

## Protected areas and human rights in India— the impact of the official conservation model on local communities

Milind Wani and Ashish Kothari

**Abstract.** We reviewed the impact of some of India's conservation policies on the livelihoods of communities living within areas protected for wildlife (national parks and wildlife sanctuaries). We did that in the background of United Nation's Millennium Development Goal (MDG) of halving extreme poverty by 2015 and of the human rights framework, within which impoverishment can be seen as a violation of human rights. Our research at sites in three states of India suggests that conservation policy is having significant adverse impacts on resident and user communities. Some sincere attempts by the state and/or by NGOs to mitigate or minimize these impacts have been made, but they remain inadequate. Issues of poverty, conservation, human rights, citizenship rights, and land/resource tenure rights specific to India's history and social-economic conditions are closely inter-linked. They cannot be addressed in a piece-meal manner, as has been done so far. A human rights approach that integrates conservation and livelihoods requires an active and informed participation of the communities living within protected areas. Conservation policy itself needs to embrace new paradigms of governance and participation that many countries are exploring.

India's protected areas (PAs) have been the single most important strategic approach employed by the government for the conservation of the country's biodiversity. Upwards of 600 PAs cover about 5% of the country, helping to protect some of its last remaining natural ecosystems and wildlife populations. These PAs are, however, also home to 3 to 4 million people. Most of these belong to communities that have lived in or used the area for generations or centuries, and most belong to the economically 'lower' or 'poorer' classes of Indian society. This paper examines the social situation within India's PAs from three perspectives.

Firstly, we try to understand how the current poverty<sup>1</sup> of resident or user communities relates to the establishment of PAs. Poverty is a multi-dimensional concept<sup>2</sup> that negatively impacts on the well-being<sup>3</sup> of people and com-

munities. In this sense, any actions that actively cause 'impoverishment' can be considered a violation of human rights. Examples of such violations include:

- ▶ Denial of customary rights over access to natural resources for physical subsistence, livelihood and economic security.
- ▶ Actual or potential threat of displacement, dispossession and loss of command over economic resources.
- ▶ Ill-health, illiteracy, hunger and morbidity that can be related to impoverishment.
- ▶ Denial of participation in developmental activities and community life.
- ▶ Disempowerment and decreased control over personal and community lives.
- ▶ Lack of accountability of decision makers including the government.

Following the economist Amartya Sen,



Picture 1. Women in Satpura Tiger Reserve, the hardest hit by restrictions on access to resources. (Courtesy Ashish Kothari)

poverty can be seen as “the failure of basic capabilities to reach certain minimally acceptable levels”.<sup>4</sup> Being adequately nourished, clothed and sheltered and being able to participate in community life can be viewed as interrelated “functionings” that can be impacted by development or conservation policies. In this sense, the active impoverishment and disempowerment of people and communities can be seen as a violation of human rights

In this light, this article examines the impact of PA-related policies and judicial strictures on the livelihood options of these communities and explores the extent to which new conservation policy initiatives (eg. ‘ecodevelopment’) attempt to ensure livelihood security and otherwise alleviate poverty. The article is based on site visits to study the situation of PAs

in 3 states of India (Orissa, Madhya Pradesh and Himachal Pradesh), and an analysis of conservation policies, undertaken as part of a Small Grants Programme research project funded by UNESCO. It places itself within UNESCO’s perspective that freedom from poverty is an issue basic to ensuring the protection of human rights.

### **Poverty, human rights, and conservation**

Around 70% of the Indian population depends on land-based occupations, and on forests, wetlands and marine habitats for their basic subsistence requirements.<sup>5</sup> This dependence is widespread, with very few ‘natural’ ecosystems (mostly some inaccessible reaches of the Himalayas, and some islands) not being subjected to some form of human use. These communities depend on the resources of the area for water, housing material, fuel wood, fodder, pastures,<sup>6</sup> medicinal plants, non-timber forest products (NTFP), timber, aquatic resources including fish, spiritual and cultural sustenance, and myriad other basic needs. In all, 275 million people depend on NTFP for their livelihood.<sup>7</sup> NTFP collection generates about 1063 million person days of employment in India<sup>8</sup> and about 60-70% of NTFP gatherers are women.<sup>9</sup>

*It is crucial that access to natural resources be considered an essential component of anti-poverty strategies, and denial of access be seen as leading to impoverishment and therefore a violation of basic human rights.*

There are an estimated 20 million person days per year involved in medicinal herb collection from the wild, for a net collection of around 1120 million rupees per year.<sup>10</sup> There are an estimated 22 million fisher-folk who



Picture 2. Non-timber forest produce is a critical source of livelihood for villagers in Baisipalli Sanctuary, Orissa. (Courtesy Ashish Kothari)

depend on aquatic habitats for their livelihood.<sup>11</sup> The dependence is greatest in the case of India's indigenous or tribal communities.<sup>12</sup> It is not coincidental that 65% of India's forest cover is in 187 tribal-dominated districts.<sup>13</sup>

Given this dependence, it is crucial that access to natural resources be considered an essential component of anti-poverty strategies, and denial of access be seen as leading to impoverishment and therefore a violation of basic human rights. The complexity and seriousness of the issue is further underscored by the fact that the 150 poorest districts in India are also constitutionally-designated Schedule V areas and that Scheduled Tribes<sup>14</sup> constitute about 8.4 per cent of India's population.<sup>15</sup> Therefore, it is vital that conservation be addressed within the context of human rights, and conversely that human rights approaches incorporate the need to conserve natural ecosystems and resources. In the context of PAs, conservation strategies must address the issue of ensuring livelihood security (and hence freedom from poverty and impoverishment).

