

People's forestry management: From policy perspectives to conflict resolution

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1.0 AN OVERVIEW

INDIA is a country of vast dimensions and presents a rare diversity of situations - people, flora, and fauna. Indian settlements, their psychocultural and biophysical conditions bear a strong imprint of their history. The historical past has a direct bearing on the current access to and control over its resources. Currently, abysmal levels of poverty, the near total break-down in the governance structures, an intense pressure to liberalize the access to her wealth and enable global interests, and the threatening pace of degradation of natural resources provide for a state of flux as she enters the new millennia.

Land is the most vital resource-base for any country to charter its course of development. Its use and ownership reflects the economic diversity within the country. The access to and control over land, and therefore the resources they contain, still continues to be highly inequitable. The promise of the Constitution of the Socialistic Secular Democratic Republic to create an egalitarian social order has remained rhetoric. The land reforms eagerly awaited with the freedom, rapidly petered into a stony silence. Forests, Mineral resources and Built infrastructure are owned and controlled by large monopolies. These inequities have reflected in the growing unrest among the society and today except for very small part of the country and only a few among her citizens are spared of violence in everyday life.

`India had been the earliest home of village communities, and for centuries and thousands of years these self-governing republics had maintained order and peace, and disputes in villages, even when anarchy was in the realm'.

The dominant view on land prevailing in the `village republics' was that it belonged to the Lord and the community was the custodian. However, from time immemorial various rulers devised ways to extract a share of their produce, which they often used sparingly to meet their needs. These rulers also established a practice of recording rights so as to levy a proportional tax. These took the form of ownership rights which then followed with title deeds and other such instruments that established the right to property simultaneously acknowledging the hegemony of the ruler.

The British were the most extensive in formalizing such a rule and made the most intense use of such instruments. The stamp of permanence came with the land and forest settlements and they were, as the British called it, `Permanently Settled'. The irony of this Permanent Settlement was that it arose from stating `if we have any business at all in the East, it is to try and found something better than the old approved patterns of oriental despotisms, and give to India the chance at least of becoming a great independent and intelligent community'

The Settlement of land and its relentless hold on the Indian people has today driven most of its poor population to the thresholds of survival. The mountain and tribal communities who did not envision land and natural resources as property that could be owned or vested with the State with title deeds and other complex instruments were totally deprived of the vast `access region' that they were managing. Half-a-Century of Independent governance has had very limited impact on the positive side of human development and it has barely, if at all, touched the needs of these isolated communities.

The Uttarakhand region, which is currently the twelve districts of Uttar Pradesh Himalayas, has an ancient history finding mention in some of the early Puranic literature. Spread from the hot plains of River Ganga in the South and beyond the High Himalayas into the cold deserts of the Tibetan Plateau, the region enjoys one of the greatest diversities in flora, fauna and socio-cultural practices. Over six million people inhabit the region.

The mountain communities hold very insignificant area of private lands, and have to per force depend upon common lands for meeting various critical basic needs. The current status of forest lands and issues concerning peoples use provides us a basis for discussing various specific elements of the natural resource management regime.

1.1 Plains and Siwalik Foothills

The Plains constitute a very small proportion of the Uttarakhand region. Geomorphologically, the plains of the region are formed of the fine sediments at the foot and coarse bouldery deposits of the alluvial fans and cones of the Himalayan and Siwalik streams. These were the part of long contiguous forests throughout the Indian Sub-continent. The Terai region was known for its dense marsh forests. The Terai were dreaded because of the animals and the severe incidence of malaria until the British decimated these forests. The extensive deforestation of these areas meant that land was being converted to agriculture after clear felling the forests and thus making room for new settlers. Some parts of the Terai forest are still seen eastward but the only true forests left behind are those of the Manas Sanctuary in Assam.

Large scale resettlement also occurred in this area after partition and the settlement of these lands has resulted in creating inequities in the form of large estate owners and landless labourers. This situation has become complex with the increase in population and the growing conflict. The original inhabitants of this region were the tribal communities of Boxa and Tharu who have been forced to migrate and have almost been totally isolated from the larger development processes.

The head and the body of the alluvial fans and cones make for bouldery and coarse deposits with very little retention of water on the surface. The regions where such deposits exist are known as Bhabar. The foothills of Himalayas, the Shiwaliks made up of sedimentary sequences raises up to a maximum height of 1200 m.

Most of the region comes under the control of forest department and a significant part has been converted into protected areas of the Rajaji National Park, Sona Nadi Wild life Sanctuary and the Corbet Tiger Reserve. The entire Shiwalik division, parts of Dehradun, Lansdowne and Pithoragarh division are the few tracts in this belt which are with the Forest department.

The edge of the forests witness the problems of inequitable distribution of land supported by the continuation of colonial policies and even records, and state policies which are insensitive and ignorant of the actual plight of the people. This has been accentuated in the recent times by the advent of Plantation Companies and Resorts which have been acquiring lands through legal and coercive measures.

The problems raised by the creation of protected areas are varied and differentially affect the various communities which are sustained by them.

These areas are adjacent to large urban centers demanding significant resources towards them. The towns of Dehradun, Haridwar, Rishikesh and Ramnagar are witness to this unrelenting explosion of demand.

Given a vast area the peripheral villages are large in number and currently host nearly half a million people. They have no significant say in the management of these areas and are truly caught between the Forest Authorities and the unscrupulous markets trying to meet their needs while facing the brunt of the impact of delinquent wildlife and a callous social structure. The worst among the sufferers are specific groups who are often a minority such as the Baan Workers, who do not have access to raw materials and do not have adequate skills to find livelihood through other occupations; the Gujjar, who have to spend the year living in this protected area and those in the Northern extreme.

The Gujjars are living under a constant threat to their traditional skills for survival and are even coerced, persuaded and encouraged to give up their nomadic life. The situation has led to a rapid rise in the inequities among the Gujjars and slowly assuming alarming proportions; The Taungya settlements are historically a creation of the forest department whom the Government now wants to abandon. These were invited to live in these forests to render manual labour to the Forest Department. Having legislated these settlements as protected areas the Government wants to evict them.

