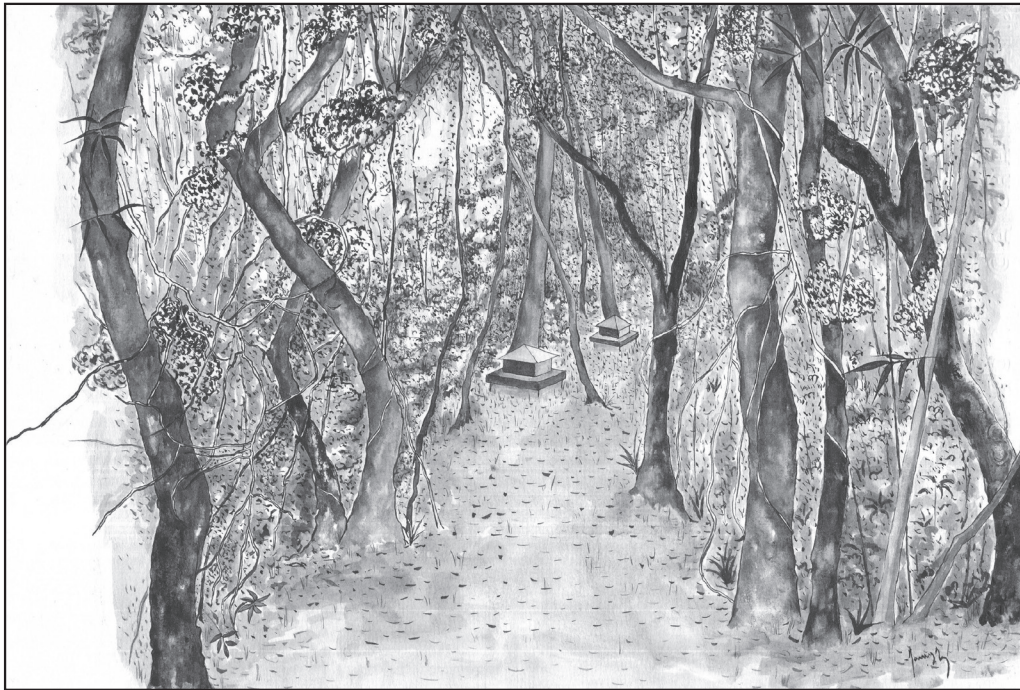


People in Conservation

Biodiversity Conservation and Livelihood Security



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Special Issue on Community Conserved Areas (CCAs)

Opening Words

The word “**Community**” is resonant and replete with multiple implications, meanings, and interpretations. A dictionary meaning of the word “community” as a large or small social group that shares something in common, such as norms, religion, values, or identity may or may not be satisfactory depending on what lenses one is wearing to understand such a concept. One dimension to what makes a community is that of the place it is located in. This gives rise to the question of boundary. Where does one community end and the other begin? This place could be a given geographical **area** (e.g. a country, village, town, or neighborhood) or even a virtual space through communication platforms¹. When speaking about communities dependent on natural resources, the question of areas that are conserved by communities becomes important. Is it right to say that a community can legally or traditionally own such an area forever or are such areas alienable to the government? If the latter, what becomes of the community whose existence is intrinsically connected to its relationship with a place, its natural environment and wildlife? Does it still remain a community in any meaningful sense? Another dimension that informs the idea of community is the set of durable relations that extend beyond immediate genealogical ties and which give the community members their identity, practices, and roles within social and natural constructs like family, kinship, village, government, forests, wildlife, totems, cosmos etc.

Some might say yes, a community should have all of the above attributes, and yet it would be something more than the sum of its parts! All of the above seem a bit abstract and lacking in emotional resonance – both good and bad – that community life entails. For example a shared sense of belonging has more to do with emotion, meaning, mutuality, relationship etc. even as it is informed by factors such as those mentioned above. So clearly, a community is made not only of tangibles but also intangibles. And it might well be argued that it is the intangibles as much as the tangibles that determine the level of well-being experienced by individual members within the community and by the community as a whole.

Communities exist in time. It will be no exaggeration to aver that the community has been in existence, in one form or another, from archaic times to the present. Doubtless it has had to adapt, through the ravages of time, by accommodating its form to the changing material conditions – from the hunter-gatherer stage up to what is called ‘capitalistic modernity’. Such a long history of evolution has obviously not been free of violence, strife and injustice. However, arguably, while the community has so far proved to be resilient, whether it will continue to do so remains to be seen! One reason for this is the valorizing

1. For example, one of the villages in Bhimashankar Wildlife Sanctuary where Kalpavriksh works has WhatsApp youth groups that plan activities for their community.

of the individual over the community that modernity brings about. On the other hand there are those who may argue that community might actually hamper individual autonomy and freedom. For example, in a complex society like ours, we can hardly ignore conflict driven social issues like caste hierarchy, entrenched patriarchy, and the accompanying social abuses.

Arguably, and broadly speaking, communities² can be classified as urban dwelling, rural and natural resource dependent. But is that enough? Such a classification, while it may look scientific at an abstract level, has often meant a skewed exploitative and oppressive relationship favoring one kind of lifestyle over the other, and has sometimes even resulted in annihilation of long-existing indigenous cultures and devastation of the natural world they inhabited and conserved. In the Indian context, we have already witnessed the tragic and devastating consequences of skewed forest governance regimes³ as well as policies that in the name of development tend towards one kind of lifestyle (urban-centric, resource extractive, consumerist) and which have had catastrophic consequences for natural resource dependent local communities and on community life. What does it do to the affected peoples to be denied access rights and control over their surrounding resources? What are the implications of destroying ecosystems that took more than a millennium to evolve while uprooting the communities that not only depended on them but also protected, regenerated, conserved and managed them for centuries? These are issues of duties, rights and justice, which for example the largely unimplemented Forest Rights Act tries to address with a view of reversing historical injustice.

From the above it is quite clear that if India’s natural world is to be saved, the role and importance of the community cannot be ignored. At the same time we have to avoid romanticizing the community as an idyllic one-size-fits-all solution for all problems besetting forest governance. Doing so can be self-defeating. For instance, the issue of respect for constitutional values of dignity and freedom of the individual may not always find easy traction within communities where gender discrimination and elite capture of power might be a norm rather than an exception.

Of late the term Community Conserved Areas (CCAs) has gained currency in the national discourse pertaining to the role communities can and do play in natural resource governance. Internationally the term Indigenous Community Conserved Areas (ICCAs) is being used. This issue of the newsletter tries to give visibility to some aspects of such CCAs and ICCAs.

- Milind Wani

2. The word community can be used to designate any conglomeration of human beings including, for example, people residing in a nation state (national community) or the world (global community).
3. For example some exclusionary aspects of the Wildlife Protection Act (1972).

1. Guest Column

Forest Rights Act - Providing a Space for Legal Recognition and Protection of CCAs in India

Author: Neema Pathak Broome⁴

It is now globally recognised that indigenous peoples (IP) and local communities (LC) have governed, used and conserved their territories for millennia. Such territories and areas are recognised to be amongst the richest and most intact ecosystems, on land and sea⁵. Internationally, the areas where diverse institutions and practices of IPs and LCs contributing to conservation are referred to by the umbrella term ICCAs – Indigenous Peoples' and Community Conserved territories and areas (as per IUCN) and indigenous and community conserved areas (as per CBD)⁶. IUCN describes ICCAs as “**natural and modified ecosystems, including significant biodiversity, ecological services and cultural values, voluntarily conserved by indigenous and local communities through customary laws or other effective means**”⁷. These ICCAs include, among others, self-declared and strictly protected wildlife conservation areas, collective management of livelihood and economic activities, affirmation of spiritual and cultural values, customary law, and other aspects of sustainable socio-ecological systems and intricate systems of resource management of nomadic and pastoralist communities. Noticeably, ICCAs are not necessarily “protected areas” in the official connotation assigned to the term by different national governments. They **can be** protected areas (PA) if the requirements prescribed by the governments are met and if the relevant communities are willing. But this is neither automatic nor necessary for ICCAs to exist and play their role.

ICCAs in India

India has a rich history and tradition of conservation linked to the lifestyles and worldviews of the local tribal

and non-tribal communities. Conservation processes at these sites are intrinsically connected to local socio-cultural, economic, ecological and political realities. For instance sacred sites and species, considerably reduced now, were once believed to be widespread across India. Estimates suggest there could still be 100,000 to 150,000 such sites remaining, ranging from a small group of trees to extensive landscapes⁸.

An attempt was made in 2009 to document some ICCAs or what are more popularly called Community Conserved Areas (CCAs) in India⁹. This documentation included about 140 ICCAs but pointed towards this phenomenon being more widespread, with the presence perhaps of hundreds of more ICCAs covering a variety of ecosystems, including forests, marine and coastal areas, wetlands, individual species and sacred landscapes. Subsequently, more detailed documentation was taken up in Nagaland¹⁰, Madhya Pradesh and Odisha¹¹, indicating that ICCAs are set up and managed for a range of objectives and have different ecological and social contributions.

