

## Victims of Conservation or Rights as Forest Dwellers: Van Gujjar Pastoralists between Contesting Codes of Law

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### Abstract

The Van (forest) Gujjars, surviving as forest pastoralists in the central part of the Indian Himalaya, are a people who, due to their nomadic lifestyle, have since colonial rule found themselves at the margin of Indian society. This paper will look at the relationship between the Van Gujjars and their forest base in a historical perspective from colonial rule to 'conservation of nature' and the 'rights of forest dwellers' and further discuss how changing codes and rules of power affect the society–citizen–nature / forest relationship for the community. We will look back into history and see how a system of strict control and regulation of Van Gujjars as nomadic pastoralists without a fixed address, initiated during colonial time, was continued by the national state of India after independence. We will further discuss how a history of unequal treatment and marginalisation of Van Gujjar pastoralists has continued into the present. What is manifest here is 'the forest' as a contested space: a site of power struggles, where forest dwellers are threatened with displacement in order to provide space, first for modern forestry and revenue producing land, and later for conservation of nature. The paper further looks at the latest developments where the Van Gujjars now have obtained domicile rights such as voters' rights and have been linked with Government services for education and health. It finishes by discussing the new possibilities and hopes for the community provided by the The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act.

**Keywords:** Van Gujjars, forest pastoralism, nomads, forest dwellers, Central Indian Himalaya, Forest Right Act, victims of conservation, forest management, domicile rights, NGO, power struggles

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This year groups of Van Gujjar pastoralists in the Central Indian Himalayas were stopped from migrating to their traditional summer pastures in the proposed Govind National Park in the north-western corner of the state of Uttarakhand. After a delay of about a month they were eventually allowed to migrate for humanitarian reasons. However, for many families, it was too late. They were forced to spend summer in the dried out forests at the foothills, with their herds of buffaloes. For others, there was still the option to spend summer in the alpine areas not covered by the rules of nature conservation. However, for the Van Gujjars history repeated itself. An exchange of letters between forest officials during the colonial rule showed that they were stopped along exactly the same routes in the 1880s. This was the start of a system regulating Gujjar migration, always favouring the needs of the settled agriculturists over those of the nomadic pastoralists. Ultimately, it provided the British Raj with forest resources, mainly timber, as well as

revenue from agriculture. It was also the part of a process conceptually separating people from the forest that nourished them and eventually leading to the notion of conservation of nature without people. This has led to the situation of today where a perpetual struggle for the right to resources, movement and livelihood has left many Van Gujjars exhausted and ready to settle down. I stayed with the pastoral Gujjar of the area for the first time in 1987, and conducted the longest part of my fieldwork in 1989–1992. What I found then was a pastoral system with many problems, but still sustained within a green and living forest both in the foothills and in the alpenes (Gooch 1998b). At that time almost all families migrated to the hills during the summer with all their animals. However, in the summer of 1992, the creation of a national park, the Rajaji National Park, in the central part of the Van Gujjar winter pastureland, changed the condition of life in many ways for the Van Gujjars.<sup>1</sup> On the one hand this was the start of a Van

Gujjar movement, fought with the assistance of a local non-governmental organisation, for forest rights and sustainable forest management.<sup>2</sup> On the other hand, as a consequence of shortsighted conservation policies, it also started a rapid process of sedentarisation and short range pastoralism within the forests of the foothills. During the last decade, conservation has spread to the forests and alpine meadows where Van Gujjar go in summer, thus further restricting annual transhumance. For Gujjar pastoralists, mobility and flexibility are ecological necessities. They know their buffaloes have to leave the dried out forest of the foothills in the early summer, so it can be restored before they return after the monsoon. Without such seasonal migration neither they nor the forest can survive. The conservation policies applied during the last 20 years, constraining migration, bear witness to this in the deteriorating state of the forest.

However, while conservation threatens Van Gujjar with eviction from the forest, the recently notified Forest Rights Act might provide them with new possibilities for a right to the forest. Perhaps here is finally the time to acknowledge the 'historic injustice done to the tribal and forest dwelling communities'. Although they are now ready to give up, the Van Gujjars have proved persistent forest pastoralists (Gooch 2004) and many families would still opt for forest pastoralism if this could be done in a sustainable way and without harassment. For others, land and settlement with the possibility of education and new livelihoods might be the preferred option.

It is still too early to say whether the Scheduled Tribes' and other Traditional Forest Dwellers' (recognition of forest rights) Act, which was finally notified on January 1, 2008, will live up to its promises when faced with the reality of power struggles.<sup>3</sup> However, while the struggle over conservation has left most Van Gujjars in a state of limbo, still in the forest but with no decisive rights, negotiations over Forest Rights are likely to result in high stakes. They either win or lose everything. Nevertheless, while the Van Gujjars were highly marginalised at the start of the conflict over conservation in the early 1990s, they now have the experience gained through 20 years of struggle over their right to livelihood in the forest. They have also finally succeeded in gaining the civil rights that were earlier denied them due to their nomadic existence, such as domicile rights (including voting rights) as well as the right to education for their children, while still living in the forest. In order to understand the current situation I study the relationship between the Van Gujjars and their forest base in a historical perspective from colonial rule to 'conservation of nature' and the 'right of forest dwellers'. Discussing how this relationship is affected by changing codes and rules of power, I show how a system of control and regulation of the Gujjars as nomadic pastoralists without a fixed address, initiated during colonial time, was continued by the national state of India after independence. I will further discuss how a history of unequal treatment and marginalisation of Van Gujjars has continued into the present. What is manifest here is 'the forest' as a contested space: a site of continuous struggles, where forest pastoralists are threatened with displacement in

order to provide space, first for revenue producing land and modern forestry, and later for conservation of nature. The historical process further demonstrates how pastoral nomads, characterised as 'unsettled', have been unequally treated as compared to settled agriculturists.