Any consideration of India's conservation policies has to note their impact on people (leading to decreased or increased poverty), and conversely, the impacts (negative or positive) that people have on wildlife and natural resources. Some criteria crucial to understanding the current situation are:

- ▶ the extent of dependency on natural resources for basic survival, the extent to which such dependency is recognized as a rights issue,<sup>16</sup> and the impact of conservation policy on this dependency;
- ▶ success or failure of developmental activities within areas designated for conservation;
- ▶ access to information regarding, and extent of participation in, decisions affecting one's life;
- ▶ awareness about compensation policies; and
- ▶ availability and awareness of alternative livelihood options.

### India's conservation model and its livelihood impact

The greatest conflicts in relation to access to natural resources for livelihood purposes exist in PAs. Over the last few decades, several hundred PAs have been declared under the Wild Life (Protection) Act 1972 (WLPA). From a handful of such areas prior to 1972 (which were declared under previous laws, mostly colonial in origin), the country today has over 600 PAs, covering almost 5% of its territory. Until recently, these belonged to two categories: National Parks—where all human activities are strictly prohib-

*Ensuring that livelihood needs are met without compromising the conservation of wildlife and biodiversity is a critical part of India's environmental and developmental agenda today.*

ited, and Wildlife Sanctuaries— where some activities/rights are allowed. In 2003, two more categories of PAs were included in the Act: Conservation Reserves and Community Reserves. There are a number of other legal and non-legal categories providing varying degrees of conservation coverage to specific sites: protected and reserved forests (under the Indian Forest Act 1927), biosphere reserves, elephant reserves, heritage sites (none of these with legal backing), tiger reserves (declared since 1973 but given legal backing only in 2006), and ecologically sensitive areas (under the Environment Protection Act 1986).

In areas where natural ecosystems still exist in relatively intact or less disturbed form, considerable wildlife and biodiversity still survives. But many of these also have traditionally resident or dependent human communities. Ensuring that livelihood needs are met without compromising the conservation of wildlife and biodiversity is a critical part of India's environmental and developmental agenda today.

Unfortunately, the official conservation model applied in India is in many ways unsuited to the Indian context.<sup>17</sup> This model, imported from the West (in particular from the US Yellowstone National Park) and based on the principle of exclusion, has been extended to areas where people reside within wildlife habitats. The fact that the model would have serious implications for livelihood security and people's own conservation practices was ignored when it was enshrined in the WLPA.

The WLPA has been crucial in reducing the destruction of wildlife species and habitats, but has also continued the colonial legacy of rendering control over natural resources into the hands

of centralized bureaucracies, further removing any vestiges of management and control that local communities may have had. This affects, either directly or indirectly, the life of 3 to 4 million people in indigenous and other communities that live within PAs and another few million that live outside PAs but depend on the PA natural resources for their own livelihoods. A country-wide assessment in the mid-1980s showed that 69%

of the studied PAs had human populations.<sup>18</sup> Local traditions of conservation and community resource management and ethical and spiritual beliefs have sustained many ecosystems and wildlife species, though it would be a mistake to

romanticize these as being universal or always effective. These traditions were almost totally neglected in the legislation. Also neglected, and in some cases actually "dismantled", were community level institutions of resource management and conservation. This mismatch between conservation policy and the social situation on the ground has had significant impacts, some of which are:

► **Dispossession and displacement**

Over 100,000 people may have been displaced from PAs over the last 3-4 decades (the fact that there is no comprehensive official figure is symptomatic of the casual attitude towards this problem).<sup>19</sup> More serious is the denial of access to survival and livelihood resources for people that remain within PAs, reported to be prevalent in most PAs of the country.<sup>20</sup>

*The WLPA continued the colonial legacy of rendering control over natural resources into the hands of centralized bureaucracies, further removing any vestiges of management and control that local communities may have had.*

### ► **Conflict between local people and government officials**

The mid-1980 study mentioned above revealed that, of the PAs surveyed as many as one-fourth reported physical clashes between PA officials and local people.<sup>21</sup> Another 1983 report<sup>22</sup> prepared by a government appointed task force and focusing on rural peoples' dependence forests, acknowledges the fact that: "In their precarious existence, enforcement of restrictions in wildlife reserves triggers antagonism".

### ► **Backlash against conservation**

Extreme hostility against PA-related restrictions and frequent repression is also manifest in acts of reprisal: poisoning of wildlife, aiding and abetting poaching by outsiders, setting fire to the forest, and similar destructive acts. Political leaders make use of this to demand the de-reservation or downsizing of PAs to leave villages out of the boundaries.<sup>23</sup> This downsizing happened some years back, for instance, with the Great Himalayan National Park in Himachal Pradesh, the site of one of our case studies.



