

## **Degradation of Commons, Changing Customary Rights and Marginalization: The Vulnerability of the Poor in the Sundarbans**

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*There has been a widespread assertion of the fact that the state commons are degrading as an indirect effect of the customary rights and indigenous livelihood practices of the local communities, which also has a simultaneous bearing on the livelihood vulnerability of the communities itself. Within the contemporary academic discourse, there thus remains the major question centring the issue of transformation of the non marketable customary collective rights into marketable and transferable individual rights as well as the role of technological development in the management of forest resources within the state commons. Based on this backdrop, the present paper aims to assess the degradation of the commons and the implications of the customary rights within the Protected Areas (PAs) that operates in the domain of the security of property and livelihood of the traditional communities, affecting the power differentials and control over local resources. The paper brings insights from the 'community based natural resource management' (CBNRM) paradigm as an alternative to the traditional state laws by challenging the popular informality associated with the definitions of legal pluralism. Taking Sundarban in India as a case in point, the paper concludes with a note on the applicability, success and limitations of the local laws in managing the commons, as an alternative to the state led top down models of conservation, in governing the resource rights and the nature of political and economic control over the people and resources.*

**[Key Words:** Commons, Customary Rights, Livelihood Vulnerability, Joint Forest Management, Self Help Groups.]

Legal anthropological studies in the third world, based on the use and access of common property resources have pointed towards multiple normative constructions based on the property rights. Criticizing and moving beyond Garrett Hardin's (1968) 'universal tragedy of the common property resources', Ostrom points out the feasibility of building theoretical foundations explaining

the reasons of conflict behind the fact that some resource users are able to self organize and govern the use of a resource over time and others fail or never make the effort (Basurto and Ostrom, 2009:3). One such central conflict in contemporary India is manifested in the vista of PA conservation, whereby in many cases, the facets of conserving the national parks and wildlife sanctuaries have marginalized the livelihood of the forest dependent communities in terms of their access to the local resources. Since resource rights and livelihood issues of the local communities are largely ignored within the established state laws of conservation, there is an increasing demand for a restructuring of the Protected Area Management Laws within the recent scholarships on political ecology (Beckmann 2001). The present paper has been an attempt to bring insights from the Community Based Natural Resource Management (CBNRM) paradigm in the context of Sundarbans, India, for managing the commons, by focusing on the arguments on local governance and challenging the popular informality associated with the definitions of legal pluralism. The islanders of Sundarban in eastern India have been cited as a case in point, the communities that are living a precarious existence being affected by the problems of poverty and vulnerability. This is coupled by a kind of exclusionary conservation that is being practiced which grossly undermines the participation of local people within the forest management practices.

### **State commons and the efficacy of CBNRM as an application of customary local governance: an overview**

There are several resources which are considered to be Common Pool Resources (CPR) on the grounds that it is difficult to determine their usage rights and prescribe any restrictions on those usages. They are characterised by difficulty of exclusion and generates finite quantities of resource units so that one persons use subtracts from the quantity of resources available to others (Ostrom 1997). The umbrella term 'CBNRM' emphasises that involving, if not privileging local communities is essential for successful 'Natural Resource Management' (NRM) and that doing so can simultaneously ensure environmental sustainability, social justice and development efficacy (Menon et al 2007: 1). CBNRM is a realistic and workable form of multilevel governance in complex resource landscapes including commons, such as where forests and smallholder agriculture exists (Forsyth 2009). In most of the cases, there is no registration of the communities which makes this entire initiative of CBNRM fall outside the purview of forest laws. Legally, villagers can neither plant nor harvest trees in these forests without explicit legal sanction, and thus the effectiveness of CBNRM falls out to be operational only outside the forest laws, in areas where the community is aware and organized (Vasan 2005). Effective resource management is likely to rely on the emergence of hybrid models of governance which respect local traditions, practices and resource rights and share responsibility for planning, implementation and enforcement of management measures between communities and government institutions,

taking into account their respective strengths and limitations (Clarke and Jupiter 2009).

