



The politics of rights-based approaches in conservation

Prakash Kashwan*

Department of Political Science, University of Connecticut, Storrs, CT, USA

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ABSTRACT

Scholars and advocates increasingly favor rights-based approaches over traditional exclusionary policies in conservation. Yet, national and international conservation policies and programs have often led to the exclusion of forest-dependent peoples. This article proposes and tests the hypothesis that the failures of rights-based approaches in conservation can be attributed in significant measure to the political economic interest of the state in the tropics. To this end, the article presents findings from the empirical analysis of the Forest Rights Act of 2006 in India. Two key recommendations emerge from this analysis. One, the proposals for operationalizing rights-based approaches will likely be far more effective if they protect the inalienability of a *minimal* set of rights critical to the subsistence and well-being of forest people, as opposed to promising the protection of an expansive set of rights subject to the instrumentality of conservation. Two, the proponents of rights-based approaches in conservation need to guard against their actions reinforcing the institutional status quo of the state control of forests. This, in turn, requires international conservation groups to join hands with national forest rights movements.

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Introduction

The era of forest hinterlands has come to an end with forests attracting unprecedented national and global attention and investments ([Rights and Resources Initiative, 2010](#)). The highly anticipated influx of international finance into the forestry sector adds to the overwhelming complexity of claims over forests in the developing countries ([Larson and Petkova, 2011](#)). A number of emerging challenges to the interest of forest-dependent groups have prompted scholars to advocate increased attention to rights-based approaches (RBAs) in forest conservation ([Larson et al., 2010](#); [Sikor et al., 2010](#); [Sikor and Stahl, 2011](#)). At the same time, a number of prominent international conservation groups have issued significant policy statements supporting the rights of forest peoples ([Campese et al., 2009](#); [Greiber et al., 2009](#)).

The in-principle celebration of forest rights stands in contrast to the realities on the ground, where ongoing conflicts over forest and wildlife conservation persist ([Brockington, 2002](#); [Chapin, 2004](#); [Beymer-Farris and Bassett, 2012](#)). Indeed, the magnanimity of the scope of the rights mentioned in the proposals for operationalizing the RBAs makes the failures on the ground quite striking. This paper seeks to build on the existing research and the ongoing debates to analyze the reasons for the painfully slow progress made in operationalizing the RBAs in conservation. More

important, perhaps, is the need for a better understanding of the systemic barriers to implementing RBAs across the forested regions in developing countries ([Cousins, 1997](#)).

This article employs a political economy perspective to analyze the barriers against the operationalization of RBAs in practice. It demonstrates that the political economic interests of the state are perhaps the most significant barrier against the operationalization of RBAs. Further, it is argued that instead of promising support for an expansive set of rights, such as the right to territorial sovereignty, only to subject them to the priorities of nature conservation, the proposals for operationalizing RBAs would benefit from according unconditional protection to a minimal set of rights critical to the subsistence and well-being of forest-dependent people. By discussing the case of the Forest Rights Act (FRA) of 2006 in India, the article shows that the goals of nature conservation and the rights of forest people are likely to be bolstered when international conservation groups and national forest rights movements join hands to demand greater state accountability. To these ends, the article draws upon scholarship in the fields of political economy, political ecology, and human rights ([Nickel, 2005](#); [Sen, 2006](#); [Forsyth, 2008](#); [Caporaso and Levine, 1992](#)).

A number of important factors motivate the political economy approach that this article employs. One, governments own over 75 percent of the world's forests ([Larson et al., 2010](#)), a figure which would be much higher if one were to focus solely on tropical countries that are the main sites of international nature conservation. Two, the RBAs in nature conservation must account for the competing interests of actors with significant differences of power and authority in the domains of policy formulation and

* Correspondence address: 365 Fairfield Way, U-1024, Storrs, CT 06269, USA.
Tel.: +1 860 486 7951; fax: +1 860 486 3347.
E-mail address: Prakash.kashwan@uconn.edu

implementation. Three, the forested countries recognized as biodiversity hotspots, are also known to be socio-political hotbeds, characterized by high levels of poverty, tenure insecurity, high rates of landlessness, and a long history of colonial and post-colonial state repression (Brechtin et al., 2002, p. 42; see, also, Rights and Resources Initiative, 2010).

A recent compilation of statistics from a variety of sources puts the number of forest people, those who depend primarily and directly on forests for their livelihoods, at about 1.5 billion (Chao, 2012). The salience of socioeconomic and political factors to the agenda of nature conservation makes political economic analysis an important, but, an underutilized tool in this debate (Cousins, 1997; Boyce, 2008). Scholars of forest rights and nature conservation seem to agree that widespread power asymmetries have prevented forest peoples from realizing their rights in the face of exclusionary conservation (see essays in Sikor and Stahl, 2011). Such agreements aside, as Molnar et al. (2008, p. 14) argue, even after a decade of brainstorming the RBAs, “(t)he environment and development communities by and large have not yet adjusted or rethought their approaches” to address the apparent conflicts of interests over nature conservation. This article leverages the political economy perspective to analyze the barriers against realizing rights in practice.

