

Role of User Groups and Panchayati Raj Institutions (PRIs) in strengthening Participatory Forest Management (PFM) in India

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1. Introduction

Development policy in India has since long recognized the need for decentralized governance and first introduced it in 1882. However the whole concept of local self-governance in the form of Panchayati Raj came only after independence. Democratic decentralisation and involvement of people in the decision-making process was recognized by the Constituent Assembly, which enshrined it in the Constitution as one of the Directive Principles of the State Policy. Several initiatives were taken in the 1950s and 1960s to promote democratic decentralization.

The 73rd and 74th Constitutional Amendment Acts in 2002 mark a watershed in the history of governance in the country. The 73rd Amendment in 1992 has cast a Constitutional imperative on all the State Governments to come up with appropriate Panchayati Raj Acts detailing meaningful democratic devolution of functions, functionaries and funds. The 73rd Amendment to the constitution in 1992 mandating establishment of PRIs in rural India and its subsequent extension to the fifth schedule areas by virtue of Provisions of Panchayats (Extension to Schedule Areas) Act, 1996 clearly mandated the PRIs in the overall village development, including and significantly the management of natural resources. Specifically, it empowers States to endow Panchayats with such powers and authority to enable them to function as institution of self-government (Article 243-G of the Constitution). So while Local Self-Governance is one of the goals envisaged by the 73rd Amendment, PRIs have been identified as the means to achieve it. Bearing this in mind PRIs were introduced as a distinct third tier of government at the time of the Ninth Five Year plan (1997-2002)¹.

¹ Draft Winrock PRI-JFM study: Sanjay and Videh Upadhyay, 2002

During this same time there has also been a growing appreciation of the importance of environment-poverty linkages in determining development outcomes, stemming from the fact that the majority of the poor in India are rural people and particularly dependent on natural resources for their livelihoods. The 29 functions recommended for decentralisation to PRIs include common lands, social forestry, fuelwood, plantations and management of NTFPs, land consolidation, soil conservation, water management and watershed development.²

As far as forestry in India is concerned, the National Forest Policy (NFP), 1988, and the subsequent circular on Joint Forest Management (JFM) in 1990 created the space for community participation in management of forest resources. Both JFM and Panchayati Raj (PR) represent major steps towards decentralization of power and control over resources. While the underlying idea of both these developments was to empower and involve the community at the lower level in decision making and management of resources that impact them the most, the institutional structures envisaged for them serve different purposes. It is here that these structures and their purposes throw new challenges in the participatory governance of natural resources and especially in participatory forest management. Thus while PRIs are elected representatives of the village populations as mandated by the Constitution to be empowered on certain aspects of forests management, the user groups, (JFMCs in this case) are created specifically to give effect to the concept of participatory or joint forest management, working under the respective state forest departments. Notably the panchayat system has existed in rural India even before the independence, having a marginal role in forest management; similarly JFM was conceived and initiated on an experimental basis around 1970s and was formalized only in 1990.

The 73rd amendment made it mandatory for all states to decentralise governance through a three-tier structure of Panchayati Raj (local self-government) Institutions though individual states would have to pass detailed State Panchayati Raj Acts. The 73rd Constitutional Amendment of 1993 specifies three tiers of local government, at village (Gram Panchayat), block (various local names) and district (usually Zilla Parishad) levels, and specifies inter alia that Gram Panchayats will be responsible for preparing plans for the management and development of natural resources within their boundaries. Advantages of PRIs in these roles include: their statutory mandate; their capacity to “scale up” successful activities (since they are vertically integrated into the political structure); their potential (not yet realised) to raise local taxes; and their constitutional commitment towards affirmative action in favour of “weaker sections”.

² <http://www.unccd.int/cop/reports/asia/national/2000/india-eng.pdf>

2. Evolution of PRIs and PFM user groups: Overlapping nature

The linkages between PRIs and the various user groups especially within JFM has been a widely debated/controversial issue since long. Clearly there exist two camps of people, one side that believes that PRIs have been given a constitutional mandate and should serve as vessels of bringing about devolution of power. Natural Resources being a critical source of livelihood at the village level should in their view fall under the purview of PRIs. The other side argues that PRIs are political bodies by nature and have vested interests so something as critical as natural resources cannot be left at their mercy.

The relationship between democratic PRIs and parallel village organisations for JFM promoted by the Forest Department has been a major issue of debate and discussion in policy advocacy and analysis forums. Yet, the recently revised central guidelines for JFM (2002) do not even mention the role of local self-government institutions in JFM and in many cases Panchayats don't find a role in JFMCs.