However, there is a need to critically assess the concept of 'community' and the heterogeneity in the use and access to resources and the political process through which organization of the resources happen in the functioning of CBNRM (Blaikie 2006; Fernandez 2008). Pertaining to the recent literatures on CPRs within the forests, it can be seen that decentralization of state control over the natural resources have been favoured by several environmentalists on the grounds that the lives of millions of households are affected by how governments manage forests and address local claims (Agarwal and Ostrom 2001). However, there has been very little research on why decentralization is attempted and in what way there is superiority of decentralized solutions over centralized solutions on the grounds of efficiency, equity and sustainability (*ibid* 2001: 486). Apparently, it seems to be the fact that decentralization has helped creating better management of forests at a local level through participatory practices like JFM and other community forestry measures. But in reality, the situation appears to be complex. Several criticisms of JFM pertain to very less amount of share of the rural households in the profits accruing from the sale of forest timber. In addition to this, a state wide model induces rigidity which cannot adapt to diversity in social conditions and resource availability (Vasan, 2003: 37). Thus while acknowledging the need for local level laws like CBNRM, we should be critical of the dynamics and the ways in which they apply to the whole and ensure egalitarianism in resource access. CBNRM while having necessary merits if successfully implemented to situation specific needs in commons, is subjected to a plagued concept of 'decentralization' whereby internal politics at the local government level subverts the rationale of community participating in preserving the PAs. According to Chandhoke (2003), does governance, which presupposes cooperation instead of conflict across a multiplicity of sectors, enhance efficiency? Or does it make way for incoherence because now tasks and powers which we once considered fell within the domain of state power, have been divided between a number of agents, each of which pursue their own specific goals via a number of different and equally specific paths? How do we ensure that democratic procedures take into account background inequalities?

In the present paper we examine the recent conservation politics centring the PAs through the efficacy of CBNRM in the commons of India based on the following questions. Firstly, where is the failure to differentiate between different groups of human users in a state commons situation, which makes it difficult to distinguish between their ecological effects? Secondly, what is the extent of applicability of the local laws in governing the resource rights? Thirdly, is there any role of CBNRM as an alternative to the state laws in facilitating political and economic control over the people and resources? Hereby in the context of Sundarban, we conceive of CBNRM as a conflict resolution mechanism within the management of commons and an alternative

livelihood generating tool within PA management, favouring the participation of the local communities in the governance of resources. We depict how the local resource users organize themselves in their ways of preserving the nature of an ecologically fragile landscape.

### **The study area and methods**

Sundarban encompasses an area of 25, 500 km<sup>2</sup> of which two third lies in Bangladesh and one third in India. 9, 630 km<sup>2</sup> falls within India and 15, 870 km<sup>2</sup> is in Bangladesh. The area of our work is mainly centred on the *Satjelia* Island (including *Satjelia* Gram Panchayat (GP) and *Lahiripur* GP), which is considered as the extreme ‘down’ within the range of islands in Gosaba block, in the district of South 24 Parganas. *Satjelia* is a forest fringe island as well as the southernmost inhabited island beyond which lies STR at the south. The people here belong to Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Castes (OBCs), a majority of whom are migrants from Bangladesh. They belong to the lowest echelons in the caste order and the per capita income here is lower than half of the state’s average. Our tools of data collection were primarily semi structured informal interviews with open and close ended questions, voice and video recordings, focused group discussions, personal narrations and case studies. We have tried to do a cultural ethnographic research on the region which is qualitative based on descriptive research design. Data was collected over a period of three and a half months roughly. We tried to interview local people, primarily forest fishers, to note down their involvement in CBNRM and thereby record the functioning and lacunas, if any within the process. Focused group discussions in local party offices, Panchayats and informal discussions in individual households were conducted to know about the extent of people’s participation in CBNRM.

### **JFM in Sundarban: Forest Protection Committees (FPCs), Eco Development Committees (EDCs) and the role of Self Help Groups (SHGs)**

According to the National Forest Policy of 1988, people’s involvement in the development and protection of forests and requirement of firewood, small timber and fodder, are to be treated as the first charge on forest produce. Also, the Forest Rights Act, 2006, has recognized the responsibility and authority of the tribals in conservation of biodiversity and maintenance of ecosystem. In accordance with these policies and legislations, the governor of West Bengal decided that JFM committees (JFMCs) would be constituted for the purpose of development of degraded forests in South 24 Parganas among others, whereby the beneficiaries would be economically backward people living in the vicinity of the forests concerned. There shall be a joint membership for each household. Constitution of the JFMCs along with the executive committee will be approved by the Divisional Forest Officer (DFO) concerned on recommendation of the *Bonobhumi Sanskar Sthayi Samitee* of the concerned *Panchayat Samitee*. The composition of each executive committee will be a *Karmadhakhya*, *Gram Pradhan* or any member of the local *Panchayat Samitee*, elected representative of beneficiaries, usually three, of which one should be a woman and tribal, and

