

LAND REFORMS OR A TRAGEDY OF THE COMMONS?

Kanjhawala Cluster in Delhi and the Punjab

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Prologue:

Time stood still for a cluster of villages in North West Delhi in September 1978. A modern government - Delhi Administration - had ignored the customary authority of the *malikan-deh* (the proprietary body of the village) in the rural political economy of Union Territory of Delhi and had leased 123 acres out of the village commons in Kanjhawala, the leader or *tika* village of the Bisagama (twenty villages) cluster, to a similar number of Harijans (untouchables) in the village. The circumstance came to light when the villagers of the cluster, ignoring the ban on public processions, agitated in front of Parliament House and courted arrest. The incident evidenced the resilience of the "village republic" like the Bisagama cluster in large tracts of northern India or for that matter in the south as well.¹ Such survival of a grassroots self-governing system of collective action is a reality despite erosion from two long term processes in operation in northern India over a matter of two centuries : the first, being the ever-intruding tendency of political centralisation and institutions of statutory control by a nation-state and the second, was the increasing market orientation in the political economy owing to growing demand pressures.

The paper will focus on the outcome of the underlying tension between the institutions of a modern state which supported and encouraged market orientation and individual decision making against those of customary law of the community. Elsewhere in my book ² an attempt has been made to analyse these trends in northern India at the two levels of the region and the eco-system within it i.e. Greater Punjab and the Cis-Sutlej. Here we will go down to the third level, the micro terrain - the Bisagama or the Kanjhawala cluster- from 1858 to 1996.

Historic precedence :

Common property is an important determinant of tenure in land and therefore rights to them are very important to the status holders in any rural community. One has only to examine customary rules which agrarian communities organize to govern access, use and to police the

¹Robert Wade, *Village Republics: Economic Conditions for Collective Action in South India*, Cambridge, 1988.

² Minoti Chakravarty-Kaul, *Common Lands and Customary Law, Institutional Change in North India over the Past Two Centuries*, New Delhi, 1996.

commons to realize the *implications* of tenurial patterns in determining the distribution of production among all those who derive sustenance from agri-pastoral occupations. The significance sharpens in uncertain legal and natural environments where risks are high and property status are unequally distributed among resource users like landless tenants, labourers and transhumant or nomadic pastoralists. The commons then are central to collective governance determining the survival both of natural resources and those who depend on them.

A well-known historical example is the enclosure of common lands by means of legislation in England in the centuries prior to the nineteenth. Such tenurial change destroyed the rural communities and over-night the peasants had “disappeared” from the English country-side causing de-population of the rural areas and dis-enfranchisement of the rural population from the effective governance of rural resources.

Curiously enough nineteenth century political economists generally unrecognised the dangers of poverty and of under-consumption associated with it. It was only Robert Malthus alone who recognized that enclosures caused deepening of rural insecurity and that the immiserisation was symptomatic of a crisis in the political economy. Thus as Keynes points out if only economics had gone the way of Malthusian analysis, the likelihood of a crisis like the Great Depression of 1939 could have been foreseen! The redeeming feature of the century was John Stuart Mill’s espousal of land reforms in England so as to undo the wrongful exclusion of the poor from off the commons. In 1871 he became the first President of the Land Tenure Reforms Association. However even though there was much truth in Mills’ recommendation for nineteenth century England, nevertheless the twentieth century formulation of land reforms as a standard measure for the alleviation of poverty, recommended even by well-intentioned experts, helped only to erode the commons.

This historic association of poverty with the enclosure of the commons was all but forgotten in the discourse on land tenure reforms in the Third World. Therefore after the Second World War various programs of land tenure reform became the economic and social counterpart of political movements in Asia and Africa to counter subjugation from foreign rule. A parallel can also be found in Japan albeit under American occupation. Hence it was assumed that no political agenda in newly independent “developing” countries would be complete without a programme of land tenure reforms. But such historic expectation unfortunately generated a field day for political games; not all indigenous communities, interests groups or political parties were equally schooled in terms of what was involved in tenurial reforms.