To further compound the problem, the national perspective on the issue is completely blurred as different ministries and state departments are divided in their views. Since 'Panchayats' is a state subject³ and 'forests' a concurrent subject⁴ under the Constitution, States are competent to legislate on both. As a result different states have taken a different approach towards involvement of PRIs in forests management generally and participatory forest management in particular.

The 29 subjects with respect to whom Panchayats are to prepare and implement plans for economic development and social justice for the area under their jurisdiction and the Panchayats (Extension to the Scheduled Areas) Act, 1996 makes it mandatory for the state governments to ensure that the PRIs at the appropriate level and the *Gram sabha* are inter alia endowed with the ownership of minor forest produce. Hence, PRIs are to function not as mere implementers of centrally determined development schemes but to be actively involved in the local level planning process.⁵ A review of the State Panchayat laws of states such as Karnataka, Kerala, Bihar, A.P and Haryana generally show that "Forestry" and "MFP", etc. are mentioned as subjects under the functional domain of Panchayat at appropriate level.

³ See list II to Seventh Schedule to Constitution of India. It enlists the subject areas on which the State legislature can legislate. (Article 246)

See list III to Seventh Schedule to Constitution of India. It enlists the subject areas on which both the Central and the State legislature can legislate. (Article 246)

⁵ Forest Protection Committees and *Panchayati* Raj Institutions: In search of Linkages :Naveen Kapoor and Sushil Saigal

The North Eastern states in India have a separate arrangement whereby the Indian Constitution protects the land rights and cultural traditions of tribal populations in North-East India and the rest of the country as specified in the 5th and 6th Schedules respectively by the establishment of Autonomous district councils. While extending all the abovementioned provisions of Panchayati Raj to the tribal areas, special provisions have been made to enable tribal society to assume control over their own destiny and preserve their traditional rights over natural resources. The provisions for Panchayats in tribal areas provide for greater power to *Gram sabhas*, recognise each of their settlements as separate *Gram sabhas* and vests ownership of minor forest produce to the *Gram sabhas*. Tribal lands already enjoy the protection from the constitutional provisions.⁶

The overlap between the PRIs and the JFMCs is established on examining the areas common to 73rd Amendment and NFP viz minor forest produce; social and farm forestry; fuel and fodder; welfare of weaker sections, particularly the Scheduled Castes and Scheduled Tribes; implementation of land reforms; land improvement, land consolidation and soil conservation. The members of JFMC are also electorates of the PRIs and, therefore, a synergy between these institutions is critically important for development planning of the village resources including forests.

The need for establishing linkages between these two institutions is reflected in the JFM Guidelines of the Ministry of Environment and Forest (MoEF) issued on February 21, 2000, which indicates that the organizational capacity of the Panchayats should be made use of to help the JFM institutions where they require.

Along with the unclear rules and guidelines detailing the functioning of the Panchayats the problem is further compounded by the creation of a large number of village level user groups formed under various development programmes of the State Governments, all of which function independently of the PRIs but on the subjects assigned to the them under the Constitution. These user groups include not only the JFMCs but also the Water Users Association, the Watershed Development Committee, the Self-Help Groups, amongst others. In fact, in a few instances there is evidence that in case of greater financial flow to the other committees, Panchayats find themselves adversely placed in the local development scenario. (WII study)

The contradictory nature of JFMs with the PRIs is a problem that needs some serious contemplation. The 73rd Amendment and enactment of PESA was a significant step vis-à-vis NTFFPs, as this is related to one of the 29 functions

⁶ http://www.envfor.nic.in/divisions/ic/wssd/doc1/chap3/da_page_3_3.htm

recommended for decentralisation to the PRIs. However, the Forest Department does not favour leaving critical resource such as forests at mercy of Panchayats. The JFM Guidelines of MoEF (2002) follows the similar line of argument when it says that “The relationship between Panchayats and JFM Committees should be such that the JFM Committees take advantage of the administrative and financial position and organisational capacity of the Panchayats for management of forest resources. However, the unique and separate non-political identity of the JFM Committees as ‘guardian of forests’ should be maintained and ensured.”

Certain inherent problem exists because of the conflicting and overlapping functions of JFMCs and the PRIs. PESA, 1996, appears to be in conflict with JFM, as it seeks to transfer the ownership of NTFPs to the *Gram sabha* (first tier of Panchayats), while the same rights are also conferred to the JFM committees through the JFM Resolution. This conflict was very rightly put across in the proceedings (p. 23) of the National Consultative Workshop on JFM on 14th-15th July, 2005 held at India Habitat Centre that “It is quite common in the tribal areas (Maharashtra, Orissa, Madhya Pradesh etc) that one *Gram sabha* covers several small hamlets. There may be some problems in setting up JFMCs in all such hamlets, but the right to NTFPs cannot be denied merely on the ground that JFMC does not exist in such hamlets. Hence, the option to have rights on NTFPs without the obligation of constituting a JFMC may seriously jeopardize the forest department’s campaign for universalisation of JFM.”

