THEMATIC ESSAY

Understanding Current Forest Policy Debates through Multiple Lenses: The Case of India

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Abstract: The forest sector in India is in turmoil again as the government proposes changes to the National Forest Policy and to the Indian Forest Act, and the Supreme Court appears to favour conservation over people's rights. This essay places India's forests in their socio-ecological context and using multiple perspectives—from ecology, environmental economics, common property theory, and political ecology—to explain the roots of the current controversy and think of ways forward.

1. INTRODUCTION

Across the globe, the 1990s witnessed a distinct trend of nation states transferring (or returning) rights over tropical forests to local communities (White and Martin 2002). India also followed this trend. After the Chipko agitation of the late 1970s in Uttarakhand and similar agitations in Jharkhand and elsewhere in the country, the 1988 National Forest Policy (NFP88), for the first time, recognised meeting the needs of local communities as a policy objective and participatory forest management as a policy instrument. The Joint Forest Management (JFM) experiment started in 1990 with prompting from the Ford Foundation and much financial support from bilateral and multi-lateral agencies and spread to all states. It seemed like forest sector reform in India was very much under way (Poffenberger and McGean 1996; Sundar, Jeffery and Thin 2001).

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Yet 30 years later, the forest sector in India seems to be in greater turmoil than before. The government's proposed revisions to the forest policy (MoEFCC 2018) and to the Indian Forest Act (MoEFCC 2019) have drawn much criticism. Simultaneously, the Supreme Court's order of February 13, 2019[1] pertaining to The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) triggered a wave of protests, forcing the government to request a temporary stay.

Why have these tensions resurfaced? How can we understand these debates and conflicts? What academic perspectives might provide useful insights into them? After providing a historical overview, I shall argue that conventional perspectives from environmental economics and even common property resource theory are insufficient to understand the forest problem in India. They must be preceded by a socio-ecological understanding of the resource, a political ecology analysis of whose rights must prevail, and then be complemented by multi-layered environmental governance theory.

2. SOCIAL ECOLOGY OF INDIAN FORESTS

Western 'scientific' forestry treated forests as simply a set of trees to be managed for timber, i.e., essentially a privatizable good, to use the terminology of environmental economics. This explains the large private forests in the USA, a practice that was also prevalent in Europe. It also ironically explains the adoption of 'state forestry' in the colonies, as a means to privatize the resource in the hands of the colonizers. At the other extreme, conservationists see forests only as providers of pure public goods such as watershed protection, biodiversity and now carbon sequestration. In which case, state management is clearly called for.

But tropical forests in general, and south Asia's forests in particular, are complex socio-ecological entities. First, they are highly diverse, requiring location-specific ecological knowledge. Second, they have been historically settled and used by Adivasi and non-Adivasi communities. Therefore, access to forests is not easily controlled, neither by individuals nor by the state, making them local-level common pool resources. But local dependence and use takes multiple forms: firewood, timber, grazing, non-timber forest products, and non-use values as well, and involves trade-offs amongst different local communities themselves. Third, while these forests do provide wider regional or global environmental benefits, these are often

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[1] In the case of Wildlife First & Ors versus Union of India WP(Civil) 109/2008.

accompanied by local dis-benefits—such as crop damage or human-wildlife conflict. In other words, forest management always involves trade-offs between very different stakeholders located at different scales (Lele 2004). Thus, the problem of 'how to manage forests' is not just one of 'how to manage a complex common pool resource' but also 'for what purpose' and therefore 'for whom'. The colonial, post-colonial and post-1990s periods must be understood in terms of which (whose) goals were prioritised and who faced the consequences.

3. 'NATIONALISATION' OF INDIAN FORESTS

Modern day formal forestry in India began with the takeover of majority of the country's forests by the British government under the aegis of the Indian Forest Act of 1878, that was subsequently revised in 1927 (hereinafter IFA). These Acts created two main legal categories of forests—Reserved Forest (RF) and Protected Forest (PF)—and empowered the Imperial Forest Department to take over, manage and protect them. For what purpose? Though not explicitly mentioned in the IFA, the goals were clear: for timber and softwood production, and thereby revenue generation. A single goal, two levels of protection, and a single manager-cum-protector. The third category—Village Forest (VF)—was never seriously deployed.

This colonial takeover deprived forest-dwellers of much of their livelihoods. Shifting cultivation was banned. Timber and many commercially valuable non-timber forest products such as pine resin were 'nationalised'. Grazing fees were imposed, and grazing areas were opened or closed as per the needs of timber forestry. Indeed, natural forests were felled on a large-scale and replaced with monocultures, further impoverishing the forests in terms of locally useful products, diversity, and catchment protection services. The beneficiary was the colonial state (Tucker 1983).