Legally speaking, CCAs in India have largely remained invisible and unrecognized for their significant contribution in achieving conservation as well as their economic, cultural, and spiritual values. In fact, the government-designated-and-managed protected areas¹² have been largely created on lands and waters which were traditionally used and governed by local communities and many were under traditional conservation regimes. Examples include the Orans¹³ in Rajasthan. However in the official designation and governance of these PAs, the local communities and local systems of governance, management and conservation were rarely taken into account. Globally, research is now indicating that local monitoring and control over resources, in most situations, leads to better conservation

4. Due to constraints we have not provided citations for each and every detail quoted in this article. Should you be interested in some information for which a citation has not been provided, you can write to the author at neema.pb@gmail.com
5. See: Sobrevila, C. (2008), as cited in Kothari, A. with Corrigan, C., Jonas, H., Neumann, A., & Shrumm, H. (Eds). (2012). Recognising and supporting territories and areas conserved by indigenous peoples and local communities: Global overview and national case studies. Technical Series no. 64. Montreal, Canada: Secretariat of the Convention on Biological Diversity, ICCA Consortium, Kalpavriksh, and Natural Justice.
6. See: Dudley, N. (2008). Guidelines for applying protected area management categories. Gland, Switzerland: IUCN.
7. See: Malhotra, K. C., Gokhale, Y., Chatterjee, S., Srivastava, S. (2007). Sacred Groves in India. Aryan Books International, New Delhi, and Indira Gandhi Rashtriya Manav Sagrahalaya, Bhopal, India.

8. See: Malhotra, K. C., Gokhale, Y., Chatterjee, S., Srivastava, S. (2007). Sacred Groves in India. Aryan Books International, New Delhi, and Indira Gandhi Rashtriya Manav Sagrahalaya, Bhopal, India.
9. See: Pathak, N. (Ed.). (2009). Community Conserved Areas in India: A Directory. Pune, India: Kalpavriksh.
10. See: TERI. (2015). Documentation of Community Conserved Areas in Nagaland. New Delhi, India: TERI.
11. See: UNDP. (2012). Community Conserved Areas in Odisha and Madhya Pradesh: A Directory. New Delhi, India: UNDP.
12. See: Stevens, S., Pathak Broome, N. and Jaeger, T. with Aylwin, J., Azhdari, G., Bibaka, D., Borrini-Feyerabend, G., Colchester, M., Dudley, N., Eghenter, C., Eleazar, F., Farvar, M. T., Frascaroli, F., Govan, H., Hugu, S., Jonas, H., Kothari, A., Reyes, G., Singh, A. and Vaziri, L. (2016). Recognising and respecting ICCAs overlapped by protected areas. ICCA Consortium.
13. Orans are all self-sustaining forest communities that live in harmony with nature – economically, socially and spiritually. For hundreds of years, they have been living on their Sacred Land. Each Oran has its own deity that protects the forest.

of biodiversity¹⁴. The Global Environment Outlook 5 report¹⁵ also states that in the last two decades, while the global protected area numbers and coverage has gone up, biodiversity has declined at population, species, ecosystem and genetic levels. It recognizes lack of inclusive conservation governance as one of the major reasons for this and recommends greater recognition of ICCAs to address this decline. Similarly, the Strategic Plan for Biodiversity 2011-20 (also known as Aichi targets), framed by Parties to the CBD at the 10th Conference of Parties in 2010 places significant importance on recognition of ICCAs in reversing biodiversity loss across the planet. Despite this international recognition, and India's obligation under the CBD, little has changed in the country's development and conservation policies, practices and discourse to take CCAs into account either within or outside protected areas. There is nearly no debate on Aichi targets and CCAs in India.

A status review of CCAs in India as part of a Technical Report of the Convention on Biological Diversity was carried out in 2012¹⁶. A look at this report in 2017 indicates that the issues and challenges faced by CCAs today in India remain more or less the same as they were in 2009 and 2012. Not much has moved in terms of recognition of CCAs. The CCAs in India, like many other ecologically sensitive ecosystems and areas and territories of tribal and other local communities, continue to be faced with numerous internal and external threats. Most of these threats continue to be rooted in the model of 'development' that our societies, economies and polities are governed by, which mandates maximum extraction of resources for unlimited "growth" and limitless profits. This is a model where costs and benefits are weighed only in financial terms, directly contradicting the spirit and principles of sustainability and conservation of nature.

An integral part of this model of development, particularly to make it "sustainable" development is the attempt at absolute preservation of nature in small islands. Creation of these protected areas itself leads to extreme injustice and resultant suffering for the human inhabitants of these areas whose movements and activities are highly restricted or they are relocated through top-down

imposed rules and regulations. On the other hand, having created these protected areas (less than 5% of India's landmass) seems to become a license for maximum extraction of resources in all landscapes outside of these to feed ever increasing and often artificial demands for human consumption to fuel the capitalist controlled economy. Local communities, both tribal and non-tribal, for whom their natural biogeographic landscapes continue to remain important and linked to their identity as well as spiritual, cultural, livelihood or economic needs and who hence oppose such policies of extraction and exclusion, become a hurdle for the government, the industry, the consumers and the politicians. Many CCAs in the country are located within areas where such resistance movements exist. Several large hydroelectric projects, such as those in Bhopalpatnam-Ichampalli (Maharashtra and Chhattisgarh), Bodhghat (Chhattisgarh), and Rathong Chu (Sikkim) that would have submerged valuable forest ecosystems and wildlife habitats, have been stalled by mass movements. Hundreds of communities across Odisha, Chhattisgarh, Jharkhand and other states are fighting against large and powerful mining companies and industries, and are often brutally killed in the process. Many fisher communities across India are struggling against destructive fishing, including demanding a ban on commercial trawling and fighting for implementation of the coastal regulation zone (CRZ) notification. Their struggle will also help to save coastal and marine ecosystems from destructive development activities (Kothari & Patel 2006). The communities which are resisting such exclusionary and top down governance models or those which are opposing extraction-based development on their territories are being displaced, dispossessed, subjected to heavy militarization of their homelands, harassed, jailed or even killed in fake encounters. In other words communities who ought to be recognized and honored for their role in conservation are continuously and systematically persecuted.

There are few legal provisions to support CCAs (both where communities are actively governing and conserving their resources and others where they are resisting against destructive projects). These include provisions such as Community Reserves and Conservation Reserves under the Wild Life Protection Act of India; Biodiversity Heritage Sites under the Biological Diversity Act; Man and Biosphere Reserves under UNESCO; among others¹⁷.

14. See: Sheil, D., Boissière, M., & Beaudoin, G. (2015). Unseen sentinels: Local monitoring and control in conservation's blind spots. *Ecology and Society*, 20 (2): 39.

15. See: UNEP. (2012). Global environment outlook GEO 5. Nairobi, Kenya: UNEP.

16. See: Pathak Broome, N. and Dash, T. 2012. Recognition and Support of ICCAs in India. In: Kothari, A. with Corrigan, C., Jonas, H., Neumann, A., and Shrumm, H. (eds). *Recognising and Supporting Territories and Areas Conserved By Indigenous Peoples and Local Communities: Global Overview and National Case Studies*. Secretariat of the Convention on Biological Diversity, ICCA Consortium, Kalpavriksh, and Natural Justice, Montreal, Canada. Technical Series no. 64.

17. See: Pathak Broome, N., Bhutani, S., Rajagopalan, R., Desor, S. and Vijairaghavan, M. (2012). *An Analysis of International Law, National Legislation, Judgments, and Institutions as they Interrelate With Territories and Areas Conserved By Indigenous Peoples And Local Communities: Report No. 13- India*. Natural Justice in Bangalore and Kalpavriksh in Pune and Delhi.

Having policies or legal enactments in place by themselves may not lead to providing the kind of support that CCAs require. Most important is the process of implementation of these laws and principles that are used while implementing them- the most important aspect of these being mutual trust and respect. Government establishments lack it because of their colonial history and attitude and local communities lack it because of a long history of victimization by means of exclusionary and oppressive governance, denial of rights and access, ignoring of local livelihoods concerns and coexistence, and undermining community conservation and local knowledge. On the other hand, sometimes minimal legal provisions can provide more support if all actors – government, civil society, community – have mutual trust, respect, transparency, inclusiveness, accountability and understanding.

Enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (or simply the Forest Rights Act) in 2006 has provided some space for protection of and emergence of CCAs as also for resistance to destruction of traditional territories of forest-dependent and forest-dwelling communities. There are two aspects of FRA that support CCAs. Firstly, it imposes the condition of obtaining the free prior informed consent of the affected communities before diversion of forests for developmental purposes, which prior to the FRA was entirely decided by state-constituted agencies and institutions. Secondly, the FRA grants rights and authority of governing, managing, and conserving the forest to local institutions, particularly to the gram sabha (village assembly). Together these two provisions have the potential to change the institutional and procedural process for forest diversion and also envisage local stewardship of forests, with the possibility of collaboration on equal terms between local people, state agencies and other actors. This is in contrast to the existing forest management system which adopts a centralized, one-size-fits-all, exclusionary approach which has clearly not been supportive of CCAs thus far.

The implementation of the Act has so far been slow and tardy in most parts of the country. A recently published report reveals that only about 3% of the minimum of its potential has been achieved¹⁸ through implementation so far. However, even with this abysmal performance, experiences from the ground are indicating trends where communities are trying to use the Act for protection of their lands and territories against extractive industry, using the provisions to effectively manage, govern and conserve their (recently legally recognized) community forests, or starting to conserve forests where they have

not been doing until recently because of the forests being under open access regimes.

Supporting movements resisting diversion of forests in their traditional lands and forests

The FRA empowers gram sabhas to preserve their habitat from *any form of destructive practices affecting their cultural and natural heritage*; and empowers them to *stop any activity which adversely affects the wild animals, forests and biodiversity*. It is now legally mandatory for the processes of recognition of rights under FRA to be completed and informed consent of the affected gram sabhas sought before seeking diversion of forests for non-forestry purposes such as mining, industrial development and hydro-electric projects. As per government of India's own admission 1400,000 hectares of forests have been diverted since 1980 for non-forestry purposes of which 494,700 ha has been for mining projects, 154,900 ha for defense projects and 135,100 ha for hydro-electric dams¹⁹. It does not require too much imagination to understand that most of these forest areas are inhabited by tribal and non-tribal forest-dependent communities and many are sacred and/or conserved sites. These diversions have happened following shoddy consultation processes, if at all, and in the face of strong resistance put up by the concerned communities. Some areas have been flooded by para-military forces to suppress the voices of the people. Despite such pressure there are numerous examples from across the country where local communities are standing as the first line of defense against such destruction of their territories and CCAs.