As a final example a recent addition to minority which is intensely affected are displaced people from the Tehri dam construction and reservoir area. They were among the first to be evicted and at the lowest of compensations among contemporary support and resettled in the periphery of the Rajaji National Park near Raiwala quite close to the Motichur Forest Gate. The land allotted is right on the corridor enabling elephants to cross the Ganga into the Chilla Sanctuary.

The problem of poaching is severe and these interests have grown strong enough that the local communities are unable to deal with them. Despite local protests these continue to thrive because of the government's apathy. The damages caused by wildlife are also significant. Elephants, deer, wild boar, Nilgai and parakeets damage crops and fruits. The local communities in the periphery of the forests run the risk of losing all their crops and even life.

Illegal felling is centred around Acacia Cathechu (Katha) which is used as an ingredient in Pan and Pan Masala . The demand far outstrips what is available from non-forest areas and the tree has been subject to such a singular focus of extraction in various parts of the country. Several small industries in the region produce Pan Masala and any Katha this finds a ready market. The extraction occurs through large scale organised groups (Forest Mafia) and also by local people who are in need of cash returns. The violations by local people peaks during the month when there is labour employment available in farms forcing the landless to be forced into this activity. The offenders are often the same sets of individuals who continue to indulge in such activities despite being penalised.

The lacuna in the forest act which restricts the amount of fine imposed on detection to a paltry Rs 10,000 is being used by the large organised groups as a truck load can fetch them easily over Rs 150,000. Further, their ability to terrorise the local officials and the people disables any attempt to stop such a selective destruction of a species. The smaller offenders are not only booked under the forest act but also under several other sections of the IPC and CRPC to browbeat them into submission.

The current efforts by NGOs on these issues are limited and sporadic. There is only one long term effort which has been initiated by Vikalp. Vikalp's untiring efforts have evolved into the Ghad Skhetra Mazdoor Sangathan, which is now addressing the issues from the local perspective for obtaining the legally vested rights of the landless and forest workers and interacting through Vikalp on the larger perspective on forest workers and wildlife conservation strategies.

1.2 The Lesser and Middle Himalayas

The Lesser and Middle Himalayas occupy significant portion of the total area. The population is relatively well dispersed. The evolution of forest rights in the region and its economic development has been a complex process and the relative difficulties have generated a significant migration from these areas. The seasonal and employment related migration of male members has had adverse effects on the life of women who have to function as the head of the house hold and undertake several difficult and cumbersome tasks.

Forests are not evenly spread and even within a valley some villages do not have any forests within easy reach. The forests are the centre of conflicts between different communities who have now been realising the growing pressures of population and want to secure their rights and privileges. The infrastructure is still poor except for the trunk valleys which have been developed largely for defense and tourist purposes.

In the Kumaon region and in the districts which were under the British, the settlement of forests generated lot of dissent and a large number of litigations arose aggravating the grievances of the local communities. These litigations were on the issue of rights and privileges of the local communities and as a sop, the British Government sought to create village forests as per the Forest Act and enabled creation of Van Panchayat for the management of these forests thus shifting the onus of providing for local needs on the local people while enabling them to have better control over other category of forests. The Van Panchayats, almost 4000 in number have now been locked in a number of conflicts between and within themselves.

Small parts of the Protected Areas of the Corbet and Sona Nadi, in the south and parts of the Kedarnath, Gangotri and the whole of the Binsar Wildlife Sanctuary are within this zone. Several large development projects like the

Tehri , Pancheswar, Vishnu Prayag and numerous small programmes including a cluster of animal breeding farms established ostensibly for the development of local people are in direct contrast to the type of development which could be sustainable and sought by the local people.

The current efforts in the region for instituting a comprehensive Peoples Forestry Management system are deficient in terms of its articulation of the problem and paucity of alternatives. There are institutions and individuals addressing forest related problems and the need for a broader set of people has been widely recognised.

1.3 Higher Himalayas

The high Himalayan region is one that is in greatest threat from the viewpoint of local communities as almost the entire high mountain zone is being converted into Protected Areas.

A large part of the region is snow bound and the area between the altitudes of 3000 m and the tree-line is in a transitional glacial environment where the disturbances cause multiple downstream impacts. This requires very careful understanding in terms of changing the landuse pattern and management systems and has to go beyond narrow scientific and technical basis because the various aspects of these cannot be handled by the limited abilities of the State Agencies. It is therefore imperative in such complex, fragile and risk prone environments a collaborative process is established.

The wildlife which has become a threat to the local people and economy are the leopard, bear and the wild boar. The damage to crops by wild boars is significant.

In the Uttarkashi region illegal felling of Deodhar trees has selectively affected the species. Illegal felling is not very significant among the local people. Poaching and exploitation of medicinal plants are on the rise.

Several seasonal pastures (Kharak or Marora) have become out of bounds for local communities who had traditional grazing and settlement rights in these localities.

The local institutions have been making efforts to have their voice heard in terms of the destruction of the environment that is happening in the region at the expense of their livelihoods and resources. The relevant agencies of the Government have not been responding to their pleas and there is a feeling of despair. There is a felt need for articulating the problems of the people affected by protected areas.