It is in this milieu that legislated reform in land tenure patterns in post 1947 India led to the creation of “open access” to the commons and to the so-called “tragedy of the commons” in northern India. This has happened because reforms standardized institutions for the commons in a country as vast and diverse as the sub-continent. And even though each State of the federation was allowed to legislate for itself nevertheless they tended to imitate the general myopia born out of ignorance regarding the fact of diverse eco-systems and their specific need for flexible customary institutions of land use and rights. Illustratively, states in India legislated to remove the power of every ‘landlord’ over the commons since they were symbols of exploitation of the poor. However in the process they overlooked the difference in the size of holdings and the power that was wielded by any landlord; hence the laudable political intentions of land reforms in 1947 to undo the “historic wrongs” of the colonial property rights system failed to give credit to village communities in northern India which controlled 90% of the land and where users of the commons were not all landed and were certainly poor.

Thus it is that the process of attenuation of collective control over the commons began and was further exacerbated by the poverty alleviation programmes of the 1970s by state governments like the Delhi State which distributed parcels of the village commons to the poor and landless. So while the commons started to ‘disappear’ the Government however did acquire political foothold at the village level and in a democracy it meant cadre-building and partisan politicking impacting on the village each time the elections came round. In such an environment of uncertainty and attrition of collective control by the proprietary body over the commons meant ‘free riding’ by politicians even of the agenda for alleviating poverty and the mis-use of the ‘poor’ as pawns for partisan ends unrelated to the collective welfare of the village.

The above consequences seemed not to affect governments of newly emerging democracies in the Third World and what is more even eluded the well-intentioned policy makers of international aid agencies. In recommending “reforming tenurial patterns” there is a general failure to discern the inherent contradiction in undoing the wrongs of a colonial past by relying on the very methods of governance which had been condemned. Thus it is that we have here the best example of the divergence between political rhetoric to undo social injustice by creating “open access” to the commons and the reality of poverty alleviation. It is this politicking on the commons to win over the rural constituency of the poor which has downsized local skills of the community to “lift themselves by their own bootstraps” and creating dependence on central governance.

Along with the above analysis our panel here will examine various tenurial reforms in the second half of the twentieth century in Asiatic and African countries, newly independent from foreign rule and eager to overthrow exploitation in the internal economy and the political subjugation of foreign rule. These stories will link institutional change, policy-making and the fate of common property. In the lengthy processes of nation-building in new nations, agrarian reforms has often been a double-edged strike on common property. Secondary collectives organized around territorial commons based on customary rights were often perceived as threats to the emerging nations. Thus it was often *ideology* and *politics* that provided the rhetoric for tenurial reforms while it was the *politicking* during institutional design and implementation which prevented the realization of the intended goals of poverty alleviation, gender equity and social justice.

The Commons in Tenure and Tenurial Reforms

Theory and History

Here we will briefly examine a selection from some of the influential ideas ³ which have shaped the intellectual discourse on common property resources in modern times. These compel us to re-assess collective action as a third alternative set of institutions to solve problems of natural resources use and distribution as opposed to market-led and state-supported solutions. We will focus on only those aspects of theory which are directly relevant to the history of institutions which governed the commons in northern India in general and the Bisagama in particular.

Classical economics has attributed much of the efficiency in natural resource use to the influence of the market, tempered with the institutions of the modern state. In much of this analysis it has been assumed that the medieval peasant was "dumb" for their arrangements like the system of open fields and scattered strips. Consequently it has been argued that the enclosure of the commons in England led to a re-orientation of land use which made agriculture more efficient. The market won over customary practices.