The FRA has for the first time given communities a legal instrument to prevent state-sanctioned de-forestation by invoking the provision for seeking consent of the affected gram sabhas. Although the process of seeking consent is fraught with problems including, district administrations manufacturing "false" gram sabhas, gram sabhas being threatened, etc. In fact even when gram sabhas have rejected the proposal often, the authorities at the central government have not given due consideration to the rejection by the gram sabhas in their own decisions related to forest diversion, among others. Yet there are now a few examples where gram sabhas have been able to or are attempting to use these provisions (some successfully and others not so successfully) to protect their traditional forests and CCAs. Although these provisions have existed since 2006, the real fillip towards their use came in April 2013 when the Supreme Court of India set a trend in a case concerning mining in the sacred landscapes of the Dongria Kondh tribe in

18. See CFR-LA 2016.

19. See: http://egreenwatch.nic.in/FCAPProjects/Public/Rpt_State_Wise_Count_FCA_projects.aspx

Niyamgiri hills of Odisha state, in what has popularly come to be known as the Niyamgiri case. The Supreme Court's judgment described the FRA as 'strengthening the entire conservation regime' and ordered that the consent of the gram sabhas in the area must be taken before diverting forests for mining²⁰. Subsequently, communities in different parts of the country have also attempted to use these provisions of the Act in conjunction with this path-breaking court judgment. These include communities of the Kashang valley in Himachal Pradesh, Mahan forests of Madhya Pradesh, the Lepcha community and Monpa community in the Dongzu valley of Sikkim and in Nyamjang-Chuu valley in Arunachal Pradesh²¹ respectively. The Madia Gonds of the Gadchiroli district of Maharashtra are resisting the diversion of 15,000 ha of dense forests for 25 different mining projects in the district²². Communities in Murbad taluka of Thane district Maharashtra continue their protest against the Kalu Dam being constructed to provide water to Mumbai city, inundating landscapes these communities live in and depend upon.

Local governance, management and conservation of existing CCAs and emergence of new CCAs

Another very important aspect of the FRA is that by recognizing and vesting of rights in local people, the FRA empowers forest dwelling communities to exercise their responsibility towards natural resources and biodiversity conservation historically denied to them. The FRA vests one particularly significant right which is the '*right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting or conserving for sustainable use*'. Here community forest resources (CFRs) are defined as "*customary common forest land within the customary or traditional boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas.....*". In addition to this, the FRA empowers communities to "*protect forests, wildlife and biodiversity, and to ensure protection of catchments, water sources and other ecologically sensitive areas*"; and to constitute committees to undertake these functions as well as prepare conservation and management plans

for their CFRs²³. This provides legal recognition to the local communities' own systems of new or customary and historically informed understanding and practice on conservation using their own knowledge systems and institutions.

Given a lack of political and administrative will in implementing an Act across the country the implementation is slow and there is a lack of awareness among the conserving communities about the benefits of provisions of the FRA for CCAs. However within this limited implementation, the trends and initiatives, though small in number, have major significance for the legal recognition of CCAs in times to come. Among the first villages to have sought recognition of their rights to govern, manage and conserve their traditional forests was the iconic village of Mendha-Lekha, where self-rule and forest conservation date back a few decades. Mendha Lekha claimed and received CFR rights over 1800 ha of forests. Subsequently, they initiated a forest governance and management process which is financially viable, socially equitable and ecologically sustainable. The village has specific areas set aside for wildlife, has compiled a community biodiversity register, and for livelihood have decided to carry out forest management activities (soil and water conservation, mulching for bamboo, etc.) instead of heavy extraction of resources. Among other known CCAs which have used FRA to seek legal recognition are Baripada village in Dhulia district of Maharashtra and hundreds of community forestry initiatives in Odisha (although some of these are still waiting for their rights to be recognized).

However by July 2016 10,548 villages have received titles which are recognized by the states, to govern, manage and conserve their traditional forests²⁴. Many of these forests were being used as open access resource for past few decades and a long period of alienation had eroded local knowledge and institutions of management. After the recognition of their rights under the FRA many villages have either revived traditional systems or put in place new systems for governance, management and conservation of these forests (legally called CFRs). Among them is Payvahir village of Maharashtra's Amravati district, which claimed and received CFR title in 2012. Subsequent forest management and governance has led to uniting a communally divided and conflict-ridden

20. The Supreme Court Judgement on Niyamgiri can be accessed at: <http://www.indiaenvironmentportal.org.in/files/Niyamgiri%20April%2018%202013.pdf>

21. Personal communication from Save Mon Region Federation. Villages in the Tawang valley over which the dam is going to be built have passed resolutions against the project stating that their rights under the FRA have not been recognised.

22. See: Pathak Broome and Raut (2017). <http://www.countercurrents.org/2017/06/17/mining-in-gadchiroli-building-a-castle-of-injustices/>

23. See: A guideline on the management of CFRs has been issued by the Ministry of Tribal Affairs. It can be accessed at: http://fra.org.in/ASP_OrderCirculars_UploadFile/%7B251045ea-c745-4af0-9f75-7413d4a95636%7D_Circular%20on%20CFR%20Managemen%20Updatet.pdf

24. The only states whereby this data was available from were Gujarat, Jharkhand, Karnataka, Maharashtra, Odisha, Rajasthan and West Bengal. See Source: <http://fra.org.in/document/Promise%20and%20Performance%20Report.pdf>

village towards envisioning and planning their village development and forest conservation strategy. This has resulted in regeneration of forests, return of wildlife, and livelihoods through forest-based activities. Once on the brink of abject poverty, Pachgaon village in Chandrapur district of Maharashtra, after receiving CFR rights in 2012 has become nearly self-sufficient in generating local livelihood through regulated bamboo harvesting. To maintain the biodiversity of their forests the villagers decided not to allow certain forest produce like Tendu patta²⁵ (which was a traditionally important non-timber forest produce (NTFP) earning substantial revenue). This they say will reduce forest fires, allow for the regeneration and also provide Tendu fruits for wildlife. In addition to devising rules and regulations for use of their entire 2486.90 acres of CFR, the village now protects 85 acres as a strictly protected and managed critical zone for wildlife, including tigers, which are regularly sighted there.

In situations of overlapping protected areas

Apart from empowering the local gram sabhas to protect and conserve wildlife and biodiversity, the FRA amended rule 4(1) (E) also provides for the gram sabhas to prepare a conservation and management plan for their CFR. As per the law these plans are required to be integrated into the conservation and management plans of the forest department. This gains additional significance in light of Section 38(v) ii of the Wildlife Protection (Amendment) Act 2006. This significant provision (which remains unimplemented) provides for developing coexistence strategies in the buffer zone of tiger reserves. Together these provide strong legal space for co-management of protected areas in the country which remain officially unexplored. On the ground however many existing and/or new CCAs are attempting to move in this direction. For example, hundreds of villages in the areas adjoining Melghat Tiger Reserve located in the Amravati district of Maharashtra are currently moving towards protecting and regenerating their lost forest and wildlife habitats after filing claims for their CFRs under the FRA. A few villages located in the buffer zone of Tadoba Tiger Reserve in Maharashtra are now seeking help to develop conservation and development plans, and community biodiversity registers. In Odisha, 21 villages of Simlipal Tiger Reserve of Mayurbhanj district have prepared community-led conservation and management plans for the CFRs recognized in April 2013. These plans are based on traditional knowledge related to water diversion for agriculture, plantation of fruit-bearing trees and ecological monitoring. This is one of the few examples in the country where the district administration is supporting the process.

25. Tendu or *Diospyros melanoxylon* leaves are used for making bidi (local Indian cigarettes).

In Biligiri Rangaswamy Temple (BRT) Sanctuary and (now) Tiger Reserve in Chamarajanagar district of Karnataka, 32 gram sabhas of the Soliga tribe received their CFR titles in 2011, covering nearly 60% of the Sanctuary. These settlements came together to formulate a tiger conservation plan, identifying habitats of critical importance for tigers and other animals using their traditional knowledge. The plan has not been recognized by the forest department nor have the remaining gram sabhas in the wildlife sanctuary received their community rights. In the meanwhile, official records of BRT show that the tiger population has continued to increase after individual and community rights of the people of the local Soliga tribe have been recognized²⁶. These examples also illustrate the huge potential of FRA in being able to meet many of the international conservation goals and commitments, particularly those under the Programme of Work on Protected Areas (PoWPA) and AICHI targets, and more particularly target 11, under the Convention on Biological Diversity and relating to recognition and support to CCAs.

Conclusion

Considering the slow implementation of the FRA, not many CCAs have been able to take advantage of its provisions yet. Some states like Rajasthan, where Orans are facing serious threats from internal and external factors, have not even started implementation of the Act. The awareness among the communities about the Act and its potential to help protect their Orans is also very poor. States in North-East India, Uttarakhand, and Himachal Pradesh have also not started implementation of the Act. In general, among communities across the country, awareness about these provisions of the Act and their usefulness for protection and conservation of CCAs is extremely poor. The Act provides special provisions for the nomadic and settled pastoral communities, which has also not been implemented, barring by the Maldhari pastoralist community in Kachchh. This community is attempting to use the provisions for establishing their communal rights on the lands where they have been grazing their livestock, breeding indigenous varieties of camel and buffaloes, and also working on the strategies to protect these communal grazing lands, locally called the *bannis*.