### VAN GUJJAR PASTORALISM

Through history the nomadic Van Gujjars have specialised and adjusted pastoral production, based on milk buffaloes, to the mountain eco-system of the Central and Western Himalayas. One feature of the mountain environment to which they have had to adapt is the seasonal variability in climatic conditions and thereby in the growth of vegetation. This makes migration an ecological necessity. The transhumance of the Van Gujjars oscillates between two fixed points in their landscape of pastoral movement: the forests in the foothills and the forest in the high range adjacent to the *bugiyals*, the alpine pastures. In between the two are the migration routes, with their halting places and the possibility of co-existence with settled populations for barter and for the use of agricultural residue for fodder. The Van Gujjar, have thus adapted their way of life to changes in the seasons and to the ecological zones at different altitudes of their forest and mountain environment, being at each time of the year in the zone that promises survival for them and their herds. Nomadism is thus a necessary survival strategy for them. Through their transhumance the Van Gujjars see themselves as partaking actively in the 'way of the land' and its cyclic changes, characterising themselves as the *aana-jaana-log*, the people coming and going by following the life of Nature (*kudrat*) that alternately provides green fodder in the foothills and in the *bugiyals*. In order to survive as pastoralists and in order to use the land in a sustainable way, the Van Gujjars thus have to maintain access to a landscape that allows them to be flexible. However, the opportunities for nomadic pastoralism along the altitudes are rapidly decreasing and many options for flexibility are now either severely curtailed or completely lost. Having a whole mountain landscape, spatially spread out, as a life-world, with no specific central point, as settled people have, has since colonialism made it difficult for the Van Gujjars to maintain the rights to the places and routes that are necessary for their livelihood. While nomads move in natural, stretched out landscapes, state authorities think in borders and boundaries. For the pastoral Gujjar, this has meant a steady decline in the space they are allowed to use. Politics both before and after independence created new boundaries and restrictions for pastoral movement (Chakravarty-Kaul 1993). It has left pastoral communities such as the Gujjars in pockets within states with different policies, with the result that they, on their annual migration, have different sets of government officials to negotiate with, as well as different sets of legislation and rule to deal with. In 2000, the hill districts of the large populous state of Uttar Pradesh were converted into a new state, Uttarakhand, thus creating one more border right through the Shiwalik foothills where the Van Gujjars have their winter camps. A Van Gujjar household may thus

live in the Shiwaliks in the state of Uttar Pradesh during winter and migrate through Uttarakhand in order to end up either in the higher ranges of the state or in the neighbouring state of Himachal Pradesh for summer pastures. Another family may stay quite close by, but in the Uttarakhand part of the Shiwaliks, and move to the alpine pastures of Uttarakhand during summer. As a consequence of the boundaries, members of the former group face more difficulties during movement and are seen as intruders, not having a permanent state belonging. This was what happened this spring to migrating Van Gujjars from Uttar Pradesh, who were stopped from going to their summer pastures in Uttarkashi in the state of Uttarakhand.

As regards their occupation, the Van Gujjar community may be regarded as more of an exception than as a rule among pastoralists of the world, as they rely (almost) entirely on their herds for their livelihood. Most pastoralists tend to pursue more generalised subsistence strategies, raising at least some crops along with their animal husbandry and thereby spreading the risks. That the Van Gujjars have managed to survive as strict pastoralists may be understood on the basis of their place in a localised North Indian exchange system, grounded on communal specialisation. Access to natural resources has been regulated by the system, so that different occupational groups have extracted specific natural resources as their main means of livelihood, and where all the products have been available for the society as a whole, as part of local systems of exchange. As Singh writes in his study of *Ecology and Peasant Life in the Western Himalayas 1800–1950*, animal husbandry was an important economic activity of the region during the period, as it was ‘through the numerous herds and flocks that the grass resources of distant pastures were converted into wealth’ (Singh 1998). The physical environment of this part of the Himalayas is highly diversified. This created an economy, where groups of people were involved in ‘regular transactions at different levels’ (Singh 1998: 207). The pastoral groups must therefore be seen as essential constituents of the larger socioeconomic system of the region (Singh 1998: 119). Of interest is that he specifies the Gujjars as the only group who were full-time pastoralists and whose ‘extensive migratory movements took them to fairly remote areas’ and who ‘possessed neither a permanent house nor cultivated land’ (Singh 1998: 126). He further writes:

In short the Gujjars, Gaddis and other shepherds were an *integral* part of the village-level economy across most of Himachal. *They were as essential to the economic system of the state in the pre-colonial period as the permanently settled peasantry.* In their capacity as cultivators most of the herdsmen paid land revenue to the state, but as mobile pastoralists they were the means by which it extracted additional wealth from its extensive natural resources. To the peasantry the seasonal migration of pastoralists brought valuable manure, apart from numerous other products. The herder was, therefore, indispensable both to the state and peasantry. Conversely, the pastoralists of the region survived *only* because seasonal mobility

was a permanent feature of their economy (Singh 1998; emphasis added).