An early challenge to this assumption came via no less an utilitarian economist than John Stuart Mill and later in the pan-European debate on the community as a source of law, which exercised the minds of leading lights in the field of comparative jurisprudence in the last part of the nineteenth century. The leader in this discussion was Henry Sumner Maine, supported by the Belgian economist Emille de Levalaye and others in Germany and equally

³ *Ibid.*

fiercely opposed by Fustel de Coulanges across the channel!⁴ Even though we will not follow their arguments in detail here, it is important to note that Maine influenced the British Government of India at two levels : he was the legal adviser to the Governor General and taught law in Cambridge and Oxford Universities where officials sent to India were trained. He was instrumental in getting statutory recognition given to Customary Law in Greater Punjab, although it was his friend and successor as Legal Advisor to the Viceroy - James Fitzjames Stephen who actually authored the Punjab Laws Act of 1872! Maine also influenced the officials of British India, like Charles Lewis Tupper who supervised the recording of Customary Law in the various districts of rural Punjab in 1881.⁵

Already on the other hand another strand of argument had developed which assigned an important role to the State or Leviathan, as Thomas Hobbes described the phenomenon. The argument had been extended by A. C. Pigou who suggested the use of State fiscal weapons to solve the problem of externalities arising out of the use of a common pool resource in his famous example of the factory smoke and the house-wife's laundry.⁶ Ultimately a neo-Malthusian form of the discourse brought on the most dramatic turn to the discourse on the commons which fielded the population explosion as an example of "free-riding the commons" and the resultant "tragedy of the commons" argument. Garrett Hardin illustrated his argument about the "freedom to breed" akin to each shepherd putting one more sheep to graze on the commons and thereby increasing his private benefit at the social cost of "a tragedy of the commons". His suggestion was also tantamount to State intervention or alternatively a set of institutions which commoners could adopt to "mutually coerce".⁷

The commons are analyzed in yet another way. Carl Dahlman⁸ uses the transaction costs approach to explain that the village communities in medieval England achieved minimization of transaction costs when they collectively devised institutions to manage uncertainty and risk; and that the community also realized economies of scale in the arable and the pastoral by complementing the scattered strips in the arable with the compact commons for grazing.

⁴ For details of this debate see Paolo Grossi, *An Alternative to Private Property, Collective Property in the Juridical Consciousness of the Nineteenth Century*, Chicago, 1981.

⁵ C.L.Tupper, *Punjab Customary Law*, 1,2 & 3, Simla, 1881.

⁶ A.C. Pigou, *The Economics of Welfare*, London, 1952.

⁷ Garrett Hardin, 'The Tragedy of the Commons', *Science*, December 1968, pp 1243-8.

⁸ Carl J. Dahlman, *The Openfield System and Beyond*, London, 1980.

Another window on common pool resources which throws light on the self-governing capacity of the contemporary community has now been provided by a large body of literature generated by the new institutionalist school led by Vincent Ostrom⁹ and in *Governing the Commons*,¹⁰ Elinor Ostrom observes that "neither the state nor the market is uniformly successful in enabling individuals to sustain long term, productive use of natural resources systems. Further, communities of individuals have relied on institutions resembling neither the state nor the market to govern resources systems with reasonable degrees of success over long periods of time."

Theory and the "tragedy" of the community in Punjab :

The evolution of institutional analysis has clearly provided us with a framework of a political economy within which to juxtapose the commons and land tenure reform. The above theories clearly lead us to several positions. Firstly, we must **not** infer that the nineteenth century village commons or for that matter what the British called the "waste" were "open access" or that the community of users did not have any restraining institutions to prevent "free-riding" on them. We know so little about the customary institutions at the village level, even though so much has been written about the "village republics" of India in the nineteenth century.¹¹ We need to also give up generalizations about the communities breaking down, and instead turn to examine the endurance stories of those which survived despite the inroads of statutes of a modern state, both colonial and national and the support it gives to a market for land and property rights of the individual.