The potential of the FRA to prevent forest diversion is most evident in the actions of the State. For example in the Hasdeo Arand forests case of Chhattisgarh a lease was granted for coal mining in 2012. In the meanwhile

26. Survival International studied classified files of the National Tiger Conservation Authority between 2010-2014 when the Tiger numbers in the Sanctuary doubled. See: <http://www.survivalinternational.org/news/11004>

local communities had filed their claims for these forests as their traditional CFRs. These CFR rights were recognized in 2013 but were subsequently cancelled in 2016 although there is no provision in the FRA or in any other law for such rights to be cancelled. It was apparent to the authorities that if the rights of the communities were allowed the gram sabha would likely not allow the forests to be diverted. At the time of writing, the communities continue to fight against the mining and the cancellation of their rights.

FRA has a huge potential for effectively supporting and recognizing forest based CCAs in India, and slowly but steadily it is being used by the local communities to gain recognition for their existing CCAs and for creating new ones. There is a need for implementing similar laws for other ecosystems. However, the FRA itself faces the threat of being curtailed or diluted.



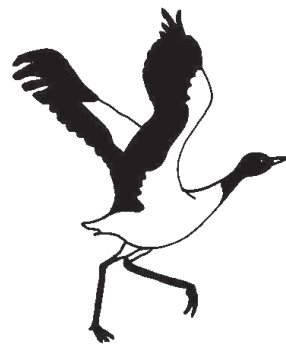
News and Information

People in villages of Odisha and Chhattisgarh come together to save forests²⁷

The villagers in Nuapada district of the state of Odisha and their counterparts in the state of Chhattisgarh have joined hands for forest protection. The villagers of Golabada in Nangajbod panchayat under this block and their counterparts in Banuaguda village on the fringes of the district have taken up cudgels to protect Chapej and Luhakhandi forests adjoining their villages from timber smugglers and poachers. They have formed small teams, (each member of which is armed with a lathi) and they guard the forest on a rotation basis day and night. Both the villagers have jointly formed a forest protection committee in 2012, the membership of which stands at 60. Now the timber smugglers have stopped coming to their forests and this has helped restore the green cover in both the forests.

Locals in villages of Arunachal Pradesh are saving the Red Panda and the Black Necked Crane²⁸

In 2005, two districts of Arunachal Pradesh, Tawang and West Kameng in the Pancheng valley, were chosen as



focal areas for a WWF-India initiated conservation program in the eastern Himalayas. The biodiversity of the valley includes the Red Panda, the leopard and the Black Necked Crane. The Monpa community that inhabits the valley has a rich culture and tradition of conservation.

As a result of the awareness created, two villages in the valley, Lumpo and Muchut, decided to conserve the Red Panda. They have formed the Pangchen Lumpo Muchut Community area Conservation Management Committee in 2007. The activities of the committee so far have been: imposing a ban on hunting and on harvesting of trees, shrubs and herbs, with a total ban on felling trees near water sources; regulation of extraction of resources, patrolling, putting up of warning boards and listing of biodiversity. People have also started exploring alternative conservation-friendly livelihoods like community-based tourism. Surveys in the last couple of years show that there has been an increased sighting of pandas and black necked cranes in the region.

Villagers help fight forest fires in villages in Odisha that have been granted CFR²⁹

In the forests of villages of Mayurbhanj and Kandhamal districts of Odisha that have been granted Community Forest Resource (CFR) Rights under the Forest Rights Act, incidences of forest fires have reduced. The president of Conservation and Management committee formed under the CFR in Balipaka village described their beliefs. He said that within these forests reside their deities in the form of plants, rocks and animals. The forest is their biggest source of livelihood and they would stand to lose most if there is a forest fire. Hence, to prevent any forest fire, they have formed two teams to work within the Simlipal National Park. As soon as anyone notices a fire, the villagers are alerted and the squad reaches the spot and a fire line is drawn between the affected and unaffected area to prevent the spread of fire. All other villagers also actively participate in the act of fire fighting in the summer months. They also record every incident where they prevented the spreading of fire.

27. See: Villagers in Orissa, Chhattisgarh jointly pitch in to save forests. (2016, September 18). Orissa POST. Retrieved from <http://www.orissapost.com/villagers-in-orissa-cgarh-jointly-pitch-in-to-save-forests/>

28. See: Pal, S. (2016, August 9). Locals in These Tiny Arunachal Villages Are Taking Huge Steps to Save the Endangered Red Panda. The Better India. Retrieved from <http://www.thebetterindia.com/64168/muchut-lumpo-arunachal-villages-conservation-red-panda/>

29. See: Barik, S. (2016, April 20). Villagers help prevent spread of forest fire. The Hindu. Retrieved from <http://www.thehindu.com/news/national/other-states/villagers-help-prevent-spread-of-forest-fire/article8496017.ece>

Women take over the task of protecting forests in Odisha³⁰

Women in the village Ghunduribadi in the Nayagarh district of Odisha have taken over the task of patrolling the forests they have used for generations. They have successfully caught trespassers and illegal loggers too. Armed with sticks and machetes they patrol their community forests during the rainy season as well. These women catch trespassers in their forests or cut timber either illegally or without their knowledge and bring them to the local council for disciplinary action. But not long ago, these women were themselves considered trespassers in these same forests. However, the Forest Rights Act of 2006 has enabled tribal villages like Ghunduribadi to claim title to the lands traditionally used for livelihoods by such tribal and forest dwelling communities. Madhu Sarin, who has led grassroots efforts to pass the law, says that the Forest Rights Act gives those same communities a much bigger stake in fighting to save their forests and it is the women who are taking the lead. Today the forest again helps provide drinking water and natural fertilizer for the village. It is also a very important buffer for the community against hunger and an increasingly unstable climate.

Otters return to a revitalized Kerala river³¹

In the southern state of Kerala in India, the locals of Thootha village, under the banner of Thoothapuzha Samrakshana Samithi, gathered the youth and school children of the village to carry out a campaign to clean the Thootha (Thoothapuzha) river a few months ago. Their efforts are now bearing fruits, as the improved health of the river ecosystem is indicated by the return of the smooth-coated otters. The residents of Thootha village used to see numerous otters nearly two decades ago, but then they started to disappear and until last year they were not seen at all. Nasser Thootha, a social and political activist, says that they have been working to stop open defecation on the river bank and also dumping of waste. They have been able to prevent truck drivers from washing their trucks in the river at night. He also says that there was time when the river would stink so much that passengers in buses, as it crossed the bridge, would have to cover their noses. This has changed now. The locals feel that this activity has raised awareness among the villagers on their relationship with the riverine ecosystem and the need to conserve it.

30. See: Eaton, S. (2016, March 29). These Indian women said they could protect their local forests better than the men in their village. The men agreed. Retrieved from <http://www.pri.org/stories/2016-03-21/women-are-india-s-fiercest-forest-protectors>

31. See: Warrier, S.G. (2016, March 28). Otters return to revitalized Kerala river. *India Climate Dialogue*. Retrieved from <http://indiaclimatedialogue.net/2016/03/28/otters-return-revitalised-kerala-river/>

Farmers in Bihar are helping to protect the Greater Adjutant Stork^{32,33}

In Kadwa Kosidiara in Bhagalpur district of the Indian state of Bihar, people are trying to save and conserve the endangered Greater Adjutant stork. A farmer from Ashrampur, Arun Yadav, has given land to build a small hospital for these birds. Some have taken training to give first aid to these birds if they are found injured. People here feel that if they don't make such efforts, they will not be able to help increase their population. These storks fall easy prey because of their size and are preferred by hunting tribesmen known as gulgulwas. The local villagers too used to get annoyed at the birds dirtying their compounds. Another fact that works against them is that they nest within human settlements with a single tree holding many nests. It was then that Mishra, Under the Rapid Action Project funded by the Wildlife Trust of India (WTI), organized awareness programmes and employed villagers as watchers to protect the nesting colonies from poachers and other miscreants. He also motivated the forest officials, media, police, panchayat representatives, school teachers and students to support his campaign. Continuous surveillance and awareness programmes conducted with the help of WTI also proved very efficient in protecting the storks. These efforts have yielded good results. Now their population is more than 400. These storks in turn are also benefitting the local population. They free their farms of rats. Thus the damage done to the crops by the rats has reduced greatly.

Hornbill conservation in Pakke Tiger Reserve^{34,35}

The Nyishi tribe in the community forests adjoining Pakke Tiger Reserve in east Kameng district of Arunachal Pradesh, which once hunted the hornbill in large numbers, is now protecting their nests to help revive their dwindling population. The tribe used to hunt the endemic bird for their beaks (used in their traditional headdress), meat and fat (oil). The Nyishi had traditionally observed a ban on hunting in the breeding season, but hunting in

32. See: Shrestha, S. (n.d.). Newly Discovered Greater Adjutant Stork Population Thriving in Bihar. *Wildlife Trust of India*. Retrieved from <http://www.wti.org.in/NewsDetails.aspx?NewsId=681>

33. See: Tiwari, S. (2015, April 9) किसानोंकी पनाहमें 'गरुडों'का आशियाना. *VikalpSangam*. Retrieved from <http://www.vikalpsangam.org/article/%E0%A4%95%E0%A4%B8%E0%A4%A8-%E0%A4%95-%E0%A4%AA%E0%A4%A8%E0%A4%B9-%E0%A4%AE-%E0%A4%97%E0%A4%B0%E0%A4%A1-%E0%A4%95-%E0%A4%86%E0%A4%B6%E0%A4%AF%E0%A4%A8-in-hindi/#.WGTjLUrrIU>

34. See: Rahman, A.P. (2016, December 10). Hunters Turn Protectors of Threatened Hornbills in Northeast India. *The Wire*. Retrieved from <https://thewire.in/85506/hunters-turn-protectors-of-threatened-hornbills-in-northeast-india/>

35. See: Banerjee, A. (2012, July 11). The Nyishi and the Hornbills. *Livemint*. Retrieved from <http://www.livemint.com/Politics/Z5LU09eXYcF5jzckMfWRHJ/The-Nyishi-and-the-hornbills.html>

other seasons along with habitat loss proved to be a big loss for this bird species until 2002. In 2002, however, hunting was publicly banned and after an initiative by Wildlife Trust of India and local Forest Department, the hornbill beaks in the Nyishi headdress were replaced by fiberglass replicas. Then in 2006, the Ghora Aabhe Society - a council of 14 village headmen to become conservation partners with the forest department - was formed. Still the hornbill population continued to decline. Then in 2011, NGO Nature Conservation Fund, in association with Ghora Aabhe Society and the forest department came up with a unique plan wherein Nyishi men were trained by them to monitor the bird's activities and keep a close watch on their nests. It also allowed people in urban areas to adopt hornbill nests for Rs. 6000 a year which was used to pay salaries of the nest protectors and to cover other costs. Since then the hornbill population has been claimed to have improved by 20-25% although there is no official census of the same.