### NOMADS AS ‘UNSETTLED AND WILD’

In the pre-colonial period, the nomadic pastoralists were thus essential constituents of the larger socioeconomic system of the region, based on an integrated and well-tuned system of agriculture *and* mobile pastoralism, as well as being crucial for the sustainable use of the mountain environment. However, this changed during colonial times, as the British brought in other ways of understanding the relationship between people and the land that subsisted them, only recognizing rightful occupation of land for settled communities, seeing nomads as an anomaly, that needed controlling and ultimately also settling. The British categorically defined them as the ‘wild and lawless’ pastoralists of Northern India in opposition to the ‘sturdy industrious Sikh peasant’ who cultivated his fields with care and yielded revenue to the state (Bhattacharya 1995; Saberwal 1999). Bhattacharya points out the derogatory position of the pastoralists:

They [pastoralists] were inevitably represented as lazy, improvident, ‘wretched’ as cultivators, lawless, *wild* and even mean and cowardly. They were associated with all that was considered evil, ugly and miserable (Bhattacharya 1995).

The British thus contextualised the pastoralists ‘as such’ as belonging to the ‘wild’, to nature, and the peasant to the domain of the ‘orderly’, that is, ‘culture’. The pastoralist became identified with the land they used, the wilderness, the land which was not yet cultivated, and thereby made useful by human labour. This means that the colonial rulers saw the pastoralists as being beneath the peasants on the evolutionary scale, ‘those who master nature are advanced; those subject to the rhythms and dictates of nature are primitive’ (Bhattacharya 1995). Another thing was also clear: the pastoralists could never aspire to acquire ownership over the land on which they subsisted. An owner ‘improved’ his property while the pastoralist ‘just’ utilised it in its feral state. The result of this was that one important part of a functioning system, well-tuned to regional economics and sustainable resource use, was cut off by foreign rulers, with a completely different view of land use, and lacking understanding of how the system worked. The consequence of this was that policies towards controlling pastoralism followed.<sup>4</sup>

### CONTROLLING PASTORALISTS

When the British appropriated the Central Himalayan forests in the second half of the nineteenth century, strict systems of control were introduced for the ‘wandering herdsmen’ and especially so for the pastoral Gujjars. This entailed that the time for migration as well as routes permitted became decisions made by state officials and not by the herders themselves. The movements and operational freedom of the pastoralists

were further controlled through restrictions on the number of animals they were allowed to bring into the hills. The discussions leading up to these changes can be followed in a long correspondence from the 1880s, dealing with controlling the nomads and their migration from the plains up into the hills. The main point of the letters was that the British had decided to set up checkpoints along the migration routes of the Gujjars, as they wanted to control the number of buffaloes, which the Gujjars brought into the hills (Collector's Record 1888–1901). It is perhaps no surprise that the pastoral Gujjars, who, as mentioned earlier, were the only group that subsisted fully on pastoralism and 'possessed neither a permanent house nor cultivated land', should be specially singled out as intruders, not really belonging and as a 'great nuisance'. A letter from Moir, dated 21 February 1885 (Collector's Record 1888–1901; author emphasis) states the reasons why it was deemed necessary to control the Gujjars, and the administrative operations established for such a control are expressed in the bureaucratic language of power:

Owing to the great inconvenience which has been caused during the last five years to the villagers of the Jaunsar, Bawar and neighbouring states by the ever increasing number of Gujjar cattle which has annually migrated to the hills, the following notice is issued according to the NWP Government Order dated 15 January, 1885:

1. All Gujjars and other wandering herdsmen are warned that for the ensuing year only 150 heads of buffaloes will be allowed to graze in the Jaunsari, Tehri Garhwal, Raimgarh and Dadi partitions of the Jaunsar Division.
2. As regards the Basbarh partition of the Jaunsar division, 500 head of buffaloes will be permitted to graze there.
3. *The owners of cattle who wish to graze in the Jaunsar and Bashabar forests during the current year should apply for grazing passes at the office of the Dy. Conservator of Forest Jaunsar Division, Dehra Dun between 15 February and 18 March.*
4. The 150 head of cattle in the first para will proceed to their grazing grounds via Chakrata road and the Landsroos and those going to Bashabar will proceed up the Giri River.
5. No cattle will be permitted to proceed up the Tons or Jamuna rivers and police guards will be stationed at Sangola Bridge to prevent Gujjars doing so [*sic!*].
6. *Any Gujjar attempting to traverse Jaunsar without a pass or proceeding by a route not laid down in the passes issued at Dehra Dun will be liable to severe punishment and will be compelled to return to the plains.*
7. The usual grazing fees will be paid by the Gujjars one month after reaching the grazing grounds.
8. The Gujjars will return to the plains by the same routes they followed when going up.

As indicated by a letter from a Conservator of Forest with some sympathy for their case, for the pastoral Gujjars being

'condemned' to stay in the plains during summer would mean that they, as well as their animals would die:

The buffaloes would die in the plains if detained there during the hot weather and so would their owners who are Hill people and travel with their wives and family. These men do not believe that the government intends to exclude them from the hills and come up every year hoping to work on the good nature of the forest officer in spite of the threats of prohibition. It is not easy for an officer to resist the appeals of a crowd of these simple people and to condemn them to spend the hot weather in the plains (Collector's Record 1888–1901: Letter of 26 July, 1887, from W.R. Fisher, Conservator of Forest, School Circle).

