

Conservation and Rights in India

Are We Moving towards Any Kind of Harmony?

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1. What Does This Paper Cover?

Ecosystem-dwellers of all kinds in India ---- wild plants and animals, adivasi and non-adviasi peasants, fishers, and pastoralists --- are in serious crisis. The forces of rapid economic growth, cultural and demographic changes, and political expediency, are all responsible for the widespread decimation of natural ecosystems and hundreds of species, as also for the uprooting and dispossession of millions of people. Development and economic policies and programmes appear to be in direct conflict with policies and programmes enacted for safeguarding species, ecosystems and local people. Adding to the complications, policies and programmes meant to safeguard the interests of wildlife on the one hand and ecosystem people on the other, also seem to be in conflict with each other. There is a desperate search for alternatives, ways to bring the interests of conservation and people's livelihood rights together, so that a united front can be put up against the forces threatening to engulf them both. A series of on-ground initiatives, coupled with a number of recent policy pronouncements, have provided the hope that this may well be possible. This paper assesses how realistic this hope is.

We briefly recount the historical, socio-political and economic context of the conservation and human rights interface. This includes the conflicts engendered by conservation policy and paths of development, and attempts at resolving these conflicts. We then look at the most recent policy measures that have a bearing on this situation, as also briefly at some on-ground initiatives. We examine the role of different actors in influencing or shaping conservation and human rights policies. Finally, we offer tentative projections on the shape of the conservation and rights interface in India in the next few decades, providing some possible scenarios.

Some sections are very sketchily developed here. This is because more detailed treatment of these is easily available elsewhere, for which we provide some references.

2. What Historical and Socio-Political Aspects of Conservation Are Relevant in Today's Context?

It is believed by many scholars and historians that the oldest forms of conservation in India are not the ones ascribed to rulers like Ashokaⁱ. Adivasi and other communities have practiced conservation in various forms for several thousand years: sacred spaces (groves, ponds, rivers, even entire landscapes), sacred or culturally important species (langur *Semnopithecus* spp., *ficus* spp., elephant *Elephas maximus*, nilgai *Boselaphus tragocamelus*, to name a few), deliberate restraints on the harvesting of plants and animals, conservation of water catchments, protection of nesting or roosting animal populations, and so on. Many of these traditional 'community conserved areas and species' continue till today (though many have also disappeared), and have been added to by a range of more recent initiatives responding to water and resource scarcities, external threats by development projects, conservation concerns, political self-empowerment and other motivationsⁱⁱ (also see Section 6 below)

Royal protection too is ancient, with the conservation edicts of Ashoka and the protection of hunting reserves by a number of rulers being well-knownⁱⁱⁱ. During colonial times the government significantly extended its control over forests and other ecosystems, and expanded the number and size of areas set aside for conservation. It was however mostly after independence that a major thrust was provided to state-sponsored conservation, especially with the promulgation of the Wild Life (Protection) Act in 1972. The number and spread of protected areas, meant specifically for the conservation of wildlife, significantly increased (from about 100 in the early 1970s to 657 in 2008^{iv}). This, along with prohibition on hunting and trade in several threatened species across the country, were the most important steps in slowing down the pace of decimation of India's wildlife.

However, the take-over of forests (and other common property resources) by the state, expanded greatly in colonial and post-independence times, has also had a number of serious negative consequences. These are briefly reviewed in the context of protected areas below.

3. What Have Been the Impacts of Official Wildlife Conservation Policy and Practice on People, and on Conservation Itself?

Unfortunately official forest and conservation policies ignored two very important aspects that, if taken into account, would have led these policies in a very different direction. Firstly, they did not take on board the long-standing conservation traditions and practices of local communities (and thereby lost an opportunity to enhance, support, and revive community conserved areas and species). Secondly, they ignored the significant economic and cultural dependence of people on the ecosystems and species sought to be conserved in protected areas (and thereby set the stage for alienation of local people, and conflicts between them and official conservation agencies).

Till 2002, the Wild Life Protection Act provided for two kinds of Protected Areas (PAs), Wildlife Sanctuaries (WLS) and National Parks (NP). While by law certain human uses can be allowed in a WLS, no human use is allowed in a NP. Two more categories were added in the amendment to the Act in 2002: Conservation Reserves and Community Reserves. As of 2008, nearly 5% of India's territory is covered by 657 PAs (99 NPs, 513 WLSs, 41 Conservation Reserves and 4 Community Reserves)^v. As stated earlier, such designation has saved many ecologically critical areas and threatened wildlife species from being wiped out by dams, mining, cities, and agricultural expansion. What is important however is that this nearly 5% of area is also inhabited by people, some of them ancient adivasi or tribal communities. Studies conducted by the Indian Institute of Public Administration in the mid-1980s, updated by the Centre for Equity Studies in the late 1990s, indicate human population inside PAs to be between 2.5 to 3 million.^{vi} *Most* of these people belong to communities that have lived in these areas *before* the protected areas were notified. These people (and many million more who live in regions adjacent to the protected areas) consider such areas as their *home*, and are dependent on local resources for fuel, fodder, medicines, non-timber forest produce, fish and other aquatic produce, livelihoods, water, cultural sustenance, and myriad other critical functions. Although located in areas often remote from urban markets, they have not remained away from the market economy. Cash income, even if bare minimum, is essential even for these people. Collection of non-timber forest produce or aquatic resources contributes to more than 50% of each household's cash earnings in many of these areas. These subsistence or small-scale market-based activities are often recorded in government documents as rights or concessions, but many are also not recorded and hence considered illegal. In Orissa, villages and cultivated lands that have existed for generations are treated as illegal occupants or "encroachments" because they were never surveyed and did not enter into the government records; in Andhra Pradesh, lands lying fallow under traditional shifting cultivation practices were declared Reserve Forests without an enquiry into existing customary rights.^{vii} On the other hand increasing human populations, lack of alternative livelihoods, displacements from their original homes because of development projects or other reasons have also ensured that many ecosystem dependent people have now become illegal occupants of lands on which they critically depend.

As per the WLPA, before any PA is finally notified, a process of settlement of rights needs to be carried out, and either the livelihoods and habitation rights are allowed (in the case of sanctuaries) or acquired by providing compensation or alternatives. A number of reasons (e.g. badly kept land records, or unrecorded rights of people who have inhabited these areas for generations) have prevented completion of this process in most states in the country. This meant that a majority of PAs in the country have till recently remained *intended* PAs rather than *finally notified* ones. In 1996, World Wide Fund for Nature (WWF-India) filed a plea in the Supreme Court asking all state governments to implement the Wild Life Act, including the process of settlement of rights. The Court ordered states to do this within a year; the consequences of which were complex. Many state governments quickly complied with the order without any comprehensive assessments of rights, hence depriving thousands of people of their due rights; or conversely they allowed all rights in PAs (as in Rajasthan) without assessing their impacts on the ecosystem; or in

still others they recommended that large parts of PAs be denotified as the process of settling rights there would be nearly impossible. These recommendations led to numerous conflicts on ground, and many have remained unaccepted by the state governments till date, over 10 years after the initial court orders.