one head forest guard or forest guard to be nominated by the range officer. These constitute the members. The member secretary includes the concerned beat officer, or his nominee in the rank of head forest guard. These members should elect a president in each meeting. The representatives of the beneficiaries should be elected in each year in the Annual General Meeting (AGM) of the committee, where the concerned range officer will be the observer. The functions of the executive committee are, to ensure the protection of forests and wildlife, to prevent trespass, encroachment, grazing, fire poaching, theft or damage, to assist the forest personnel in apprehensions of such persons committing any of the violations of the above, to ensure smooth and timely execution of forestry and involve every member of the committee in the matter of protection of the forest, to ensure that usufructuary rights allowed by the government is not in any way misused by any of the members and forests or plantation sites are kept free from encroachment and to prevent any activity in contravention of the provisions of Indian Forest Act 1927 and Wildlife Protection Act 1972, as amended from time to time. The usufructuary benefits include fallen twigs, grass, fruits, flowers mushrooms, seeds, intercrops raised by JFMC (but not within the PAs), medicinal plants, 25% of net sale proceeds of firewood and poles and entire Sal seeds collection to be deposited with the West Bengal Tribal Development Cooperative Corporation Ltd. JFM has been taken up in Sundarban Reserved Forest since 1991 (FPC) and in the PAs since 1996 (EDC), but the real efforts to use this concept as a management tool in Sundarban started in 2001 after the killing of tigers by mob during the tiger straying incidence in *Pakhirala* and *Kishorimohonpur* in Gosaba block (Vyas 2012). It has been a general assertion that after the implementation of JFM in Sundarban, human wildlife conflict has been reduced substantially in the villages, a marked difference from the atrocities shown towards tiger straying before the implementation. It was also seen that the Annual General Meeting (AGM) was held every year, especially in the STR villages which faced most of the wildlife conflicts (Vyas 2012).

Along with this, they can also participate in forest conservation and prevention of human wildlife conflict by incorporating their indigenous environmental knowledge in PA management. According to the villagers in *Satjelia*, through these committees, the government strategically tried to employ new means of income generating activities through the Comptroller and Auditor General Committees (CAG committees) by providing domestic livestock to the households like goat, granting irrigation pump sets, duckery, piggery, providing van rickshaws to generate local employment, agro cropping, rice trading and making brick roads for the beneficiary families. But there was a stark inconsistency here since the benefits didn't accrue to all the forest dependent people, but only to a handful, creating local disagreements and disgruntlement. The islanders observed that if hundred houses were needed of these alternative livelihood measures, only one or two were granted, based on political preferences and ruling party patronisation mainly. So it was inevitable that the

people, to whom these benefits from JFMCs didn't accrue, resorted back to doing forests shortly to procure livelihood. Apart from that, NREGS (National Rural Employment Guarantee Scheme) in Sundarban, an attempt of JFMCs, failed grossly for delays in fund disbursement for more than eight to nine months, physically demanding tasks like mud cutting, especially for women, and gross under payment of Rs 100 for clearing 88 cft of mud which needed to be carried away and deposited in far off places, wasting time and energy. This was again coupled with discrepancies in payments since some of the people received Re 1 of clearing 1 cft of mud while others received Re 1 for clearing 0.88 cft of mud. Women received Re 1 for clearing 0.66 cft of mud.<sup>1</sup> There was a lack of uniform representation from the villages and according to the head of a fishermen union known as

*Sundarban Matsyajibi Joutha Sangram Committee in Satjelia, Mr Mriganka Mandal, 'in the name of JFM with active sponsorship from the World Bank, Forest Department of West Bengal have created a footing in the village, or to be more precise, "agents" or "representatives" within the local villages, who can spy the fishermen and honey collectors in their occupation and report to the authorities to punish the islanders who enter the core areas of the forest for fishing and honey collection. This spying has been given the name of FPC or EDC in Sundarban'.*