Here the argument is that they should be allowed to migrate due to humanitarian reasons, appealing to the *good nature of the forest officer*, and not because it is their right to keep on using forest and grazing land that they have used for ages. As we saw earlier, this argument was repeated by the forest authorities in 2009. Fully in accordance with their view on pastoralists as a problematic category, the British further considered the Gujjars and their cattle not only as '*that Gujjar question*' and as 'a great nuisance,' but also as a 'kind of necessary evil' because they supplied the hill stations with necessary commodities such as butter, *ghee* and fresh milk (Letter from Forest Conservation officer, Jaunsar Division to the Superintendent of Police 26 May, 1892. Collector's Record 1888–1901). Still it was not all officials who saw the Gujjars as a mere nuisance and a problem in the hills. The benefits of them converting otherwise non-productive mountain meadows into a useful produce such as milk was also stressed. In 1896 the Conservator of Forest stated the usefulness of the Gujjar nomads as there:

has always been ample fodder available for all concerned [i.e., both the village cattle and the cattle of Gujjars] and the supply is allowed to go to waste or is burnt by the villagers *if not utilised by the Gujjars' cattle and converted into ghee*. I am of the opinion that 850 heads of cattle [proposed for 1896] can easily be accommodated without causing any serious injury to the forests concerned or inconvenience to the villagers (Collector's Record 1888–1901; author emphasis).

By a policy of *divide and rule* the British thus created antagonism and competition between migrating pastoralists and agriculturists, while in pre-colonial times they shared communal rights over natural resources. That the British administration was more apt to listen to complaints from the villagers than to the marginalised and unsettled nomads is aptly stated in a letter about fifty years later. J.L.C. Turner, Deputy Conservator of Forest, Dehra Dun Forest Division, writes in 1931 in an answer to a suggestion that villagers should be allowed free grazing and that this should be compensated for by the 'professional dairy men' (the Gujjars) paying the balance:



The professional dairyman already pays very high rates and his financial condition is really very deplorable. I refer, of course, to the Gujars. The villager is much better off. Moreover Gujars are a dying race [sic!]. Just to give free grazing to the villager because he agitates for the sake of agitation is, in my mind, an unsound policy (Letter to the Superintendent of the Dun, dated 19.5.1931).

As the colonial power took over the Himalayan Forests not only were the migration routes and grazing in summer regulated, but the whole life-world of the pastoral Gujjars became controlled by rules of laws and regulations. This gave the Forest Officers complete power over the livelihood and thereby also survival of pastoralists, who had no other assets than their herds, and who were completely dependent on pasture on forest land. The Cattle-Trespass Act of 1871 gave a Forest Officer or Police Officer the right to seize and impound any cattle for cattle trespassing and levy fines to the owner. The India Forest Act of 1927 changed grass and tree leaves lopped for fodder into 'forest produce' which shall be 'presumed to be the property of the government until the contrary is proved', sharpened the concept of 'forest-offence' and provided forest officers with the 'power to hold an inquiry into forest-offences, and, in the course of such enquiry, to receive and record evidence' (The Indian Forest Act 1927, paragraph 69 and 71). This created a system of corruption and bribery which still prevail.

A consequence of colonial forest policy was also that *communal* forest management was replaced by *individual* lopping and grazing permits given to the head of a household, specifying the area in the forest to be used by the household as well as the number of buffaloes included in the permit and the tax to be paid. This meant that the Gujjars had to interact with the Forest Department as individuals and not as a community, something which further weakened their position. The rule of the Raj thus left Gujjar pastoralists marginalised—still part of local and regional economic exchange systems, but due to their so called 'unsettled life' placed outside of the development process, and provided with neither land rights nor domicile rights. In order to gain these rights they were required to normalise and settle down. For people whose livelihood as well as culture was finely tuned to using natural resources spread out over a large area that meant drastically changing a whole way of life. While pastoralists in other parts of the Indian Himalayas, such as the Gaddi and Bhotiya as well as the Gujjar in Jammu and Kashmir, through semi-nomadism, had combined a settled village existence by letting part of the household migrate with the herds, the specialised buffalo herding Gujjar of the Central Indian Himalayas continued life as nomads without a fixed address, still following the same routes from winter camps in the foothills to summer camps in the alpine meadows.

#### PASTORALISM TODAY

The rules laid down by the British in the 1880s still functioned in exactly the same way when I first stayed with Van Gujjars a

hundred years later at the end of the 1980s. Indian governance had changed from a colonial power to a postcolonial, democratic state, but the attitudes towards nomadic pastoralists, seeing them as outdated pre-agriculturists, needing settlement, still prevailed. This entailed that the rules governing the lives of the pastoral Gujjars basically stayed the same. The Van Gujjars still wait every summer in the lowlands for the checkpoints to be established along the migration routes and for official permission to proceed up into the hills. Also, the state continues to be more apt to listen to the settled agriculturists in the hills than to the nomads. Whenever the agriculturists in the hills complained about scarcity of pasture, the authorities answered by letting the Gujjars wait for longer periods in the heat of the lowlands before giving the permission that lifted the barriers in order that the migration up into the hills could start.