The Seventy Third Amendment and PESA infer that PRIs have to be actively involved in the process of local level planning along with implementation of development schemes. In PESA areas, concurrence of *Gram sabhas* is mandatory for implementing any development programme in these areas. Moreover, the list of 29 subjects brought under PRIs overlaps considerably with the functions of the JFMCs.

Some thinkers argue that there is a need to mitigate these conflicts by bringing about changes in various acts like the Forest Act of 1927. These changes would go a long way in providing a proper legal structure and basis to the JFMs and also help in redefining the role of the decentralised model of governance.⁷

There are mixed views regarding the role of that can be played by the PRIs and JFMCs within the PFM regime in India. Evidence from the ground also shows that various states have responded differently to PRIs and that is shaped too a large extent by its political economy.

The sections below will explore some of the pro PRIs and pro JFMCs arguments to analyse how their roles can be enhanced to strengthen PFM in India.

⁷ <http://www.cuts-international.org/gelis-advocacy.pdf>

3. Arguments against involving PRIs in the JFM process

Carrying forward the policy intention of establishing linkages between the PRIs and the other user groups (JFMCs in this case) the thought is that the organizational capacity of the Panchayats should be made use of to help the JFM institutions where they require.

The camp arguing against involvement of PRIs in JFM points out to the rhetoric of lower-level decision-making in PRIs where in actual fact with Panchayati Raj, the power of decision-taking remains concentrated and centralised in the political and administrative hierarchies, though in form it seems dispersed through the various organs of local self-government.⁸

Even in the case of watershed management, the lack of clarity on the mandates of Panchayats and watershed committees have contributed to less than optimum results, in the move towards decentralisation. PRIs are institutions of self-government with a constitutional mandate to plan development; with watershed management being one of the functions under their domain. Village Watershed Committees are non-statutory institutions created for the purpose of locally sensitive watershed management. Many NGOs and government functionaries are weary of routing programmes such as watershed management through PRIs, fearing diversion of funds and re-orientation of programmes to suit political interests. There is also an argument that watershed committees are more truly representative than Panchayats, drawing implicitly on the difference between substantive and formal democracy that animates contemporary political discourse globally. In case of JFM the major problem appears when the objectives of JFMCs and PRIs overlap. The Panchayats (Extension to the Scheduled Areas) Act, 1996 makes it mandatory for state governments to ensure that PRIs at the appropriate level and the *gram sabha* are inter alia endowed with the ownership of minor forest produce.

While there are certain apprehensions regarding development of such linkages (such as politicisation of JFMCs and mismatch in PRI and JFMC areas), there is an urgent need to explore ways to overcome these as it is not possible for JFM to succeed in the long run unless position of JFMCs vis-à-vis PRIs is clear⁹. The tendency of one institution to acquire dominance over the other, of the leaders of these institutions to acquire power positions, competition over management and control, and disputes over benefit sharing may lead to conflicts. This problem is likely to be compounded when the sub-committee of the *gram sabha* is functional

⁸ ODI WP-092

⁹ <http://www.humanscape.org/Humanscape/new/dec01/jungle.htm>

on forestry aspects. It is here that the conflicts may be most intense as there is a clear overlap of functions in the same legal jurisdiction. (Oct 2000)

Another argument that supports JFMCs is the understanding that each settlement must have its own institution to manage its common resources, rather than Panchayats, which covers several settlements and in cases several villages. This inevitably leads to the conclusion that effective management of common resources, cannot be provided by elected Panchayats. The legal status of the land involved in the relevant JFM Projects is another crucial issue. In the past there have been instances of conflicting jurisdiction over these lands. Forest department claims that the land under JFM is under its control and PRIs have no jurisdiction over such forestlands.

The linkage of PRIs and JFMCs is further complicated in the 5th Scheduled areas under the Constitution. The 5th Scheduled areas are those which are primarily dominated by tribal people, and 10 states comprise such areas. The provisions of Panchayats (Extension of Scheduled areas) Act 1996 (PESA) and the enabling state legislations in conformity with PESA may sour JFM initiatives. Grant of ownership rights on minor forest produce and also transfer of general control over natural resources management to the Panchayats create parallel power structures in the same legal arena. JFM in such a scheduled area needs to be modified to suit the current legal frame. Similarly, JFM in the north-eastern parts of India needs to be looked at very differently because of the complexity of the scheme of administration under the 6th Schedule of the Constitution. The existing autonomous district councils and the special constitutional status that these states enjoy needs to be taken into account when any JFM activity is sought to be implemented.¹⁰

There are inherent fears that the involvement of Panchayats in JFM committees will hamper the autonomy and functioning of these in a major way by stealing them of their basic principles of equity and equality and also increase politicization and consequently corruption levels. Most state resolutions do envisage some degree of Panchayat involvement and this could be beneficial since they can provide developmental assistance to often cash-strapped forest protection committees. It is important therefore, to design membership norms that ensure a complementary role of these two institutions where one does not hamper the other's functioning. Perhaps these linkages could take the form of including only one Panchayat member such as the Sarpanch as part of the executive committee in an ex-officio capacity. Similarly, providing space for the protection committee at the Gram Panchayat and Zilla Parishad level can be done, as is currently the case in many state resolutions.

