

Implication of Forest Rights Act in the context of sustainability of forests and rights of individuals and communities - Special reference to implementation of community rights¹

The Forest Rights Act 2006 came in response to the necessity of recognition of rights of communities living in and around the forest and dependent on them in one way or the other. The major gain so far has been the recognition of practice of agriculture as a legitimate use of the forest.

The Act also provides protection to communities against eviction and rehabilitation in the Protected Areas, Sanctuaries and National Parks by specifying that rehabilitation can only take place by consent for those areas that are defined as critical wildlife habitat. The lessons that can be learnt from Community Conserved Areas (CCA) where communities themselves have delineated critical wildlife habitat and have evolved methods which are inclusive instead of inviolate are important in this regard as they imply that the necessity for inviolate spaces and hence forcible eviction is limited and even in such limited contexts, the possibility of working out an amicable solution in the context of CCA exists.

In this context it is proposed to study the issues related to three Sanctuaries / National Parks close to Delhi and review relevant literature / experiences. The issues emerging show some relationship with the conditions which define man/ecology, man/animal relationships. The Wildlife Act attempted to curtail rights relating to natural resource exploitation with varying degrees of success. The applicability of FRA in national parks and sanctuaries is an admission of the fact that rehabilitation of the local population did not work as had been planned. Can provisions in the Act like right to habitat, right to protect forests be used creatively to entitle local communities to develop micro plans for conservation?

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Background

The Scheduled Tribes and other Forest Dwellers Recognition of Rights act 2006 came in response to struggle by forest dwellers faced with eviction and atrocities in the wake of the Godvarman Tirumulkpad case. The Act framed by the tribal department covers the following major issues

1. Recognition of the historic injustice done to tribals and other forest dwelling communities.
2. Specification that communities define themselves on one hand and the forest they are dependant on.
3. Provision for individual rights and collective rights.
4. Provision for duties of forest dwellers in connection with preservation of the forests and its wildlife.
5. Recognition of 'legitimate' livelihood needs.
6. Primacy of the gram sabha in the mechanism for identifying and conferring of rights.

In practice, the way the act has been implemented, indicates that the major gain (with a number of limitations) has been the recognition of agricultural cultivation on the forest lands. While other rights exist in some form or the other, filing of individual claims for NTFP etc cannot be considered a major issue. Community rights which would create a mechanism for preserving and ensuring the individual rights, is noted by its absence.

The Act itself is mired in controversy with the environmental conservationists claiming that the Act is a blue print for the destruction of the forests. Another issue has also been the issue of land alienation of tribals and other legitimate forest dwellers. In number of areas, benami deals have resulted in land being usurped by non tribals. This is also cited to show how the land will not remain with the tribals/ forest dwellers but will pass on to non tribals (those with least interest in the preservation and maintenance of the forests). With the way the act is implemented as shown above, little surprise that this is so.

In principle what is shown above is not new, while law mentions that a person is innocent until proven guilty, for the majority of the country, it is the reverse. The onus is on tribals to prove that they deserve this right in the context of how they are the true preservers of the forest. Without the adequate wherewithal to earn a livelihood and with the traditional livelihood shrinking how this is can be made a reality is anybodies guess. Nevertheless since such communities depend on the natural resources for their livelihood, numerous examples exist where communities have preserved the natural resources.

Community Conserved areas and its relevance for issues related to conservation and livelihood

The book brought out by Kalpvriksh titled Community Conserved Areas in India a directory edited by Neema Pathak is a seminal work in this regard. The book highlights examples of community conservation across the country. This documentation is of immense relevance because it provides a number of contexts for community conservation covering different ecological and livelihood conditions. As can be seen, conservation of wildlife is also an intricate part of community conservation in various regions apart from the more direct ones related to seed conservation. The book was the product of a cross country process of consultation as to how the valuable biodiversity of this country could be preserved and was the basis for suggestions for the National Biodiversity Strategic and Action plan suggested by Kalpvriksh which was rejected by MoEF on grounds which are not very transparently understood. It is an irony that plans prepared in secrecy by companies for exploitation of the natural resources get passed without much ado, while documents that have the benefit of wide ranging consultation among leading scientists and also local communities do not see the light of day. Communities and civil society have an uphill task in proving the relevance of their work and are branded as anti development and anti progress to boot since they question the extractive and exploitative paradigm which is considered essential for 'India' to remain competitive in the global market economy.