1.4 Protected Areas

The cordoning off of the northern region of Uttarakhand by forming biosphere reserve and the two already existing National parks in the southern edge virtually shrink the area available even to access and move for the people of the region. The plan to create a Gangotri Biosphere Reserve makes this cordoning off of the northern areas complete. The following table shows the extent of area that these protected areas take away and place severe restrictions on local people and thereby providing a very favourable ground for poaching and other illegal activities. The total area under the various types of protected areas in the region is as follows:

REGION	AREA (Km ²)
Rajaji National Park	820.03
Corbet Tiger Reserve	520.82
Nandadevi National Park	630.33
Nandadevi Biosphere Reserve*	1200.00
Valley of Flowers National Park	87.50
Gangotri National Park	2390.00
Govind Pashu Vihar	472.08
Govind Pashu Vihar Wildlife Sanctuary	957.00
Sona Nadi Wildlife Sanctuary	301.76
Askot Wildlife Sanctuary	600.00
Kedarnath Wildlife Sanctuary	957.00
Binsar Wildlife Sanctuary	45.59
Total Area (Km²)	7692.11
Total Forest Area (Km²)	18272.66

Source: Forestry Statistics, 1995; ICFRE, Dehradun

*Approximate

The problem of people living in protected areas is that even some of the environmental activists are in favour of the exclusion of people without recognising the implications for the conservation of these areas. The dependence of people on the resources within the Protected Areas is significant and has already brought them in conflict with the Forest Authorities. All the high altitude alpine pasture lands which would now lie in the protected areas will eventually degenerate as has been the case of the Bhyunder Valley, now the Valley of Flowers National Park. It is recognised that limited grazing and manuring improve the quality and diversity of the species in such alpine meadowland (Kharaks, Marora, Bugyal). These are now devoid of any grazing. Further, the alienation of the local people who depended upon these meadows enables poachers and other vested interests to gain entry and control.

2.0 FOCUS OF ANALYSIS

People of Uttarakhand region had access to forest resources in abundance prior to the British. Severe restrictions were imposed on the people by Forest Settlements and subsequent enactment of the Indian Forest Act. Since that period, the people have been constantly struggling with the authorities in control of the forests. The reaction of the people was overwhelming at the turn of the last century.

The British Rulers retracted by acceding to certain rights and privileges of the local people. Thus began this era of recorded rights, which have become very complicated today, and continue to be implemented by the State through its executive, judicial and political arms.

The fundamental structural changes needed in redressing this situation should definitely be on the agenda of any modern society. An attempt is made to focus attention on this issue and reflect upon the some specific choices in front of the new State.

While the history of struggle and periodic settlements has been long and arduous, the fundamental structural change initiated by the colonial administration which brought about an external entity as the owner and the original settler as an occupant has not been altered despite fifty years of independence. Struggle for peoples access to their resources and rights have to be fought equally, if not more vehemently, today and the irony is that every such peoples effort in independent India has lead to handing over those rights to yet another Governmental Institution.

The most recent and the most widely known struggle has been the Chipko movement which gained ground in the seventies and was responsible for the stoppage of Commercial Industrial felling through the contractors. This did not mean that control would now pass on to the people. The movement led to the formation of the Forest Corporation. The popularity of the movement and its ability to negotiate with the Government lead to the feeling among the local people and institutions that more people friendly forest policies and procedures will be in place. It is indeed sad that this Forest Corporation itself has become the target for agitation today, because it has grossly failed to meet the aspirations of the people. Further, the people's movement itself has been weakened through a variety of State instruments including co-option of leaders and currently there is very little in terms of concerted public action on Forest related issues. At a time when the region is to be constituted into a separate State, the need for a Peoples movement is very acute.

The institutional basis for development of the new state and the potential for natural resource management have to evolve from the needs and aspirations of the people. While this issue itself is at the crux of structural changes in the access to and control over resources and would mean a very fundamental change in the paradigms, the discussion centres around the Van Panchayat. These refer to areas allocated for the villagers to maintain as village forests for their common use and enshrined through the institution of Van Panchayats. The Van Panchayats are the oldest sustaining local institutions and provide an excellent basis for designing local institutions.

It is obvious that local communities are dependent on forests and that it has become a major source of their concern. The fact is that, the resources which were once of the communities became a State resource, and this has placed so many restrictions on them and offered very little in terms of powers to manage the area and also to use resources efficiently.

The problems faced by local communities are varied. The basic issue is of availability of information that will enable them to manage their forests more effectively. The most endemic is the weakening of local institutions, despite constitutional provisions for their strengthening. The creation of protected areas over vast territories designed to exclude people is another grave problem the people of the region have to respond while the damage to life and property through wildlife grows exponentially. The non-availability of forest lands for several settlements, illegal felling, and misuse of traditional rights for commercial purposes and heightening of small conflicts into long-drawn legal litigation are some of the critical issues that seek urgent response from the Society.

2.1 Basic Structural Deficiencies

The Constitutional provisions and the existing legal frameworks are distinctly incompatible. The larger spectrum of Independent India's socio-economic response has never shown a continuum of Policy, Programmes, Plans, Schemes and projects.

The federal framework also provides for a hierarchy of legislation and hence enforcement. The Constitutional provisions in terms of Rights and Duties and the Directive principles of State Policy form the broadest guideline for the community, market and the government. The constitution also provides for distinguishing the domains of management of the State and the Centre.

The Central Legislative enactments then govern the sectors allocated throughout the country with exceptions as may be provided in the constitution. The Forest and Wildlife resources are one such Sectoral area where progressive Centralisation has taken place.

The centralisation has gone to the extent that the State enactments usurped the rights to deal with forest resources and even the timber output of private lands. The most pervasive of the enactments is the U.P. Tree Protection Act which provides for the felling of select species and the ban on felling of several species without any reference to the people's views. The decision making on managing tree-species within one's own land become a State subject. Similarly the Central government after having brought the Forest and Wildlife resources into the Concurrent list has now taken over the decision making on alienation of even the smallest tract of forest lands.

Some of the Acts in are in the pattern of those initially designed by the British to suit their colonial interests and these enactments themselves brought about hardships to the local people who have been brought out succinctly in the Forest Grievances Committee Reports. With the progressive Centralisation and the long legal procedures for settlement of issues under these Acts, the problems have become exponential.

There is another aspect to the hierarchy of legislation. Every Act is followed by rules and regulations. The executive departments issue Office Orders directing the concerned official to perform a specific function. The current administrative control over the State is so pervasive that subordinate instruments such as the administrative orders are often used beyond the framework of the law, policy and even constitutional provisions.