In some states efforts have been made towards rehabilitation of villages from inside the PA to other areas. Though a couple of these efforts have involved a relatively successful rehabilitation process, most have invited extreme criticism for the shoddy manner in which they have been carried out.^{viii} The fate of the people living inside the PAs has therefore remained undecided for several decades now. Living under a constant uncertainty of not knowing whether and for how long would they be living in the area, and constant harassment over collection of forest or aquatic produce, these situations have bred serious contempt against PAs among the local people.

Given the experience with the ground realities of the settlement of rights process as also the social and financial complexities involved in rehabilitation of villages, there is an increasing realization that human habitation in WLS and NP in India is a reality unlikely to change. Although this is clearly an understanding among the actual practitioners on ground whether government officials or non government agencies, this reality has not reached the policy makers (and a handful of conservationists influencing them). On the contrary, in 2002, an amended Wild Life Act brought in much more severe restrictions. It mandated state governments to “provide alternatives” for all resource use activities as soon as the intention was declared to notify an area a sanctuary (thereby assuming that no rights could continue inside the protected area, which actually contradicted another provision within the same act which explicitly did provide for such continuation!). It also prohibited any form of extraction of resources for commercial use. This was necessary to stop industrial level extraction (e.g. of bamboo), but ended up bringing under its purview subsistence livelihood local activities such as removal of grasses, medicinal plants, and other NTFP for small-scale sale, as described in the account below.

In recent times the Ministry of Environment and Forests and the Supreme Court of India have played a major role in further complicating this relationship between PAs and local people. In 2003, the Ministry of Environment and Forests (MoEF) declared^{ix}:

“The Supreme Court has passed an order on 14.2.2000 restraining removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses etc. from any national park or Game Sanctuary...**In view of this, rights and concessions cannot be enjoyed in the Protected Areas (PAs).**”

In February 2000, the Supreme Court had indeed passed such an order. But it had done so in the context of a proposal by the Karnataka and Uttar Pradesh governments to allow the removal of timber from PAs under the guise of it being dead, dying and diseased. The Court had as its intention, the stoppage of some activities that were obviously destructive and intended for commercial profit. But the MoEF interpreted this to ask for stoppage of *all* activities, including resource uses for survival and livelihood by local communities.

Matters were made worse when the Central Empowered Committee (CEC) of the Supreme Court, in a letter dated July 2, 2004 to senior administrative and forest officials of all states and union territories, stated the following:

“A number of instances have come to the notice of the Central Empowered Committee where felling of trees/ bamboo, digging of canals, mining, underground mining, collection of sand/boulders ...cutting of grass, collection of minor forest produce, grazing, construction, widening of roads etc. have been allowed to be undertaken in protected areas without obtaining permission from the Hon'ble Supreme Court on the plea that these activities are part of the management plans. ...You are requested to ensure strict compliance of the Hon'ble Supreme Courts' order so that none of the above prohibited activities are allowed to be undertaken in protected areas”.

After the above-mentioned circulars many states (Orissa, Karnataka, Rajasthan, Maharashtra, Madhya Pradesh, among others), stopped the extraction of NTFP from PAs with immediate effect. For hundreds of thousands of people who have no other source of monetary income this came as a big blow. Overnight contractors (including government corporations) pulled out their collection centers. Government did not provide any alternative to this sudden loss of livelihoods, threatening already impoverished and marginalized communities with further displacement and dispossession.

Vasundhara, an NGO from Orissa reports that tens of thousands of people inside the state's PAs, most of them adivasi, are faced with unemployment, destitution, and even starvation. Detailed studies done in PAs like Satkosia Gorge Sanctuary and Sunabeda Sanctuary, reveal an alarming state of affairs, with mass out-migration having begun in search of jobs and sustenance^x. Grass removal from protected areas like Kumbalgarh Sanctuary and Keoladeo (Bharatpur) National Park in Rajasthan has reportedly stopped, with serious consequences for villagers, especially those critically dependent on animal husbandry. These steps have resulted in inevitable rise in trauma, hostility, resentment, desperation, and conflict.

A belief that wildlife can be protected in such circumstances is more likely to be a delusion than reality. Moves towards political decentralisation are gaining ground in India. Local communities are everywhere beginning to organise and empower themselves. Protests against conservation policies in general and PAs in particular are gaining ground. In these situations there are always political leaders waiting to take advantage of such discontent. Demands for doing away with PAs, or with unpopular wildlife restrictions, are on the rise. Acts of subversion, of deliberate violation of conservation laws, and of quiet collaboration with poachers and timber thieves, are already quite evident. Demands such as those by Naxal groups (ultra leftist armed group particularly active in some eastern, central and southern states) to abolish forest acts seen as draconian, spurred by the socially unjust way in which such laws have been implemented, are also on the rise. How can inadequately staffed and funded Forest Department, charged with protecting India's wildlife, possibly cope with this? Never mind issues of human rights and social justice....even from a purely conservation point of view, these recent moves appear suicidal.

Even the direct ecological impact of some of these steps can be negative in some situations. Kumbalgarh Sanctuary in Rajasthan has reportedly already been affected by severe fire because grass has not been cut. Keoladeo (Bharatpur) National Park, also in Rajasthan, had several years back actually introduced grass cutting to stop the wetlands from turning into grasslands (a threat that arose as a result of a previous mistaken decision to stop buffalo grazing); if this is now stopped, what will become of the wetlands that harbour one of the world's greatest waterbird spectacles? Blanket bans such as this are not even based on sound ecological sense, since they mistakenly assume that all ecosystems and species everywhere respond in the same way to all human activities. This is of course not to imply that all human activities are compatible with conservation; on the contrary, many are not or may not be, but this is precisely why a uniform approach of any kind is scientifically dubious.

Ashoka Trust for Research in Ecology and Environment (ATREE), Bangalore and other organisations have shown that at least in the case of three medicinal plants or NTFP in the Biligiri Sanctuary (Karnataka), collection by the local adivasis is not ecologically detrimental; this would be the case for many (but certainly not all) resource uses by local populations across India's protected areas, so there simply is no justification for making such a blanket prohibition. A ban on extraction was issued in Biligiri in 2004, reportedly because Karnataka officials want a Tiger Reserve status for this sanctuary (and using the relevant provisions of the WLPA as described above), though there is actually nothing in any law that requires tiger reserves to be free of human resource use. The ban order was questioned by the then DCF in charge of the Sanctuary, stating in no uncertain terms that this would create suffering and hostility and make conservation difficult; but he was over-ruled, and in 2006, the ban was actually strictly imposed. Several thousand Soliga adivasis into have been suffering loss of livelihoods and income as a result of this; and in a related incident, severe forest fires in 2007 were left unattended to by the adivasis who would otherwise have helped the wildlife authorities to douse them.^{xi}

4. What Is the Development Context Influencing Conservation Today?

Ironically enough, the very government which has taken such draconian steps against some of India's poorest communities in the name of conservation, has no compunctions in giving up ecologically critical areas for so-called 'development' projects. In November 2004, for instance, it gave clearance for the construction of the Lower Subansiri project in Arunachal Pradesh, despite strong evidence that this project will destroy crucial and irreplaceable wildlife habitat^{xii}. In October 2004, 40 organisations from across India signed an Open Letter to the MoEF, expressing dismay at the Ministry's continuing to sign away wildlife habitats to such projects, on the basis of flimsy and often fraudulent environmental impact assessments.^{xiii} Many PAs from where traditional communities are being moved out, are being opened up for large-scale commercial tourism, called "ecotourism", as if adding the prefix "eco" will magically transform a destructive activity into a benign one!