Issues related to Wild life and critical habitat

Till the late sixties, wild life was known more by the prowess of the hunters than for the need for its conservation. Photos of famous shooters with their prizes adorn the galleries of the homes of princes and c. It was only in the early seventies with the rapid dwindling of the wildlife resources that it was felt necessary to ensure that they were preserved. The Wildlife act 1972 was passed as a result of this concern. The famous hunters of yore now became the torch bearers for conservation. Tribals who used to hunt wildlife out of necessity (provision of valuable protein in their diets) suddenly became the demon and numerous restrictions were placed on them so that they could not indulge in some of their traditional practices. With many sanctuaries and parks becoming out of bounds, suddenly the forest dwellers were also faced with real questions related to their survival and livelihood. In Melghat, issues related to malnutrition and famine deaths rocked the country in the nineties. The major reason for this was curtailment of the benefits from the forests, destruction of the traditional habitat due to additional pressure on the remaining forests and the last straw, curtailment of employment by the forest department which had used the forest dwellers for cultural operations in the forest.

Incidents like the merciless beating of Soligas in the Biligiri Rangaswamy Temple Wildlife Sanctuary (BRTWS) and death of one them as a result, led to a reexamination of the knowledge and relevance of forest dwelling communities in the conservation and maintenance of the natural resources. The answers to this question are not easy as the pressure on forests is a real one and will need to be concretely addressed through alternative livelihood options for forest dwelling communities on one hand and

seriousness on the part of the State in dealing with issues related to conservation on the other.

The Wildlife Act 1972, recognized the issues relating to wildlife in a linear way. The big animals like the tiger, lion and elephant being at the climax and preservation of these species would entail the preservation of the lower wildlife, being part of this linear food chain. The experience has shown otherwise. Issues related to the preservation of smaller wildlife like the flying squirrel for instance, or issues related to the preservation of certain floral species are not linked to the preservation of large mammals. There is a need to look critically at the issues involved in a situation specific context.

The section below takes up case studies which will deal with a cross section of issues relating to different types of flora and fauna and through that process try to identify the major concerns related to critical wildlife habitat on one hand and its implication for forest dwelling communities in the region.

Case studies of selected wildlife issues

Considering that some of the sanctuaries close to the National Capital region have been in the eye of the storm with respect to some major controversies surrounding wildlife and their preservation, a few of these will be taken up for more detailed examination and will be supplemented by observations from other regions.

- 1. Keoladev National Park, Bharatpur:** This National park has the distinction of being a man made creation and considering that it is a Ramsar site as well, has been the focus of attention of many researchers and wildlife activists. Concern for the Park began in earnest with the diminishing in the arrival of the Siberian crane but more importantly the destruction of the habitat due to the lack of availability of water from the traditional sources upstream on one hand and the change of the wetlands into rangelands due to siltation of the water sources. Some important points

- Issue related to the disappearance of the Siberian crane from this tract not related to Bharatpur alone but the disturbances all along the tract namely Afghanistan, war in Iran and Iraq etc. The Siberian crane now mainly survives along the Chinese route.
- Conflict of interest between agriculture practiced in the upper catchment area and the demands for water downstream in Bharatpur. This however has to be seen in the context that Panchna was designed for production of mustard, but ended up producing wheat instead.
- Use of pesticides and fertilizers in agriculture which has affected the fish yields and quality of the fish and consequently affected the quality of eggs which often break prematurely.

- The banning of buffalo grazing in the park led to problems in control of the weeds growing in the marsh lands and the consequent silting up of these regions which is changing the ecology.

No easy answers. The current solutions being sought like bringing in Chambal and Yamuna water by pipe do not provide answers with respect to the feed stock needed. The issue issues highlight the interlocking nature of different ecosystems. The health of one affecting the health of the others.

2. Sariska Tiger Sanctuary and Ranthambore Tiger reserve : Sariska was catapulted into the headlines with the 'sudden' disappearance of the tiger.