By having to wait for checkpoints to be established and for the permission for migrations to come from the authorities, the nomads have permanently lost an important tool in transhumance, flexibility, that is, that of migrating at the right moment to gain the highest benefits from all resources within the 'Van Gujjar landscape' as well as for conserving nature. Thus instead of migrating when the time is right according to the herders' perspective, they have to wait for a bureaucratic order.

Twenty years ago, it was still the rule that everybody migrated to the high ranges during summer, leaving the forest in the foothills empty of animals as well as people during summer, thereby giving it time to recuperate. An example of this was Timli kohl where all *deras* (camps) participated in transhumance until the middle of the 1990s, most of them going to the Shimla hills of Himachal Pradesh. In late April, they left a desiccated forest, with completely dried out water holes where life with the animals was no longer possible, and stayed by the river Assan just outside the forest, while waiting for the permission from Lucknow that lifted the barriers at the checkpoints, so they could start the long trek to the alpine pastures.

Today, the situation for nomadism has completely changed and with that the pattern of migration, as short distance migration within the lowlands has for many households replaced the earlier long distance transhumance. A way of migration, tested through centuries, that gave the forest time to recover and ensured the utmost use of its resources, has thus been replaced by a much more shortsighted system giving further pressure on the forests of the foothills. The consequence is that an area that was completely nomadic twenty years ago is now to a great extent non-nomadic. The reasons for the shift in pastoralism are many. While most would agree with the Van Gujjars that transhumance is best for the forest environment there are now so many restrictions to overcome in order to reach the summer pastures that many families simply give up beforehand.

Traditionally, everybody, from the eldest family member to the youngest child and from the old buffalo cows to the youngest calf partake in the annual migrations, lasting three to four weeks each way, and putting an enormous stress on

everybody, physically as well as economically. Buffaloes use their energy for walking and not for lactating and fodder has to be obtained along the trail. There is also risk of conflicts over resources with settled populations on the way. Migration used to be a period of transition, but also a period of joy and expectations, leaving the heat of the plains for the cool of the mountains as well as anticipation of the stay in the hills which provided more leisure time and less expense for producing milk. In the hills the animals grazed instead of being dependent on leaf fodder and purchased supplementary food as they do in the lowlands. Consequently, the stakes were high, but the reward used to be worth it.

Generally, when the reward becomes increasingly insecure, transhumance tends to stop. Moreover, migration itself is becoming more problematic. Since the trails to a large extent, as well as the halting places used during transhumance have been the same, at least back to the end of the nineteenth century when, as shown earlier, migration was regulated by the British and the pastoral Gujjars were given the right to camp and graze their animals on state forest land and allowed to halt approximately every 15 km. However, they now find their campsites occupied by settled populations or turned into agricultural land, with the consequence they have to take longer walks each day, often merging two halts and, instead of letting the animals graze, they are now forced to buy fodder on the way. They also have to pay in milk or money for way of passage everywhere. Besides, many of the traditional paths of migration are now paved roads with heavy traffic. Decreasing grazing grounds in the hills, due to encroachment on traditional Van Gujjar pastures in forest and *bugiyals*, by local agriculturists and fruit growers, further add to the problems for transhumance. On the positive side is the fact that ever increasing numbers of tourists and pilgrims in the hills result in high demands and good prices for buffalo milk and milk products. Still, the most severe threat to Van Gujjar pastoralism is that of nature conservation. It started in the forest of the foothills at the beginning of the 1990s with Rajaji National Park, but during the last decade most of the summer pastureland in the upper ranges has also been converted into national parks, global heritage sites or sanctuaries.

### VICTIMS OF CONSERVATION

Today it is thus to a large extent the Government's conservation policies that restrict Van Gujjars movements. New rules of conservations entail that Gujjars can be stopped on the road close to their goal and barred from entrance after having performed the whole migration as happened in 2007, 2008 and 2009. Similarly, they might be denied entrance to the foothills when they return in autumn.

A unified legislation concerning management and protection of wildlife was passed in India in 1972. 'The Wildlife (Protection) Act 1972' deals with wildlife protection through the establishment of protected areas as well as regulation / prohibition of hunting and control of trade in wildlife products. Once declared a protected area, *all human activity inside is*

*banned* (except from a public servant on duty or any person permitted entrance by the authorised officer). This entails that local forest users lose all their traditional rights. They are no longer allowed to collect anything from the forest and they are even barred from just entering it.

In 1983 the Uttar Pradesh Government notified its intention to amalgamate three former sanctuaries into a large national park, the Rajaji National Park, under the Wildlife Protection Act because of what was conceived as, 'increasing pressure on forest and wildlife in this delicate ecosystem.' The main incentive for the park has been to protect the Asian elephant that here reaches its north-westernmost extension in India. The Van Gujjars who have their camps within the proposed park area during winters were threatened with eviction. They were conceived by both forest and wildlife authorities, and by local 'nature lovers,' as constituting the most serious threat to the delicate ecological balance of the park as well as to its wildlife. All official policies were aimed at making them leave the forest and settle down, in order to survive as petty agriculturists. The conflict that followed attracted massive media coverage. In the national debate on people and parks the 'colourful Van Gujjar' (as they were often presented by journalists) came to represent the 'victims of conservation'. In this conflict the Van Gujjars were supported by Rural Litigation and Entitlement Kendra (RLEK) a local NGO and in 1996, they presented the *Community Forest Management in Protected Areas*, CFM in short. According to the plan the Van Gujjars should be allowed to actively participate in the management and conservation of the park area in order to secure the survival of their livelihood together with the sustainability of the forest ecosystem. As stated by Mustooq, a Van Gujjar leader: 'Give the forest to us and we will turn it into a diamond' (RLEK 1997).