Arunachal monastery declares CCA³⁶

Earlier this year (2017), the 7th century Lhagyala monastery in West Kameng district, one of the oldest monasteries in the state of Arunachal Pradesh, declared around 85 sq.km of its forest as Mon-Lhagyala Community Conservation Area (MLCCA). The Western boundary of this forest is along Bhutan's Sakteng Wildlife Sanctuary, which was created for the protection of the yeti which is a mythical Himalayan monster. According to the divisional forest officer of the area, the local Mon-Lhagyala Buddhist Cultural Society and the Kalaktang Tsokpa, a confederation of more than 20 Monpa villages, authorised the monastery to mark MLCCA for biodiversity conservation. The society manages the CCA where hunting and commercial extraction of forest resources are banned. After the official announcement, anyone violating the ban 'order' will be punishable under the provisions of customary laws of the Tsokpa besides Wildlife (Protection) Act of 1972. The focus of conservation will be the habitat of the red panda (*Ailurus fulgens*), alpine musk deer (*Moschus chrysogaster*) and high-altitude pheasants.

CCAs in Garo and Khasi hills in Meghalaya³⁷

A village in west Khasi hills is preserving fauna by banning fishing on a stretch of river and establishing a fish sanctuary. This initiative has received support from 78 nearby villages and also from Meghalaya state

36. See: Karmakar, R. (2017, April 28). Arunachal monastery declares forest near Bhutan as protected zone for red pandas. Hindustan Times. Retrieved from <http://www.hindustantimes.com/india-news/arunachal-monastery-declares-forest-near-bhutan-as-protected-zone-for-red-pandas/story-ssB4TqSo2HzEcW4YHWIQA0.html>

37. See: Meghalaya village bans fishing in river to preserve fauna. (2017). The Assam Tribune. Retrieved from <http://www.assamtribune.com/scripts/detailsnew.asp?id=apr1317/oth051>

authorities. The village was adopted under the North Eastern Region Community Resource Management Project (NERCORMP), aimed at improving the livelihoods of vulnerable groups in a sustainable manner through improved management of their resource base in a way that it contributes to the preservation and restoration of the environment. As a part of the same project, 238 community conserved areas (CCAs) in West Khasi Hills and 267 in West Garo Hills of Meghalaya have been set up. The project has been initiated based on people's needs and utilizes their knowledge of conservation. The NERCORMP is a joint developmental initiative of North Eastern Council (NEC) and International Fund for Agricultural Development (IFAD), and has been implemented in two districts each of three Northeastern States – Assam, Manipur and Meghalaya.



Perspective

Adopting gender and caste sensitive policies towards CCAs

"There is no water in that," his sister said.

'I will get some water from the pitcher,' he said, as he casually made towards the corner.

'There is no water in the pitcher either,' she answered.

'Oh!' he exclaimed under his breath, tired and exasperated.

'I shall go and get some water,' said Sohini as meekly.

'All right,' agreed Backha.....

...The outcastes were not allowed to mount the platform surrounding the well, because if they were ever to draw water from it, the Hindus of the three upper castes would consider the water polluted. Nor were they allowed access to near-by brook as their use of it would contaminate the stream. They had no well of their own because it cost at least a thousand rupees to dig a well in such a hilly town as Bulashah. Perforce they had to collect at the foot of the caste Hindus' well and depend on the bounty of some of their superiors to pour water into their pitchers. More often than not there was no caste Hindu present. They were all rich enough to get the water-carriers to supply baths and kitchens, and only those came to the well that were either fond of an open-air bath or too poor to pay for the water carriers' services. So the outcastes had to wait for chance to bring some caste Hindu to the well, for luck to decide that he was kind, for Fate to ordain that he had time-to get their pitchers filled with water."

Untouchable, Mulk Raj Anand

Untouchability is a centuries-old evil that Indians have been fighting against. Any narrative of a woman outcaste will have endless stories of discrimination especially on matters around natural resources, since getting water, collecting firewood and so on are mainly the responsibility of women in our gendered society. It is in this socio-political cultural matrix of discrimination and inequality that I want to look at Community Conserved Areas (CCAs).

CCAs have been accorded increased recognition and support, both legal and otherwise, in the international and national spheres. CCAs are now identified as effective conservation measures by the international community, especially valued in terms of their contribution towards achieving the Aichi Target 11. At the national level, in India, they are finding acceptance through National Biodiversity Action Plan, India's Reports to CBD especially the 5th Report and other policies. Various programme and projects have also been carried out for documentation, restoration and revitalization of CCAs, and especially of sacred groves. For example, the Rajasthan government in 1993 initiated a project on revitalization of sacred groves in Rajasthan. Organizations and Institutions like Indira Gandhi Rashtriya Manav Sagrahalaya (IGRMS), Bhopal and CPR Environmental Education Centre, Chennai have been involved in these activities (MoEF, 2014).

The main impetus for this recognition is the major role played by the Indigenous Peoples and Local Communities (IPLCs) in conserving and sustainably managing natural resources enabled by their peculiar worldviews and lifestyles. The judiciary in India has also recognized IPLC's spiritual and symbiotic relationship with nature, as evident from the Niyamgiri case³⁸. While the recognition and support of these areas is crucial in conservation, one of the aspects which need reconsideration is the prevalence of discriminatory customary practices especially towards women and members of lower castes in management and governance of many of these areas. The lens through which we have been looking at CCAs is mainly around their relevance for natural resource conservation. But the current trend of increased recognition of CCAs warrants a gender and caste sensitive approach so as to ensure intra-generational equity.

CCAs and Discrimination

Discrimination against women and lower castes in CCAs plays out differently, in different layers and spaces. It exists mostly by excluding women and certain castes from management and decision making, though sometimes even access to CCAs is denied to them (Kothari and Pathak, 2009). In many sacred groves of

Tamil Nadu and Bodoland access is denied to women, for example. Most sacred groves are also forbidden areas for menstruating women (Malhotra et al, 2001).

Conferring Legal Sanctity to CCAs: an opportunity to be equitable?

As recently as a year ago, the Uttarakhand State Biodiversity Board initiated a project for identifying sacred groves which can be declared as Biodiversity Heritage Sites (BHS) under the Biological Diversity Act, 2002. Thirteen sacred sites have been identified so far. At all these, the customary practice of management prohibits lower caste people and women in menses to access the areas (Chandra, 2014). This translates into access to these areas to anyone from lower caste including all women being denied. The critical question before the State Board is how to be gender and caste sensitive while supporting the development of the management plan?

The Constitution of India, the National Biodiversity Action Plan, the Guidelines on Biodiversity Heritage Sites are all directing us towards freeing all legally sanctioned public spaces of all forms of discriminatory practices.

The Constitution of India provides strong safeguards against discrimination on the basis of, among other things, caste and sex (Article 15 of Indian Constitution). In addition, untouchability has been banned through Article 17 of the Constitution. While many may argue that the practices attached with sacred groves are cultural rights, it needs to be understood that cultural rights cannot override the Constitution and the core values of constitutional morality such as equality and non-discrimination.

At the policy level also there are strong obligations to adopt egalitarian approaches towards conservation. The National Biodiversity Action Plan of 2008, which has mentioned sacred groves as entities of incomparable value, promotes mainstreaming gender considerations in all policies. Guidelines on selection and management of Biodiversity Heritage Site (BHS), which entrust the local Biodiversity Management Committee (BMC) with the management of BHS, specifically warrants that the management committees shall constitute representatives of all sections of the local communities and in particular those who are most dependent on natural resources. These BMCs are to be composed of representatives of women and scheduled castes in accordance with the Biological Diversity Act, 2002.

At the international level, the time is ripe with opportunities for adopting an inclusive (gender and caste sensitive) approach to CCAs. The Parties to the

38. Orissa Mining Corporation v. Union of India.

Convention on Biodiversity in their last conference at Cancun, Mexico (CoP 13, December 2016) have agreed to develop a set of voluntary guidelines on management of CCAs. The drafting of these guidelines should take stock of the Gender Plan of Action on Biodiversity that was already adopted by the Conference of Parties to CBD, and the report of technical study on ICCAs supported by CBD. It is important to note that the plan suggests that gender equality needs to be recognized as the guiding principle in management and governance of conservation areas including Protected Areas and other measures of protection such as CCAs and sacred groves. A technical study has called for facilitating empowerment of women, minorities and other weaker sections of society to participate in the decision making process relating to ICCAs (Kothari et al, 2012). In addition, the report cautions that recognition and support for ICCAs should not bring policies or activities that weaken the already marginalized sections.

It is essential that India should be leading these discussions.

Scope for Gender and Caste Sensitive Laws, Policies and Programme on Conservation

From another angle, one is prompted to question whether conservation necessarily entails exclusionary practices. It is implied in many ways that conservation and sustainable use of resources involves strict regulations. But the essence of regulatory framework on conservation should be constitutional. The State should be conscious of gender and caste based discrimination and it should evaluate its policies and programmes in terms of gender and caste sensitivity.