Post-independence, the 1952 agricultural policy still visualised forests as providers of raw material for industry and a source of revenue for the state (Gadgil, Prasad, and Ali 1983). So, state control of forests continued, and in fact the area under RFs and PFs *expanded* as the forests in princely states and under zamindari or other forms of ownership were 'nationalised'. Following state reorganisation, the newly formed states largely copied the IFA in passing state acts, and the imperial FD became state FDs, run by an "Indian" forest service. Continuity, rather than de-colonisation, was the mantra.

Post-1970s, after a belated recognition that so-called 'game' hunting had decimated India's wildlife, the Wildlife Protection Act was passed, and

wildlife conservation replaced timber production as the goal of forestry in some pockets. But conservation policy was still based on exclusion of local communities, and the social cost of this conservation has been high (Lasgorceix and Kothari 2009).

Of course, complete regulation of the activities of millions of forest-dwellers was never possible. Alienated from the forests that they still needed, local communities were forced to resort to 'theft'. Giving forest officers police powers in a landscape populated by marginalized and illiterate communities initially led to punishments, and eventually to rent-seeking and exploitation. Where communities were able to protest vehemently or violently, such as in parts of the Western Ghats, Uttarakhand, and Jharkhand, the colonial masters made some concessions. Post-independence, under political pressure of a democracy, these concessions increased. But in most cases, only access rights were granted, without ceding management rights, thereby making forests de facto open access and leading to their degradation.

4. ATTEMPTS AT REFORM

The NFP88 was a landmark because it shifted the priorities of forestry from production to environmental and local benefits, and the structures of forest management by introducing the idea of participatory management. The JFM programmes of the 1990s, implemented under pressure from civil society groups and lubricated with funds from international donors, were supposed to institutionalise this shift. Unfortunately, JFM remained a shift on paper. It did not have statutory backing, nor did it mandate that all resource use areas be handed over to communities, nor did it give autonomy to communities to manage the resource as per their needs. JFM committees, areas and implementation extent were all as per the whims of the forest departments (Lele 2014). In the meantime, forest departments managed to replace revenues lost (due to conservation policies and bans on green felling) with international loans. But these loans have been used ineffectively (Kumar *et al.* 1999) and will have to be repaid by future generations.

5. BLIND SPOT

In the discussion so far, we have focused on forests. But for forest-dwellers, cultivated lands-habitation-forests form a mosaic that provides integrated livelihoods. The process of forest 'nationalisation' was problematic not only because it deprived communities of access to forest

but also because in many cases it deprived them of their rights to habitation and cultivation. This was obviously the case with shifting cultivation, which was banned outright. Less obvious is the case of settled cultivation, which as per the IFA was to be recognized and excluded from forest reservation. Unfortunately, the hurried expansion of national forests following independence led to major deviations from this procedure (Sarin 2005; Vasan 2005). RF and PF boundaries were notified without adequate enquiry. Overnight, traditional forest-dwellers became 'encroachers' in their own lands (Sarin 2014). This 'unsettled' nature of *cultivation and habitation rights* was a blind spot even in the JFM period, till a Supreme Court order in February 2002 (WP (Civil) 202 of 1995) triggered widespread evictions, leading to nation-wide protests.

6. A LANDMARK LAW

The idea of the FRA emerged originally to redress the problem of unsettled *cultivation and habitation* rights of forest-dwellers in improperly notified RFs and PFs, by allowing them to claim 'individual forest rights' (now section 3(1)(a)). But eventually the FRA as enacted also included provisions to redress the denial of *forest access and management* rights to forest-dwellers by introducing Community Resource (CR) rights (sections 3(1)(b) to (h)) and Community Forest Resource (CFR) rights (section 3(1)(i)) that can be claimed by village communities and which gives them fairly autonomous control. By doing so, and by also giving communities the right to say no to forest diversion (even if other state authorities including forest officers have approved the diversion), the FRA substantially devolves power away from state bureaucracies to communities. At the same time, the FRA requires that such community forest management meet sustainability and conservation goals—a requirement that even the IFA and the so-called Forest Conservation Act, 1980 do not have! Further, section 4(2) of FRA requires that communities shall not be displaced from protected areas unless it is demonstrated through due process that co-existence of communities and wildlife is not possible and there is informed consent for resettlement.

No doubt, the FRA has some limitations. First, the use of a single term 'forest rights' to refer to two very different tenure regimes—individual rights over cultivated or inhabited land (IFRs), and community rights to access (CRs) and to manage forested lands *as forest* (Community Forest Resource (CFR) rights)—is confusing. Second, by requiring that claims have to be made in order to recognize CFRs, it makes decentralised governance voluntary and subject to communities knowing about their

rights and having the courage and ability to stake their claims. Third, it does not clarify the role of the forest departments once communities begin to manage CFR areas. Fourth, it does not explicitly provide timber rights, when JFM was already providing for a share in the proceeds from timber harvest. Nevertheless, in addressing the problem of wrongly drawn forest boundaries, in giving statutory backing for community-led forest governance, and in giving communities a voice in conversion of their forests to either protected areas or for non-forestry activities, the FRA constitutes a landmark and multi-dimensional reform in India's forest governance.