An indication of the short shrift being given to the environment, in the current era of globalization, is the increase in the number of 'development' projects given environmental clearance, and increase in the rate of diversion of forest

lands for non-forest purposes. Documents obtained by Kalpavriksh from the MoEF by using the Right to Information Act, reveal that of all the forest land diversion that has occurred since 1981 (when a system for central government permission for such diversion was put into place), over 55% (totaling about 6 lakh hectares) has been after 2001. Over 70% of forest land cleared for mining since 1981, has been in the period 1997-2007.

5. What Measures Are Being Taken to Address Conflicts between Conservation Areas/Wildlife and People?

As the problems related to local community alienation from PAs have become difficult to ignore, the government has responded with ambitious *ecodevelopment* programmes. In these programmes, people's needs are sought to be met through ecologically sensitive developmental inputs. Since 1990 this has been a central government aided scheme, meant for state governments to use for villages around PAs. By and large these have not been used for villages inside PAs, the assumption being that such villages have to be moved out anyway. During 1997-2002, the Government of India also got substantial assistance from the GEF/World Bank, for ecodevelopment in 7 prominent PAs. Independent evaluations suggest that this project met with mixed success. In some PAs such as Periyar Tiger Reserve (Kerala), it was successful in turning a conflict situation around into one of positive cooperation and providing enhanced livelihood thereby helping reduce poverty in several villages on the periphery of the Reserve. However, in many others such as Nagarahole National Park (Karnataka) and Pench National Park (Maharashtra) it either failed or created new tensions.^{xiv}

One key conceptual problem with 'ecodevelopment' is that **it still treats local communities and conservation as being incompatible**. Hence the primary focus is on 'diverting' local 'pressures' through provision of alternatives. In most cases, the alternatives themselves are very much mainstream rural development projects, with no clear logic on how they would lead to be better conservation or indeed more enhanced sustained livelihoods. In almost no known case, has 'ecodevelopment' created a greater involvement of local people in the management planning and decision-making of the PA. The model of 'ecodevelopment' prevalent in India is not one which takes people's access to natural resources as a matter of customary right, nor is it one which moves the country towards a new paradigm of conservation. Such new paradigms are being now accepted worldwide (and indeed are required to be adopted by India as part of its commitment to implement the Programme of Work on Protected Areas of the Convention on Biological Diversity)^{xv}, but India is far from getting close to them in official policy and practice.

One policy-level move towards this was, however, taken in the making of the National Wildlife Action Plan (NWAP) 2002, and in the process of formulating a National Biodiversity Strategy and Action Plan (NBSAP). The NWAP explicitly recognizes the need to involve local people in conservation including PA management, and suggests some steps towards this such as PA level committees including local community representatives. The final technical report of the NBSAP goes further, advocating a central role for communities in management of conservation sites, respect to their customary rights, integration of livelihood security and poverty eradication with conservation, recognition of their own conservation practices and community-protected sites, building on traditional knowledge relevant for conservation, and so on.^{xvi} Unfortunately the final National Biodiversity Action Plan released by the Ministry of Environment and Forests in 2008, contains very little of this orientation.^{xvii}

More recently, the National Environment Policy (NEP 2006), in its preamble also stresses the need to recognize the vital role that natural resources play in providing livelihood and life support ecological services. It acknowledges that "sustainable development concerns in the sense of enhancements of human well-being, broadly conceived, are a recurring theme in India's development philosophy." *The dominant theme of this policy is that while conservation of environmental resources is necessary to secure livelihoods and well-being of all, the most secure basis for conservation is to ensure that people dependent on particular resources obtain better livelihood from the act of conservation, than from degradation of resources.* Thus it clearly acknowledges the close link between peoples' livelihoods and conservation prerogatives. In the case of protected areas, it states: "Conservation of wildlife, accordingly, involves the protection of entire ecosystems. However, in several cases, delineation of and restricting access to such Protected Areas (PAs), as well as disturbances by humans in these areas have led to man-animal conflicts. While physical barriers and better policing may temporarily reduce such conflict, it is also necessary to address their underlying causes. These may largely arise from the non-involvement of relevant stakeholders in identification and delineation of PAs, as well as the loss of traditional entitlements of local people, especially tribals, over the PAs." In its goals, it therefore talks about "participation of local communities", and the need to "harmonize ecological and physical features with needs of socio-economic development".

The NWAP and the NEP are, however, as yet at a conceptual level, with implementation still to begin. The NBSAP in its final form was not even accepted by the government, which instead produced a significantly watered down

NBAP that has no detailed recommendations on this issue. There are therefore very few official moves towards actual changes on the ground, especially in protected areas, towards a new paradigm of conservation that holds livelihood and survival rights as central.

On the other hand there are numerous people's initiatives towards integrating conservation and livelihood. Most prominent are the hundreds, perhaps thousands of examples of community conserved areas (see Box 1). These still cover only a small proportion of India's countryside, but are significant in themselves and for the potential they represent.

Box 1:

Community conserved areas in India^{xviii}

Sacred sites and species were once extremely widespread across India, according to one estimate covering perhaps about 10% of many regions.^{xix} These included forest groves, village tanks, grasslands, and individual species such as those named in Section 2 above. Unfortunately, the forces of commercialization, cultural change, population increase, and development projects have destroyed many of these sites. But though considerably less in number and coverage, they are still common; researchers estimate that there may still be between 100,000 and 150,000^{xx}. Many of the sacred groves have preserved remnant populations of rare and endemic species, sometimes in their original and undisturbed form, that have been wiped out elsewhere. In general such areas are quite small (sometimes only a handful of trees), but there are also large ones like the Mawphlang Sacred Grove in Meghalaya which covers 75 hectares. In fact researchers from the North East Hill University have recorded 79 sacred groves in Meghalaya, ranging in size from .01 to 1200 ha, of which about 40 range between 50ha to 400ha^{xxi}. Interestingly, in some parts of India, communities have designated new forest areas as sacred in order to protect them. For example in Uttaranchal in the late 1990s, a number of village communities devoted parts of their forests to the goddess till such time that the forests are completely regenerated.

Dozens of heronries (roosting and nesting sites of migratory and local birds, particularly water birds) are being protected by communities that live around them. Trees in or near village ponds are often the favourite nesting and roosting sites for pelicans, storks, herons, egrets, ibises, and other waterbirds. Well-known examples include Kokkare Bellur in Karnataka; Nellapattu, Vedurapattu, and Veerapuram in Andhra Pradesh; Chittarangudi and Vedanthangal in Tamil Nadu, and many others (some of which have become officially protected sanctuaries). Many of these harbour globally threatened species like the Spottedbilled pelican.

Wintering waterbird populations also find a safe haven in many wetlands within or adjacent to villages whose residents zealously guard them. Mangalajodi village in Orissa, on the edge of the Chilika lagoon, harbours several hundred thousand migratory ducks and waders. From being a village full of bird catchers (with substantial income coming from selling these birds), the residents are now offering complete protection against hunting and other disturbances. In Uttar Pradesh, Amakhera village of Aligarh district is home to a large number of migratory birds, which the villagers are careful not to disturb even while withdrawing irrigation and drinking water. Patna Lake in Etah District of the same state, can support upto 100,000 water birds in a favorable season. The lake was declared a wildlife sanctuary in 1991 but has been protected for centuries by the locals as a sacred site. Sareli village in Kheri District of Uttar Pradesh supports a nesting population of over 1000 Openbill storks, considered harbingers of a good monsoon. As they feed on snails, villagers also consider them useful in controlling the spread of diseases^{xxii}.