Secondly, there is much in the historical analyses of writers from Maine to Carl Dahlman to draw our attention to early nineteenth century primary records of the commons in the Punjab villages like Kanjhawala. There is an uncanny similarity between the cis-Sutlej "village republics" and the institutions of land use in the "open fields" system so characteristic of medieval England and the "mark" of Teutonic communities. Thus Kanjhawala too had a system of open fields where scattering of strips was done for privately held arable land to complement the compact village grazing commons or *shamilat-deh*. The pattern was almost

⁹ Vincent Ostrom, 'Cryptoimperialism, Predatory States and Self Governance', in Vincent Ostrom, David Feeny et al ed. *Rethinking Institutional Analysis and Development, Issues Alternatives and Choices*, San Francisco, 1988.

¹⁰ E. Ostrom, *Governing the Commons, The Evolution of Institutions for Collective Action*, Cambridge, 1990.

¹¹ 'Common Lands and Customary Law', 1990.

universal in the Cis-Sutlej which clearly underscored a strategy of the agri-pastoral village communities to induce collective action in "governing the commons" of village Punjab.

Thirdly, the "Kanjhawala incident", coming as it has in the last quarter of the twentieth century when environmentalists and the State are looking for agencies to manage externalities, compels us to revive the seminal debate about common property and customary law versus statute which had preoccupied some of the foremost historians of jurisprudence in Europe like Von Savigny and Henry Sumner Maine etc mentioned above.

Thus it is with statutory intervention in customary institutions that we witness the demise of common property resources - in England enclosure of the commons was brought about by the Private Acts of Parliament while the Land Reforms Acts of 1947 impacted on the commons in India. The processes were however different - whereas in England a revolution in agriculture took place following enclosure and large scale farming was possible with the innovations that followed; in the Punjab the State has opened access to the commons by statute and so has created a situation of heightened uncertainty in which free-riding is induced not only by private individuals but also by a crypto-imperialist modern state, a notion so graphically analyzed by Vincent Ostrom. And a tragedy of the commons and the community followed.

Towards the unfolding of this tragedy - we will map out first the institutions of *the community* and the tenorial pattern in the Bisagama cluster keeping in mind that Delhi lay within the eco-system defined by the rivers Sutlej and the Yamuna; further this eco-system was at the extreme south-eastern flank of the northern region we know as Greater Punjab. On this landscape we will transpose the institutions of Land Reforms after 1947 and the Poverty Alleviation Programmes of the 1970s.

Rights over Private Property and Rights over Common Property

1880-1986

Communal Roots of Customary Tenure and the Commons-

Bisagama or the Kanjhawala cluster was a social artefact, consisting of a group of twenty villages situated in north-west Delhi and just like other such social formations the "Chaurasi" in the Karnal District and the "Chaubisi" in the Rohtak District¹² are intact even today. Such resilience lend credence to the 1830 observation of Charles Metcalfe that the "little republics having nearly everything that they want within themselves" are like a bundle of sticks

¹² News paper reports March-April 1990 about Meham.

which do not break down in a storm even though political circumstances of the region change.¹³ These formations usually grew out of tribal or clan settlements in one area which then spread out into the surrounding "waste" each time a splinter group set up a new village or *mauza*. Invariably the splinter group recognized and maintained its links with the original or parent village through inter-village *panchayat* meetings of the clan or the tribe on important social occasions such as the death of the head of the *tika* village. In times of trouble like droughts and famines, the smaller villages sought relief from the larger and more substantial ones. When the individual was in trouble "he was assisted by his *bhybunds*".¹⁴ For example if a man died leaving behind a widow and children, the other sharers in the village lands were "bound by acknowledged principle or morality and duty to take care of the widow and the children."¹⁵