¹⁰ <http://www.epw.org.in/showArticles.php?root=2003&leaf=08&filename=6202&filetype=html>

Nevertheless, there is lack of primary data on the effect of the Panchayat on the JFM programme. Therefore, an urgent need to commission nationwide studies to look into this aspect exists. Additionally, the impact of transferring ownership of NTFPs to Panchayats in scheduled areas needs to be analysed for its impact on JFM. The possibility of conferring ownership in such areas to communities through village institutions should be considered as an alternative.¹¹

Some of the general drawbacks which hamper the functioning of PRIs in India and specifically in the devolution of natural resource management are a continued financial weakness and slow devolution of financial resources, irregular meetings and a lack of local awareness of rights, powers and responsibilities and the membership which excludes the marginalized sections. In many cases the villagers are unaware of the cost implications of their proposals or their fate once these are sent up to the Gram Panchayat and district levels, after having been passed and approved at the village level. Although PRIs are now expected to deliberate and act upon all essential subjects, these four areas of weakness seriously affect their functional capacity.

This is particularly true of natural resource management, which requires technical capacity, skills in financial management and the administrative and political negotiation of conflicting priorities and interests.

In addition, natural resource management has for long been the domain of centralised line departments such as the MoEF, MoRD etc that have resisted devolution of control.

Panchayats are viewed with considerable suspicion by forest bureaucracies, largely because of the commercial value of forests. Recent Constitutional amendments (the 73rd Amendment and the PESA), should serve to provide a basis for greater co-operation in the future. The mechanism for this, however, is far from clear yet.¹²

In the National Consultative Workshop on JFM on 14th-15th July, 2005 held at India Habitat Centre an example from Karnataka also showed that the village Panchayat in terms of the constitutional amendment has to necessarily look after social forestry, farm forestry and village minor forest produce. They are developing parallel institutions so maybe there is an overlap between the village forest committees and the working of the village Panchayats. This issue needs to be resolved.

¹¹ <http://www.teriin.org/jfm/issues/benefit1.htm#influence>

¹² <http://www.Panchayats.org/downloads/SALR%20Situation%20Analysis.pdf>

Another issue raised by Mr A.K Mukherji(ex IFS) was that empowerment of the people can be done very effectively through JFM. The JFMC is a non-political body which looks after forestry. The Panchayat cannot handle forestry issues and it does not have any stake in any particular forest but a villager has a definite stake. That was the idea in making forest committees separate from the Panchayats. Although the Panchayats should be involved but the apolitical nature of the committee cannot be given up so that people can talk freely without party affiliation or without vote bank politics. This may be on account of the fact that forests are rich commercial resources and there are apprehensions that if the Panchayats are given authority to manage these, they would go in for quick results, leading to long-term losses.

However, all the arguments against PRI linkages with JFM and the associated user groups cannot be completely endorsed because field evidence for such an apprehension is minimal as of now.

4. Arguments for involving PRIs in the PFM process

The other side of the story reveals that while PRIs may not be the best institutions to manage natural resources especially forests, the Forest Department bureaucracy has not been any more successful in looking after conservation in an equitable manner. The arguments against the PRIs claim that the Panchayat institutions since they cover a number of villages are too far removed from the grass roots and thus cannot be effective agents for good natural resource management. This inevitably leads to the conclusion that each settlement must have its own institution to manage its common resources, which cannot be provided by elected Panchayats, which cover several settlements. Essentially the argument is for smaller Joint Forest Management Committees. However this argument for smaller JFMCs presumes that the legal regime on the PRIs do not provide space for smaller specialized local groups which can be utilised for vesting of powers for management of resources, and this may not be necessarily true. One such example is the case of Madhya Pradesh where the Panchayat Raj Avam Gram Swaraj Adhiniyam 2001 is even been perceived as going beyond the mandate of the 73rd Amendment in as much as it paves the way for a 4th tier within the hierarchical structure of the PRIs. This is because the Adhiniyam provides for an elaborate network of Committees mandatory laying down that the *Gram sabha* is to constitute Standing Committees comprising 8 to 9 members.¹³

It has also been pointed out that Van Panchayats in Uttaranchal have been examples of successful community action because they have been typically actual

¹³ Sanjay Upadhyay and Videh Upadhyay: Role of Panchayati Raj institutions in joint forest management in India- The current legal position. September 2002.

user association, managing their own small area with clearly defined boundaries. However the other side of the story is that Van Panchayats were "hastily formed" in Uttaranchal to secure and use World Bank funds under the Joint Forest Management (JFM) Programme, as claimed by a study by the school of Planning and Architecture, New Delhi. In one of the case studies, Srikot village in Pauri district, the "*patwari*" lured the villagers to form a "Van Panchayats," who were not even aware about it's functioning.