Picture 3. Women of Barnagi village in buffer zone of Great Himalayan National Park: in need of alternative livelihoods. (Courtesy Ashish Kothari)

This is not to say that conservation policy and programs have only had negative impacts. Communities have also benefited in several ways:

- PAs have helped keep out the destructive 'development' pressures from many areas, some of which (mining, dams, etc) could have inflicted far more damage on local communities than the restrictions imposed by PA rules. This impact is less tangible,<sup>24</sup> but nevertheless major in the case of some PAs, and many communities do acknowledge it, when asked.
- The biomass being protected in PAs is used by resident and user communities (where not denied access); PAs also act as "nurseries" from where natural resources such as fish spill over into surrounding areas and benefit people.
- Ecosystem services protected by PAs are of significant use to local people, water being probably the most important.
- Some PAs are employing local people, and beginning to deliver more tangible benefits in terms of ecotourism revenues.

Unfortunately, the above benefits are often poorly tangible, or seem to benefit only a fraction of the people adversely affected by PAs. This imbalance in costs and benefits to local people has of late become even more pronounced with recent policy pronouncements and judicial strictures. In 2000, the Supreme Court of India passed an order restraining all state governments from ordering the removal of timber, fallen wood, grasses, and other such produce from protected areas. Though this order was made in the context of a disguised move by one state government to re-open timber logging inside PAs, it has been more widely interpreted

ed (2003/04), by the central Ministry of Environment and Forests, and by a Centrally Empowered Committee set up by the Supreme Court, to ask state governments to halt all exercise of rights and concessions inside PAs! This extremely 'generous' interpretation of the Court's direction is even beyond the spirit and letter of the WLPA, since it effectively denies any means of livelihood to people living inside PAs.

Due to be impacted are 3.5 to 4 million people, as virtually all their livelihood related activities dependent on forest or other natural produce would be halted. Without explicitly ordering this, India's central judicial and executive bodies have set into motion a process that could first dispossess, and then forcibly displace, millions of people. Already the impacts have been felt. In the south-eastern state of Orissa, the government has implemented a prohibition on NTFP collection. This has reportedly affected several hundred thousand *adivasi* (indigenous/tribal) people,

*Without explicitly ordering this, India's central judicial and executive bodies have set into motion a process that could first dispossess, and then forcibly displace, millions of people.*

taking away their sole or main means of livelihood, and forcing many of them to migrate out in search of employment and income. Similar orders are underway or under consideration in many other states. These orders have created a situation of

enormous tension and potential escalation of conflicts across India. The NGOs Kalpavriksh (Pune, Maharashtra, India) and Vasundhara (Bubhaneshwar, Orissa, India) have legally challenged the orders, but the courts have yet (as of January 2007) to hear their arguments.

It was precisely to ascertain the impact of the recent policy and judicial pronouncements that our study looked at the situation on the ground in some selected PAs.

### **Case studies' background and results**

The study examined the situation in four PAs in three states:

1. The Satkosia Gorge Sanctuary (SGS) in Orissa state, with an area of 795.52 sq. kms, was declared on 19 May 1976. It is a vital habitat for the elephant and other wildlife, but also contains 102 villages (including three forest villages)<sup>25</sup> with a population of nearly 32,000.<sup>26</sup> The process of identifying and settling the customary rights of these people has not yet been completed.
2. The Baisipalli Sanctuary in Orissa state, with an area of 168.35 sq km, was declared on 7 November 1981. As of 2001, the villages inside had a population of 5874, most of them Scheduled Tribes with a very heavy dependence on NTFPs. Since the entire area of the Sanctuary was previously a Reserve Forest (under the Forest Act 1927), identification and settlement of people's rights to forest produce has not been considered necessary.

In both the above PAs, NTFP collection for sale was banned in 2001.

3. The Great Himalayan National Park (GHNP) in the state of Himachal Pradesh was established in 1984 for its exceptional range of Himalayan flora and fauna, including many threatened species such as the Western tragopan, Himalayan tahr, Blue sheep, and Musk deer.<sup>27</sup> GHNP is spread over an area of 754.4 sq km. Around 160 villages, with about

14,000 people, exist in the five-km wide belt on the western side of the park; many have been dependent on traditional resource uses inside GHNP. In 1999, with the final notification of the park, all such customary use rights were prohibited.

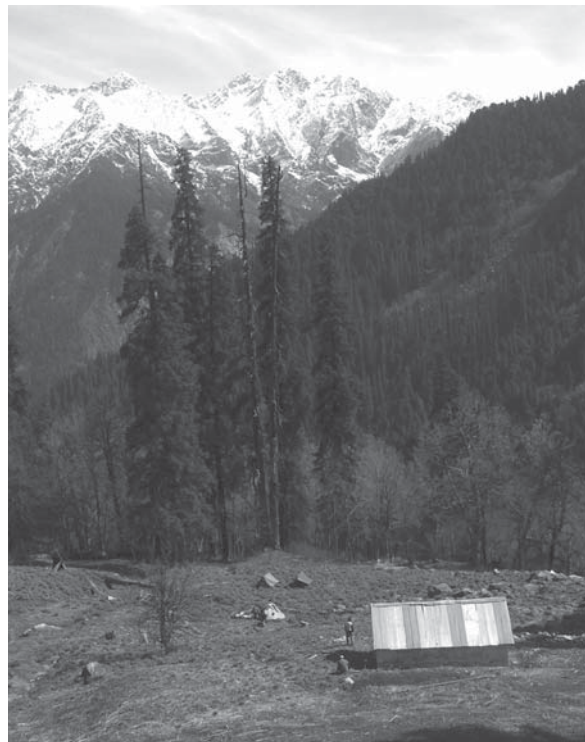
4. The Satpura Tiger Reserve (STR),<sup>28</sup> in the state of Madhya Pradesh, contains three protected areas: Satpura National Park (SNP: 524.37 sqkm), Bori Wildlife Sanctuary (BWS: 485.72 sqkm), and Pachmarhi Wildlife Sanctuary (PWS: 417.78 sq km). The total area is 1427.87 sq km. There are 8, 17 and 50 tribal villages respectively (total 75 villages) in the three PAs. The area is known as a part of the Gondwana tract after the Gond tribe, who chiefly inhabit this area and practice both settled and shifting cultivation. A decision was taken several years back to relocate some of the villages from within the STR. The first of these, Dhain, was shifted in 2005 and there are plans to shift 13 to 16 more villages.<sup>29</sup> Additionally, a number of restrictions on collection of forest produce for sale have been imposed here, pursuant to the Supreme Court's order of 2000.