In Kanjhwala we have an example of how the institutions of property rights both individual and collective complemented each other. This in turn matched with the complementarity of arable with the pastoral. Perhaps the most important root of common property resources lay in the [economics of land-use pattern](#) not only to minimise risk of agri-pastoral production but also to maximise the returns to scale of both agriculture and livestock in a situation where there were recurring uncertainties both natural and the political. For the community to endure, it was necessary to place the individual in a situation where his chances of survival increased when he co-operated.¹⁶ The map of Kanjhwala and the records of land use from the *Misl Haqiyat* illustrate the logic of keeping the municipal areas in common like the residential area or the *abadi-deh*, and so also pathways and roads or *sadak and raasta*; the location of the village ponds or *johads*, the field channels or *dhana*; and the woodlot which were all kept in common without any possible partition. The system of scattering holdings by *khet bat* was carried out by dividing the entire village land into two or three open fields or *har*, sometimes more, each having homogeneous qualities of soil and moisture conditions determining its classification. These fields had been at some point of time cultivated in rotation so that the short fallow cultivation was alternated with the long fallows used for grazing in common. Over time as individuals developed a sense of private property in the pieces of land they cultivated, the rotation had been stopped and some of the long fallows, *banjar kadim* continued to be kept in common for grazing while the cultivated short fallows, *banjar jadid* were cut into strips and scattered over the several fields, or *har*. The major founding families of

¹³ Charles Metcalfe 1830, quoted in *Rohtak SR, 1873-79*, p.16.

¹⁴ John Lawrence, Collector of Delhi, 1844, quoted in *Delhi SR, 1872-80*, p. 3.

¹⁵ *Ibid.*

¹⁶ See *Common Lands and Customary Law* for a details of this argument.

the village or their descendants were allocated a number of strips in each of the fields. Such complex land-use management required co-operation and co-ordination. Such was induced in Kanjhawala by individuals having to accept the *khet bat* system in its entirety, i.e. the savings in transaction costs possible through collective action along with its liabilities; by reaping private benefit of scale economies in both arable and pastoral activities but also accepting to be rule bound by customary village usages.

Such a pattern of land-use gave rise to tenurial rights in village Delhi which were rooted in the [history of communal origins](#) of the villages. Individual rights emanated from the communal system of rights and obligations, and individual land holding complemented the rights to communal land, and with exceptions, neither existed without the other. So prominent was this feature that officials of the East India Company, very early in the history of Delhi had recommended revenue settlements be made with the *mahal* (the whole estate) and not with individual *ryots* (holder) as they had done in the south and the west of the country.¹⁷

However, the historicity of the community as a collective body was officially recognized only in the 1872-80 Regular Settlement of the Delhi District by Oswald Wood and Robert Maconachie. The documentation of this was elaborate. First, the joint body of elders in the village recorded their collective memory in the *Shajra Nasb* which then drew up the genealogy of the heads of all the families who were deemed to be share-holders in all the village lands or *deh*; Second, this recognition was confirmed by the principle of "joint revenue liability" used to finalise the *jumma* or revenue settlement with the "proprietary body" or *malikan-deh* of the village communities of the Cis-Sutlej and then later in the Punjab. Third, as against this liability the community was accorded the right to record its joint institutions in the Village Administration Paper or the *Wajib-ul-arz* in which an elaborate set of rules of access to and use of the commons or *shamilat-deh* of the village was laid out together with prescribed sanctions for any violations of the same. And the final act was to distribute the land revenue liability on the provisions of customary law of the tribe or clan. These customs of inheritance had less to do with personal law prescribed by any religious tract and more to do with tribal declarations of their customs and later recorded in the District Customary Law Document or the *Riwaj-i-am* . A very special provision in this document was the one regulating inheritance of shares in the village commons by the community.

¹⁷ T. Fortescue, Secretary to Govt. in Territorial Dept. 28/4/1820. *Punjab Records of the Delhi Residency and Agency*, 1911. Also Land Rev. Progs. 2-5A, March 1832.

This was perhaps for the first time in British India that land tenure operationalized the principles of customary village law traditionally used by the community itself for dividing the commons. Thus the *Pattidari* tenure used the principle of **ancestral shares** in the village common lands because the share-holders had inherited the land from a single founder family. A *Malguzari tree* or the genealogy tree was drawn up on the basis of the family tree or *Patti*. If however several families unrelated to each other had set up the village then *Bhaiachara* or the principle of **actual share** in the brotherhood's common lands was the customary principle of division - i.e. the rights to the commons were determined by the amount of land each member of the community actually held in possession proportionate to the whole village or *hasb rasad raqba khewat*.