The creation of newer 'Van Panchayats' in the recent past, at the instance of the forest department, also violates the constitutional mandate. Under the eleventh schedule (Article 243 G) of the 73rd Amendment Act 1993, the village level Panchayats has been assigned the duty to manage the village forests. The emphasis being given by the forest department on the creation of 'Van Panchayats' is tantamount to the creation of parallel structures to the gram Panchayats. Infact, the Prime Minister of India in his letter, dated April 27, 2001, addressed to all Chief Ministers of India, has clearly stated, "I have also to point out that parallel structures (which marginalise Panchayati Raj Institutions) should not be set up". The objective has to be to implement the Constitutional provisions in letter and spirit in order that Panchayats are enabled to effectively address the challenges of socio-economic backwardness and rural poverty¹⁴.

The general view is that the political environment in which the PRIs function is not too conducive for the proper functioning of forest management. The counter arguments point out that even though JFMCs are technically speaking, non-political they tend to be heavily controlled and managed by the Forest Department as also funded, monitored and guided by the orders of the State Department Officials. This also accounts for the fact that officials generally prefer the government promoted/created/assisted JFMCs than the PRIs.¹⁵

External financial assistance to JFMCs can also lead to troublesome issues as elaborated by the Andhra Pradesh (AP) example. In AP it was observed that the level of investments by different funding agencies have resulted in conflicts. This is because in neighboring JFM areas different level of investments have created an altogether different financially inspired hierarchy, something that the PRIs are blamed of.

Besides the JFM Committees not always being the democratically elected bodies as is claimed, there also have been numerous cases of arbitrary termination of the JFMCs in which case there is no accountability as far as the forest department is concerned.

¹⁴ <http://www.rlek.org/study.html>
13 *ibid*

Further, the legal status of the land involved in the relevant JFM Projects is another crucial issue. In the past there have been instances of conflicting jurisdiction and management thereof. In A.P. where the administrative boundary was unclear, there is a potential conflict between the VSS under JFM on one hand and the Panchayat on the other.¹⁶

Many State resolutions have Panchayat members as ex-officio members of the VFCs and interestingly, in the two states where Panchayat involvement is strong (West Bengal and Orissa), the fear that people's participation will be hindered are, at present, unfounded. On the other hand Panchayat involvement could infuse much needed developmental assistance into JFM. With proper checks and balances, a close and beneficial partnership between the two can become a reality and is perhaps a necessity in the changed scenario where the concept of JFM is being expanded to include developmental and watershed level activities.¹⁷

Those arguing for Panchayat intervention claim that benefits from user committee- managed natural resource projects, such as forests and watershed management, are not sustainable in the long term. After the source of funds from the project dries up, plantations disappear, committees are disbanded or abandoned and the livelihood base of the poor remains only marginally improved, if at all. Also even after years of functioning, most of the JFMCs seldom seem to have reached a stage where external support whether operational or institutional is not required anymore. Once natural resource management programme becomes a broad rural development effort rather than a narrowly technical programme the PRIs would certainly need to be involved in coordinating these issues. There are various reasons to suppose that this would ensure the sustainability of development programmes. First, they are responsible for development planning for the whole Gram Panchayat and would be the natural apex body for linking several development programmes into other objectives. Second, they are democratically elected and so reflect local needs and priorities. A third critical issue is that it will be more cost effective for PRIs to be the apex linking body considering the infrastructure is already there; they have the power to raise revenue; and labor will be cheaper.

In the long run members of these committees/ user groups in question would also get elected as members of the Panchayats. The Panchayat could act as coordinator for implementation of these programmes. Over time, the relationship

¹⁶ Upadhyay S. and Gopal K.S. Report On Livelihoods and Forest Management In Andhra Pradesh Prepared for Natural Resources Management Programme Andhra Pradesh (A project of the Swiss Agency for Development and Cooperation) June, 2001

¹⁷ Study on JFM conducted by TERI

between these people's institutions and the Panchayats will become stronger, envisions the Planning Commission.