At the national level the most glaring is the example of the Joint Forestry Management Systems that are now being supported and funded by the World Bank. The JFM derives its power for intervening in the forest management system through an office order of the Ministry, which is a much subordinate instrument than the Van Panchayats which have a legislative sanction for raising resources and managing areas within its control. The Panchayat Act under the constitutional 73rd Amendment has given powers in several sectors in which nearly half the sectors cannot be dealt with by the Panchayat unless it has access to and control over the forest resources. Thus the geographical hierarchy provides for some complications and the executive hierarchy of instruments is grossly misdirected.

The forest policies in vogue draw a number of critical comments on its orientation and also on the specific nature of interventions sought with regard to natural resources. The Forest Policy enunciated in 1988 has drawn a lot of criticism with respect to its orientation, the provisions it hopes to create for forest management and the denial of the major role of the local people in the use and management of forest resources.

The main drawbacks can be listed as follows:

The forest policy reiterates the colonial philosophy that all forests belong to the State. Thus it undermines the faith in people as custodians of local forests, who defacto function as the custodians and protectors of the forest resources. Forest policy reflects a loss of faith in the people as regards conserving forests. Forest policy does not emphasise the primary role of forest as depository of all forms of life. Places a great faith on compensatory afforestation which in reality provides a loop-hole for vested interests.

Ignores the fact that whole livelihood & culture of tribal communities depends upon the forest. Participation sought is servile and discounts responsible participation by people. Does not stress the attitudinal changes required in Forest administration. These are only some glimpses of the problems with the forest policy as it exists. A cogent evolution of a Regional Forest Policy is a must if the long term interests of the people and the environment are to be sustained.

The need today is even beyond. Beyond specific aspects, the structural changes must redress inadequacies of our system and recognise the urgent need to

`mainstream' every sectoral agency to make them relevant and sensitive to the development needs of the community.

2.2 Paucity of Relevant Information

There is no consistent attempt at generating information on the forest and vegetation of the region and to disseminate the information. Infact the awareness programmes of the government singularly touch upon the people's duty in the event of a forest fire but do not attempt to go further. The non-governmental agencies have been mobilising people against the government policies but have neither developed a basis for documenting the forest resources in the region nor the forest resource needs of the people.

Information is scarce for the local community on rights and privileges, the source of resources for improving productivity from the local Forests without adding to its pressure, the policies, programmes and plans of the State. The vested interests, generated because of the relative inequity in information and its access, take undue advantage of Government programmes and other privileges. Some specific situations where lack of information is a major input to the grievance are briefly described to highlight the need for a systematic development of information base:

Information on the physical location of boundaries and authenticated maps of Van Panchayats could reduce several conflicts which are caused by disputes over demarcation of boundaries.

The case of Non Timber Forest Produce is revealing- the value obtained for example Oak Moss is low, determined exclusively by the Mandi and a handful of traders, the procurement market is intertwined with other products as the same trader is involved in diverse operations affecting livelihoods. The loose intervention by the government through State supported cooperatives has only legitimised existing mechanisms without linking them to value addition and other downstream processes. Information on value of local forest produce and potentials could enable people to derive better benefits and place higher value to the conservation of these resources.

Forest Working Plans are prepared without consultation with the local communities and there is no mechanism to disseminate information about what is planned by the government. The information about the working plan and the resources available for achieving the goal, if made more accessible, can draw communities into participating in the management process...

The legal rights in the high altitude pastures, which has traditionally been a second home for many communities during the four summer months is not being exercised by several families which have migrated or have reduced the

cattle because of the paucity of labour to manage them. There is a fear among the users that this trend may lead to withdrawal of these rights.

There are several examples that can be cited from the region where the situation could be better with some specific information which the community is seeking.

2.3 Weakening Of Local Institutions

Local institutions have played an important role in the management of resources. These institutions were mostly identified through informal consensus within the community. The politically elected Panchayat, the financial resources recklessly invested by different agencies and the apathy of the government machinery has disrupted these local institutions. The problems are complex and many local institutions, particularly the Van Panchayats are embroiled in legal litigations. This is despite their realisation that any 'final judgement' of the court is untenable in the local context.

The role of the Panchayat has been not particularly defined in relation to the forests. Though there are at least 15 sectors listed in the XI Schedule which would need the interference or use of adjoining forest areas. The rights of the people and their withdrawal of resources according to the rights endorsed are kept by the Panchayat. Thus there are conflicting or overlapping roles of the Van Panchayat and the Panchayat which have to be reconciled if these institutions have to play any important role in Conservation.

The weakening of local institutions has also been because of a plethora of programme initiated by the government through its developmental and other sectoral agencies. The complications from land information, the basis for which continues to elude local people and makes them vulnerable to the 'Patwari'. The official procedures, to obtain permissions and sanctions on any of their rights, frustrate the local community and dampen most local initiatives.

The role of local institutions has not been highlighted in the design of programmes and no effort is made to evaluate their needs in terms of capacity building. The refrain that the local institutions are not equipped to handle several of the programmes and the need for other institutions such as NGOs or government organised societies is seen more out of the fear of transferring power to the local institutions.

2.4 Impacts of Conflicts and Litigation

Conflicts are the result of policy and process failures and litigation the way to reinforce the conflicts. Briefly;

1) A number of conflicts are raised because of inconsistencies in boundary marking; 2) Conflicts arise out of the greed of some people to draw resources beyond their rights; 3) Conflicts arise out of interventions made by the government to change a particular land-use or adversely modify existing rights and concession; 4) Conflicts which go for judicial process embitters the community and often forms the basis of divisiveness among the two communities which are often the entire villages.

The long delays in the judicial process decimate peoples faith in the governance systems. The statistics of pending cases in various Courts of the Garhwal Forest Division is illustrative. There were 70 such cases till the year 1997-98 of which 50 have been pending in courts since 1978-79. The social cost of such mindless judicial procedure goes far beyond the actual financial expenditure by the state and the litigants.

