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Rejig the power structure

The government's selective amnesia is astonishing. When the minister of rural development and panchayati raj (MoRDPR) and the minister of state for environment and forests (MoEF) announced a 'new initiative on panchayats and forests' on May 19, they appeared to have forgotten about the legislative developments that their own government recently introduced.

The 'new initiative' proposes actions that democratise forest management, by bringing relevant functions under the purview of panchayat institutions in keeping with the 73rd Constitutional amendment (1993), and the Panchayat (Extension to Scheduled Areas) Act (Pesa) Act 1996. The latter is applicable to Schedule V areas (predominantly tribal).

It's a progressive move, much needed to break the bureaucracy's stranglehold on forest and protected area governance. However, the initiative falls short of what is mandated by the two new laws, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (in short, Forest Rights Act or FRA) and the Wild Life (Protection) Amendment Act (WLPA) 2006.

Here's how: The initiative states that in areas under Pesa, gram sabhas/panchayats, not the district forest officer, should control Joint Forest Management Committees (JFMCs). In the rest, JFMCs should have 'organic linkages' with the panchayat bodies.

The FRA already empowers gram sabhas to set up forest protection committees to manage and conserve forests claimed by them as community forest resources under Section 3(1)i. These would eventually replace JFMCs. It's possible that in some cases gram sabhas might convert JFMCs, their own forest protection committees or myriad other community conservation institutions into forest committees under FRA. But it is entirely the gram sabhas' prerogative. It's another matter that forest departments in most states, fearing loss of power, are resisting such a move. It's this reluctance and obstruction that the two ministries should tackle with the ministry of tribal affairs (MoTA).

The MoRDPR/MoEF initiative says that there will be prior consultation with panchayats in matters of relocation and declaration of sanctuaries, with respect to the Wild Life Act (WLPA). However, this ignores the fact that for relocation, both the WLPA and the FRA now require gram sabha consent, not merely consultation.

Moreover, areas within existing or proposed protected areas (sanctuaries and national parks) can be claimed as community forests, and eventually this may force governance changes towards co-management or community-based management (as, incidentally, is happening across the world).

The MoRDPR/MoEF initiative talks of harmonising the Indian Forest Act, the Forest Conservation Act and Pesa. Good. But why leave out the FRA? Especially given that the MoEF has itself, with the MoTA, set up a committee to recommend what policy changes are needed in forest governance, to implement the FRA.

The MoRDPR/MoEF initiative says that "issues such as definition and ownership of minor forest produce" would be "sorted out shortly". Ownership of MFP was given to villages in Schedule V areas by Pesa in 1996, but never implemented; it is again given in the form of rights of usage and management, under FRA. Yes, some aspects of definition do need to be sorted out, especially for instance where states like Maharashtra are trying to remove bamboo from the list of MFP. But more important is to work out how the ownership and rights will be exercised, in ways that benefit local people and ensure conservation — issues that remain unexplained by the MoRDPR/MoEF note.

The note also states that "JFMCs are the only participatory institutions in place for implementing forestry programmes". This is outright wrong. There are thousands of self-initiated forest protection committees in at least a dozen states in India, working with or without help from NGOs and government agencies. MoEF has itself funded a study on some of these, published in 2009.

It is strange that the note mentions all the laws relevant to forests and people, except the FRA. Surely, this cannot be a mere mistake, or a case of the right hand not knowing what the left hand is doing. Is it because Pesa, having been rendered toothless by state governments, does not threaten the entrenched power of the bureaucracy, whereas the FRA, backed by rising grassroots mobilisation, does?

What these and other relevant ministries need to do is facilitate grassroots processes of decentralised forest management, using the mandate provided by the new laws. They should help build capacity where it does not exist, strengthen innovative institutions of cooperation between gram sabhas, tribal village councils, government departments, and larger landscape bodies, help monitor the ground situation to ensure conservation is taking place and the really needy are benefiting from forest use. Above all, these ministries need to go all out to change bureaucratic mindset that want to hold on to power. This cannot be done by continuing to promote iniquitous institutions like JFMCs, and ignoring legislative changes that herald in more equitable arrangements.

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