

## ***CAMPAIGN FOR SURVIVAL AND DIGNITY***

Contact: Q-1 Hauz Khas Enclave, New Delhi 110016. Ph: 9810819301, [forestcampaign@gmail.com](mailto:forestcampaign@gmail.com)

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### **Community Forest Protection and Management**

The vast majority of adivasi communities and some non-adivasi forest dwelling communities have had traditions of communal land and forest ownership, with regulations for sustainable use. Despite over two centuries of state appropriation and control, such community based forest management and conservation traditions continue to be widely practiced throughout India.

However, these initiatives are faced with a hostile legal environment due to the state having assumed ownership of most customary community lands and forests. This not only deprives communities of access to their traditional resources, it often also causes serious harm to the forests or ecosystems in question. Legal or illegal decisions by the forest authorities to allow destruction of forests abound, and in many cases local communities find themselves battling the forest authorities in order to protect forests.

Some examples of community forest protection include:

#### *Uttarakhand Van Panchayats*

Outside of the Northeast, Uttarakhand has the only community conservation system in the country with legal sanction. Initially notified under the Scheduled Districts Act (not the Indian Forest Act), the "Van Panchayats" of this State have powers over clearly demarcated community forests (based on customary boundaries) which are entered in the revenue land records. Some of the other features of the system are:

- An elected Van Panchayat Council is responsible for the management of the forest for the benefit of the community.
- The VP can develop its own rules for forest protection, use, and penalizing offenders. Its income from sale of forest produce can be used for community development or forest protection.
- The original rules entitle the community to 100% of forest produce; the Forest Department only had powers to check the forest's condition if the Collector requested them to do so.
- The VP has a forest officer's powers and arrears due to it are recoverable as land revenue arrears.

By early 2001, Uttarakhand had over 6000 Van Panchayats managing their community forests. Several studies have shown that the condition of Van Panchayat forests is at least as good, if not better, than the Reserve Forests under the Forest Department. Through recent (2001) revisions to the Van Panchayat Rules, however, the Forest Department has gained greater control over their functioning, jeopardizing their effectiveness.

#### *The Northeast*

Large areas of forests and land in the Northeast, particularly in the States of Mizoram, Nagaland and Arunachal Pradesh, and in the Sixth Schedule areas / hill areas of Assam, Meghalaya, Manipur, and Tripura, are owned and controlled by the communities in question. Recent literature shows that many of these forests are in far better condition than those in the mainland, and the Northeast remains a biodiversity hotspot in South Asia. Yet, in the Northeast as in the mainland, communities frequently find themselves battling resource expropriation by the government. Currently, intense battles are on against attempts to destroy community lands and forests by numerous dams, such as the Tipaimukh

Dam in Manipur and the Lower Subansiri Dam in Arunachal Pradesh. In all these cases, though the lands are actually owned by the communities in question, the Environment Ministry has granted forest clearance for diversion of these “forest lands” without even informing the local communities.

### *Other Areas*

In Orissa alone, an estimated 10,000 villages are protecting and managing their forests, while a few thousand villages in Jharkhand are similarly involved in forest protection. Sacred groves conserved by communities are still found in almost every state of the country. The wildlife protection traditions of the Bishnois are well known. The NGOs Kalpavriksh and Vasundhara have documented several hundred community conserved areas where communities are protecting forests, water bodies, bird and turtle habitats, and other forms of biodiversity.

### *Features of Community Forest Management*

Though there is wide variation in the systems of community management and forest protection still in existence in India, there are some common features that most such systems share:

1. *Regime of rules for use and protection:* Most such systems have complex sets of rules that usually combine use of forest resources with restrictions on the timing (e.g. season), amount and type of resource that can be extracted. These restrictions are sometimes combined with complete bans on entry to 'inviolable' areas – such as the 'sacred groves' – and on certain activities, such as hunting large mammals or birds.
2. *Designated institutions of protection:* Generally a particular institution of some form – such as a chief / headman, a council or, in the case Van Panchayats, an elected body – is given responsibility for enforcement of the rules made by the community. Through various mechanisms, including periodic public assemblies, gatherings of elders, etc. these bodies are held accountable to the community. Not all such arrangements are uniformly democratic or equitable.
3. *Penalties for non-compliance:* The community generally has some system of penalising violators. Penalties tend to fall into three categories: 1) fines; 2) suspension or withdrawal of rights; and 3) social sanctions.
4. *Clear boundaries and regulation of entry:* In most such cases the community exercises control over its traditional forest area and has the means and power to restrict entry by outsiders within that area, as well as to penalise offenders.

### *Differences Between community forest management and Joint Forest Management*

It is important to understand the difference between genuinely community based and traditional systems of protection and Joint Forest Management (which, in AP, is confusingly itself referred to as Community Forest Management). The latter is a Forest Department scheme which creates elected “committees” whose secretary is the local forest guard. These committees then exercise 'protection' responsibilities in exchange for a share of timber. JFM has become essentially a method by which the Forest Department extends its control while fracturing communities, since typically the local contractors and powerful individuals (the only ones often interested in timber rights) become members of the Committees and the presence of the forest guard ensures that the Committees essentially function as arms of the Department.

### *Provisions in the Forest Rights Act*

Section 3(1)(i) provides the community the right to “protect, conserve, regenerate and manage” (the words “use” and “control”, recommended by the Joint Parliamentary Committee, were removed by the government) any “community forest resource,” as defined in section 2(a). Two conditions are placed on this right: the resource should have been “traditionally protect[ed] and conserv[ed] for sustainable use” (s. 3(1)(i)), and the area should be one to which the community had “traditional access” (s. 2(a)).

Section 5 provides a much more unfettered power to gram sabhas, village level institutions and forest rights holders to protect wildlife, biodiversity, water sources, catchment areas, and “cultural and natural heritage.” These powers are not subject to either of the above two conditions. Section 5(e) also provides a key power to “ensure compliance with gram sabha decisions concerning community forest resources”, potentially providing scope for a penalty clause.

The Central government has made a consistent effort to interpret section 5 not as providing powers but as imposing duties. This effort is based on the marginal note to the section, which describes it as “duties of holders of forest rights” - a hangover from the original Bill, but irrelevant to interpreting the otherwise clear statement of powers contained in the section. Needless to say this interpretation is both entirely contrary to the legislation, and further would be fatal to the purpose of the section and allow it to be converted into a form of compulsory JFM.

In a deliberate move to undermine community control, the Rules make no reference to these powers / rights, only a passing mention of the “duties” of persons under section 5.