Over and above, JFMCs have largely failed on two grounds. The forest ceases to be protected and the communities cannot be found on a participatory role due to internal conflicts. There are several arguments testifying this. According to the villagers in *Satjelia*, forests never grow if they are not properly cut from time to time. Shyama, a honey collector by profession, who stays in village *Emilibari* in *Satjelia* says that the areas which are designated as core are largely getting destroyed. Rich mangrove species like Garan, have already started to rupture and break down. Garan according to them, if cut well from the below, develops at least four to five stilts. But since it is not allowed, the existing species are dilapidating and no new varieties are growing. In this way, the mangroves are dilapidating. The branches of Nepa Palm, commonly known as *Golpata*, needs to be cut from time to time, through the brown edges of its mature branches. But the forest guards do not allow cutting them as a result of which large varieties of Nepa Palm are perishing. Wood is losing its dexterity and is becoming fragile. There is absolutely no maintenance of trees like *Sundari* which are drying owing to the top dying disease. These people can relate the islands which were previously allowed to be cut, with the islands which are now closed in access. The previous ones have thrived and grown into vigorous species while the closed areas have eventually become bushes. All these trees, if grown into well maintained flowering plants would have been thriving sites for honey. Such acts challenge the confidence building measures between the local communities and the forest department. Similar cases from the Great Himalayan National Park argue that animal, bird and plant population

flourish in the area not despite the use of the park by the local people, but because of their seasonal presence (Chhatre and Saberwal 2005: 312). According to Jalais (2009), it is interesting to note that while the members of the Panchayat in *Satjelia* held positions like school teachers, cultivators, kerosene dealers, there was not a single elected leader who was a forest doer or a prawn seed collector. In *Satjelia*, recently, fund was released from the state through the EDCs to cut channels for inland small aquaculture growth which could serve as an alternative livelihood to the islanders. The total amount granted was Rs 1, 00, 000. But on the contrary, very few channels worth Rs 50,000 were cut and the rest of the money was distributed within the forest ranger and the *pradhan*. Initially a provision was also made through the JFMCs to build sustainable housing for the poor fishermen who were staying adjacent to the river embankments, where erosion increases chances of the housing structures being washed away almost every day. But here also the implementation was erratic. From the study, it was generally observed that in the name of JFM, the forest department takes decisions unilaterally with the help of few selected villagers, usually rich agriculturalists, who in many cases allow outsiders as participants ignoring local participation in CBNRM. This selected population, whose interests are served through the fervent political participation in JFM, holds that policies like NREGA were highly 'successful' since it was able to employ more islanders in alternative employments like building embankments and digging canals, thus forest going activities fishing and honey collection have been reduced considerably. According to them, now people who are fishermen by occupation are the only segment who does the forest. But this was not the case since at least one person from every household visited the forest regularly for earning a day's livelihood, being denied access to JFM. The fishermen, who constitute one of the most economically, marginalized community have little or no representation in the FPC in *Satjelia*. They are practically landless. 25% of the houses that we surveyed had a plot of land of 1 acre to 2 acre, apart from the housing structure. The rest 75% of the houses have no land, they only have the housing structure. Thus there is no scope for inland aquaculture or agriculture. Each BPL household was entitled to get Rs 1.94 lakhs following Aila, from the Forest Department, under the Gitanjali Housing Scheme<sup>2</sup> to make new houses, as an initiative from the EDC. But in the island of *Satjelia*, out of the only twenty two houses being under construction right now through the scheme, not even one house in a fishing village has received the fund. In many cases, the work has stopped after buying bricks worth Rs 3000 to build the house which was mere eyewash to show to the forest department that house building work is going on. What is symptomatic from such observations is the endemic politics between the political parties, favouritism and land disputes. According to Bera (2012), the Embankment Reconstruction Project worth Rs 5032 crore is constructing massive embankments using expensive and previously untested technology, which local people fear, will benefit the contractors more than the islanders it is

meant to protect. Apart from that, most of the initiatives taken by the JFMCs are visibly poor in their implementation. Communication and transport facilities in the forest fringe villages like Satjelia are distinctively poor and there are no metal roads. There is no electricity apart from a few low capacity solar discs capable of lighting barely one room feebly. Local fishing villages complain that the Panchayat in almost all cases withholds their share of money, the most recent example being the fund disbursement for post Aila<sup>3</sup> relief work to individual households. Here, although each BPL household was entitled to get Rs 10,000 for rebuilding their Aila devastated homes, the Panchayat time and again denied them the payments on flimsy grounds such as printing mistakes in names and unavailability of BPL card. Many of those who got the money had to give 10% of their share as commission to the Panchayat. While analysing the efficacy of CBNRM in the context of Sundarbans, one of the main problems therefore lie in terms of the failure in reduction of the dependence on forests owing to the proposed alternative livelihoods since most of them bring marginal or no benefits in conservation as well as guarantee little widespread economic benefits accruing only to a small proportion of beneficiaries.