The main argument for those who support the role of PRIs in PFM rests on the fact that the Panchayats enjoy due legal status under the constitution and the State Panchayat laws/Acts. Even in the case that no effective devolution of powers to PRIs in forest management has taken place; the constitutional mandate cannot be ignored. On the other hand JFMCs originate essentially from policy prescriptions and have no legal backing. For instance, in Orissa, JFM groups formed on the basis of 1988 and 1990 government resolutions were declared null and void by the resolution of July 2003.

Some thinkers argue that it might be better to merge the user groups such as the JFMCs with the Panchayats. This move would give JFMCs the required legal recognition but also solve the issue of coordination. Further, this would automatically grant linkages to JFMCs with other committees of PRIs at three tiers (village, block and district) and thus help them in gaining greater access to decision making forums. (Inform, 2006)

Another advantage which PRIs have over JFMCs is that the PRIs have a democratic set up where the executive is answerable to elected representatives of people. JFMC on the other hand is a body nominated by government. Furthermore, JFMCs tend to be heavily controlled and managed by the Forest Department as these committees are funded, monitored and guided by the orders of the State Department Officials. Based on this argument of democracy, the Report of the Task Force on Devolution of Powers & Functions upon PRIs (2001) calls for making JFMCs accountable to Panchayat bodies.

5. Evidence from the field: differing roles of PRIs and JFMCs

Various states have responded differently to the role of PRIs and JFMCs in the protection and management of forests. This is owing to certain overlapping and conflicting functions between the JFMCs and the PRIs in carrying out the 29 functions mentioned in the 73rd amendment, or in the Schedule five areas where PESA applies or in the policy directives by the MoEF and the MoRD.

The section below looks at some examples from India with regard to issues of conflict and cooperation between the PRI bodies and the JFMCs.

Orissa

Orissa is one of the few states where concerted efforts were made at the policy level to link *Panchayat* with JFM. In the state PESA is also applicable. The *Orissa Gram Panchayats (MFP Administration) Rules, 2002* vests certain powers to the PRIs with respect to administration of NTFPs. Similarly the State *Policy on*

Procurement and Trade of NTFPs, 2000 also calls for role of PRIs in trade and procurement of NTFPs. JFMCs in the state are headed by Nayab Sarpanch (elected head of *Gram sabha*) and ward members of *Panchayats* are ex-officio members. The *Gram Panchayat* constitutes the JFMCs on recommendation of concerned forester and constitutes an executive committee for the purpose of implementation of the JFM Programme with approval of the Conservator of Forests. The state also has supervisory role for PRIs through constitution of a sub-committee on JFM by the *Gram Panchayat* which reviews once in a quarter, the functioning of the JFMCs.

However, there are also certain contradictions in the policies. The State JFM guidelines are completely silent on the composition, constitution and the functions of sub-committee on JFM by the *Gram Panchayat*. Further, the State NTFP Policy explains that the *Panchayats* ownership of NTFPs does not extend to Protected Areas and Reserve Forests and is limited to territorial jurisdiction of *Gram Panchayats*. This can act as another potential source of conflict as tribals residing within such areas have been collecting NTFPs from these forests only.

Uttaranchal

Van Panchayats were formed in the state of Uttaranchal in 1921 as a result of conflict between communities and British. The forests under the *Van Panchayats* were managed by the communities. Most of these *Van Panchayats* were formed in protection forest areas, which were under the jurisdiction of Revenue Department. It is claimed that *Van Panchayat* in Uttaranchal are successful because they are typically actual user association, managing their own small area with clearly defined boundaries.

In late nineties the state started formation of new *Van Panchayats* under the direction of the Revenue Department. The creation of 'new *Van Panchayats*' is often criticized as it is tantamount to the creation of parallel structures to the *gram Panchayats*. Infact, the Prime Minister of India in his letter, dated April 27, 2001, addressed to all Chief Ministers of India, has clearly stated, "I have also to point out that parallel structures (which marginalise *PRIs*) should not be set up. The objective has to be to implement the Constitutional provisions in letter and spirit in order that *Panchayats* are enabled to effectively address the challenges of socio-economic backwardness and rural poverty. (<http://www.rlek.org/study.html>)

West Bengal

The State has a strong decentralized structure and the state government has emphasized on bringing about closer linkage between the PRIs and JFMCs. The

powers of *Panchayat* in West Bengal include promotion of village plantations, social forestry, farm forestry and NTFPs. The State JFM Resolution, 1997 innovatively links JFM with *Panchayats*. The forest department officials are given *Panchayat* related designations to perform field level functions like social and farm forestry, fodder and firewood plantations, strip plantations, raising of nurseries under Jawahar Rozgar Yojna and Employment Assurance Schemes. The forests thus created become responsibility of forest department and they are made responsible for technical aspects of estimation, execution, supervision and maintenance.