The following section briefly discusses the basic tenets of the political economy framework, and the methods employed in this research. Section ‘Rights-based approaches and forest conservation: proposals and their applications’ summarizes the conceptual evolution of the RBAs in conservation, followed by a brief discussion of the proposals that international conservation groups have developed to operationalize the RBAs in the developing countries. Section ‘Forest and forest land rights in India: the problem and attempted solutions’ synthesizes background information on the historical and contemporary status of forest rights in India, and Section ‘The FRA and forest responses of actors concerned with conservation’ discusses how different actors related and responded to the promulgation of the Forest Rights Act (FRA) of 2006. Building on the empirical evidence presented in the previous sections, Section ‘Explaining the FRA’s bumpy ride so far: a political economic analysis’ analyzes how the interests and strategies of prominent conservation actors shaped the politics of forest rights in India. The concluding section reflects on these analyses and offers specific recommendations on bolstering the operationalization of RBAs.

Analytical framework and methodological approaches

The political economic perspective that this paper employs draws our attention to the differences of interests, endowments, and authority among key actors, and how such differences shape the distribution of decision making powers in the policies and programs related to nature conservation (Raik et al., 2008). In particular, it focuses on the state’s control over natural resources, and the important role it plays in mediating competing demands for the resources (see, Caporaso and Levine, 1992). The state is also the key, although not the only, provider and custodian of public goods. While it is customary to think of nature conservation as a public good, an equally important one is the institutional structure comprising the rules, norms, and conventions, pertaining to say, forest property rights (see, Brown, 2003). Accordingly, governments must take lead in reforming colonial forest property rights institutions, which in turn, is vital for securing the legitimacy of forestry laws (Brechtin et al., 2002).

Institutional reforms are easier said than done, partly because the apparently ‘bad’ policies, including the colonial era laws, often reflect the preferences of national elites who benefit from resource extraction (Ascher, 1999). This explains, perhaps, why

many post-colonial governments have retained, at times verbatim, outdated colonial forestry laws (see, Haque, 1998; Sundar, 2011). At the same time, inspired by the catchy thesis of the ‘tragedy of the commons’, national governments continue to micro-manage natural resources such as land, water, and forests (Johnson and Forsyth, 2002; Ostrom, 2010). The dual role of the state as a guarantor of fundamental institutions and rights on the one hand, and an actor invested in resource extraction on the other, institutionalizes conflicts of interests (Sundar, 2011). Such conflicts, in turn, have been linked to the violations of human rights, including the social and economic rights, of forest people the world over (Peluso and Watts, 2001; Brockington, 2002; Baviskar, 2005).

The tussle between the maintenance of state authority and the goals of socioeconomic justice intertwine with the ongoing conflicts between wildlife conservation and the rights of forest peoples (Brosius et al., 2005). As Wilshusen et al. (2002, p. 20) argue, the international conservation organizations’ pursuit of exclusionary protected areas ignores the fact that protected areas have been used as tools to serve the various goals of “territorial control, domination by rival social/ethnic groups, and advancement of elite interests.” The extent of support for and the investment in exclusionary conservation strategies alters the balance of power between forest-dependent groups and the public agencies (Rodríguez et al., 2007).

The analytical approach this article employs is motivated by the core challenge of situating the concerns of social justice within the complex field of international support for nature conservation. The context of historical and the continued marginalization of a large number of forest people is arguably at center of the ongoing debates over the RBAs in conservation (Bawa et al., 2011; Sikor and Stahl, 2011). Accordingly, instead of embracing an ‘uncritical pluralism’, i.e. treating the stakes of different actors as equal and all positions as equally valid (Belsky, 2002), this article focuses on the key actors, specifically the state as well as national and international non-governmental groups that promote policies and programs of nature conservation. It also highlights the powers these actors bring to bear upon the agenda and activities related to nature conservation.

The analyses presented here are inspired by Forsyth’s (2008) proposal for an ‘epistemology of social justice’.¹ Comparing the endeavor of scholarly inquiry to ‘peeling the layers of an onion’, he underlines the need for triangulation of multiple information sources to consider the “relationship of facts and norms” (Forsyth, 2008, p. 762). The present article outlines the essential elements of normative goals derived explicitly from the existing proposals for the RBAs as discussed in the following section. The expectations that emerge from a political economy perspective are triangulated with qualitative and quantitative evidence pertaining to the politics of forest rights in India. Such triangulations inform the inferences drawn and the suggestions offered here for the effective operationalization of the RBAs.

The second key aspect of RBAs in conservation relates to the multi-scale nature of the problem. Accordingly, instead of a detailed investigation of outcomes observed either at the local or at the national level, this article seeks to reveal important linkages across scales. This analytical approach has implications for how cross-sectional variation at sub-national level is understood. For instance, while past studies have analyzed variation in organizational attributes of forest departments across different states in India (Kumar and Kant, 2005), little variation exists vis-à-vis forest property rights and the conflicts they engender (Dreze, 2005; Asher and Agarwal, 2007). As Section ‘Forest and forest land rights in India: the problem and attempted solutions’ outlines, the state forest departments have faithfully followed the forest property rights

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