To elaborate, it is important for the all stakeholders including the decision making bodies at international institutions including CBD, IUCN; the national bodies including Ministry of Environment and Forest, National Biodiversity Authority; and sub-national bodies including State Biodiversity Boards, Forest Departments and local bodies including Biodiversity Management Committees, Community Forest Management Committees, Joint Forest Management Committees and all other relevant stakeholders to recognize that many of the traditional systems of governance are plagued with discriminatory practices against women and people of lower castes and to adopt gender and caste sensitive policies.

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ICCAs in South Asia

A Tale of Two Countries: Making a Case for ICCAs in Southeast Asia



Neighbors Indonesia and the Philippines belong to the top 20 of the world's biologically mega-diverse countries, though both are also hotspots, or areas with very high threats to their biodiversity. They also have similar histories of European colonization and subsequent land tenure issues. Upon independence, they both adopted foreign views on state ownership of the land and incorporated these into their respective constitutions. Both have indigenous and local communities who have been governing and conserving these lands since long before any of these laws came into being. These overlaps in tenure have resulted in numerous conflicts over the decades.

Indigenous Peoples' and Local Communities' Conserved Territories and Areas or ICCAs are places that are intrinsically linked to the culture, identity and the very lives of communities. These ecosystems contain significant biodiversity values and are governed and voluntarily conserved by communities through customary means.

ICCA may be new terminology, but the concept is definitely not new. Communities with a close association with their land have been around since time immemorial, and these ICCAs have been called by different names in hundreds, even thousands, of languages. Whatever they may be called and whatever form they may take, securing tenure of ICCAs is essential for the well-being, cultural integrity and livelihoods of communities dependent on natural resources from the land of their ancestors. Recognizing them as legitimate conservation areas also contributes significantly to global and national conservation targets, as ICCAs are estimated to cover about 13% of the terrestrial surface of the planet.

This argument has won ICCAs recognition in the international arena, but on the home front, communities still need national or local laws and policies to ensure

ownership of their land. At the local level, battles have yet to be won or even to be started as there is still lack of respect for and recognition of traditional knowledge and resource management systems. Often it is the “professionals”, studying mostly off-site - for a few years to at most a few decades - who are the “experts”, and not the communities who live on site and are recipients of time-tested expertise collected over generations. As a result, conservation schemes are often government led and use top-down approaches. Herein lies the conflict between protected areas and other state-imposed conservation schemes and ICCAs, even though both supposedly have the same goal.

In 2010, a UNDP-GEF-funded project in the Philippines studied different models of conservation outside of the protected area system. This included co-management arrangements and ICCAs, and led to the establishment of the national ICCA consortium called Bukluran, and to the signing of the Manila Declaration, a manifesto of different indigenous tribes calling for their inconvertible rights to lands and resources being recognized, and for strengthening traditional governance systems.

The strong ICCA movement in the country has also been lobbying for the passage of the ICCA Bill, which aims to protect and strengthen ICCAs, recognize their contribution to biodiversity conservation, and establish a national ICCA registry. Through the bill one hopes to fortify the weakly-implemented Indigenous Peoples Rights Act (IPRA) enacted 20 years ago. The IPRA supposedly recognizes indigenous peoples’ rights to own their ancestral domain or *lupangninuno* and to get a land title for the community, and respects their rights to traditionally manage, control, use, protect and develop their lands. While it is a solid law in favor of indigenous peoples and ICCAs, the process of securing titles is long and tedious, often with communities waiting for many years without getting awarded their certificates, even if they had already submitted all documents to fulfill the requirements. Though not often effective, it is still considered a weapon against encroachment of mining and other unsustainable industries and infrastructure.

Indonesian law on the other hand has nothing particular on indigenous people’s rights, except the mention of respect to “cultural identities and rights of traditional communities” which has not translated to a basis for communities to manage their own conservation areas. AMAN, the alliance of indigenous peoples in Indonesia, has analyzed and lobbied for the best recourse to get around their numerous relevant laws. It saw a major breakthrough when the court, in a judicial review of the Forestry Law, decided that customary forests or *hutanadat* are no longer part of state forests or *hutannegara* in Constitutional Court Ruling No. 35/PUU-X/2012. While

complicated in its implementation, this is the silver lining that can finally ensure protection of ICCAs in the country. Another opportunity for ICCAs still being lobbied for is the revision of the Biodiversity Law No. 5/1990.

Parallel to legal efforts, a massive mapping venture was initiated in Indonesia to have a registry of indigenous territories or *wilayahadat*. The NGO-led Ancestral Domain Registration Agency (BRWA) was established as the umbrella agency for registering customary areas across the country, and serves as an information hub for anything relating to indigenous peoples and ancestral domains. It aims to push for recognition of these ancestral domains, and to put pressure on local governments to provide protection to indigenous peoples. BRWA has already mapped almost 7 million hectares of *wilayahadat* in the last few years, and has submitted over 600 maps to the government.

The Working Group on ICCAs in Indonesia (WGII), a network of NGOs, has agreed that mapping and documentation of ICCAs will follow the same process and that BRWA will also be used as a repository for the ICCA registry. Whereas in the Philippines, a community conservation and management plan is required of indigenous communities seeking land titles under the IPRA, in Indonesia, this becomes an extension of ICCA documentation efforts.

NGOs and communities in Indonesia and the Philippines have struggled with wordings of laws and policies, and there may be victories where the law is concerned. But much like in many other countries, implementation on the ground is a different story. These two countries may be far from the finish line, but what they have in common that has contributed to the recognition of ICCAs boils down to three things: an empowered network of communities with ICCAs, a strong supportive civil society, and cooperation with government and other stakeholders.

Other countries in Southeast Asia are learning from these two, which have different contexts but similar strategies and goals. Given that the last frontiers of conserved lands and waters are within ICCAs, it is urgent and imperative that they be given appropriate recognition and support by all means possible.

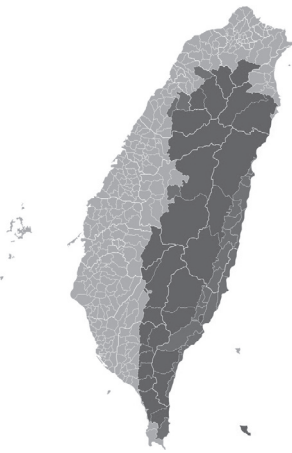
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ICCAs in Taiwan

For us in the Taiwan Indigenous Conserved Territories Union (TICTU), ICCAs are the only feasible way to achieve effective conservation of the trinity of language, cultural and biological diversity on Earth. However, the root problem would be: what gives the states around the world the legitimacy to grab all the commons from the autonomous local communities and indigenous peoples? We know very

clearly that there is no government, whether socialist or capitalist, that is effective in ensuring conservation or sustainability and that the global market economy is totally blind and cruel in the way in which it destroys the diversity and complexity of our planet. That is why we are struggling for the survival, revival and sustainability of ICCAs through working towards the self-determination of tribal sovereignty. This will need a paradigm shift in planet level governance and a power transition from the dominant states to the communities. For centuries we were under multiple colonial sieges from successive state apparatuses and this has continued right up to the present era of Capitalist globalization.

First let us describe briefly the fundamental situation of ICCAs in Taiwan. Before the Chinese immigrants moved in from early 17th Century, the Austronesian indigenous people had lived in Taiwan since 5,000 years. Even after Qing China lost the First Sino-Japanese War to Japan and ceded Taiwan Province in the Treaty of Shimonoseki in 1895, the indigenous conserved territories still covered two thirds of Taiwan island, including all the mountain forest areas of the eastern Pacific coast. Until 1915 they had fought bravely against the Japanese in more than 150 battles, and were conquered only by the advantages of modern weapons and dominant arm force. Then, after the Second World War, when the National Chinese government came to occupy Taiwan after the defeated Japanese Empire, the officially recognized indigenous areas, since the 1947 administration reforms, comprised of thirty mountain area townships and 25 plain area townships. This still covers 53% of Taiwan with about 800 tribal communities from the 16 official ethnic groups. One of the most important facts is their total overlapping with the national forest and most state-designated protected areas system. About 90% of the protected areas system, which covers about 40% of the indigenous territories, is within the traditional territories of indigenous peoples.



By now, the indigenous peoples are restricted to live within the limits of the fragmented indigenous reserves without collective land tenure and full right of over natural resources in their traditional territories. For decades, some of them have abandoned their homeland to make a living in the industrial and urban areas, while others have tried hard to keep their identity and living tradition by illegal hunting and gathering. After the lifting of the martial law in Taiwan, from 1949 to 1987, the strong campaigns of indigenous peoples' movement have made some progress towards legalization: in 2005, the Legislation House ratified the Indigenous Peoples Basic Law. In 2010, the executive House put forward a draft proposal for the Indigenous Peoples Autonomy Act in the Congress. In 2015, the Executive House presented a draft proposal for the Indigenous Peoples Marine and Land Territories Act. However, the critical problem is that none of these recognize the right of self-determination and inherent tribal sovereignty over traditional territories.