In Orissa, Andhra Pradesh, and other states, tens of thousands hectares have been regenerated and/or protected by village communities. This is usually on their own (including in many cases by setting up all-women forest protection teams as at Dengejheri village in Orissa), or occasionally through government-supported programmes like joint forest management. The biodiversity value of these forests is considerable, including several threatened mammal and bird species. In some parts of Orissa, elephants are reported to be frequenting the community conserved forests, having moved in here from their earlier ranges that are disrupted by highways and railway lines and industries. In Orissa alone, there are believed to be more than 10,000 village forest protection committees. In the Ranpur block near Bhubaneswar, 180 conserving villages (many of them *adivasi* settlements) have together created a federation. This is to enable combining their initiatives at a landscape level, to maximize harmony and reduce conflicts, and to provide a unified organization to dialogue with the government or outsiders.

In Nagaland, several dozen villages have over the last decade or two, conserved natural ecosystems as forest or wildlife reserves, the latter dedicated exclusively or predominantly to wildlife conservation. One of the biggest is the

Khonoma Tragopan and Wildlife Sanctuary, spread over 20 sq km, where hunting and resource extraction is completely prohibited; in another 50 sq km or so, very minimal resource use for home use only is allowed. Amongst the earliest initiatives were the forest and wildlife reserves set up by Luzophuhu village in Phek district, and the Ghoshu Bird Sanctuary declared by Gikhiye village in Zonheboto district, both in the 1980s. Many of these are recognized as Important Bird Areas. Given the indiscriminate hunting that this state has witnessed in the last 3 decades, these efforts are crucial in giving Nagaland's unique biodiversity a renewed lease on life.

In Uttarakhand, some of the state's best forests are under the management of Van Panchayats (VP) set up several decades back, mostly in the Kumaon area (though by no means are all VPs well conserved).^{xxiii} Some of these are very large, for example Makku VP that covers roughly 2000ha. Of the 2240 sq km stretch of Gori Ganga River Basin, 1439 sq km is under the management of the village VP. This area forms an important corridor between, Nandadevi Biosphere Reserve and Askot Wildlife Sanctuary, which are critically important for highland biodiversity. In addition, villages such as Jardhagaon, Lasiyal and Nahin Kalan in Tehri Garhwal district, influenced by the Chipko movement, have regenerated and protected hundreds of ha. of forests and helped renew populations of leopard, bear, and other species.

In Bongaigaon district of Assam, the villagers of Shankar Ghola are protecting a few hundred hectares of forest which contains, amongst other things, a troupe of the highly threatened Golden langur. At Khichan village (Rajasthan), villagers provide safety and food to the wintering Demoiselle cranes, which flock there in huge numbers of up to 10,000. Several lakh rupees are spent by the residents on this, without a grudge or grumble. In Goa, Kerala, and Orissa, important nesting sites for sea turtles such as Galjibag and Rushikulya beaches, have been protected through the action of local fisherfolk.

With help from the NGO Tarun Bharat Sangh (TBS), several dozen villages in Alwar district (Rajasthan), have reconstructed the water regime, regenerated forests, and helped revive populations of wild herbivores, birds, and other wildlife. Bhaonta-Kolyala villages have even declared a "public wildlife sanctuary", over 1200 ha. In 1800 hectares of deciduous forest, Gond *adivasis* of Mendha (Lekha), Gadchiroli district (Maharashtra), have warded off a paper mill from destroying the bamboo stocks, stopped the practice of lighting forest fires, and moved towards sustainable extraction of non-timber forest produce.

Quite a few sites conserved by communities have been recognized to be of such wildlife value that they have been declared wildlife sanctuaries or national parks by state governments. In Punjab, lands belonging to the Bishnoi with considerable blackbuck and chinkara population, have been declared the Abohar Sanctuary. Several traditionally community managed heronries in southern India, such as Nellapattu, Vedanthangal, and Chittarangudi, are now wildlife sanctuaries. Many grassland areas which had traditional pastoralism that sustained threatened bird populations, have been declared bustard sanctuaries (such as Karera in Madhya Pradesh). In some cases this has helped to stave off outside threats, but in several cases, it has transferred the responsibility of conservation away from villagers to government agencies who do not always have the resources or the zeal to carry out their duty, as a result of which the areas have suffered neglect and decline. In the case of Karera it even led to the complete disappearance of the Great Indian bustard. In most cases the declaration of the sanctuary led to significant restrictions on the people and consequent conflicts with the local people.

The range of *mechanisms* used by communities in CCAs is fascinating. At virtually all sites, the community has formed *rules and regulations*, and penalties for anyone violating these. At some places the *penalties* differ depending on the nature of the violation, or even on the class of the offender, with poorer people being fined less! Usually also, there is an *institutional mechanism* set up to protect the area, such as forest protection committees, youth groups, wildlife protection groups, women's committees, or even gram sabhas (village assembly) as a whole. *Security of tenure* of the land/resources being conserved, or the confidence that the community could continue with its initiative irrespective of the legal ownership of the land, is key to a successful initiative. A strong *leadership* from within the community, and often a catalytic or supportive role by government agencies or civil society organisations from outside, is crucial to successful conservation.

But CCAs also face a host of problems. *One of the greatest is that India has, till recently, not recognized these efforts and has a very inadequate supportive policy environment.* A number of legal provisions do provide some space to give backing to CCAs, but all of them have limitations. For instance, the Forest Act of 1927 provided for the handing over of Reserve Forests to communities to manage as Village Forests, but this provision has hardly ever

been used. In 2003 a category of “community reserves” was added to the Wild Life (Protection) Act, and could have helped provide much-needed legal backing to CCAs. Unfortunately, it is very restrictive, as it is allowed only on “community or private” lands (it appears that this does not include government lands, though clarity is needed on this), whereas most common lands where CCAs are located, are on government lands! The Biological Diversity Act 2002 could provide some support, if its category of “Biodiversity Heritage Sites” is appropriately defined (detailed guidelines to this effect are under finalisation at the time of writing). Additionally, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, could provide powerful legal backing to forest CCAs as it gives a right to people to protect forests as “community forests”, but this will depend on the implementation mechanism (as of mid-2009, very few communities have claimed community forest rights, and only a handful of these claims have yet been granted; see Section 7 below).

Administrative programmes such as Joint Forest Management (JFM) schemes or Ecodevelopment Schemes are usually the only avenues available to government functionaries or communities to give governmental support to CCAs. However, these schemes have severe limitations: they may not be applicable to many CCAs; or the conserving communities may not wish to bring their areas under these schemes as it entails greater government control. In several instances the imposition of these schemes has resulted in the breakdown of previously well functioning community initiatives, especially where parallel institutional structures have been set up by the government. There is hope that a new scheme for wildlife conservation outside PAs, in the 11th 5 Year Plan, will provide sensitive support, if the guidelines prepared by a committee set up by the MoEF (to be notified at the time of writing) are adhered to.