Over time a reversal in the relationship occurred, i.e. instead of the village tenure determining the status of the commons, it is the fate of the latter that determined the former. A *Bhaiachara* tenure would be imperfect *Bhaiachare* or *bhaiachara ghair mukammal* if the commons were held intact but the moment the commons were partitioned the tenure would be perfect or *Bhaiachara.mukammal*. Similarly if the commons were not partitioned a *Pattidari* village would be *ghair mukammalPattidari* and would become perfect or *mukammalPattidari* once the partition took place. The process occurred usually through partition of the village lands at the time of one generation of landholders dying, but could also take place due to collective decision to partition the commons. Thus if the village was owned by a *zamindar* and if he had four sons, then at his death there would be four shareholders and the tenure would be *Zamindari be-ilijmal*¹⁸ or **communal landlord!** This trend was observable in Delhi between the settlements of 1880 by R. Maconachie and that by H.C. Beadon in 1910; **but this change was not observable in the case of the cluster, which indicated that there was no such partition.**

Table 1 : Tenurial change in Delhi : 1880-1910			
		1880 settlement	1910 settlement
		810 villages	773 villages
Zamindari	Landlord	26	48
	Communal	70	96
Pattidari	Perfect	25	271
	Imperfect	314	339
Bhaiachara	Perfect	4	454
	Imperfect	371	375
Total		810	773
NB: Villages were less in 1910 because of diluvion and amalgamation of villages.			
Source: <i>Delhi SR, 1872-80; Delhi SR, 1906-10.</i>			

¹⁸ *Delhi SR, 1872-80, p.69.*

A third root of common property may have lain in [cultural coherence](#). For example, most of the cultivators in the population of Delhi consisted of Jats, who owned nearly half the area of the Delhi district in 1880.¹⁹ The Jat and the Gujar were conquering tribes and hence had a feeling of superiority over those whom they called in to help cultivate. Baden Powell observed in 1892 that such communal control over village land by the Jats and the Gujars was due to "the strong tribal feeling".²⁰ These tribes also "had and still have the 'family' idea of property, the joint succession and the same feeling of superiority which accompany the 'landlord' claim over village allotments."²¹ Again, Kessinger opines that "the proprietary body's control of Vilayatpur was based on its clearing of the land and the settlement of the village, and the power to sustain its dominance."²² The dominant land-owning tribe maintained a hold over not only the rest of the village residents, but also held out as a cluster against any threats from outsiders.

Yet again another root may have been to do with [political survival](#) in Mughal Delhi. Communities ensured survival by being regular in their payment of land revenue which they ensured by the principle of "joint liability" backing it by economic viability in producing food and fodder for Mughal Delhi. Such collective identity was particularly true of the Hindu Jats whose strong feelings of property towards land in villages held by the tribe generated institutional capacity to exclude outsiders or non-agriculturists from gaining berth in the village economy. (see section below on customary usage)

In modern times, in the absence of state-sponsored insurance against calamity, [social security](#) may yet be a practical reason for adhering to a collective identity which may very well have been an inducement to keep common property resources undivided.

Tenure in the Kanjhawala cluster²³ -

The ramifications of the three types of tenure can be illustrated from the pattern in the Bisagama cluster of twenty villages which had then sub-clusters of two (*dugama*), three (*tigama*) and four (*chaugatha* or *chaugama*) villages each. The cluster then spread over 24,558 acres of upland or *bangur* land in the north-west of the 573 square miles of the Union Territory of Delhi and now the state of Delhi. At one time the cluster boasted a collective arrangement for sharing the Jumna Canal waters, not any more though.

¹⁹ *Delhi Gaz*, 1883-84, p. 69.