The plan was much discussed both in the media and through workshops and it also gained the attention of politicians. However, the plan was ahead of its time and it was not possible to realise it in practice within the regulations of 'The Wildlife (Protection) Act,' which banned human activity within the park. As a result, the participatory process of community forest management never really started. What happened was also that the issue was fast used up through all media coverage, where 'Van Gujjars' were generally essentialised as 'simple people' living 'in harmony with nature'. This approach, while perhaps appropriate for short term gains, tended to simplify the whole issue while leaving out many of the political as well as contextual complexities and power struggles involved. It also disguised the fact that people like Van Gujjars do not 'live in nature'. Rather they relate to their environment through pastoral production and as such they change it. The landscapes of forest and alpine pastures traversed by pastoral Gujjars during transhumance are thus anthropogenic, cultural as well as natural, and created through agrarian relations.<sup>5</sup>

The result of the conflict over conservation was that the Van Gujjars lost out and the Forest Department and the concept of conservation prevailed. In the end the forest also lost out. Today, the forest is in many places in a much more deplorable state than it was twenty years ago at the start of the conflict

over conservation. However, all the publicity initially resulted in a stalemate between the Forest Department and the side supporting the Van Gujjars, with the result that the latter were not immediately evicted from the park area. However, during the last 15 years about 1300 nuclear families, earlier living in the Rajaji National Park during winter, have gradually been settled on land in two colonies outside the Rajaji Park. As a consequence of the earlier mobilisation for their case, they have, in most cases, not been downright evicted from the park, rather they have been persuaded by forest officials to leave and take the land offered. This they did, as they were told that no other alternative really existed. However, with the introduction of the new Forest Rights Act, the Van Gujjars have started seeing continued pastoralism in the forest as a possible alternative for the future. What was not possible in the 1990s through the *Community Forest Management in Protected Areas* might be achieved now with the new Act.

### OBTAINING CIVIL RIGHTS

At the start of the conflict over conservation, the Van Gujjars were, as we have seen, marginalised by earlier policies towards pastoralists. This position was expressed very strongly by Lal San from Timli:

What kind of life do we have here? There is nothing much in our life. First, the *janglat* [Forest Department officials] takes everything from us. Whatever we earn is not only for us. If people in the town earn just a few *rupees*, they are earning for themselves. They do not have to give it to anybody else, but we have to give it to the *janglat*. Then, we do not have rights [*haque*] that other people have, like the right to vote. That is why nobody comes to the forest to ask us for votes, as it happens in other places, and then they can ask for things for giving their votes. Last, we do not have ration cards. We always have to pay the full price for kerosene, flour and sugar. All this is because we do not have any address. We do not have any settled life. We just have to move here and there (Timli forest, February 1991, translated from Hindi).

What pastoral Gujjars also did not have was education. When I first came to the area virtually none of them could read and write, something which gave them few choices when it came to alternative ways of securing a livelihood.

As a result of the mobilisation in the 1990s, however, most Van Gujjars were enrolled in the voters' list, the first step of gaining full domicile rights. Except that, being nomads without a fixed address, their names were later gradually removed from the list by officials coming to check, who did not consider a hut in a state forest to be a permanent address. A problem was also that the officials came in August when most of the Van Gujjars were in the hills. Furthermore, according to the Van Gujjars, villagers were instrumental in removing their names from the list for village council elections, fearing that their political participation might threaten local power structures.

While in the 1990s, RLEK was the main voluntary organisation working for the Van Gujjars, during the 2000s this position had been taken over by Society For Promotion of Himalayan Indigenous Activities (SOPHIA) (originally a daughter organisation of RLEK, but now an autonomous entity). In 2004 SOPHIA prepared a participatory action plan for Van Gujjar rights and conflict management. Praween Kaushal, Director of SOPHIA explains that the aim of the project was to build capacities in the community so that they themselves could manage conflict situations in the future. This action plan was subsequently incorporated in the form of a project, '*Community Participation for Conflict Management*'. To empower themselves and ensure rights to land and livelihood, the Van Gujjars expressed that they needed domicile rights, policy advocacy, lobbying and education. It should be stressed that important for them were also linkages with the government and government services for education, health and veterinary support. As a result of the project the state government has now established education centers in the forest under the Education Guarantee. It is a victory that the educational centers are set up inside the forest where the children live, thus acknowledging the Van Gujjars right to stay in the forest. Earlier, as we have seen, their destiny had been decided by rules and laws they themselves could not read, something which had always given cause for disempowerment in encounters with officials.