On 16th January 2016, the new President of Taiwan, Ms. Tsai Ying-Wen of the Democratic Progressive Party, polled 6,894,744 votes to win the big election by 56.1% over the reactionary Kuo-Min-Tang Party candidate. Following her victory, Ms. Tsai Ying-Wen apologized for the persecution and plunder of indigenous peoples by Taiwan government following the occupation by Imperial Japan since the end of the World War Second. She also initiated a Truth Committee of Transitional Justice for Indigenous Peoples directly under the Office of the President. The latest condition could be updated as below:

1. Despite having been approved by the Legislation House in December 2015, until now the current Government (assigned to Council of Indigenous Peoples) has failed to implement the legal person status for the already recognized 748 tribal communities.
2. Promise by the current government to draft a new version of Indigenous Land and Marine Territories Act and the Autonomy Act of Indigenous Peoples is delayed because of reactive response to change from the vested interests and existing authorities.
3. Released this February, the Regulation for Designating Indigenous Traditional Territories has offered to partially handle public land only, and totally leave the private land, about 11% of indigenous territories, intact. While on the designated traditional territories, the tribal communities were permitted to apply the free prior informed consent principle only. This provoked serious dispute and protests from indigenous peoples' action groups for more than 100 days in front of the Presidential Palace.

4. Going beyond the above, not-so-positive information, a good development from last October to this June has been that six tribal communities have already declared their own traditional territories, boundaries and reaffirmed their own rights and responsibilities of self-governance and conservation. Negotiation with neighboring tribal communities on overlapping and shared governance is also going on. Adaptation and innovation on original governance institution is evolving. Tribal Participatory geographic information system (GIS) platform as one of the bases for self-government is developing. So, the effort for full recognition of tribal sovereignty or a reconstruction of state sovereignty is worth striving for.

Following the holistic approach of rights-institution, knowledge-ethic and livelihood-wellbeing, Taiwan Indigenous Conserved Territories Union (TICTU) freely promotes the following strategic action plans for restoration:

- ▶ Ensuring tribal participatory GIS for time-space adaptive information and collective memories, and the idea is to organize human sensors network of hunters, fishers, gatherers and farmers for long-term ecological monitoring.
- ▶ Establishment of the legitimacy of tribal sovereignties. Coordination with neighboring tribal communities on the basis of mutual recognition and shared governance of overlapping territories. The negotiation focuses on building information on:
 1. Collective memory of migration routes;
 2. Historical tribal sites; and
 3. Contemporary living spaces.
- ▶ Developing a community-habitat protocol based on tribal institution and local knowledge for interdependent economy and inter-species polity. The challenge will be how to transform the original oral tradition embedded in the notion of deepest all-connectedness with land and nature into a post-development governance institution to keep intact our identity and living tradition.
- ▶ Declaring of self-determination and self-government following sovereignty treaty negotiations with the central government. In response to the Transitional Justice Initiative of the current government, we appeal for:
 1. Recognition of tribal sovereignty and full indigenous rights;
 2. Return of the traditional land and marine territories;

3. Reparation of colonial destruction and persecution; and
 4. Collaboration on recovery and restoration programs and processes.
- ▶ Building tribal collaborative commons and social cooperative business. Lack of economic basis for ICCAs caused mostly due to the loss of collective land tenure and resource rights on their traditional territories. This led to indigenous peoples being uprooted and on intubation as marginal vulnerable groups. We seek every opportunity for restoring a sustainable community livelihood on tribal collaborative commons as our visionary future.

Down to earth, indigenous peoples are always trans-boundary. We look forward to developing a "global learning network for traditional knowledge and indigenous conservation" jointly supported by ICCA Consortium. We have a lot to learn from each other, and to share with the global conservation circle for our common future and wellbeing for all beings around us.

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Case Study

Participatory Biodiversity Conservation and Management in Kachchh, Gujarat

Kachchh is an arid ecosystem with a wealth of biodiversity that has been declared Rare, Endangered and Threatened (RET). Cultures, ecosystems and geological formations have all contributed to its rich biodiversity. A large part of Kachchh, which is also a district in Gujarat, is known as the Rann of Kachchh which submerges in water during the rains and dries up in other seasons. The marshy salt flats, which the Rann is famous for, then appears snow white. On the outer edge of the Rann is the Banni grassland, which is an arid grassland ecosystem. Along the coast are the Gulf of Kachchh and the Arabian Sea. The northern and eastern parts of the district are surrounded by the Great and Little Ranns which are seasonal wetlands.

Kachchh is the only arid ecosystem in the world that is accompanied by a marine mangrove ecosystem along its coast, the Gulf of Kachchh, which is home to some of the rare marine biodiversity of the world. This includes the Dolphin, Sea Cow/Dugong, Green Turtle, Olive Ridley Turtle, etc. Similarly the Ranns have a unique ecosystem of their own, with the only site for flamingo breeding and the wild ass in the country. The Bhuj Ridge features thorn forest and is home to the Caracal or *Hornotro*, Wolf, Chinkara, Spiny-tailed Lizard, Desert Cat, Ratel or Honey Badger, Desert Fox, etc. The rich grasslands of Banni in the North and the Naliya Grasslands are homes to unique germ-plasm like Banni buffalo, Kankrej cattle and horses. These grasslands and many other small patches also host rich wildlife and are the breeding and roosting ground for many migratory birds. Further, grasslands of Abdasa taluka are important breeding sites for three globally threatened bustard species viz., Great Indian Bustard, Houbara Bustard and Lesser Florican.

But this unique biodiversity and ecosystem in the Kachchh District has been facing several challenges due to population growth and industrialization. Encroachment for expansion of agriculture; unplanned and rapid industrial development resulting in habitat modification and habitat fragmentation; exploitation of waterscape; invasion of *Prosopis juliflora*; and resultant changes in land use and land capability are threatening the flora and fauna. Furthermore, increasing extraction of ground water for an ever increasing agricultural and industrial needs has in some places made the groundwater saline due to sea water ingress from the long coast line.

Sahjeevan, a non-profit organization based in Kachchh, has been working towards overcoming the above challenges by mainstreaming conservation and sustainable use of biodiversity by the local community and their institutions. The Biological Diversity Act (BDA), 2002 which legally empowers people to play a role in conservation, to sustainably use and ensure equitable benefit sharing from the utilization of bio-resources requires panchayats to form Biodiversity Management Committees (BMCs) made up of individuals who are concerned about biodiversity of their region. Sahjeevan, in collaboration with the Gujarat Biodiversity Board (GBB), has mobilized gram panchayats to form BMCs and helped them to map local biodiversity and prepare Peoples' Biodiversity Registers (PBR). This has been initiated in 35 panchayats in Abdasa, Lakhpat and Nakhtrana talukas.

Before initiating the PBR process and constituting the BMC at each selected panchayat, informal and formal discussions were held with the village elders, key persons in many subjects (like wildlife, agriculture and native seeds, medicinal plants, waterscape, grazing resources,

livelihood, communities etc.) identified, and focused group discussions initiated in panchayats. This revealed that traditional knowledge existed on various aspects related to ecology, for example, on plants with medicinal properties, native species of crops and habitat. However, it was observed that such knowledge was fast declining.

Through interaction with local people it was found that knowledge regarding medicinal plants and native species of crops of around 50 and 60 species respectively, still existed. Local people could point out biodiversity loss in agriculture and habitat, for example, the fact that *bajra* or pearl millet was once grown in the region, or *mitho guggul*

(*Commiphora stocksiana*) was once found there. Using this knowledge Sahjeevan could, along with the BMCs, reintroduce these species in the agricultural fields and in the wild. While identifying dumping sites for vulture conservation, local knowledge emerged when people from one of the villages said that vultures were found in their village once and through the discussions it came about that the natural undulating landscape which was ideal to support organic fields could also be a dumping site for diclofenac-free dead animals, food to the vulture species. This traditional knowledge was used and work was done along with BMCs to restore the landscape of the dumping sites as a habitat for the vulture. Similarly villagers in Nani Virani village, which is in a wildlife corridor, had knowledge on ecology and wildlife which was utilized to start work on restoration of habitat for various wildlife species like the White Naped Tit. People also participated actively in the conservation of Guneri, an inland mangrove belt. On account of their local knowhow, people could point out that the government's plan to conserve it by introducing fencing and ban on cattle grazing would be unsustainable as it would restrict the wildlife from using this mangrove belt as a shelter. Also the fertility of the soil there would be lost due to restriction on entry of domestic animals for grazing.

After such consultations with the local people on what should be done and what ought not to be done, the BMCs were encouraged to prepare their Conservation Action Plans, several of which have also been submitted to the State Government. More than 25 proposals have been developed on species and habitat based conservation. These proposals of BMCs include programs to conserve animals such as two critically endangered species (White Rumped Vulture and Great Indian Bustard), one near-threatened species (Painted Stork) and three vulnerable



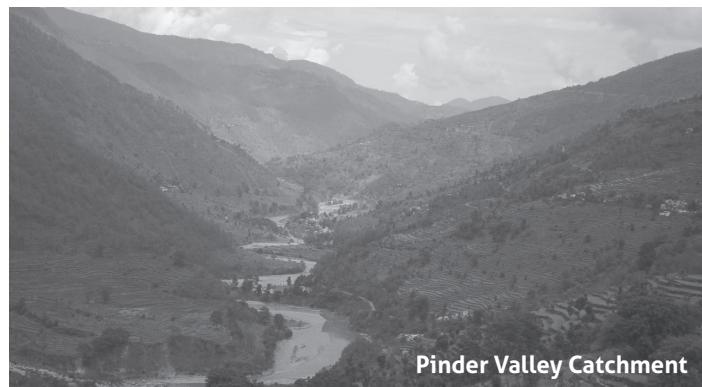
Nest installed for Pied Tit

species of birds (Houbara Bustard, Pied Tit and Stoliczka's Bushchat), one vulnerable (Chinkara) and one near threatened (Leopard) species of mammals and a once-vulnerable reptile (Marsh Crocodile). These proposals also aim to conserve flora like *Commiphora stocksiana* (Sweet Guggul), *Olax nana*, *Ephedra foliata*, *Helichrysum cutchicum* and *Leptadenia reticulata*. Fifteen out of 35 BMCs have made their plans to conserve grasslands both for fodder and for wildlife conservation. Fifteen BMCs have their action plans to conserve and improve thorn forest habitat and all the BMCs have their wetland conservation action plans for wildlife conservation as well as providing water source for livestock.