Major issues emerging

- Large cattle herds and inadequate herbiage, limitation of fodder for ungulates like deer etc.
- Region being a collection of orans, many religious places of pilgrimage exists. Large number of devotees, issues related to the preservation of the habitat due to large amount of plastic and other litter.
- Reduction in grazing leading to reduction of production of milk and milk products from the region. Related issue of adulteration of milk emerging in the region .
- Problems related to resettlement of people from selected villages in the core area. Animals left to graze with relatives, hence no reduction of cattle pressure.
- High price of tiger skin etc and hence issues related to controlling of illegal traffic of tiger skins.

In Ranthambore tiger reserve, the major issue relates to the corridor through Kailadevi sanctuary to Kuno region in MP. While the role of the local communities residing in the villages inside Kailadevi Sanctuary has been acknowledged, the potential to further develop the region as a tiger corridor also exist. Plans to resettle the local community are being put in place. Issues related to spread of diseases among ungulates, if there is coexistence with the domestic animals.

3. Kuno National Park

Kuno was identified by Wildlife Institute of India as having potential for an alternative location for the Asiatic lion, currently confined to Junagarh district of Gujarat . The need for an alternative location was felt due to the fact that genetic variation is required for preservation. Since the animals owned by the 5,000 Saharias living in the region were identified as the main hurdle for accommodating the lions, the Saharias were relocated to the upper regions of the Quari river (they were living in the middle reaches of Kuno river having relatively better land quality and water availability . The region they have now been relocated to is hard rock, trees have been removed from the region to make agricultural plots for the Saharias). The following major issues exist

- due to lack of fodder availability, the Saharias could not maintain the animals, these have been left to graze in the forest and have now become feral. The WII report of 2005 acknowledges that these animals are now suitable feed for the lions.
- Gujarat has refused to part with the lions and have done a study to show how the lion has expanded to other sanctuaries of Gujarat and have considerably increased their numbers as a result. MP is now thinking of lions from the zoo.
- Experience of relocation of lions across the country show that though in some locations, lion populations have increased in the short run, these lions were later poisoned by the local population as they killed their animals. Will the lions of Kuno distinguish between feral cattle and domestic ones ?
- Some Saharias are moving back to areas adjacent to the Park (the park itself has been fenced off).

Other case studies

Some highlights from other case studies

- Issues related to destruction of habitat of the flying squirrel and some rare orchids in Phulwari ki Naal sanctuary. Practice of honey collection from mahua trees responsible for inadvertent killing of the flying squirrel.
- Forty percent reduction of domestic animal population (particularly camel) due to closure of Kumbalgarh sanctuary.
- Reduction of bees from BRTWS despite a ban on honey collection due to the introduction of pesticide in the IFAD supported agricultural programme in the region bordering the sanctuary.
- Dislocation of elephants from their habitat due to destruction of the forests and corridors as a result of mining and other related development in various parts of Orissa. Operation Gajanan comprises of using domesticated Elephants to ward off wild ones from areas dominated by human population. The strategy in the main has proved to be ineffective and does not deal with the major issue of providing adequate fodder resources for the wild elephants.

Major issues to be looked at and the relevance of MGNREGA for involvement of the local communities in conservation

Critical wild life habitat as can be seen from the above has a number of facets. A straight jacketed approach of allowing for 1% area as inviolate spaces will not work In the specific context of India, there are no regions without people and the very fact that FRA has come into being is a recognition that the scope for rehabilitation outside the forest is limited. The major concerns that need to be addressed have been summarized below.

1. Need for a situation specific approach to issues related to critical wildlife habitat. These have to be carefully defined in coordination with the local community so that the possible areas of conflict can be properly identified on one hand and cooperation of the local community sought in the preservation of the wildlife on the other. The relevance of CCAs need to be carefully explored. Resource assessment tools using remote sensing technology and GIS are available and can provide very detailed information if local people are adequately trained and facilitated to do the task.
2. Need for adequately compensating the local population for their collaboration in the preservation of wildlife. This can be dovetailed with MGNREGA in which plans for resource conservation and compensation for loss of life and property from wildlife can also be factored in. The relevance of the PRIs for better implementation and monitoring in a decentralized way need to be explored along with capacity enhancement to fulfill the tasks.

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6. The forest dwellers themselves one of whom told me, that if you are staring death in the face in the form of a Reech (bear), it is either kill or be killed.
7. A whole host of others from civil society .