Now in 2009, all Van Gujjars are included in the voters' list, and they are aware of the procedures to ensure that they do not again lose their right to political influence. There is evidence that the Van Gujjars are now establishing political presence as voters, and that the political visibility and influence of the Van Gujjars has been enhanced. An example of this is that politicians from national political parties conducted empowerment rallies with the Van Gujjars during the time of elections. Similarly, at the local village level, the *Pradhans* (elected village headmen) now have to pay attention also to Van Gujjar community issues. This empowers the Van Gujjars when it comes to resource sharing and conflict resolutions at the local level. Van Gujjars have further finally realised other domicile rights, previously denied to them as nomads, such as, photo identification cards, ration cards and inclusion in the family register. Van Gujjars have thus now gained most of the rights and benefits that Lal San was missing twenty years ago. This means that when the Forest Dwellers' law is introduced they must be better prepared to exercise their rights than they were at the start of the conflict over conservation.

### NEW HOPES FOR FOREST DWELLERS

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, popularly known as the Forest Rights Act, was notified on January 1, 2008. For the first time in the history of Indian forests, the state admits that rights had so long been denied to forest dwellers. The bill is meant to rectify historical injustices for those forest dwelling Scheduled Tribes and other traditional forest dwellers whose forest rights on ancestral land were not 'adequately recognised



in the consolidation of State Forests during the colonial period as well as in independent India'. 'Other traditional forest dwellers' here means any member or community who 'has for at least three generations prior to December 13, 2005, primarily resided in and who depends on the forest or forest land for bona fide livelihood needs'. The Act confers rights over natural resources to forest communities in order to secure a living together with the responsibility to use such resources in a sustainable way. As stated by Gadgil (2008):

In its preamble, the Act declares that the recognised rights of the forest dwelling scheduled tribes, and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance, thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling scheduled tribes, and other traditional forest dwellers.

The linkage, mentioned here, between survival and sustainability of the forest ecosystem and sustainable livelihood of local communities is the same as was made in the Van Gujjar *Community Forest Management in Protected Areas*. By combining livelihood with sustainable use and conservation of natural resources, the Act opens up for the possibility of sustainable pastoralism for the Van Gujjars, which is exactly what earlier conservation laws had denied them. The Act now provides an opportunity for the Van Gujjar community to finally stake a claim for legal rights over the forests they had been living in and been dependent on for their livelihood for ages. As we shall see a little later in the text, their claims appear to be very strong as to the act. In section 2(a) of the act, the right of seasonal use of the landscape by pastoral communities is included:

'Community forest resource' means customary common forest land within the traditional or customary boundaries of the village, or *seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access* (emphasis added).

Section 4.5 of the forest right act mentions that no member of the Other Traditional Forest Dwellers shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete. Similarly section 3(d) clearly mentions that 'following rights which are secure individual or community tenure or both, shall be the forest rights of forest dwelling schedule tribes and other traditional forest dwellers on all forest lands, namely,

Other community rights of uses or entitlements such as fish and other product of water bodies, grazing (both settled and transhumant) and traditional seasonal resource access of nomadic and pastoral communities.

While explaining the functions of a district level committee under 'The Scheduled Tribes and Other Traditional Forest Dwellers' rules, it is emphatically mentioned in rule 8(b) 'that the committee has to examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed, keeping in mind the objectives of the Act' and further rule 12(c) 'ensures that the claims from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community, or traditional community institution are verified at a time when such individuals, communes, or their representatives are present. It thus clearly shows that the Act provides belongingness in forest to pastoralists and nomads without them having a permanent address. It also says that no claims can be settled without their presence. It further clearly states that they as 'other traditional forest dwellers' cannot be evicted or removed from the forest land under their occupation until the recognition and verification procedure is complete.

Looking at their long and continuous history as pastoral nomads in forests, it appears the Van Gujjars have very strong claims according to the Act. Being nomads they further have claims, both for the forest in the foothills which they use in winter, as well as for the forest and *bukiyals* in the hills where they stay during summer. As individuals they have paid grazing and lopping tax and for this they have received receipts. As discussed earlier the British Raj changed community rights to pastures and forests into permits granted to individual heads of households. This entailed that they would have to exercise their forest rights as individuals and not as a community. This, of course, would make the procedure much more complicated as well as expensive, as each household would have to produce separate proofs of forest use. Community rights for managing and conserving the forest would probably be a more sustainable solution for the Van Gujjars as well as for the forest.

The implementation of the Forest Right Act by the authorities has been criticised for putting too much stress on individual rights, while neglecting the promise of community right to manage, protect and conserve forests inherent in the Act (Gadgil 2008). What the Act now demands, is that the Van Gujjar put forward their claims to the respective village committees to which their pasture land belong. But so far the procedure for staking the claims and setting up village committees has not started in Uttarakhand, so the full outcome of this process still lies in the future. In the meantime the Forest Department has tried to evict Van Gujjar from their summer pastures in Govind National Park in violation of the Act. That was what happened in 2007, 2008 and 2009. After a delay, permission for entrance was issued, but only for a year at the time. This, naturally, worries the Van Gujjars. If they are not allowed to enter the park and go to their ancestral pasture grounds they are also hindered from participating in village forest committees and thus from putting forward claims for their forest. Apart from rights to seasonal pastures, the Van Gujjars also have recorded rights to their migration routes and their traditional halting places in the state forest. For sustainable pastoralism all traditional elements of land use are necessary. However,



there is no clarity in the Act on how to recognise such diverse sets of forest rights crossing *gram sabha* and district as well as state borders.<sup>6</sup>

## DISCUSSION

In February 1996 the *Community Forest Management Plan for Protected Areas* (CFM), questioning conservation without people, was presented by RLEK and Van Gujjar leaders at a workshop in Dehra Dun. Several hundred Van Gujjars attended the inauguration ceremony and it was quite obvious that they had come with a sensation of hope. During the workshop, they were, for the first time, able to sit down at the negotiation table with powerful representatives from the Forest Department. This is how Mustooq, Van Gujjar leader, presented his community:

There are many Gujjars in India but I am only speaking for the *Van* [forest] Gujjars. Those Gujjars who have looked after the forest over the years and who are the ones who have continued to stay in the forest. [Our] relationship with the forest is not a new one. It has been established over the centuries and it is characterised by looking after the trees and looking after the buffaloes. The Forest Department is making this forest into a national park that includes the trees and the animals *but nobody thought of including the Van Gujjars* (translated from Hindi).