These PAs were selected to illustrate three situations which face most PAs and PA-resident peoples in India:

- ▶ **Denial of access to natural resources**— A common phenomenon across India, the precise effects of this were studied in detail in Baisipalli and Satkosia Sanctuaries in Orissa, and in less detail at GHNP in Himachal Pradesh.
- ▶ **Physical displacement of communities residing within protected areas**— As an example of this, the success or failure of the relocation of Dhain village from within the Satpu-

ra Tiger Reserve (Madhya Pradesh) was studied.

- ▶ **State initiatives to create or enhance livelihoods**—The success or failure of 'ecodevelopment' initiatives as a means to alleviate livelihood/poverty needs and reduce pressure on the PA, was studied at GHNP, Himachal Pradesh.



Picture 4. The Great Himalayan National Park offers excellent trekking and camping opportunities, and a fledgling ecotourism venture could lead to some livelihood generation for local people. (Courtesy Ashish Kothari)

Our methodology included the following:

- ▶ Literature search on available material (official and otherwise);
- ▶ Site visits to study impacts of conservation policies and programmes on people, using personal observation and detailed questionnaires to elicit information and opinions from forest officials, local people and institutions, and state level NGOs;
- ▶ Group and individual meetings held

- with affected communities;
- ▶ Commissioning an expert paper on tourism as a livelihood option; and
- ▶ Analyzing existing and proposed new laws and policies and judicial pronouncements.

The focus of our study and methodology was to understand the impact of policy measures on communities residing within PAs, and the extent to which they may have led to impoverishment of communities staying within protected areas, through denial of livelihood because of dispossession, curtailment of access to sources of livelihood, inadequacy of developmental initiatives, displacement or inadequate rehabilitation, denial of opportunities for participatory decision making etc. From the perspective of the "capability approach", these have a direct relevance for the "functionings" of the people, an inadequate realization of which constitutes a violation/denial of certain human rights. Our study was also an attempt to understand whether initiatives like "ecodevelopment" really are an answer to the problems created by a certain model of conservation, and whether they have been adequate to remedy impoverishment and the related violation of human rights.

Our research reveals the following key impacts of protected areas on communities:

- ▶ Communities within or adjacent to these PAs were already facing deprivation and denial of customary rights prior to the PAs being declared, for reasons including the areas being declared reserve forests during colonial times, or lack of government attention to 'remote' areas away from main roads.
- ▶ However, there has been a significant additional negative impact on the livelihoods of communities liv-

ing in or around Baisipalli, Satkosia, and GHNP, due to denial of/restrictions on access to natural resources. In Orissa, prior to the ban on NTFP trade, families earned an average annual income of Rs. 6800— 9100 through legal sale of forest produce. This has dropped now to Rs.1000— 1500, no longer obtained legally. In many villages, since this was the main source of earning, people have been driven to the verge of destitution. Similarly, in GHNP, prior to restrictions on the sale of medicinal herbs, per family income was Rs.7500— 10,000. Legal trade has stopped almost completely, though some trade is reported to continue illegally. Thus the income drop in both cases has been above 80%. In Satpura, villagers also reported loss of livelihoods, but this was not studied in detail.

- ▶ Additional problems<sup>30</sup> that people within Baisipalli, Satkosia, and Satpura have been facing include: inadequate development facilities, non-settlement of rights, harassment by PA staff, lack of awareness of compensation schemes, lack of participation in decision-making, insecurity due to fear of eviction, inadequacy of medical support, poor educational opportunities, and inadequacy of roads, communication, and energy sources.
- ▶ There have been no attempts at amelioration of negative impacts in Baisipalli or Satkosia. At GHNP, sincere attempts at providing alternative sources of livelihood have been made under 'ecodevelopment' programmes, including creation of women's self-help groups. But these have been inadequate with respect to the scale of the loss. Villagers expressed serious difficulties due to inadequate compensation for (or alternatives to) the reduced income due to loss



of rights and access to medicinal herbs and grazing, compounded by inadequate settlement of customary resource access rights based on outdated records..