²⁰ B.H. Baden Powell, *The Land Systems in British India*, I, Oxford, 1892; Delhi 1974, p. 107.

²¹ Tom G.Kessinger, *Vilayatpur*, Berkeley, 1974, p. 24.

²² *Ibid.*

²³ *Shajra Nasb*, of the twenty *mauzas* of the cluster, *Bundobast* 1880.

One village was *zamindari wahid*, that is owned by a single holder. In the rest of the villages, the common lands were held in two ways: first, according to ancestral shares or *pattidari* ; and second, by actual possession or '*hasb rasad rakba khewat*' or the *bhaiachara* tenure. All the villages had *shamilat-deh* or village common lands as is evidenced by the Settlement Records of both 1880 and 1910 and they continued to survive right into the middle of the twentieth century!

Table 2: Tenure : BISAGAMA 1880.		
Cluster	Name of Village	Tenure : Settlement 1880
Dugama:	Kanjhawala Ladpur	BhaiacharaGhairMukammal " " "
Tigama:	Putkhurd SultanpurDabas Barwala	BhaiacharaGhairMukammal PattidariGhair Mukammal BhaiacharaGhairMukammal
Chaugama :	Madanpur Dabas Rani Khera Rasulpur Mubarakpur Dabas	" " " Pattidari Ghair Mukammal BhaiacharaGhairMukammal Pattidari Ghair Mukammal
Chaugatha :	Salahpur Majra Jat Khor Punjab Khor Chandpur	BhaiacharaGhairMukammal ' " " Zamindari Wahid Pattidari Ghair Mukammal
Dugama :	Gheoda Sowda	BhaiacharaGhairMukammal " " "
Source: <i>Shajra Nasb</i> , 1880 & <i>Jamabandi</i> Records 1910.		

Designing the Commons-

Illustratively, Kanjhawala was a *Bhaiachara Ghair Mukammal* or Imperfect *Bhaiachara* tenure village, which meant that the common lands were not partitioned. Historically, the *Shajra Nasb* or map of the history of the village shows that Kajju Singh's (the founder) descendant named Chokha held a major part of the village lands. Chokha had invited some thirty nine families to help cultivate the fields of Kanjhawala. All belonged to the Dabas clan of Jats, so records the narrative of the Village Elders and signatories of the Settlement of 1880 (one hundred and sixty three signed the *Wajib-ul-arz* in Jan 16, 1879). These invitees were made *biswadars* or shareholders by Chokha's two sons, named Fattah and Sain. "They have been *maliks* since then," declared the signatory *maliks* in 1879. Chokha with thirty nine invitees formed four sections or *Panas* (primary division) and sixteen *Thollas* (secondary sections). These were Pana Udiyan, Pana Beeran, Pana Pathu and Pana Jahaman. In 1880, Kanjhawala had 16 *tholladars*. At the death of a *tholladar*, his son usually succeeded him, but

capability was of consideration in the appointment, too. The name of the *tholla* was changed if the new appointee was not of the same family as that of the dead man.

The organisation of the village common lands show clearly an early separation of the long fallows in the *Panas* while the major part of the impartible *ghair mumkin* which meant uncultivable part of the common lands, were kept in the *shamilat-deh* or as the village common land. In this category were the residential area or *Abadi-deh*, the *johads* or the ponds, the *raasta and sadaks* or roads and pathways and the *dhanas* or and the irrigation channels. All these were open to user rights of the entire village but a clear distinction was made between the proprietary body and the others. Apart from the *shamilat-deh* or the village common lands each section of the village brotherhood that is the *Panas* kept a considerable amount as *Shamilat Pana* or common lands among themselves. These were the long fallows which could therefore be partitioned and privatised among the sub-groups who held them. Thus in 1880, in Kanjhawala: *Pana Udiyan* (the founder *Pana*) had 74.46 acres; *Harshe Pana* (three *Panas*) had 377.68 acres. User rights to these were given to those cultivators who were of the *kamin* or service groups and who therefore performed certain contractual or customary services for the group controlling the *Shamilat Pana*.