The conflicts which are not resolved at the local level and get lodged into the administrative-judicial executive start affecting the local community in a more fundamental manner. There are examples where the forest conflict has seriously affected the development of both contenders and forests are a severe casualty. Several of these conflicts have been discussed and argued at the local level with equanimity before the matter went to the Courts. Almost in all such cases after the issue was with the administrative-judicial system, severe bitterness has grown between the two communities and is reflected in the vitiated environment. In certain cases it has affected even the filial relationships between the contending villages. After the issue is turned into court litigation very negligible room is left for local resolution in each of the conflicts. Even when the final judgement is not sufficient to contain the conflict. Most of the people accept that the real solution cannot be found through the existing judicial processes. Still some are scared of going to seek justice in this system. After a case goes to the Court it is only the fear of the Court 'Summons' which forces them to make appearances in the court.

The dimensions these conflicts have reached makes it necessary to address this issue at the specific levels so that these conflicts are resolved reducing the unproductive expenditures and disruption of the social harmony.

2.5 Wildlife-People Conflicts

The world-wide awareness and the understanding of the threat of extinction of several wild species have lead to some imbalanced policy in terms of wild life conservation. In fact, the Wildlife Conservation Act totally excludes the human context and has been vigorously promoting the formation of a Protected Areas Network. The law actually provides for greater State support to the animal than the citizen.

The problems faced by the local communities from the wild animals are manifold. Geographically, in the Siwalik and adjoining areas the villagers are subject to raiding of crops by Elephants, Nilgai and Wild boar. In the lesser and middle Himalayas the menace of monkeys has to be faced in several villages. Wild boar is also ubiquitous in the middle Himalayas.

The big cats are a major threat particularly in locations where some of them have turned to be habitual cattle lifters. The vulnerability of women who go for collecting fodder and fuel wood to attacks by these big cats and the bears are steadily on the rise.

2.6 Forest Area in Local Control

While the dependence of the entire population of the region on forests for fuelwood and fodder is accepted, historically there have been several villages which do not have a forest from where they could source their needs. The villages devoid of forestlands have been not only facing hardships of non-availability, but also have forced them into conflicts with villages that have claims over the forests that they use.

The need for rationalising the forest access and making adequate areas available to such villages will go a long way in reducing such conflicts and also focus their attention on conservation.

2.7 Illegal Felling

Illegal felling of wood still remains a widespread activity. The illegal felling is directly related to market forces and the economic conditions around the forest. In the recent times several specific species have been the target of illegal felling.

The case of Acacia Cathechu (Katha) is very illustrative. Maximum number of cases registered in the Siwalik area is of illegal felling and theft of this wood. The tremendous growth in the 'Pan Masala' industry has placed heavy demands and the industry accepts from any source this wood. In the adjoining areas of the plains there are industries which provide a very close market and sometimes the landless labourers do not find any other gainful activity during the lean months.

Destruction of Taxus Bacata (Thuner), which is a high altitude species is now almost complete in the region and also in neighbouring Himachal Pradesh within the short period between which the plant was known to produce 'Taxol' a compound for Cancer treatment.

2.8 Misuse of Traditional Rights

In villages where the migration is high, the non-residents do not need the resources that they can obtain as a right. This quantum is traded, either by an agent or the families concerned. This extraction of resources which are meant for bonafide users leads to conflict with other members and also encourages commercialization of such rights. Since there are already such villages and the propensity to migrate is unlikely to abate, this aspect needs concerted effort to diffuse such tendencies.

3.0 INSTITUTIONS

The establishment of institutions seems to be the most evolved of human interventions and it is offered as the ultimate solution in almost every context. Institutions are sought by the society because through them a variety of tasks could be accomplished. The excessive dependence on creation of institutions as a mechanism has resulted in a rapid surge in the number and forms of institutions. It has almost become inevitable that there would be conflicts and differences in opinion. One generic trend has been the progressive weakening of the local institutions.

The activities of these institutions undertaken through various mechanisms as schemes, projects, and movements have resulted in a progressive abstraction of the human and ecological development. It is unfortunate that the recent efforts at decentralisation have translated this abstraction at the local levels more strongly than a spirit of enquiry and decision making at the local levels.

A good understanding of the potential and prospects of nucleating sustainable development practices through the existing institutions will enable creating appropriate linkages in the local and regional context.

3.1 Panchayat

The Panchayats are the oldest of the institutions. Village institutions of this form existed even before any supra-government. The institution has a role to play on all the aspects of village living. Panchayats have changed in their character from the "Pradhan" Panchayat of the yore to a politically elected Gram Panchayat. In this process, the Panchayat has given space to a number of other agencies which have gained control over the fate of the communities and their resources. A poor recognition of the need for a comprehensive institution for governance at the village level, and its utility in enhancing the quality of living of the local people has marked the first few decades of independence. It has taken nearly half-a-century to recognise their inevitability. During this period, the progressive dilution of the role of local communities in governance has led several communities being alienated. In the eighties, there was a growing realisation that the Panchayats and other local bodies must be vested with rights and duties. The Panchayati Raj Act which was to be brought out in mid-eighties, was finally enacted after the 73rd Constitutional Amendment in

1993. The enactment also made it statutory for States to ratify its provisions and also to establish a State Finance Commission to devolve the financial resources from the State to the Local Bodies, much in line with the federal structure. The Eleventh Schedule provides for power to manage a number of sectors and even allows to levy tolls and taxes on a number of accounts.

The State governments have ratified the amendments and while keeping the executive functions with themselves. This is in gross violation of the spirit of the constitutional amendment, which aims at providing for a strong mechanism for local level governance. It is only with such an institution in place, the critical areas of resource management can be addressed with the full consent of the people and planned according to their needs rather than to pursue any abstract policy of the Central or State Governments.

The Panchayat Act also provides for the management of sectors that relate to the forests and hence the formation of the Van Panchayat as a body within the Panchayat seems logical. However, there is no specific legal provision. The Panchayat is used only as a legitimising factor for the use of the forests within the region.