- ▶ Displacement from Satpura has had a significant negative impact, visible at least in the short term. Key issues at New Dhain (the resettled village) include: poor initial governance of the resettlement process (e.g. absence of written Memorandum of Understanding with the villagers), conflict with an existing settlement (Doobjhirna) over land, unsatisfactory land preparation and water availability for a year after relocation, and difficulty accessing authorities and civil society groups for redress. More recently, sincere attempts at rehabilitation and livelihood generation, mobilizing extra resources from district administration, are visible on the part of the Satpura Reserve authorities.
- ▶ Legal processes have been faulty in all these cases. Settlement of customary resource access rights remains incomplete for communities inside Baisipalli and Satkosia; at GHNP, the settlement was based on a 19th century report on forest rights that hardly benefited currently existing families. In the case of New Dhain, people have yet to get legal documents pertaining to the land they have been allotted, due to restrictions imposed by the central government.
- ▶ Very few basic development related activities have been undertaken within Baisipalli, Satkosia, and Satpura. Health-related problems are serious in the area. Though some initiatives were undertaken for the relocated village in Madhya Pradesh— for example roads were being constructed— this started more than a year after relocation.

At GHNP, Park authorities had made efforts at improving infrastructure in some of the affected villages in the buffer area.

- ▶ Some of the restrictions seemed to be leading to a backlash against conservation itself. In Baisipalli, for instance, it was reported that people had resorted to rearing goats, which are taken out to graze in the forests. At all the PAs, hostility against the PA authorities was palpable, leading to difficult working conditions for the staff.

Ironically, while local communities were being denied access to resources or were being physically relocated, the government was giving out PA land for commercial activities. This was very visible in the case of GHNP, where about 1000 hectares (10 sq km) were carved out of the PA, ostensibly to benefit two tiny villages inside, but actually to open up the area for the Parbati Hydrel project. Local people have suffered from loss of income from herb collection, grazing and agricultural activities while alternative sources of livelihood were not made available to them. Their health problems have actually increased because of high levels of dust and noise. Their crops and land have been damaged with no compensation. Their water sources have been disrupted. The influx of labor put added pressure on the natural resources and threatened the valuable bamboo forest and the Western Tragan habitat.

*Ironically, while local communities were being denied access to resources or were being physically relocated, the government was giving out PA land for commercial activities.*

One positive point was that forest of-

officials across the four PAs were clearly concerned about the plight of the people within their jurisdiction. While no compensatory activities were visible in Baisipalli and Satkosia, officials did mention that they are exploring dif-

*One positive point was that forest officials across the four PAs were clearly concerned about the plight of the people within their jurisdiction.*

ferent avenues like ecotourism to help the tribal communities, and also that they had filed an appeal to the Supreme Court to allow NTFP collection again. More concrete steps have been taken by the GHNP au-

thorities, in terms of ecodevelopment activities that, albeit inadequately, address livelihoods loss.<sup>31</sup> In Madhya Pradesh, according to the forest officials in charge of Dhain villagers' rehabilitation, attempts are being made through forest department initiatives to provide livelihood alternatives, such as a sericulture project, which will hopefully assure a good income to the people in the future. The worst situation by far is in the Orissa PAs.<sup>32</sup>

### Key issues

From the case studies, and a general reading of the situation in India, some key issues emerge:

- ▶ Many communities living in areas targeted for wildlife conservation are living "on the margin", with tenuous access to critical livelihood resources. This situation partly existed prior to independence, and often continued post-independence. Historical processes of state takeover of commons are one factor, but there are others, such as state failure to deliver health, education and development inputs to "remote" areas.
- ▶ Conservation policy and programmes have had a significant negative impact on the socio-economic condition of communities living inside areas



Picture 5. Over 30,000 trees were cut for the rehabilitation of a village from Satpura Tiger Reserve, demonstrating the need to carry out impact assessments of the costs and benefits of relocation. (Courtesy Ashish Kothari)

sought for wildlife protection, worsening the already marginalized existence of these communities, and in some cases turning a situation of free and relatively secure access to survival resources into uncertain or prohibited access. This matter of great concern has been made even worse by the passing of the judicial stricture restricting access to NTFP.

*In some cases commendable attempts at ameliorating the situation have been made. But these remain inadequate compared to the scale of deprivation.*

- ▶ Denial of access to livelihood and survival resources, even when a community is allowed to continue living in its traditional place of residence, has directly lead to further community impoverishment and in some cases destitution.<sup>33</sup>
- ▶ In some cases commendable attempts at ameliorating this situation have been made. But these remain inadequate compared to the scale of deprivation. A recent focus on ecotourism to benefit communities has

had some small-scale success, but in most places is insensitive to community needs and rights, and to ecological sustainability requirements.<sup>34</sup>

- ▶ When communities get physically displaced, even a relatively efficiently-managed relocation process cannot make up for being up-rooted from a cultural way of living and way of being practiced for generations. These hitherto provided not only for livelihood, but also for the cultural and spiritual sustenance of these communities, based on a relationship with natural resources that evolved over centuries. Livelihood, moreover, has been based on historically-evolved customary rights and responsibilities. When these are suddenly replaced by relationships based on the modern concepts of state, law, judiciary, revenue, finance, development, and so on, the change can become a traumatic experience. Thus, those responsible for relocations also need to factor in the issue of potential malaise and conflict with villages already in and around resettlement sites.
- ▶ Denial of access to resources often backfires on conservation itself. There have been widespread reports from PAs in India of people resorting to damaging activities, including illegal timber felling and poaching. This is so because as people's hostility towards conservation measures increases, the potential for physical conflicts is heightened, and people become less cooperative, making it more difficult for wildlife officials to work effectively.
- ▶ Constitutional amendments and new laws regarding political decentralization (1993 and 1996) have come rather late (almost half a century after Independence). The situation has been further aggravated by poor implementation, divisions created by politicization, continuation of caste system privileges within local village

councils and assemblies (*panchayats* and *gram sabhas*), and political and administrative corruption. In the case of PAs, decentralized decision-making, which could balance out the alienation and disempowerment caused by conservation policies, was and continues to be conspicuous by its absence.