Appropriate legal and policy support is urgently needed, especially for the many CCAs that are *threatened* by mining, hydro-electricity and irrigation projects, urban expansion, industrialisation, Special Economic Zones, and other so-called ‘*development*’ projects. The locally sustained economies of CCAs are not seen as contributing to the economic security of the country. For example, several forests conserved by communities in Orissa have been destroyed or are threatened by the furious pace of industrialization that the state government has imposed on its citizens.^{xiv} Despite a widespread community forestry movement in states like Orissa there is still *no state level policy* to facilitate or support these initiatives. These forests are either reserved forests under the Forest Department’s control, or disputed forests which can be claimed by the government at any point in time.

The conserving communities are highly influenced by processes outside of the community or the village, including the *neo-liberal economic policies and open market systems*. Most communities are now dependent on the markets and money. However, the markets with which these communities interface are often highly exploitative. Government policies often end up supporting the exploitation. For example many villages surrounded by an abundance of NTFP, would like to develop a sustainable market for these produce or items made from them. However, tendu patta (*Disopyros melanoxyton*), Mahua (*Madhuca indica*) and other NTFP that they collect have been nationalised by the government and cannot be sold in the open market. This makes collectors dependent on the government approved contractors or government run purchasing centres. Neither of these give the collectors desired prices. In most cases this stranglehold has continued despite the Panchayat (Extension to Scheduled Areas) Act 1996, which provided for tribal ownership of NTFP; the next few years will tell if yet another legislation enabling communities to claim NTFP (and other forest) rights, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, will achieve the breakthrough (see Section 7).

Wider market forces and ‘*modern*’ lifestyles are changing aspirations and rendering traditional values less effective amongst the youth, and also not replacing these with effective new conservation ethics. The modern system of *education* does not inculcate a respect for local values, and rubbishes the knowledge systems that formed the basis for traditional conservation. The youth are getting more and more isolated from local realities and drifting away, threatening the human and institutional base of many CCAs. Often a great amount of effort and time is spent by the villagers in protection and patrolling of the forests. This is at the cost of wages that they could have earned. ‘Remoteness’ of the areas does not bring about other employment opportunities easily. In some cases because of appropriate support, the livelihoods of local people have been improved and strengthened. But in many cases the communities are still struggling to achieve this, and the youth in particular face serious employment challenges. It is only in a few CCAs that the youth are at the forefront of conservation and sustainable livelihood initiatives, but these few are signs of hope.

In order to overcome many of the above constraints, CCAs need a number of supportive actions. Some policy level support has come in the form of recommendations in the National Wildlife Action Plan (NWAP) and the final report

of the National Biodiversity Strategy and Action Plan (NBSAP), and a new programme to support CCAs as part of the wildlife scheme in the 11th 5-Year Plan^{xxv}. However, these are mostly still on paper, and need to be translated into actual action. These efforts also need to be taken into account by the conservation laws and policies to define their future course of action.

6. What Measures Are Being Taken to Tackle Threats by ‘Development’?

Faced with severe natural resource related conflicts, and threatened by ‘development’ policies and projects, social movements towards regaining control over lands and common property have been gaining strength for several decades now. Human rights groups fighting against injustices are also beginning to talk about local people being politically empowered not only to secure livelihoods but also to protect and conserve their surrounding natural resources. There are very many instances of natural ecosystems and wildlife populations having been saved by local communities from certain destruction. As examples, several big dams that would have submerged huge areas of forest or other ecosystems, have been stopped by people’s movements. This includes proposed dams like the Bhopalpatnam-Ichhampalli in Maharashtra and Chhattisgarh, which would have submerged a major part of the Indravati Tiger Reserve, Bodhghat in Chhattisgarh, and Rathong Chu in Sikkim. Many such movements have saved areas that are equal in size if not sometimes bigger than official protected areas.

Giving strength to these movements is the practice of community based conservation (as given in Box 1 above). Additionally, many civil society organizations have taken the battle to courts, or to political forums, though mostly with little success in the case of big industrial or infrastructure projects. One strong presence (though not consistent) has been the Centrally Empowered Committee (CEC), established on 17 September 2002 through a Gazette Notification issued by the Ministry of Environment and Forests, under the directions of the Supreme Court dated 9-5-2002 and 9-9-2002 in W.P. 202/95 and 171/96. The CEC was constituted to look into violations of forest related laws and processes. It has investigated and often given clear advice against destructive projects to the Supreme Court (though it has been less sensitive to people’s livelihood concerns, see Section 8).^{xxvi}

Advocates of community rights assert that laws like the Forest Rights Act can be powerful tools against destructive projects. Though it is too early to gauge the conservation impact of this Act, a significant new initiative that could strengthen community struggles against deforestation is a circular issued by the Ministry of Environment and Forests, dated 30 July 2009 (http://envfor.nic.in/mef/Forest_Advisory.pdf). This requires state governments to provide proof, while applying for diversion of forest land under the Forest Conservation Act, that they have complied with provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (see Section 7 for details of this Act). This includes having received consent from the relevant communities for the proposed diversion.

Meanwhile some battles against destructive development are being strengthened by collaborations between local communities and civil society organizations. In the case of the struggle against proposed mining by the multinational corporation Vedanta, in the Niyamgiri hills of Orissa (home to Dongaria Kondh adivasis who consider the forested hills as sacred), conservation and social action groups in Orissa and Delhi have helped the adivasis with legal battles and expert studies to show the biodiversity value of the area. Civil society organizations in Delhi, Pune, and elsewhere are providing crucial technical and advocacy support to local community groups in several states of north-east India, and in the western Himalaya, where governments are proposing a massive number of large river valley projects with grave ecological and livelihood consequences.

7. What Are the Most Recent Policy and Legal Measures Influencing the Situation?

As a result of social movements against injustice towards forest dwelling communities caused by forest and conservation policies, the year 2006 saw two legislative developments that have created the potential of democratizing forest and conservation management and providing greater benefits to local communities. However, their implementation faces many complex issues of social and political dynamics and local capacities, and some concerns about their impacts on conservation itself.

The passage of the **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006** (in short referred to as the Forest Rights Act) is an important and welcome step towards reversing historical marginalization of the tribal (indigenous) and other forest-dwelling people of India. This Act mandates the vesting of 14 kinds of rights over forest land and forest produce on two categories of communities: scheduled tribes

(i.e. indigenous people who are listed in a schedule of the Indian constitution), and “other traditional forest-dwellers” defined as those living in forests for at least 3 generations.

The provisions of the Forest Rights Act relevant to PAs are of special interest. The Act specifies that all rights need to be identified and established regardless of the status of the forest, including inside PAs. Furthermore, it mandates a process for determining “critical wildlife habitats” inside PAs, and assessment of whether people’s activities within such habitats can be in consonance with conservation. If “irreversible damage” is established, communities can be relocated with their informed consent, and after ensuring the readiness of relocation and rehabilitation. Gram sabhas (village assemblies) have also been empowered to protect wildlife and biodiversity, and to keep destructive activities out of the forests in which they are given rights.