Apart from the forests, to be truly effective in the local context, the Panchayat has to address several issues in the legal and administrative control of different institutions. Currently, it is being easily dismissed as not having the infrastructure to undertake all these tasks. The plight of the Panchayats with severe division caused by the political, social, economic and ethnic forces and the lack of enabling legal provisions is currently rendering it only as a facade for the strengthening of current power structures and concurrently a continued denial of fundamental rights. The accompanying and more oppressive legislations including those such as Wildlife Conservation Act vest the power to declare an area as a National Park or Sanctuary and deprive people their rights and privileges with a single agent of the State. However, the enactment with respect to the Panchayat still hangs without appropriate complementary legislation to vest powers out of the existing functionaries and dispensers of resources.

An important issue in the formation of the new State would be whether the popular movement for self-governance at the level of the region will be translated in spirit to the level of the village. The experience with States which have been formed after prolonged regional struggles have not demonstrated any willingness to devolve the powers. The entire gamut of constitutional provisions has been systematically watered down by States. Several states have not gone beyond a token enactment and transfer of funds that have been earmarked by the Central Government. Very few have set up the State Finance Commission. Those that have had the Finance Commission have made a mockery of the transfer and devolution.

3.2 Revenue Administration

The Revenue Administration is the oldest government arms persisting without much transformation. Its role in a democratic social republic where the land revenues have mostly been abolished is questionable. In the context of the Van Panchayat the role of the administration is today seen more as a source and fuel for conflict.

The most major reform needs to be urgently brought to bear on this structure and a proper role has to be identified for them where they would be accountable for their decisions. The reforms in administration have been a matter of debate for long but successive governments have not taken any measure to initiate any concrete change.

The issue of basic changes in the Revenue and General Administration is a large and sensitive issue as it concerns the whole bureaucracy. It is needless to mention that as the current dispensers of power, it would be very difficult to even broach the issue of devolution and restructuring.

The problem more closer to our focus on peoples forestry management is that the Revenue Administration functions as a Forest Bureaucracy directly impacting the functioning of the Van Panchayat. The phenomenally slow pace of response of this institution to the people is historic and is illustrated in the context of the Van Panchayat. The procedures established by the department for constitution of Van Panchayat are itself very cumbersome and various motions are gone through at its will. Thus two contiguous villages which may have sought to form Van Panchayats together may be separated in time by when the Revenue Administration have the process completed. However, it must be recorded that until the early sixties the Forest Panchayat Inspectors interacted more closely and largely aided the Van Panchayats within the framework of their powers. In the last three decades there has been a near total neglect of the Revenue Department on the issues of Van Panchayat. The Forest Panchayat Inspector has rarely inspected and provided any support to the institution. It is only common now to find the FPI being shunted for all the diverse tasks while the common refrain is that the FPI is overburdened with a large area and cannot provide the levels. While historically the Revenue Administration performed a coordinating role, the divisive and interventionist role of the Revenue Administration makes it one of the major oppressors of Peoples effort. The scope for positive action is enormous, the Revenue Administration has distinguished itself as an agent of the outside.

FOREST DEPARTMENT

Forest department is one of the oldest departments of the government and hence it has still several facets that reflect its colonial origins despite its repackaging with the Ministry of Environment and Forests. The most striking

vestiges of the colonial duality is noticed in the class difference between officers and the workers.

Forest department is the biggest custodian of the State property and is in control over 60 percent of the area in this mountainous region. The failure as an institution of the forest department is near total. It has neither been able to improve the vegetation conditions nor has it been able to provide for the basic needs of local people. Forest department is also plagued by a high level of indifference and leakage's of resources. The staff of the forest department are usually feared by the villagers when seen in their uniforms.

The resource use by the Forest Department for management is very inefficient and is recognised to be top-heavy. The field staffs are often from the region and their knowledge about the resources and customs are not utilised in orienting forestry sector towards positive developmental tasks. The field staffs are very isolated without any programme for interaction or training on the changing views of governance and the inevitability of Community Forestry Management Systems.

In the context of the conflicts in the region, the Forest Department should be taking it as a very important and urgent Mission to provide authentic records on the boundaries and strengthen the demarcation. In the immediate context this could provide relief to several communities in the region.

VAN PANCHAYAT

The progressive restriction of forests for the people and concurrent enlargement of the scope for State use during the British regime reached a stage when Civil forests were denominated as protected forests. The consequence of such an order was the restrictions it imposed on the use of forests by the local people. It was natural that the people reacted strongly to such a measure and the 'offences' rose sharply. The British set up a Commission to address this situation. One of the remedies suggested by the Kumaon Forest Grievances Committee was to set apart certain forests as Panchayati. The existing provisions of the Madras Presidency's Community Forest were used as a basis and under the District Rules, 1874, for the first time the Kumaon Van Panchayat Rules were formulated with 22 sections. With the repeal of the District Rules, 1874, new rules were made under the Sec 28 of the Indian Forest Act, 1927 in 1972 and modified again in 1976. This revised Van Panchayat Rules has 49 specific points.

Initially village lands of all categories and Class I Reserve Forests were included with peoples consent and constituted as Van Panchayat. However through a secret office order in 1964 (6849/x iv-B-64/57 dated 17.11.64) all the Class I Reserve Forests were restored back to the Forest Department and Community Forestry in these areas were affected.

To manage the village forests the Van Panchayat constituted comprises of 5, 7, 9 or 11 elected persons. To oversee the functions a Forest Panchayat Inspector is appointed through the Revenue Department. The divisional office at the Tehsil holds the charge of Van Panchayat Office. The Commissioner has a overall responsibility at the level of the Division. The Van Panchayat Inspectors report to the Director, Panchayati Raj Department at the State.

The activities of the Van Panchayats are as follows:

- To conserve and develop the forests with the boundaries of the Panchayat Forests.
- To ensure equitable distribution of produce among the right holders.
- To protect the boundaries through boundary pillars and walls.
- To ensure the implementation of the Van Panchayat Rules.
- To periodically respond to the instructions of the District and Sub Divisional Magistrate in relation to conservation and development of the forests.