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Biodiversity Conservation in Pinder Valley, Uttarakhand

The people in the Uttarakhand Himalaya, the timeless custodians of nature's bounty, have channelized sustenance under limited access to and management of resources for bona fide needs such as food, fodder, fuel, shelter, safe drinking water, irrigation, electricity, and access to market to name a few. With subsistence becoming more pronounced, they have become victims of general apathy and need utmost attention and support for envisioning a progressive hill state. The post-independence period has no doubt brought more engagement in terms of civil cooperation, roads, infrastructure and communication, however, its ground assessment needs more inclusive engagement with people, need-based development models and processes for sustainable and prospering hill societies, whereby, the mountain people can experience increased wellbeing.



Pinder Valley Catchment

Region Profile

The Pinder valley river basin is located in the Narainbagar administrative development block of District Chamoli, Uttarakhand State. The region expands from mean height from sea level (MHSL) 700 meters at river embankments to lofty Himalayan landscape with perennial snow peaks at 7120 meters (Peak Trishuli). The agro climate provides a plethora of eco-diversities from sub-tropical, warm and cold temperate, sub-alpine, alpine to perennial snowline peaks. About 65% of the region is under forest cover. The river Pinder is a glaciating river. The rivulets are perennial, being fed by rain and snow. The holy and native festival of Nanda Devi Raj Jat Yatra is celebrated by all apart from other popular Hindu festivals in the region. The region is geographically challenging as it has been vulnerable to landslides and flash floods. People practice terrace farming and are the settled communities.

Community Profile

The community comprises of men, women, elderly, children, artisans and Traditional Medical Practitioners (TMPs). The caste categories present are Scheduled castes (SCs), Other Backward Castes (OBCs) and general classes. Agriculture is the main occupation of the region; however, it provides minuscule harvests as it is rain fed; landholdings are marginal, the changing weather patterns and climate vagaries have amounted to landslides and flash floods which are very frequent. Hence, agrarian economy is highly subsistence-based and livelihoods are insecure. Often the young seek out migration to combat situations at home, leaving behind women, children and the elderly. Money order economy has become the order of the day. Those men left behind engage as small petty wage laborers in contracting work and under government schemes such as MNREGA. Women bear the burden of everyday toil (family, farm, forest, household chores and livestock management in absence of men). Life in the Himalayas is harsh and drudgery-driven, impacting mother and child, with many cases of malnourishment. People live under apathy with little outreach. The very right to forest is also practically under authoritarian rule. Alternatives in NTFP/MFP collection are remuneration only as petty labors/daily wages even as they carry the stewardship of their own jungles, while the lion's share is being distributed amongst the contractors, and their nefarious circles.

Conservation and protection of environment is a matter of survival for people in Uttarakhand and the aim of environmental movements in the state is to assert local control and access over natural resources to ensure survival. Van Panchayats or Forest Management Councils are the community resource management institution prevalent across Uttarakhand, which aims to achieve the above; however, post-independence, the powers of such people's institutions have been greatly diluted by the state. The van panchayats (VPs) are officially recognized as village level institutions under the Indian Forest Act (IFA), 1927 as a result of which the VPs now have the status of Village Forests. However, they can now only be established in Civil Forests as against Class I Reserved Forests earlier. VPs also operate under the jurisdiction of the District Magistrate (DM), at the district level and the Sub-Divisional Magistrate (SDM) at the sub-division or Tehsil level. Elections for VP members and a Sarpanch take place every five years in a gram sabha which makes VPs directly answerable and responsible to the gram sabha. But, after the revision of Uttarakhand VP Rules in 2001 powers were heavily concentrated in the post of Divisional Forest Officer (DFO) subjugating the powers of the VP. Furthermore, the Uttarakhand Forest Department, since 1997, has been promoting Village Forest Joint Management (VFJM) in the VPs to bring VPs within the purview of the Forest Department. Presently the Forester is the secretary of the VP.

Over 13% of the total forest land in Uttarakhand is presently under VPs. VP forests are used for grazing livestock, cutting fodder, collecting dried and fallen leaves, fuel wood, and poles and timber for house construction. Each VP makes its rules and regulations according to the demand for and supply of forest products. The functions of VP are to check indiscriminate felling, tampering of fencing by villagers, ensure equitable distribution of forest products among the members, prevent encroachment on VP land, maintain the boundary and carry out the orders of the Deputy Commissioner (DC) and SDM regarding administration of these forests. It can also levy fines up to Rs. 500 with permission from the DC, and confiscate cattle and weapons of violators. The VP can sell grass, fallen twigs for firewood, stones and slates. Sale of resin can also be undertaken with the approval of the department and

auction of trees worth up to Rs. 5000 can be taken up with the approval of the DFO. Of the revenues earned by the VPs, the forest department is liable to 40 per cent, which many Sarpanchs feel is unfair as the contribution of the department in the management of the forest is very little. In all only 40 per cent of the proceeds from the sales go to the panchayat which can also only be spent with the permission of the government. Other constraints faced by the VPs, other than the threat of dilution of its powers by the state, is ensuring participation of all sections of population and transparency in its decision making process.

Relevance of Forest Rights for the Community

Forests have provided for every bonafide resource necessity such as fuel, fodder, food, water, timber, shelter, manure, implements, NTFP, ecosystem services and economic sustenance since time immemorial. Forest rights for resource access and its management is pivotal to the very existence of communities in Pinder valley. Prevailing laws and enactments have imposed various limitations and restrictions to the grass root communities. Van Panchayats have also been diluted of independent power and weakened. Community management through these has dwindled owing to regulations imposed by the state. The larger portion of communities' dependency yet remains in the reserve forest which is directly under state control (Forest dept.). The resultant dwindling resources are jeopardizing livelihood security of the dependent community.

Under the present circumstances, 55 villages from the Narainbagar administrative block in the Pinder Valley region have filed for Community Forest Resource (CFR) rights guaranteed under the Forest rights Act (FRA), 2006. Out of these 55 claims around 31 claims are with the Sub Divisional Level Committee (SDLC) and around 24 claims are with the Gram Panchayats.

Biodiversity Conservation through Van Panchayat in Palchuni Village

Palchuni is one of the 55 villages in the Pinder Valley region which has filed for CFR rights under the FRA 2006. The village has 130 households out of which around 76 belong to the general category, 42 to Scheduled Tribe (S.T) category and 12 to Other Backward Classes (O.B.C) category. The Palchuni vanpanchayat manages a forest area of 220 acres. The villagers follow strict rules and regulations for extraction of forest resources. In addition to the VP, women through their *Mahila Mangal Dal* (Women's Groups) are also protecting and using civil forests (outside of the VP) based on consensus decision-making.

39. This section is based on an article written for The Hindu. Pathak Broome, N. and Bhatt, S. 2003. Forest Management: Colonised by Brethren. The Hindu Survey of the Environment 2003.

40. See: Chowdhury, S., & Bandekar, R. (2009). Community Conserved Areas in India: A directory. N. Pathak Broome (Ed.). Pune, India: Kalpavriksh.

The *Sarpanch* of the VP is elected in a *gram sabha* and the *Sarpanch* calls for a meeting of the VP from time to time. The *Sarpanch* is also in charge of issuing a receipt to villagers (in return of a payment made to the *gram panchayat*) for collecting wood for house building purposes from the forest. The VP has appointed a forest guard for the protection of the forest and every six months the guard is paid an amount of Rs. 150 per family. For conservation, all access to the forest is restricted between July till February and between March till June the forest is open to collect dried leaves, *bichona* or biomass required for cattle sheds and dried wood. The women are also in charge of clearing the forests in the month of July after which fencing of the forest is done to prevent villagers from other villages and domestic animals from entering the forest. In the month of April when the forest is liable to catch fire, all the villagers together help douse the forest fires as the villagers are depended on the forest for agriculture, collecting wood for fuel and building purposes, fodder for livestock, medicinal plants and fruits and all villagers have equal rights on the forest. Along with this the villagers take care that they don't break branches of trees while harvesting wild fruits or flowers. In case they break branches, they are liable to a fine and a ban on entry to the forest. In the midst of the VP forest is also situated a temple dedicated to a deity called *Bhairav*, where once in every three years a *puja* or ritual is performed for the welfare of the village, as well as safety of the livestock and women who go to the forest. Hunting is prohibited here.

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Musings

Tigers and Sacred Groves

Ah...

Lyngdoh (priest) and tiger.
You see, there's a
Law Kyntang, a Sacred Grove.

'lawKyntang
it is granted by ..
the divine
authorities.
The DIVINE
Chamber has sent
a Protector.

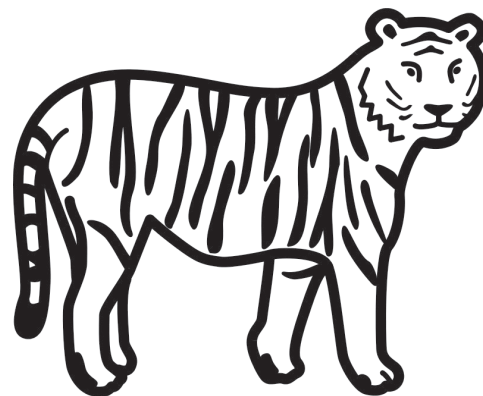
And THAT unseen
divine- he will
protect us
From
Any
Difficulties, Like
cholera, War,
Starvation,
And so on and so forth.

So this unseen divine authority
Living in a forest, Living in a Religious stone-
No one can see.

SOMETIME
He appears
To human being
In the form of a tiger.

That type of tiger we call U'laRyngkew...
U'laRyngkew.....

Source Unknown



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