

Unable to see the bamboo for the trees

Deregulating bamboo production does not address the issue of building a transparently governed forest sector



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Governments everywhere tend to look for quick-fixes, overlooking complexities and ignoring the big picture. The move by the Centre to “de-regulate” bamboo production by amending the definition of “trees” under the Indian Forest Act (IFA), 1927, is a great example of this tendency. In November 2017, the Central government issued an ordinance whereby “bamboo” was deleted from the clause that defines “trees” in the IFA. Since bamboo is biologically a grass, its inclusion under “trees” was scientifically an anachronism. The amendment was, therefore, long overdue.

The British mis-definition was a blatant appropriation of people’s resources. By including bamboo under trees (Section 2(7)), and felled trees under timber (Section 2(6)), and timber in forest produce (Section 2(4) (a)) regardless of its origin, the British established state control on all tree and bamboo growth. Felling, sale and transport of any of these species then required state permission. Post-independence India continued this policy. Removing bamboo from “trees” amounts to removing it from state control, and should be a huge step in favour of restoring people’s rights. But is it?

Multiple laws and caveats

In fact, the IFA no longer holds a pre-eminent position in Indian forest law. Most States have passed their own forest Acts and Rules. Many have also passed other Acts that, for instance, regulate tree felling outside forest areas, such as the Karnataka Preservation of Trees Act, 1976, or regulate the movement of forest produce, such as the Madhya Pradesh Van Upaj (Vyapar Viniyaman) Adhiniyam 1969. Each of these Acts and Rules defines forest produce and trees, and includes bamboo in them. Amending the IFA does not affect these State laws and, therefore, changes nothing on the ground. Moreover, even as it amended the definition, the Central government introduced a caveat that this de-regulation applied only to bamboo grown on non-forest lands.

First, this contradicts the letter of the amendment which makes no such distinction. Second, how are guards at forest checkpoints to know where a particular truckload of bamboo is coming from? Trucks from

private lands will need transit passes, which means that forest officials will have to monitor the felling. How is that different from the current situation?

Point of ownership

Worst of all, by supposedly deregulating only privately grown bamboo, the government is dodging the real problem. The bulk of bamboo in the country today is on forest lands. But “forest lands” is an umbrella term that includes, for instance, community forest lands in Northeast India. Following the Supreme Court’s Godavarman judgment, tree harvest in all these lands is regulated by the forest department. If the amendment does not deregulate bamboo grown on these lands, then how will it unleash the vast economic potential of bamboo in that region?

Similarly, “forest lands” also includes community forest resources to which title has been granted under the Forest Rights Act (FRA), 2006. Tens of thousands of gram sabhas have now received such titles, and many thousands more await it. The FRA explicitly grants rights over bamboo and other non-timber forest products such as tendu patta to forest dwellers. Nevertheless, forest officials have constantly (illegally) denied bamboo harvesting and transport rights to communities, citing the IFA. Only in Maharashtra, due to the intervention of the then Environment Minister Jairam Ramesh, were gram sabhas able to auction their bamboo. Subsequently, the Maharashtra Governor unequivocally amended the IFA as well as other State Acts to exclude bamboo and tendu patta from State control, facilitating a mini-revolution in forest-based livelihoods in eastern Maharashtra in the past few years.

The need of the hour is to follow in Maharashtra’s footsteps and remove any caveats accompanying the amendment of the IFA, and amend all other State-level Acts and Rules to remove any contradictions with the FRA. The removal of obstacles to the exercise of community rights will open up an alternative form of forestry, managed and regulated by communities. On the other hand, bamboo forestry on private lands may not be remunerative enough for farmers nor desirable from a food production perspective. The ordinance, with its caveats, is infructuous. The government would do well to address the real challenge of building a productive, bottom-up managed and transparently governed forest sector.

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