Apart from the direct influence of the Revenue Department, the Van Panchayat also interacts with Forest Department who are to provide them technical advice. Under Rule 48, the Forest Department has a share of the income of the Van Panchayat. In the Chamoli and Pauri districts the Forest Department itself looks after the issues of Civil and Panchayat Forests. Alaknanda Soil Conservation Forest Division takes care of these activities in Chamoli district and in the Ramganga Watershed, the Civil-Soyam Division Almora takes care of these functions.

The Van Panchayat is one of the longest standing examples of Joint Forest Management. The strength of the Van Panchayat and its credibility as a local institution is exhibited in several spheres. An illustrative account is presented in brief: The Van Panchayats have a history of conducting their affairs regularly. The Van Panchayat has always met more than the statutory minima fixed under the guidelines. The case of two Van Panchayats is revealing.

Van Panchayat No of Meetings (Phase I)No. of Meetings (Phase II)Sarengwar (24;22 yrs)116125Parwari (20;25 yrs)125166Source: PSS Analysis of Records
These institutions have been able to take specific measures when there was an emergency need. If the issue demanded a larger forum and quorum or needed quick response, further meetings were organised. This indicates how vibrant they are while addressing issues of common interest.

The meetings of the Van Panchayat are always well attended even if there are fluctuations in the number of people present.

The Van Panchayats have a very well documented book of resolutions and this has been maintained in the past even, if the members were illiterate.

Forest conservation needs and the socio-cultural contexts have been well integrated in this institution. Van Panchayats have been able to evoke varying means to ensure compliance of rules such as; a) invoking the respect for local deity, b) using the threat of returning land to the Forest Department, c) imposing penalties for violating its rules and regulations and d) enforcing rotational grazing.

Each Van Panchayat provides full time employment to at least one guard (Chowkidhar). Usually it enlists few volunteers additionally for this purpose. Thus the Van Panchayats have been protecting forests without any burden to the State.

Van Panchayats have been always successful in checking encroachments except where the State has directly intervened to aid the process. It has also been largely successful in containing conflicts. It has been the neglect of the Government after the breakdown of the Van Panchayat Inspection system, some conflicts have grown to be contentious. Van Panchayats develop a consensus and organise its management rather than police as per a predetermined plan.

The Van Panchayat has been able to motivate the local people to contribute through their labour (Shramdhan) expressing its social authority and its ability to raise physical inputs.

The Van Panchayats have also been able to raise financial resources from the villagers for specific local activity or even litigation, without any significant erosion in its social or moral authority. Thus it has demonstrated the ability to generate its own budget and also contribute to other social activities in the villages, building of school, provision of drinking water etc.

The Van Panchayats are well integrated and provide the rights to Scheduled Castes on an equal footing. This is noticed much before the country had laws for ensuring such equality.

The Van Panchayats have always sought a creative mechanism to resolve problems.

Apart from these strengths, the Van Panchayat has consistently demonstrated its maturity as an institution. Even in the most vexatious litigation, they have sought mediation and people's resolution effort. The larger concern it expresses, both, on aspects of development which are not directly in their ambit, such as education and in ensuring that the needs of all social groups and settlements are met despite their not having recorded rights is a sign of a mature institution. The Van Panchayats have also demonstrated very evolved mechanisms for resolving conflicts. An excellent example of such an effort is the constitution of Joint Van Panchayats over areas of dispute.

Van Panchayats are however plagued due to the inadequacies of the Government. The prominent among them are:

- 1) Not undertaking the basic task of demarcation of boundaries properly and to the satisfaction of the people;
- 2) Not modifying the maps and documents regularly and in
- 3) Not devolving the finances due to the Van Panchayat.

The State has also not been able to develop a respect for Van Panchayat as an institution and does not provide its representative the Sarpanch with the stature commensurate to the responsibility shouldered.

It is unfortunate that such a Community based and inexpensive Management of forests is getting weakened because of the indifference of the State and elected representatives. The rules provide for elections every 5 years, but there is no set procedure for the conduct of these elections either by the administration or the Panchayati Raj Department. Some have not had elections over 10-15 years and several of them have been dissolved by the administration and the charge handed over to the Patwari. It is during such periods that important documents are misplaced and become the nuclei for future conflict.

When the issues of encroachment and realisation of fines and dues reach the authorities their indifference affects the local institution. Those Van Panchayats, which have taken such issues to the judicial process are today totally disheartened. The justice is expensive and is a major burden on the people as Van Panchayats have traditionally not used its budget and hence are not able to withstand the litigation for long. This situation is capitalised by criminals and encroachers.

Until the time the Nyay Panchayats were functioning effectively several conflicts were resolved at that level. Since, these have remained ineffective without timely elections, the conflicts perforce get into the costly judicial process. The Revenue Department has a crucial role in the effective functioning of these institutions and its continuing indifference has virtually collapsed the possibilities of inexpensive resolution of conflicts.

The emotional binding of the villagers to the forest providing them the basic needs is understandable and it is normal to expect some difference of opinion on its use. Therefore conflicts are a normal phenomenon in accordance to the contextual realities. Human failing, administrative deficiencies and more importantly the lack of proper information turn healthy debate into a conflict which lingers on in the courts for decades.

The conflicts relating to the Van Panchayat affect not just that institution but the entire developmental processes in the area and particularly destroy the community consciousness. To understand the mechanisms to devise a consensual method to resolve conflicts involving the Van Panchayat a focussed study and analysis was taken up and discussed at the local level. This brought to light the underlying causes and some clues to initiating resolution at the local level.

If we analyse in the context in which we are looking at the history of the State take over of forests and the activities of the Forest Department over the 115 years (1815-1931) indicates that there was a systematic attempt at State Control. The Panchayat Forests are a creation of peoples' struggle against such a control and the administrative response.

The existing guidelines require that the Van Panchayat be created after a particular village or a group of villages makes a specific request. It is necessary in the current context that a process is initiated in a manner that each village has its own Van Panchayat or is a part of a Van Panchayat and these are systematically set up to cover every village. This will respond to the most critical need of the local population.