7. RESISTANCE TO REFORM AND ITS EXPLANATIONS

The implementation of the FRA, however, has witnessed much conflict and bureaucratic resistance. Not only have forest bureaucracies dragged their feet in implementing many provisions, especially the CFR rights, but they have (through retired forest officers' associations) actively filed petitions challenging the constitutionality of the FRA. In this, they have been joined by several conservationist groups. These petitions resulted in the controversial interim court orders of February 2019.

Meanwhile, in a similar backlash, the forestry establishment has drafted a new policy that reverses the priorities set in NFP88. Worse, it has now drafted an amended IFA that *inter alia* gives forest departments the power to set aside rights given under the FRA, promotes the much less autonomous Village Forest model over the CFR model, and increases police powers rather than addressing the lack of accountability that has led to the (extensively documented) exploitation of forest-dwellers. The draft amendments will also empower forest departments to take over forests in the one region where they hitherto have not been able to 'nationalise' much forest land, viz., the Sixth Schedule areas of the northeast.

Why should forest sector reform generate such bureaucratic resistance and backlash? Is the direction of reform incorrect? Which environmental social science perspective enables us to identify policy directions and tools, and also explains the opposition to reform? Neoclassical environmental economics recognises the multiple values of forests, and although the concept of total economic value skirted the question of trade-offs, the concept of payments for environmental services (PES) is premised on the idea that forests may generate positive externalities that local forest-dwellers may not care about or provide unless compensated for. But this 'market-based solution' is in turn based on, among other things, the assumption of 'well-defined property rights', that is, that forest-dwellers already 'own' the

forest and may legally choose *not* to provide these positive externalities if they wish. This assumption of private ownership holds in the Americas (hence the proliferation of PES schemes there), but not in India. And environmental economics is agnostic about how property rights *should* be assigned, as it only seeks *economic efficiency* and treats distributional questions as outside its scope.

Institutional analysis of the kind developed by Elinor Ostrom focuses on the common-pool nature of forests, and argues that community property can be a solution under certain circumstances, and can even be a more 'cost-effective' solution in some cases (Somanathan, Prabhakar, and Mehta 2009). Community management rights are thus conditional and based on *efficiency* arguments. Both economists and Ostrom-school analysts treat the state as a *neutral* actor, taking (and implementing) decisions in the public interest based on information that research may provide.

It requires one to take a political ecology perspective to foreground a different normative concern, that of *equity and social justice*, and to question the assumption of a neutral, undifferentiated, public-minded 'state'. The core question of 'whose rights or stakes must get priority' cannot be answered without asking 'what is a fair allocation of rights'. Political ecology acknowledges the unfairness (or 'historic injustice', to use the language of the FRA) in colonial usurpation of the customary rights of forest-dwellers and the further injustice in rendering them encroachers. Devolving rights back to local communities is therefore not a matter of efficiency, nor to be justified on the grounds of the conservation-mindedness of local communities, but as a right to *more democratic governance* (Lele and Menon 2014).

Furthermore, political ecology alerts us to the theoretical possibility of a non-neutral state, recognises the largely exploitative intent of the colonial state and opens up the possibility that many organs may remain largely unaccountable even when the country becomes free and democratic. One should therefore not be surprised when a forest bureaucracy resists and actively undermines reforms. This organ is the biggest landlord in the country (controlling about 23% of the landscape), has remained largely unchanged in its style and structure since colonial times and proudly boasts of a 150-year old history of 'scientific' forestry in a country that became free only 70 years ago! Moreover, it has been resource manager, policeman, regulator, funder and *de facto* policymaker all rolled into one for all this time. Naturally, it will not give up these sweeping powers willingly.

8. WAY FORWARD

Each social science perspective is an almost inseparable combination of normative concerns and theoretical understanding of human behaviour, making it hard to reconcile with other perspectives. But if one is to find solutions, one must figure out a way of integrating across these perspectives in analysis and in action. Normatively, the tendency to see forest problems as only sustainability or conservation issues has to be resisted, and the question of justice ('forest for whom?') must be faced head on. Indeed, the justice question is deeper than just the historical injustice perpetrated by a colonial and post-colonial state on forest-dwellers: there also exist inequities of class, caste and gender within such communities. A normative position in which the rights of forest-dwellers (and indeed of everyone) to decentralised democratic forest governance are coupled with these other societal goals will probably have broader acceptance.