While the Act is certainly a significant step towards democratizing conservation practice and extending long-denied rights to livelihood of communities dwelling inside forests, it has also caused serious concern about its potential impact on conservation itself. In the context of PAs, for instance, it is not clear if the rights (e.g. to forest resources) could over-ride the steps necessary to achieve conservation, if no limits based on ecological criteria are set for the extraction of resources. Specific conservation *responsibilities* along with *authority* have not been specified in relation to rights-holders, though gram sabhas of which they are a part are *empowered* to ensure conservation, and are supposed to set up committees for this purpose. The precise relationship with the WLPA 1972 (which governs PAs) is unclear, leading to possible confusion on the ground on what action can be taken if a right granted under the Act violates a provision of the WLPA. One major concern is related to Section 3(2) of the Act, which states that “notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for...” development activities, specifying a list of 13 development activities, for each of which one ha of land (without felling more than 75 trees) can be diverted. This could cause fragmentation in deep forests, or be misused to create major infrastructure by vested interests. On the other hand, activists also argue, with some justification, that the provision of community rights to manage and protect forests, and to safeguard habitat, along with greater tenurial security, could be powerful bases for enhancing community based conservation. Unfortunately, implementation as of early 2009, has mostly been of individual land rights, with very few claims relating to community forests having been made or admitted.^{xxvii}

In 2008, a number of petitions were filed in the Supreme Court and several High Courts, challenging the Forest Rights Act as being constitutionally ultra vires or in other ways detrimental to the environment and people of India. Some High Courts have issued interim orders specifying that granting of *pattas* or felling of trees will require the Courts’ permission, till the matter is disposed; as of mid-2009, however, at least two of these (Andhra Pradesh and Orissa) had already lifted their restrictions.

Interestingly, the second legislative measure is within the WLPA itself. In late 2006, the **Wild Life (Amendment) Act** was passed, setting up a National Tiger Conservation Authority. This was in response to a long-standing demand from conservation groups, and made urgent by the disappearance of tigers from one of India’s well-known tiger reserves, Sariska (Rajasthan). The Amendment brought in processes for notification and management of Tiger Reserves (which makes them a 5th category of PA under the WLPA), and the setting up of a Wildlife Crime Bureau. It has specified (similar to the Forest Rights Act mentioned above) that “inviolable” areas need to be determined in a participatory manner, and that relocation from such areas needs to happen only with the informed consent of communities. Areas of concern pointed out by conservationists include the dropping of a number of provisions of the WLPA from being operative inside Tiger Reserves (though it has been clarified by the NTCA that this is not so and all provisions still apply), and the somewhat loose language used (e.g. the rights of “local people” where this term is not defined) with regard to forest rights. In late 2006, a legal challenge was mounted by some conservation organizations against such provisions; as of early 2009, this had not resulted in any orders staying the operation of the amendment.

The above developments also need to be placed in the context of some other legal and policy measures that are potentially powerful tools for democratizing governance and making governments more accountable to both conservation needs and people’s livelihood rights and needs. These include the Right to Information (RTI) Act, and the National Rural Employment Guarantee Act (NREGA). Many civil society organizations are already making good use of the RTI to obtain information related to conservation and environment, that was previously difficult to obtain. Kalpavriksh, for instance, has filed over 100 applications for information on a range of subjects related to environmental clearance of development projects, biodiversity access approvals, critical wildlife habitats, and so on; it has also obtained significant orders from the Chief Information Commissioner directing the disclosure of policy

documents even when under formulation. Grassroots organizations are also attempting to combine the NREGA with other laws and programmes, to regenerate land and water resources.

Interesting possibilities exist of combining various laws and schemes, to optimize the integration of conservation and livelihoods. For instance, a community could claim rights to forest resources and management under the Forest Rights Act or the powers to manage forests under the Forest Act, set up a conservation committee under the same Act or a Biodiversity Management Committee for village level planning under the Biological Diversity Act, declare its area a Biodiversity Heritage Site under the same Act, apply to the MoEF for funds under its scheme on conservation outside protected areas, and use the NREGA to generate livelihoods linked to conserving and using the forest. Some initial work towards such combined usage has been done in a few villages in Maharashtra and other states.^{xxviii}

8. Who Has Been and Is Shaping Conservation Policy and Practice?

Till very recently, formal conservation policy and practice in India has mostly been shaped by a small minority of politically or economically influential people, within and outside the government.^{xxix} Conservationists (some of them former hunters, and/or from royal families, others serious naturalists from research backgrounds; some senior bureaucrats in relevant departments, others from civil society organisations) close to Mrs. Indira Gandhi were instrumental in utilizing her own proclivity towards conservation, to push through a radical series of measures in the 1970s, including the WLPA and Project Tiger. The dominance of the Congress as a political party in that period also ensured that these measures were accepted by state governments without much explicit resistance.

There has been a sea-change in this situation in the last decade or so. Changes in centre-state politics brought about by the increasing ascendancy of other political parties, the growing power of state governments, and the lack of interest in conservation issues amongst a series of prime ministers after Mrs. Gandhi, have been amongst the key factors in weakening central diktats on conservation. Simultaneously the shift to a globalised economy has further diluted the focus on conservation, as described above in Section 4. But equally important, a range of civil society actors have forced their entry into the conservation policy making domain, and/or into on-ground processes. These include communities in areas where they have organized themselves or been helped by NGOs, social activists of various hues, independent researchers and academics, environmental groups with an unconventional view of conservation, and political parties (in particular the Left). These actors have brought the social issues of conservation much more to the fore than ever before, and are increasingly forcing the establishment to not only take cognizance of such issues but to reflect them in policy. The enactment of PESA in 1996, inclusion of two new categories of PAs in the 2002 amendment of the WLPA, both with much greater (though still very inadequate) role of communities, the National Wildlife Action Plan and the Final Technical Report of the National Biodiversity Strategy and Action Plan, provisions relating to rights and consent in tiger reserves in the 2006 amendment to the WLPA, and the promulgation of the Forest Rights Act in 2006, are examples of their influence.

Undoubtedly too this influence has been aided by officials within the conservation bureaucracy who think differently from their more conventional colleagues. Many such officers are now more aware of the ground realities and would like to move towards resolving some of the local conflicts for a greater good of conservation. Much feedback has also gone from ground staff which is stuck with a situation of having to implement provisions of WLPA but not being able to do so because of people's opposition. A number of such officials have shown different ways of doing things on the ground (e.g in promoting tribal livelihoods linked to Periyar Tiger Reserve in Kerala, or providing employment options to grazer communities in conservation areas of Sikkim), and have articulated policy level changes with more conviction. Additionally, other wings of government, such as the Tribal Affairs Ministry at the centre in the case of Forest Rights Act, have also taken more pro-active role in deciding conservation policy.

Another critical influence has been that of the judiciary. The Supreme Court has a 3 decade old history of active interest in environmental matters (starting with some of the earliest public interest litigations such as those on mining in the Doon Valley), but this interest has become decidedly more pro-active and far-reaching in its impacts in the first few years of this millennium. Two cases in particular have impacted conservation and rights issues across the country: the T.N. Godavarman Thirumulkpad Vs Union of India (WP 202 of 1995) and the Centre for Environmental Law (CEL), WWF vs Union of India (WP 337 of 1995). Virtually every aspect of forestry and wildlife in India, and virtually every bit of forest land in the country, has come under the purview of the Court through these cases, to the extent that some legal analysts consider it a case of the judiciary far over-stepping its constitutional limits.^{xxx} The Court has often shown a strongly conservationist bent of mind, which has been useful in

putting a check on destructive practices and projects; but simultaneously it has also often been biased against the livelihood concerns of people dependent on forests and other ecosystems. It will be interesting to see what view it takes on the petitions filed by NGOs against the Forest Rights Act.