In case of existing Van Panchayats, a periodic meeting at the Block level with Forest Department should be organised. When the issues are articulated through a public forum, it will increase the ability of the Van Panchayats to negotiate for their needs; express their grievances and form a basis for regional management.

However in the current context the issue is beyond these marginal changes and improvements that can be brought about in the functioning of the Van Panchayats. The question is, will the new State formulate people friendly policies and enact a separate legislation vesting further powers to the Van Panchayat and providing it the much needed stature to contribute more effectively.

MAHILA MANGAL DALS

Mahila Mangal Dals are now widespread and have slowly grown into an important institution at the local level. Several ongoing developmental programmes function through the Mahila Mangal Dal and the results of some of these initiatives have been remarkable.

It has also been one organisation which has already involved itself with most of the successful afforestation activities and protection services in the hills. Since women will continue to relate to forests, the close functioning of the Van Panchayat with the Mahila Mangal Dal would enhance the ability to manage the

Panchayats better and enable overcome financial difficulties faced due to procedural problems in the Van Panchayat.

Women members in the Van Panchayat particularly in villages with Mahila Mangal Dals are able to effectively contribute to the protection of the forests. There are examples of villages where the women have been engaged in guarding the forest as a Chowkidhar.

MFP COOPERATIVES

MFP Cooperatives have been formed at each district which is run by the State without any significant participation by the local community and functions as a legitimising agent for the resources extracted from the forests. These have to be thoroughly overhauled before they can be of real benefit to the local communities.

WATERSHED MANAGEMENT COMMITTEES

Watershed management is another basis on which several rural development projects are being organised. The agencies involved create a Watershed management committee to further the interests of the project. Unless these Watershed Management Committees are the Van Panchayat themselves or where they do not exist transform into Van Panchayat long term sustenance of these committees and their activities is not possible. However none of these programmes are currently addressing this issue at any depth and therefore remain as a one time project activity.

NGOs

Historically NGOs have been involved in the advocacy of people's rights and the past movements involving specific institution or a group of institution is evident. However there has been a growing tendency to move away from the advocacy role, and this has been largely aided by the onslaught of funded programmes to such an extent that several NGOs have turned more aptly into Public Service Contractors rather than being a voluntary agency. The consequences to the composition of the NGOs has been that except for the people who initiated the institution who may have the background of such involvement, NGOs lack people who are oriented to such a task. In fact there are less of 'volunteers' and more of staff in the modern NGOs. This means that there has to be a new network which can focus and bring together people and groups which can strengthen this function as there is a large void in this area. Further, efforts must be made to orient staff of the existing institutions on the fundamental aspects of development and present to them opportunities which can enable themselves to creatively express their skills.

Currently there is no NGO focussed exclusively on Advocacy and lobbying and all the existing initiatives must be considered nascent and or sporadic. There is a dire need for at least a desk in some institution exclusively to coordinate such efforts which can take up such issues on a continuing basis and provide feedback to the institutions.

MEDIA

The growing influence of media, makes it an institution of community interest and this also could affect the Community Forestry Management issues. While several news items do appear in local vernacular press about Forestry, incisive reporting and policy analysis is rare. The NGOs and other institutions have begun to seek the media more for positioning themselves rather than the issues they profess to advocate.

Media people have often exhibited the sensitivity needed to positively influence the Community Forestry movement. Sensitisation of the media community to the urgent need for a positive change from the old and staid government procedures and bringing Forestry into the mainstream of community development is an important need.

INFLUENCE OF LARGE DEVELOPMENT PROGRAMMES

The current period of transition in Uttar Pradesh Hills is characterised by a development scenario where several different attempts at creating a basis for development are concurrent. These have a distinct imprint of the personalities involved and range from low-investment mobilisation efforts to investment-intensive State driven effort. Further, several of these 'considered' development initiatives are also quickly eroding the ideological basis and the capacity to transform local conditions to some semblance of sustenance.

Among the various facets of the 'developmental state' of the region, the newest dimension is being added by a cluster of programmes initiated through international bilateral and multi-lateral aid and touching upon the very fundamental elements of sustenance for local communities. The notable among them are:

Swajal Programme for RWSES - World Bank
The Swajal Programme is addressing drinking water and environmental sanitation issues. These are directly under the Panchayat, but the State government has established a Society registered under the Societies Act in order to undertake this programme through their District Project Management Units and select NGOs in the region. The water sources often are within the Forests either of the Van Panchayat or of the Forest Department and the programme also subtly undermines the existing institutional framework in the region. Historically, the State's Public Health Engineering department and/or

local institutions were responsible for water supplies. The sixties saw the advent of the Corporations and the Jal Nigam was established. In the seventies the State set up the Jal Sansthan, a Society, to take charge of water supplies in the region. Swajal is the newest and at the end of its first phase of 6-years it will have at least over 2000 staff. The cases with several other large scale programme initiatives have been similar. For instance, this year the feared retrenchment of field-staff of the Watershed programme lead to their agitation and this has caused severe casualties in terms of activities on the ground.

UNDP Hill Hydro Programme: The Hill Hydro programme aims at energizing through mini- and micro-hydel schemes. The right over the use of water is again a matter which is raising conflicts.

JFM Programme - World Bank: The JFM programme which aims at instituting a Joint Forestry Management System again raises many of the issues of control and access which were already alarming.

Watershed Management Programme: The Watershed Development programmes which are ongoing are creating their own institutional frameworks. There are several issues that relate to all these programmes that are probably generic, while there are also specific problems which we see in the delivery of the development benefits. Thus without a clear framework of legal, administrative and governmental policy the local communities are alienated in management of forests and have consequently suffered. It is going to be necessary that some integrating framework and proper adherence to the constitutional intent is brought about to enable sustainable management of forest and other resources.

Note to readers:

“Academy for Mountain Environics” is an organization working in the Garhwal Himalayas of India.

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