On the theoretical side, a recognition of the complex multi-stakeholder and multi-scale nature of the forest resource makes a case for community-level forest governance to be nested under some form of regulation. But the generic insight that power needs to be accompanied by checks and balances to safeguard against its abuse and a specific recognition of our colonial legacy cautions against the automatic insertion of the forest bureaucracy, with its unrepudiated colonial baggage, as the regulator. Newer and more democratically accountable structures will have to be thought of (see Joint Committee 2010, chap.8).

Communities will also want to make a better living from forests, and will need support as they try to regenerate, protect and harvest from degraded forests and engage with markets. Fairness in fiscal policy requires that they be given access to any forest conservation related funds that were hitherto the monopoly of the forest bureaucracy, and even control over eco-tourism in their areas. This implies reforming funding mechanisms, such as the accumulated compensatory afforestation funds, and granting rights to operate and tax tourism. Ensuring equitable sharing within communities will require some structural changes to ensure better representation and voice for the marginalised, as well as major grassroots efforts to actualise these voices. The challenges in bringing about such a transition are of course enormous. Framing the problem as multi-dimensional in both its normative and analytical aspects may provide a fruitful starting point.

REFERENCES

Gadgil, M., S. N. Prasad, and R. Ali. 1983. "Forest management and forest policy in India: a critical review." *Forest, Environment and People* 33 (2):127-155.

Joint Committee. 2010. *Manthan: Report of the National Committee on Forest Rights Act*. New Delhi: Ministry of Environment and Forests and Ministry of Tribal Affairs, Government of India.

Kumar, N., N. C. Saxena, Y. K. Alagh, and K. Mitra. 1999. *Alleviating Poverty Through Participatory Forestry Development: An evaluation of India's forest development and World Bank assistance*. Washington, D.C.: Operations Evaluation Department, World Bank. https://doi.org/10.1596/0-8213-4762-4

Lasgorceix, A., and A. Kothari. 2009. "Displacement and Relocation of Protected Areas: A Synthesis and Analysis of Case Studies." *Economic and Political Weekly* XLIV (49): 37-47+6.

Lele, S. 2014. "What is wrong with Joint Forest Management?" In *Democratizing Forest Governance in India* edited by S. Lele and A. Menon, 25-62. New Delhi: Oxford University Press.

Lele, S. 2004. "Beyond State-Community Polarisations and Bogus 'Joint'ness: Crafting Institutional Solutions for Resource Management." In *Globalisation, Poverty and Conflict: A Critical "Development" Reader* edited by M. Spoor, 283-303. Dordrecht, Boston & London: Kluwer Academic Publishers. https://doi.org/10.1007/1-4020-2858-X_15

Lele, S. and A. Menon. 2014. "Epilogue." In *Democratizing Forest Governance in India* edited by S. Lele and A. Menon, 402-414. New Delhi: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780198099123.001.0001

MoEFCC. 2018. *Draft National Forest Policy 2018, F. No. 1-1/2012-FP (Vol.4)*. New Delhi: Ministry of Environment, Forests and Climate Change, Government of India.

MoEFCC. 2019. *Proposed Indian Forest (Amendment) Act, 2019*. New Delhi: Forest Policy Division, Ministry of Environment, Forests & Climate Change, Government of India.

Poffenberger, M. and B. McGean, eds. 1996. *Village Voices, Forest Choices: Joint Forest Management in India*. Delhi: Oxford University Press.

Sarin, M. 2005. *Laws, Lores and Logjams: Critical Issues in Indian Forest Conservation*. Gatekeeper Series: 116. London: International Institute for Environment and Development.

Sarin, M. 2014. "Undoing historical injustice: Reclaiming citizenship rights and democratic forest governance through the Forest Rights Act." In *Democratizing Forest Governance in India* edited by S. Lele and A. Menon, 100-148. New Delhi: Oxford University Press. https://doi.org/10.1093/acprof:oso/9780198099123.003.0004

Somanathan, E., R. Prabhakar, and B. S. Mehta. 2009. "Decentralization for cost-effective conservation." *Proceedings of the National Academy of Sciences* 106 (11): 4143–4147. https://doi.org/10.1073/pnas.0810049106

Sundar, N., R. Jeffery, and N. Thin. 2001. *Branching Out: Joint Forest Management in India.* New Delhi: Oxford University Press.

Tucker, R. P. 1983. "The British colonial system and the forests of the Western Himalayas, 1815-1914." In *Global Deforestation and the Nineteenth-century World Economy* edited by R .P. Tucker and J. F. Richards, 146-166. Durham, N.C.: Duke Press Policy Studies.

Vasan, S. 2005. "In the Name of Law: Legality, Illegality and Practice in Jharkhand Forests." *Economic and Political Weekly* 40 (41): 4447-4450.

White, A. and A. Martin. 2002. *Who Owns the World's Forests? : Forest Tenure and Public Forests in Transition.* Washington, DC: Forest Trends.