For the moment, the interplay of these various forces in the conservation-rights arena, is extremely chaotic. On the one hand actors with a predominantly social agenda have gained much greater influence. On the other hand conventional conservationists have retained some of their stronghold on conservation policy. The former's role is witnessed in WLPAs 2006 and Forest Rights Act; the latter's in the continued resistance to more democratic forms of PA management, the rush to notify Tiger Reserves without due consultative process, or the stalling of the Rules to be notified under the Forest Rights Act for several months. The latter have had a powerful official ally in the Centrally Empowered Committee (CEC), mentioned in Section 6 above. Peopled by a small handful of very strong conservationists, the CEC has played a significant role in stalling or stopping a number of destructive 'development' projects in sensitive ecosystems (and indeed has become one of the few remaining effective points of environmental resistance *within* the system), but it (like the Supreme Court) has also been clearly biased against the livelihood interests and rights of people dependent on such ecosystems (for instance in its advice to evict fisherfolk and remove all traces of settlement in Jambudwip island of the Sundarbans in West Bengal, in 2003).

Conservation policy-making is currently like a tug of war between those fighting for social justice, and those straining to retain exclusionary conservation. Decisions swing back and forth, and often the final decision is a messy attempt at compromise which no-one is happy with....but which everyone also uses to their own advantage. In all this, both genuine democratic functioning as also decision-making based on sound knowledge are casualties. Witness for instance the attempt by the MoEF to rush through a process of identifying and declaring 'critical tiger habitats' (under the WLPAs 2006), and listing the number of villages that will need to be relocated from these. This (and the somewhat slower identification of 'critical wildlife habitats' under the FRA 2006), is reportedly happening in the absence of a number of steps that are supposed to be taken, including the establishment of people's rights, the fresh notification of tiger reserves, public consultations on what should be critical habitats, and processes of seeking consent from affected communities. Guidelines issued by the MoEF to state governments, for this purpose, also contain a number of other serious deficiencies (see for instance, the critique by a number of organizations under the banner of Future of Conservation in India network, http://www.atree.org/cth_cwh.html). Fortunately at least in the case of 'critical wildlife habitats', states are going slow, so there is an opportunity to influence them into using due knowledge-based and democratic processes.

Several organizations that are alarmed by the increasing polarization between conservationists and human rights activists, and by the ad hoc and haphazard manner of decision-making that has characterized conservation policy in the last few years, have attempted to start a process of working out a middle path^{xxxii}. Starting with a national workshop on "Future of Conservation in India" in early 2006, followed up with another national workshop in early 2007, these groups have a key goal of trying to foster dialogues towards mutual understanding and joint action, and to work together towards a more knowledge-based, equitable, and democratic approach to conservation (see statements and reports from these workshops, at www.kalpavriksh.org). In response to what they see as both threats and opportunities from the recent legal changes, they have issued detailed notes on the suggested process for identifying critical wildlife habitats, for moving towards co-existence in areas where wildlife and people will continue to live together, and for a just process of relocation in areas where inviolate wildlife areas need to be created (see notes at www.kalpavriksh.org, and http://www.atree.org/cth_cwh.html). In 2008 they organized a national workshop on critical wildlife and tiger habitats, and made detailed recommendations to the centre and states on following knowledge-based, democratic processes. Unfortunately, though, these groups have not *yet* built the advocacy strength and presence in the corridors of power, to be influential in conservation decision-making.

A number of organizations and people are also working on the ground, towards more inclusive forms of conservation. For instance, the Nature Conservation Foundation, Snow Leopard Trust, and Snow Leopard Conservancy, work with communities in Himachal Pradesh and Jammu and Kashmir (Ladakh), for conservation of various species.^{xxxiii} Samrakshan is working with the Garo community in Meghalaya, on elephant conservation.^{xxxiii} The Bombay Natural History Society is working with fishing communities in the Lakshadweep Islands, towards community-based lagoon conservation.^{xxxiv} In parts of north-east India, WWF-India, Wildlife Trust of India, Aaranyak, Nature's Foster, and others are helping build community capacity to conserve threatened primates such as the Golden langur and Hoolock gibbon.

In all this, the influence of international agencies and processes is as yet unclear. Major multilateral or bilateral donors have been including more human rights and social justice components in their funding guidelines and policies, though this is not always necessarily reflected in the projects they fund. An example of this is the Government of India's proposal for funding from the Global Environment Facility (GEF) for a project on "Biodiversity Conservation and Rural Livelihood Improvement in Forested Landscapes". In its project document (contained in the World Bank's Project Appraisal Document of March 2006), there is the usual rhetoric of participatory conservation and so on, but the operational components are more or less business as usual, with the Forest Department retaining all powers, and issues of rights *within* protected areas being sidestepped^{xxxv}. This has been pointed out to the Bank, including in terms of the ways in which a conventional approach would not be in line with the Bank's own policies, but there has been little sign of the Bank reconsidering...or if there is such reconsideration, the Bank has not been transparent enough to indicate this to the critics.

One international influence that could have made quite a difference is that of the CBD's Programme of Work on Protected Areas, which clearly commits countries to more inclusive, participatory, power-sharing approaches (see Box 2). Civil society attempts at trying to get information from the MoEF on how it is considering implementing this POW, however, have not succeeded^{xxxvi}, and there are few signs of policy rethinking based on the POW within official wildlife circles; if there is some move towards more democratic and inclusive policies, it is because of social activism from outside, resulting in progressive legislative changes in 2006 (as described in Section 7 above). In its 3rd national report to the CBD, the Government of India is silent on progress relating to governance aspects of protected areas; in its 4th national report (submitted in May 2009), it has the following to say:

"Several Provincial (State) Governments have developed enabling legal provisions to facilitate the process and allow some benefits to be shared at the site level. However, no Federal (Central) legal framework is currently in place for equitable sharing of costs and benefits arising from the establishment and management of PAs across the country. No assessments at a countrywide scale have been made of the economic and socio-cultural costs and benefits of PAs, particularly for indigenous and local communities. Recently, the GOI has enacted the Forest Rights Act, 2006 for empowering the tribal communities and other forest dwellers and protecting their access and use of forest resources. However, the impact of this legislation is yet to be observed..."

"Besides this, at the site level, PA managers engage and ensure participation of local communities in the management of PAs in various ways. Site-specific eco-development programmes involving local communities and aimed at generating livelihoods for conservation are now initiated in almost all PAs of the country. However, more requires to be done in this respect."

The last line (about "more" needing to be done) is a classic understatement. In fact there are virtually no instances where local communities are involved in the *management* of PAs, other than as labour for fire-fighting, anti-poaching activities, etc. There is no formal institutional structure for this; as mentioned above, the only one approximating this, Sanctuary Advisory Committees, have not been established anywhere.

Box 2. Community Based Conservation: The International Context

The imperative of moving towards participatory conservation has been underlined by a number of recent international events: the World Parks Congress (Durban, 2003), the 7th Conference of Parties of the Convention on Biological Diversity (Kuala Lumpur, 2004), and the World Conservation Congresses of 2004 (Bangkok) and 2008 (Barcelona).