Through the centuries the Van Gujjars have depended completely on the forest for their survival. Van Gujjars, such as Mustooq, thus see the forest as an interdependent system to include Van Gujjar and their buffaloes. During the colonial rule in the nineteenth century, we saw how the British used cultural stereotypes for pastoralists, listing them below agriculturists on the evolutionary scale, and including them in 'nature', the 'wilderness' and the 'wasteland'. As the forest was removed 'out of the category of wasteland' and became the ordered property of the state and managed by the Forest Department, it could no longer include people—or their cattle—as anything but intruders. With the concept of nature conservation, cementing the dualism between productive landscapes and protected nature, people were, at least in theory if not always in practice, barred from even entering the forest. Through the Forest Right Act, new possibilities now exist for repairing the split between people and nature. This can be done, not by people such as the Van Gujjars becoming part of nature, but rather through 'socialised forests' where people are included in the management, sustainability and conservation of the nature from which they gain their livelihood.

Nomadic pastoralism has been looked at in evolutionary terms and it has been seen as an outdated form of production. However, there are now new calls for sustainable pastoralism as expressed by The World Initiative for Sustainable Pastoralism (WISP): 'Mobile pastoralism is clearly a viable and modern livelihood, and people are reverting to ways of living which a generation ago were thought to have disappeared'.<sup>7</sup> With

climate change and an increasingly vulnerable Himalayan landscape, sustainable pastoralism might still be a viable mode of production. Pastoralists gather wealth, such as milk, wool or meat, from scarce and scattered resources. They are flexible, they walk and they know when it is time to give a depleted resource rest for recuperation while moving to new pastures. They are also very important for maintaining the biodiversity in the alpine pastures through grazing, and can be so in the foothills if they are allowed to plant and conserve local species of fodder trees. Perhaps it is time for the Van Gujjars to join the semi-nomadic pastoralists of the world, by combining a settled existence with its possibilities of education and diversification with transhumance for the animals. There are already signs that such a change is taken place. People stay back in the foothills during summer while the buffaloes are taken to the alpine pastures by relatives. With forest rights, this could be done in a much more orderly fashion. This summer I visited a group of Van Gujjars in their camp in the alpine meadows of Uttarkashi. The migration up had been full of harassments and struggle and they were exhausted and ready to settle down. However, in a discussion about semi-nomadism, Dhummand, one of the men said: 'That would be much better than just settlement. That would be like having luck in both my hands'!

## ARCHIVAL DOCUMENTS

- Dehra Dun Regional Archives, Collector's Record. 1888-1901. Dept. IV A. Serial No. 17. File No. 68. Box 22. Annual Migration of Gujjars.
- Dehra Dun Regional Archives, Letter to the Superintendent of the Dun dated May 19, 1893. Dept. No. XXVI. Serial No. 2. File No. 27. Reg. No. 5332.

## Notes

1. While there are many Gujjar (or Gujjar) in Uttarakhand and Uttar Pradesh, this article deals specifically with the pastoral Van Gujjars who have their winter camps in the forests of the Shiwalik Foothills between the Ganges in the East and the Yamuna in the West. Here, in winter, are found the pastoral Gujjars who still perform the annual transhumance between the foothills and the alpine pastures (or who have very recently stopped doing so).
2. Adding the suffix *Van* (forest) to the common Gujjar name has been a very recent strategy used to demarcate the Muslim pastoral Gujjars of the Indian central Himalayas from the countless other Gujjar groups in northern India. As the conflict over conservation intensified into a fight for the rights of this specific group of Gujjar, the identity of the community, to benefit from the struggle, had to be made crystal clear. The name of Van Gujjar, established by Gujjar leaders and by the NGO RLEK is now so widely recognised that it is used by administrators and in official documents. Earlier the community existed as a close knit endogamous entity but without a separate name with which to identify itself (Gooch 1998a, 2004).
3. So far—August 2009—negotiations have not yet started in Uttarakhand.
4. Saberwal (1999) writes about how the Forest Department introduced similar restrictions on grazing by migratory herders in Himachal during the end of the 19<sup>th</sup> century.
5. For a discussion of 'social nature', see Agrawal & Sivaramakrishnan 2001.
6. <http://forestrightsact.com/index.php/Forest-Rights-Act-2006/Scheduled-Tribes-and-Other-Traditional-Forest/State-wise-Updates-on-the-Act.html>. Accessed on September 4, 2009.

7. [http://www.iucn.org/wisp/pastoralist\\_portal/drylands\\_and\\_pastoralism/](http://www.iucn.org/wisp/pastoralist_portal/drylands_and_pastoralism/). Accessed on September 8, 2009.

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