### The Way Ahead

Legally-notified protected areas are certainly one effective way to conserve ecosystems and wildlife. However, this cannot be done without providing for the needs of ecosystem dependent people. The imperatives of ecological security and livelihood/food security have to be seen as two sides of the same coin. For the former, it is critical to understand the biological requirements of ecosystems and species.

For the latter, factors that sustain or increase poverty (defined broadly as resource deprivation), or conversely sustain or increase livelihood security, must be understood and addressed in conservation planning. This would also mean respect for traditional and customary rights of ecosystem-dwelling

*The imperatives of ecological security and livelihood/food security have to be seen as two sides of the same coin.*

communities, facilitating their ability to ensure a certain standard of dignified living in terms of entitlements like secure livelihoods and employment, education facilities, health, access to information, and so on. Finally, this would also mean empowering people by enabling their participation and involvement in conservation initiatives and alternatives. Empowerment leads to a sense of freedom and a control over one's own destiny. Policy makers have to understand that unless and until there is freedom from poverty, there will always be a poverty of freedom.

Box 1. Stop-press! Two latest laws that could democratize conservation

In late 2006, two pieces of legislation have created the potential of democratizing forest and conservation management and providing greater benefits to local communities, but also some concerns about their impacts on conservation itself.<sup>35</sup> The passage of the **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006** attempts to reverse the historical marginalization of the tribal (indigenous) and other forest-dwelling people of India.<sup>36</sup> The Act mandates the vesting of 14 kinds of rights over forest land and forest produce on two categories of communities: scheduled tribes, and "other traditional forest-dwellers" defined as those living in forests for at least three generations.

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

There are some serious concerns about the Act's potential impact on conservation. In the context of PAs, for instance, it is not clear if the rights could over-ride the steps necessary to achieve conservation. Specific conservation **responsibilities** have not been placed on the rights-holders. The fact that 'encroachments' upto December 2005 can be legalized is already leading to incitement by politicians, in some areas, to encroach into forests further with the hope that they will be legalized. In some Indian states, such encroachment is a serious cause of deforestation.

The second legislative measure of note is within the WLPA itself. In late 2006, the **Wild Life (Amendment) Act** was passed, setting up a National Tiger Conservation Authority, and specifying processes for notification and management of Tiger Reserves. It requires that "inviolable" areas need to be determined in a participatory manner, and that relocation from such areas needs to happen only with the informed consent of communities. Areas of concern pointed out by conservationists include the dropping of a number of provisions of the WLPA from being operative inside Tiger Reserves. As of late 2006, a legal challenge has been mounted by some conservation organizations against such provisions.

Based on this understanding, the study makes a number of recommendations, including:

**Addressing the lacunae within current conservation policies and laws**

- ▶ Developing criteria for declaring protected areas, assigning them a specific category and assessing dependence of local people on protected areas.
- ▶ Identifying and establishing the community rights, and settling them in PAs, through transparent and participatory means.
- ▶ Moving from an 'ecodevelopment' approach towards Joint or Collaborative Protected Area Management, in which decision-making and benefits are both shared.<sup>37</sup>
- ▶ Regulating commercial use of resources within PAs, and prohibiting large-scale diversion for development projects.
- ▶ Ensuring due process of relocation and rehabilitation. This can make use of new laws requiring informed consent and adequate preparation—the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the

Wild Life (Amendment) Act 2006 (see Box 1 in this article).

- ▶ Implementing recommendations of existing national planning documents, such as the National Wildlife Action Plan 2002-2016, and the draft National Biodiversity Strategy and Action Plan.<sup>38</sup>
- ▶ Implementing recommendations of international policy and treaties on conservation and livelihoods, in particular the CBD Programme of Work on Protected Areas.



Picture 6. Many villagers in the buffer zone of Great Himalayan National Park have had to sell off their livestock, since grazing in the Park was banned. (Courtesy Ashish Kothari)

### Ensuring that human rights are safeguarded

People and communities living within PAs should enjoy human rights:

- ▶ *Right to association*: They must be free to organize without restriction and associate with other communi-

ties, civil rights groups, and social activists to exchange understanding and knowledge about the impact of policies (and amendments), processes of displacement and rehabilitation, etc..