Currently under JFM (except from the Darjeeling Gorkha Hills) the PRIs, play an important role in the constitution of JFMCs, monitoring and supervision, conflict resolution and distribution of usufructory benefits. At the institutional level, the PRI representatives are also the members of the executive committee of the JFMCs. One of the strong points in the state is that endorsement of *Panchayat* is necessary for inclusion in executive committee of JFMC as well for dissolution of JFMC. Forest Department on its own can't dissolve JFMCs.

The state of West Bengal like Orissa has initiated detailed activity mapping for the *Panchayat* subjects, in which activities are assigned to each PRI tier, without any scope for overlapping of responsibilities within these tiers. However, the exact activities of the PRIs are still to be laid down, especially with regard to NTFPs.

Punjab

The Punjab Forest Department is implementing Forestry Project assisted by Japan bank of International Co-operation. As per the Project provisions, funds for infrastructure development were being provided to JFMCs. However, the *Panchayats* of 13 villages in Gurdaspur District challenged the routing of funds through the FPCs in Civil Writ Petition No. 4198 of 2004 in the High Court of Punjab and Haryana. The primary legal issue raised in this petition is that as per the provisions of Panchayati Raj Act, such funds were necessarily required to be routed through *Panchayats* and JFMCs have no legal backing. Punjab Forest Department is making all efforts to defend this case but they are unable to satisfactorily reply to the issue since JFM policy itself lacks constitutional back up. On the contrary, the Panchayati Raj Act specifically empowers the *Panchayats* to undertake the very activities being undertaken under JFM. This gives rise to the concern that Case may be decided against forest department causing severe setback to JFM Programme in the state.

Andhra Pradesh

The State of Andhra Pradesh envisages a limited role for PRIs in forestry and accordingly minimal power has been allocated to PRIs through both JFM resolutions and *Panchayat* laws. The state has devolved the decision making process and moved from JFM to Community Forest Management (CFM) but the PRIs are not involved in discharging any forestry related responsibilities.

The State has adopted PESA but hasn't formulated enabling rules, which are mandated for exercising this power, making the provisions ambiguous, and non-effective. Furthermore, Andhra Pradesh Scheduled Areas MFP (Regulation of Trade) Regulation, 1979, is applicable in Scheduled areas allowing Girijan Cooperative Corporation (GCC) Limited, Vishakhapatnam, to be the sole agent for the purposes of purchase and trade of NTFP on behalf of the government. This is contradictory to provisions of PESA, which vests control of NTFP with *Gram sabha* rather than any other institution/organization.

In the Forest Order of 2002 (Andhra Pradesh Community Forest Management Project - Comprehensive Orders), it is mentioned that the *Sarpanch* (elected head of *Gram sabha*) should be consulted while earmarking forests in the vicinity of JFMC for CFM. In addition to this an Advisory Council is constituted at JFMC level, whose meetings is chaired by *Sarpanch*. This council is responsible for review of micro plans and annual plans of JFMCs. However, in reality, in majority of cases the constitution of this advisory council has not taken place.

In congruence with Seventy Third amendment, the State Government decentralized activities and transferred all functions related to social and farm forestry, which is undertaken outside the forest areas, to PRIs but kept Reserve Forest and Protected Areas outside the *Panchayat's* purview.

Thus from the above cases, it is clear that at the state level, different states in India are adopting different strategies to forge a link between PRI and JFM. So in one hand, in states like Orissa and West Bengal, concerted efforts are being made to provide a link between JFM and PRI, in other states like Uttaranchal and Andhra Pradesh and Punjab where a conflict situation exists contradictory policies exists that offers no scope for resolving the conflicts between PRI and JFM.

6. Conclusion and ways for moving ahead

While the debate for and against PRIs vs. the various user groups have gone on for a long time what cannot be compromised is the fact that management of natural resources of the village area is one of the foremost objectives of local self-

governance i.e. overall village development. Given their firm constitutional status, Panchayats have a potential to manage issues of local governance and other resource management issues. At the same time MoEF has also taken steps such that JFMCs also have substantive legal backing¹⁸ and a vested interest in managing the forests and livelihoods of people. Some mechanism for enmeshing the interests of both these has to be found out with separate domain of influence.

Also before continuing with the debate on negative or positive links between PRIs and other user groups there is a need for in-depth research and field studies on a case by case basis. There is also a need for the various central Government departments such as the Rural Development Ministry, Ministry of Environment and Forest and the Tribal Affairs department and the corresponding state departments to work together to promote synergy between the various user groups at the village level.

Establishing linkages between these two institutions will also help in developing village commons and panchayat lands in a relatively better manner and meeting subsistence needs of the rural populace. Since, at the end it also needs to be borne in mind that JFM is rarely successful if other pressing development issues at the community level are not addressed.