In 1999, Swarnajayanti Gram Swarojgar Yojna (SGSY) was introduced in Sundarban, as a Self Help Group (SHG) scheme for the people who were below the poverty line (BPL), for uplifting their socio economic status by providing them aid for the small scale jobs that they can do. SGSY is a self-help group scheme initiated by Sundarban Social Development Centre to improve and facilitate the economic and social standard of the people through education, mother and child care, communication, sanitation, hygiene and safe water, adolescent care, institutional delivery and child rights. One among the major contribution of these SHGs like SGSY is promoting sustainable management of natural resources through claiming unused or under used lands where plantation can be made through agro forestry. These efforts in many villages have helped villagers in getting fodder for the animals and fuel wood from trees like Sundari, without risking their lives in forests. However there are inherent contradictions and injustice built into this system. According to our respondents from *Emilibari* village, it is often seen that the *Pradhan* who is supposed to attend the valuation related meetings, is absent consecutively for many meetings, thus not to promote people not belonging to the ruling party, to the status of resource person. Thus, the panchayat has largely become a centre of vested interest. The problems magnify since the village people consider the panchayat more as the local body of the state government and less as the representative of the local people. In case of SHGs also, people's participation in the SGSY is nominal. While the main motive of SGSY was to enable the poor to get credit for social and economic development, the findings of the study indicate that the groups were formed hastily for economic incentives and most of the villagers complained of not getting loans from the group. There is gross lack of community awareness, capacity building and income generating assets as is evident from the study.

**Discussion and conclusion**

The conclusion of the study depicts the fact that in coping with degradation of commons, CBNRM in the form of JFM is in many cases being plagued by political participation, power differentials between the state and the resource users as well as unaccountable governance structures. In many cases the villagers complained not about the disbursement of funds allocated for CBNRM but in the misallocation of funds. Due to the contradictions in the application of local roles of the panchayat, the locals do not think that the panchayat is an institution where they should be articulating their grievances. In case of a district planning, ideally the demand for individual development of each block and villages should be articulated from the below, in consultation with all the panchayats at the block level and all BDOs at the district level. However when it comes to the district of South 24 Parganas, over the years it was found that the funds disbursed for constructing roads or building jetties have been misallocated and usurped by the political intervention. Thus we can see that democracy at the grass root is absolutely undermined whereby the freedom to vote gets constricted as one moves down while at the highest level it is very powerful where one can free exercise his franchise. What comes out as a challenge in the implementation of EDCs, FPCs and SHGs like SGSY is that there is a distorted consideration of local livelihood means, illusive perceptions of reduced human wildlife conflict, lack of funds for infrastructural development and incoherent local participation, rural elite politics and contradictory role of the panchayat. While most of the promised amenities like supply of cycle vans to EDC and FPC members, insurance policy, construction of youth hostel and supply of inputs to SHGs have remained a paper work, as found from the report of STR, the perceived failure of the state institutions in forest conservation is evident from the endangered biodiversity like the extinct species of Bagatur Baska and olive ridley turtle as well as top dying disease of mangrove species like Sundari and Nypa Palm.<sup>4</sup> In the present context of the lack of recognition of local participation in the national forest laws, it goes without saying that legal alternatives like CBNRMs need a much formal backing as well as greater capacity building of local communities for conserving the forest as well as providing livelihood alternatives to the local islanders who are dependent on the forest resources and thus risk their lives. In the case of Sundarban, there is an immediate need for the government to shift its attention from constabulary control over the indigenous communities to the anthropogenic stressors like climate change, pollution and effects of manmade hazards on the fragile environment. We suggest at the end that to implement local level laws successfully, efforts should be directed to document how the proposed changes can be effected, rather than documenting what changes need to be effected in the existing legal framework.

## Notes

<sup>1</sup> This information on NREGA is collected from the report 'NREGA Scheme on Embankments' for the NREGA Cell, North 24 Parganas, Barasat (March 2010).

<sup>2</sup> Gitanjali Housing Scheme is being implemented in the rural areas and non municipal urban areas in coordination with seven other government departments. Rs 1.94 lakhs is to be allotted to the beneficiaries of the forest fringe areas of Sundarban by the Forest Department and for the beneficiaries residing in other non forest coastal areas by the Sundarbans Affairs Department.

<sup>3</sup> Aila was a severe tropical cyclonic formation which happened in 2009, devastating the entire Sundarban and rendering thousands of people homeless. it was perhaps the greatest natural disaster in Sundarban.

<sup>4</sup> For details, see Gopal, Brij and Malavika Chauhan. 2005. Biodiversity and its Conservation in the Sundarban Mangrove Ecosystem.

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