- ▶ *Right to assembly*: They must be free to meet without impediment and intimidation, e.g., they should be able to assemble without outside interference or the intimidating presence of forest officials, vested political powers, etc. to discuss and decide about their own lives.
- ▶ *Right to say what they want without fear of persecution*: They must be free to dissent vis-à-vis a policy directive entailing their forcible or coerced displacement or vis-à-vis an unsatisfactory or inadequate rehabilitation. Appropriate mechanisms/avenues of expression should be available.
- ▶ *Right to participation*: This is a crucial and complex human right that is inextricably linked to fundamental democratic principles and that entails active and informed involvement in decision-making. As a World Bank document<sup>39</sup> observes "The poor want desperately to have their voices heard, to make decisions and not always receive the law handed down from above. They are tired of being asked to participate in governmental projects with low or no returns". A human rights approach to poverty requires active and informed participation of the people and communities living within PAs.
- ▶ *Right to information*: They must know the relevant facts about schemes, compensation policies, application processes, etc. that affect their lives.
- ▶ *Right to a reasonable standard of living and livelihood security*: Command over natural resources plays an important role in defining liveli-

hoods and should be protected.

Treading an integrated conservation and livelihoods path is difficult, and prone to errors of judgement. But in countries like India, where wildlife and people live side by side in most of the landscape, it is the only path that has a long-term hope of success. The sooner India moves in this direction, the better it will be for both its wildlife and its people.

**Ashish Kothari** (ashishkothari@vsnl.com) has been with Kalpavriksh— Environmental Action Group for the last 27 years. He has also taught at the Indian Institute of Public Administration for a decade, and been on the Board of Greenpeace International. He co-chairs the Strategic Direction on Governance, Equity and Livelihoods, of the IUCN— World Conservation Union and continues to participate in several social and environmental movements. His main areas of interest are environmental governance and community-based natural resource management.

**Milind Wani** (milindwani@yahoo.com) has been with Kalpavriksh— Environmental Action Group for the last 4 years. His areas of interest are conservation, human rights, social action and culture.

### Notes

- 1 We define poverty here as deprivation of resources essential for survival and livelihood, including, for communities living within/adjacent to natural ecosystems, denial or lack of access to natural resources.
- 2 The dimensions of poverty are linked to certain 'freedoms' that a person can enjoy or be denied. Thus curtailment of certain 'freedoms', e.g., freedom to exercise customary rights of access over natural resources, can lead to impoverishment.
- 3 Human well-being can be viewed as a set of inter-related "functionings" that a person can "do or be". The level of well-being will then depend on the level of those "functionings" in areas of value to the person (OHCHR, 2004).
- 4 Quoted in OHCHR, 2004. pg. 7
- 5 TPCG and Kalpavriksh, 2005.
- 6 Over 200 castes, as much as 6% of the total Indian population, is engaged in pastoral nomadism with substantial dependence on natural ecosystems ( Agarwal *et. al.*, 1982.)
- 7 Bajaj, 2001.
- 8 Khare, 1998.
- 9 Gera, 2001.
- 10 FRLHT, 2001.
- 11 Kocherry, 2001.
- 12 The term 'indigenous' is not officially used in India, though the peoples themselves use it; more commonly used terms are 'tribes' or *adivasi* ("original dwellers").
- 13 Quoted from "Fatwa raj is over", Interview with Brinda Karat, CPI(M) leader and Member of the Rajya Sabha, *Frontline*, January 12, 2007
- 14 Scheduled Tribes are tribal communities listed in a schedule in the Constitution of India, for the purpose of being provided special rights and privileges; Scheduled Areas are those primarily inhabited by tribal communities; these are also prime "tiger districts"; see for reference the Executive Summary of the report of the Tiger Task Force <http://projecttiger.nic.in/TTF2005/index.html>.
- 15 Prasad, 2007.
- 16 Till the 1991 amendment to the Wild Life (Protection) Act, 1972, a sanctuary could be notified without people's rights being determined; subsequently, they had to be identified and settled (allowed or extinguished), before the sanctuary could be finally notified. In 2003, further amendments provided for people to be given alternative arrangements for fuel, fodder and minor forest produce till the rights were settled. However, in many PAs, rights still remain unrecorded or unsettled even years after declaration.
- 17 The Yellowstone National Park model of the United States advocates a separation of wildlife from people, is based on western notions of wilderness, and is known to have caused disruption for native human populations even in the USA.
- 18 Kothari *et.al.*, 1989; the 2005 report of the Tiger Task Force set up by India's Prime Minister, acknowledges that "The protection of the tiger is inseparable from the protection of the forests it roams in. But the protection of these forests is itself inseparable from the fortunes of people who in India, inhabit forest areas" (<http://projecttiger.nic.in/TTF2005/index.html>).
- 19 Kothari *et.al.*, 1996.
- 20 Kothari *et. al.*, 1996
- 21 Kothari *et.al.*, 1989.
- 22 The 1983 *Eliciting public support for wildlife conservation — report of the task force*, by a committee headed by Madhavrao Scindia, focuses on the dependence of rural people on forests. This report recommended development programmes and funds for villages located in the periphery of protected areas. However, this will be much more relevant for villages located *within* protected areas where dependence on forest, aquatic and other natural produce for economic and domestic subsistence is very substantial
- 23 Kothari, 1999.
- 24 The problem, of course, is that this is a *potential* threat warded off, whereas the *actual* harassment due to conservation laws and often repressive bureaucracy is far more tangibly felt
- 25 Forest villages were set up by the Forest Department in the erstwhile colonial regime and after Independence, as labor for forestry operations. Very few rights were given to these people. Forest villages are under the control of the Forest Department, do not come under the Revenue Department, and are not entitled to many government schemes/programs that most villages in India can avail of. In Satkosia, one of these villages, Tarava,