The **World Parks Congress**, held in Durban in September 2003, was the fifth of such congresses, organised every 10 years by the World Conservation Union (IUCN). It was by and large the biggest ever gathering of conservationists, with over 5000 participants. Amongst its major outputs were the Durban Accord and Action Plan, the Message to the Convention on Biological Diversity, and over 30 Recommendations on specific topics. All these outputs strongly stressed the need to centrally involve indigenous peoples and local communities in conservation, including respecting their customary and territorial rights, and their right to a central role in decision-making. The biggest break-through was the recognition of community conserved areas (CCAs) as valid and important form of conservation. The Durban Action Plan and a specific recommendation on CCAs, highlighted the need to incorporate and support CCAs as part of national PA systems. (see www.iucn.org/themes/wcpa/wpc2003, for copies of these documents).

The 7th **Conference of Parties to the Convention on Biological Diversity**, held in Kuala Lumpur in February 2004, had ‘protected areas’ as one of its main topics. Since the CBD is a legally binding instrument, its outputs are of great significance for all countries. One of its main outputs was a detailed and ambitious Programme of Work (POW) on Protected Areas. A crucial element of the POW related to “Governance, Participation, Equity, and Benefit-sharing”, under which actions explicitly urge countries to move towards participatory conservation with recognition of indigenous/local community rights. As in the case of the World Parks Congress, the POW also made a major breakthrough in committing countries to identify, recognise, and support CCAs. (see www.biodiv.org, to download the POW).

Due to these and other processes, all countries that are party to the Biodiversity Convention, including India, are now committed to

- Conserving a fully representative set of wildlife habitats
- Ensuring community participation at all stages of PA planning, establishment, governance, and management
- Giving full recognition to rights and responsibilities of communities
- Promoting various PA governance types including community conserved areas
- Developing policies with full participation of communities
- Ensuring prior informed consent before any relocation

In both the above processes, a key role was played by the Theme group on Indigenous and Local Communities, Equity, and Protected Areas (TILCEPA, www.tilcepa.org, currently renamed the Strategic Direction on Governance, Equity, and Livelihoods in Relation to Protected Areas). TILCEPA is a group of two commissions of the World Conservation Union (IUCN), the World Commission on Protected Areas (WCPA) and the Commission on Environmental, Economic, and Social Policy (CEESP). TILCEPA coordinated the Communities and Equity cross-cut theme at the World Parks Congress, which included several case studies and analytical inputs on CCAs. Of great significance was its role in facilitating the participation of community representatives from CCA sites from different parts of the world. TILCEPA members were also a part of an expert group set up by the CBD Secretariat, to make inputs to the draft Programme of Work for discussion at the Kuala Lumpur COP. It is because of their involvement that a separate section on “Governance, Participation, Equity, and Benefit-sharing” was added. This section included specific action points on CCAs.

In February 2004, the MoEF committed the Government of India to an ambitious target under the Convention of Biological Diversity (CBD): moving towards full participation of adivasis and other local communities in the management of wildlife conservation, and in receiving benefits from such conservation, by 2008. However, their recent circulars and orders violate all these provisions of the international agreement, to which India is legally bound.

Globally, implementation of the governance and equity parts of the CBD Programme of Work on Protected Areas has been poor, as noted by the CBD Secretariat and by governments meeting at the 9th Conference of Parties in Bonn, May 2008. The Indian performance on these elements has been very inadequate, with no signs of governance changes in the making of policies or the management of protected areas (though this may happen indirectly as a result of the Forest Rights Act 2006, as described above in Section 7). In 2008, however, there has been a move to recognize and support community conserved areas through a scheme in the 11th 5-Year Plan.

9. How Will the Conservation and Rights Equation Look in 2025?

Given the complex interplay of actors and influences discussed above, there are at least five scenarios for the future:

1. ***The empire strikes back:*** the renewed ascendancy of the conventional conservation paradigm, resulting in more exclusion of people and livelihoods issues, greater conflicts, but perhaps also better short-term ability to resist the forces of destructive ‘development’. The haste with which tiger reserves have been notified under the WLPA 2006, clearly in response to the tiger crisis but also in some cases in reported violation of the consultation and rights related provisions of both the WLPA and the FRA, is a sign that this paradigm is by no means a thing of the past. However, it is very unlikely that conventional conservation can last long, in the face of growing resistance and hostility from local communities, and the inexorable trend towards greater decentralization.

2. ***Human rights to the fore:*** a dominant role of human rights and social justice oriented approaches, resulting in conservation policy and practice becoming subservient to human interests, with mixed results on the ground including better conservation where communities are oriented towards this, and degradation where short-term economic and political interests are able to dominate. In some cases the articulation and implementation of the FRA is an example of this, in others it is a continuation of past land rights movements. For instance some political parties and some people's movements have openly encouraged new encroachment into forests (fortunately not, so far, on a very large scale), such as at Kawal Sanctuary in Andhra Pradesh (reportedly incited by the CPI(M)), in Udaipur region of Rajasthan (as reported by the NGO Seva Mandir), and parts of western Maharashtra in the Narmada basin (as reported by local activists). However, the fact that this trend is not widespread, suggests that a narrow human rights approach is also not likely to continue for long.
3. ***An indefinite tug-of-war:*** a continued situation of human rights and conservation groups fighting against each other, being able to influence the government and on-ground processes in different directions, resulting in messy, direction-less policy and practice, and continued conflict. We expect this to be situation for at least the next few years, because diverse influences are continuing to work strongly on the government, and the government itself is unable or unwilling to take any dominant line. This in itself may not necessarily be detrimental, so long as those with diverse viewpoints increasingly realize the need to arrive at some common positions; this will hopefully then lead to the last situation below.
4. ***'Development' destroys us all:*** given the current path of economic growth 'at all costs', continued loss of substantial areas of conservation importance, as also of importance to the livelihoods of tens of millions of people. Unless the 2008-09 economic crisis puts paid to the rapid expansion of industry and commerce in India, this trend will continue for the next few years. More and more protected areas, or community conserved areas, or other parts of the landscape that are biodiversity-rich, and more and more sites crucial for local biodiversity-based livelihoods, will be given up for dams, mining, ports, expressways, cities, sports and tourism facilities, and so on. We feel that this (along with scenario 3 above) will be the most likely scenario for the next decade or more.
5. ***Forging the middle path:*** a gradual paradigm shift to inclusive conservation that privileges both wildlife protection and people's livelihoods, resulting in strengthening both, building a larger public constituency for conservation, and in the long run, greater ability to resist the destructive forces of unbridled economic growth and globalization while pointing to alternative forms of 'development'. This would then have to take into consideration planning at landscape (and seascape) level where natural resources and biodiversity outside of PAs are managed and used as effectively as the PAs are conserved. Hence bringing a much larger area in the country under appropriate management providing larger spaces for wildlife as well as ecosystem dependent people. Our hope and expectation is that in the long run, it is this scenario that will prevail. Some initial moves towards this are visible in the very many community-led natural resource initiatives, and the fewer but nevertheless significant official efforts at convergence of conservation and livelihoods, mentioned in various parts of the text above. But these are scattered and sporadic, and it will require many years, perhaps decades, for them to converge into a national (and global) alternative.

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