the FRA is the only law that completely prevents de-notification of a CWH, if people have been relocated from it. In that sense, it is more pro-conservation than even the Wild Life Act.

The FRAC report, in a chapter dedicated exclusively to PAS (which B&D seem not to have read), simply pointed out that none of these provisions were being adhered to, and that the non-recognition of rights in PAS is a violation of the Act and a precondition to any discussion on attenuating these rights for the sake of conservation. The report also points out several weaknesses in the Act and the guidelines issued for notifying CWHs, in no way undermining the importance of wildlife conservation, but calling for co-management of PAS. Both of these sets of recommendations (for the larger forest landscape and for CWHs) are a far cry from “dismantling state protection” as alleged by B&D.

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B&D say that they have “no doubt that forest governance is in dire need of sweeping reforms and a change in authoritarian mindsets”. The FRAC attempts to initiate precisely such change. Unfortunately, while acknowledging this need, B&D point to forest degradation by communities but say nothing about the massive devastation by decades of commercial forestry policies of the state, ignore the indirect effect of blocking access to vast areas of forest forcing communities to overuse remaining areas, fail to mention the dismantling of traditional community regulatory mechanisms by the centralisation of forest governance, and mention only in passing the immense damage caused by state-sponsored “development” projects. There is no study showing which is greater across the Indian landscape: community-led damage, or state-led, but B&D point mainly to the former. They also ignore the thousands of initiatives by communities to regulate themselves and help regenerate forests and wildlife in Orissa, Uttarakhand, Maharashtra, and other states. This is not to ignore the many instances of communities also degrading forests and wiping out wildlife, but simply to assert that even such a situation can and has changed given the right conditions, which the FRAC provides in detail. The contention is that whatever spaces wildlife requires, inviolate or otherwise, can only

be successful in the long run with community involvement and stake.

B&D also fail to mention that the current 4-5% of India’s landmass that is under PAS is home to over three million people, most of them communities that have existed prior to the declaration of their homes as PAS. Quite apart from the trauma involved, and the fact that people do have pre-existing (even if unrecorded) rights, it is simply impossible to relocate so many people! There is no option but to consider options for co-existence for a majority of communities within PAS, yet all the attention of the government and of some conservation groups seems to be towards relocation. Again, the FRAC attempts to squarely address this issue.

Minor Forest Produce

As regards minor forest produces (MFPS), the recommendations of the FRAC are simply to remove state controls on marketing of MFPS – controls that were imposed in the name of protecting the tribals (not the forests!) but have actually ensured that MFP collectors do not get a fair return as the state skims off the surplus. No state has systematically regulated MFP harvests to ensure sustainable extraction, and states have always organised MFP collection on the basis of short-term contracts to private traders. Indeed in many cases like Shoolpaneshwar Sanctuary local community protests forced stoppage of indiscriminate

extraction of bamboo leased to industry by the state. So to blame MFP collectors for the depletion of MFPS is to blame the hapless tool used by the state and the traders for royalty/profit maximisation. Deregulation of marketing is not the same as deregulation of harvest. The FRAC report addresses simultaneously the question of sustainable extraction, fair access and enhanced returns from MFPS (p 160) through a set of recommendations that include clear recognition of rights and responsibilities of the gram sabhas, and a shift in the state’s approach from monopolistic royalty extraction to marketing support, coupled with a proper regulatory role complementing that of gram sabhas.

A constructive contribution to the debate on Indian forest policy will require distinguishing between protected areas and all forests, between granting of new lands for cultivation and the recognition of rights to pre-existing cultivation, between deciding what forest-dwellers need and what their rights are, between removing state monopoly on marketing and dismantling all controls on extraction, between coercive joint management and genuine decentralisation, and between unfettered ownership and secure autonomous management rights within a regulatory framework. We hope that others will make the necessary efforts to understand these distinctions.

Economic&PoliticalWEEKLY

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