The seeds of coordination between both these institutions lie in the fact that they are responsible for sustainable management of natural resources and overall poverty alleviation. Linking JFM based livelihoods to PRI based employment generation programmes, like in West Bengal, can be a means through which people can benefit from resources of PRI in JFM. Efforts can be made so that the PRI funds can be shared with JFMCS through the District Rural Development Agency (DRDA) and Integrated Watershed Development Programme (IWDP).

The Panchayat leadership could play an important role in conflict resolution and work distribution of JFMC members. Linking JFMC with PRI can also help in establishing necessary forward and backward linkages for forest based livelihood programmes like value addition, processing and storage of NTFPs.

Further, both these institutions can work in the area of their judicial competence. In forest lands JFMC might be appropriate bodies, where they could work under forest laws. In these areas JFMC can be made accountable to Panchayats at large. Specialized Panchayat committee can be formed in areas under Panchayat's jurisdiction, to initiate collaborative forest management similar to JFM. State can divert requisite funds to these Panchayat committees and forest department can provide technical assistance.

¹⁸ The new JFM guidelines issued by the Ministry of Environment and Forests in February 2000 have stressed on providing legal identity to VJFMCs by registering them as "Societies" under the Societies Registration Act, 1860.

Another significant source of conflict between both the institutions is the level of investment that has been made in Panchayat activities and/or for JFM activities. Due to the presence of donor funded JFM projects in many states the level of investment in JFM is much larger, as compared to the investments in Panchayat activities. In areas where the investment or the financial status is higher than the Panchayats the conflicts, even if they are latent, are higher. In areas where the investments are lower than the financial powers of the Panchayats it is the Panchayat body that has an upper hand. Also there are apparent conflicts within different JFMCs due the financial control they wield. The devolution of funds is a crucial issue that has to be addressed in the context of suitability of Institutions for forestry management.

Finally, if the mandate of local self governance and devolution has to be achieved it is becoming quite clear that Panchayats will continue to play a vital role in the process though their role has to be made very clear and progress monitored. A conflict dilution could also perhaps happen if analysis on making JFMCs sub-committees of the Panchayat at all three tiers is carried out. It is well established that PRIs have a firm legal status as compared to the JFMCs and the devolution of forestry related functions to JFMCs in exclusion of PRIs is not possible. Neither can it be advocated that JFMCs be replaced by PRIs. The feasible solution lies in developing synergy between these institutions.

REFERENCES:

- Baumann, Pari and Rajesh Ramakrishnan, Manish Dubey, Rajiv K. Raman, John Farrington (2003): Institutional Alternatives and Options for Decentralised Natural Resource Management in India, Working Paper 230, ODI, U.K
- Hobley, Mary (1996): Institutional change Within the forestry sector: Centralised decentralization, Working Paper 092, ODI, U.K
- http://www.asthabharati.org/Dia_Apr04/saponti.htm
- <http://www.cuts-international.org/gelis-advocacy.pdf>
- http://www.envfor.nic.in/divisions/ic/wssd/doc1/chap3/da_page_3_3.htm
- <http://www.humanscape.org/Humanscape/new/dec01/jungle.htm>
- <http://www.Panchayats.org/downloads/SALR%20Situation%20Analysis.pdf>
- <http://www.Panchayats.org/downloads/wp197%20india%20synthesis.pdf>
- <http://www.rlek.org/study.html>
- <http://www.teriin.org/jfm/issues/benefit1.htm#influence>
- <http://www.unccd.int/cop/reports/asia/national/2000/india-eng.pdf>
- Kaur, Nanki and Anirban Ganguli (2003): Incorporating Stakeholder Perceptions in Participatory Forest Management in India: Perceptions of Panchayati Raj Institutions on Joint Forest Management in Harda (TERI) for University of Cambridge, U.K.
- Minutes of the Joint Forest Management Network on 11th-12th September, 2003, Winrock International India
- Saigal, Sushil and Naveen Kapoor (2001): Forest Protection Committees and Panchayati Raj Institutions: In search of Linkages, Inform, Winrock International India.
- Upadhyay, (S) and Gopal K.S. (2001): Report On Livelihoods and Forest Management In Andhra Pradesh, Swiss Agency for Development and Cooperation.
- Upadhyay, Sanjay (2003): "JFM in India: Some Legal Concerns", Economic and Political Weekly, August 30.
- - (2002): Role of Panchayati Raj Institutions in Joint Forest Management in India the Current Legal Position, Draft Discussion paper, Winrock International India.
- Lal, P. 2006. Panchayati Raj Institutions and Joint Forest Management Committees: Forging Linkages. Inform, January-March 2006.