- was established by the British in 1910 for commercial forestry operations. To date, this has not been converted into a revenue village. Due to this, it is deprived of the benefits of various government programmes like old age pension, widow pension, Anthyodaya Anna Yojana, or even domiciles certificates as they are under the sole jurisdiction of the Forest Department. There are recent reports of death due to malnutrition from this village (Barik, 2006).
- 26 1991 census.
- 27 Pandey, 2003.
- 28 This section is partially based on <http://project-tiger.nic.in/bori.htm>
- 29 As of June 2006, this was the plans
- 30 It should be noted that not all of these are due to the presence of the PA; many of these deprivations exist in Indian villages outside PAs also. However, at least some instances were recounted of development facilities being denied due to PA related policies.
- 31 However, the then Park Director Sanjeeva Pande, responsible for many of the progressive efforts made in the last few years at GHNP, acknowledged the fact that conservation is not going to come through only economic empowerment, but that social and political empowerment of the communities living in and around protected areas is also required.
- 32 There has been no response to our study from the Forest Department despite repeated reminders, though initially, at the time of giving us official permission to visit the study sites, we were told that we would require their permission in order to publish our findings!
- 33 Recent policy revisions by a number of donors have redefined "restricted access" to certain natural resources as a form of involuntary displacement, even if the affected groups are not physically relocated. This revision would affect the programmes of various multilateral banks as also of the Global Environmental Facility (GEF) (Cernea 2006).
- 34 Bhatt, 2006.
- 35 Both these took place towards the end of this study, hence have not been analyzed in detail in relation to the case studies and empirical work done under it.
- 36 See a series of articles and an interview in the *Frontline* issue of January 12, 2007 (<http://www.flonnet.com/fl2326/index.htm>).
- 37 Lessons in this regard could be learnt from examples such as Periyar Tiger Reserves where some experiments in participatory conservation have been tried. Lessons could also be learnt from local people's efforts at conservation of wildlife, or Community Conserved Areas (see [http://www.iucn.org/themes/ceesp/Wkg\\_grp/TILCEPA/CCA%20India%20brochure.pdf](http://www.iucn.org/themes/ceesp/Wkg_grp/TILCEPA/CCA%20India%20brochure.pdf)). Considerable documentation on the same is available with Kalpavriksh.
- 38 As action plans, both the NBSAP and NWAP have so far not had major policy, legal, or on the ground impact. This lacuna needs to be addressed immediately.

- 39 As cited in OHCHR from the series "Voices of the Poor" published for the World Bank by Oxford University Press, 2000-2002. It is of course another issue that the Bank itself has been frequently criticized for not following such an approach in its funding.

### References

- Agarwal, A., R. Chopra, and S. Narain, *The State of India's Environment, 1982: A Citizen's Report*, Centre for Science and Environment, New Delhi, 1982.
- Bajaj, M., *The Impact of Globalization on the Forestry Sector in India with Special Reference to Women's Employment*, Paper for National Commission on Labour: Group on Women and Child Labour, New Delhi, 2001.
- Barik, S., "Looking to get out of the 'green jail'". *The Hindu*, 28 November, 2006.
- Bhatt, S., *Tourism in Protected Areas: A Viable Livelihood Option?*, Unpublished paper commissioned for the UNESCO Small Grants Programme study by Kalpavriksh, Pune, 2006.
- FRLHT, *Trade Database 2001*. Foundation for the Revitalization of Local Health Traditions, Bangalore, 2001.
- Pandey, S., *Environmental Justice Study on Human-Animal Conflict in and around the Great Himalayan National Park*, Himachal Pradesh. Submission made to Winrock International India, New Delhi, 2003.
- Gera, P., *Women's Role and Contribution to Forest-Based Livelihoods*. Paper prepared for Human Development Resource Centre, United Nations Development Programme, New Delhi, 2001.
- Khare, A., "Community-based conservation in India" in Kothari, A., Anuradha, R.V., Pathak, N., and Taneja, B. (eds.) *Communities and Conservation. Natural Resource Management in South and Central Asia*, Sage Publications, New Delhi, 1998.
- Kocherry, T., *Biodiversity And Communities that Live on Subsistence*, Submission made to the Thematic Working Group on Livelihoods, NBSAP, National Fishworkers Forum, Thiruvananthapuram, 2001.
- Kothari, A. and S. Singh, D. Variava, and P. Pande, *Management of National Parks and Sanctuaries in India: A Profile*, Indian Institute of Public Administration, New Delhi, 1989.
- Kothari, A., N. Singh, and S. Suri, *People and Protected Areas: Towards participatory conservation in India*, Sage Publications, New Delhi, 1996.
- Kothari, A. "To Save the Sanctuaries", *Frontline*, July 30, 1999.
- OHCHR, *Human Rights and Poverty Reduction: A Conceptual Framework*, United Nations, New York and Geneva, 2004.
- Prasad, Archana, "Survival at stake", *Frontline*, January 12, 2007.
- Rajalakshmi, T.K., "Fatwa raj is over", *Frontline*, January 12, 2007.
- TPCG and Kalpavriksh, *Securing India's Future: Final Technical Report of the National Biodiversity Strategy and Action Plan*, Prepared by the NBSAP Technical and Policy Core Group, Kalpavriksh, Delhi/Pune, 2005.