Table 3 : Organisation of Shamilat in Kanjhawala: 1880					
Shamilat Commons	Banjar Kadim Long fallow	Abadi residenti al	Johad	Chah & Rajbuha	Sadak & Rasta
DEH :	0.43	26.59	8.75	17.84	48.80
PANAS :					
Udiyan	74.47				
Beeran	2.09				
Harshe	377.5				
THOLLA :					
Bhagmall	13,59				
Sheochand	17.90				
Jeewan	13.80				
Sukhiram	1.25				
Source : Compiled from the <i>Wajib-ul-arz</i> 1880 of <i>Mauza Kanjhawala, Delhi Shumal, Misl Haqiyat, Bundobast</i> 1880. (This does not include grave yards etc.)					

Similarly a certain degree of exclusiveness in user rights existed in the common lands kept within the sub-groups - the *thollas* within the larger group or *Pana*. This was not a very large amount of land nor could a very large group of users be admitted to them. These were noticeably kept by the *thollas* of the founding family.

The Community and Customary Institutions

The community's institutional devices to close access to outsiders and similarly to prevent cheating, shirking and free-riding by insiders could take several forms but the most important ones were to induce collective action by preventing either unequal distribution of the income from the common lands in its undivided form or of the common lands at the time of its partition. The fact that the usages of the *shamilat deh* or the village commons were recorded on the evidence of the one hundred and sixty three *maliks* who signed the *Wajib-ul-arz* or The Village Administration Paper on Jan 16, 1879 was proof of collective will.²⁴ The Maconachie Settlement of 1880 had 59 separate sections in this document for all the Delhi villages. Additionally since all the villages in the cluster belonged to the Dabas Jats there was a similarity in the customs.²⁵ It is a tribute to their capacity to resolve disputes at the ground level, that we do not have any court case from here sent up to the Chief Court in the course of the nineteenth and early twentieth century.

A very major aspect of collective action was economy in joint fiscal solvency, which meant that revenue payments could be made on time. This meant (1) that revenue collection was done by the *lambardars* or headmen in return for which they got a percentage of the amount collected and 1% was given to the *Ala Lambardar* or Chief Headman and *Zaildar* who was from Kanjhawala; (2) the collection of the cesses for roads, school and post-office was also done by the *lambardars* after each harvest; (3) the expenditure for common purposes or the *malba* accounts was a very important item through which common responsibilities were shared; as against this any income from the common lands formed an important part of the revenue for the village and since every *biswadar* or shareholder had the right to inspect and audit the accounts or *bujharat*, and thus there was seemingly some sort of control over the action of the *lambardars*.

The de facto managers of the villages were the *lambardars*, who represented their respective *thollas* sometimes even two *thollas* as in the case of Kanjhawala which had 8 *lambardars* looking after 16 *thollas* of four *panas*. The chief headman was usually chosen from among these and in the case of the founder *pana* as in Kanjhawala the headman of the village was from the leading family. At his death the son took his place. Decision making for the entire village was different from that of the sub-groups. In the latter, decisions had to be flexible and

²⁴ *Wajib-ul-arz, Misl Haqiyat, Jamabandi, Mauza Kanjhawala, Bundobast* 1880. Henceforth only W-U-A.

²⁵ H.C. Beadon, *Customary Law in the District of Delhi, 1911*; and the translated *Wajib-ul-arz*.

also quick because the long fallows could be switched between cultivation and grazing. So could they police user rights more effectively.

A certain degree of de-centralisation also helped in large villages as in Kanjhawala (see table 4) and Gheora²⁶ where the sub-divisions of the village managed their separated *shamilat* or *commons*. In fact the latter had NO *shamilat deh* in common for the whole village except the village site which was not partible. In contrast some small villages like Sowda²⁷ (*dugama* of Gheora) did not have any *shamilat* in the *panas* and the *thollas* but had *Shamilat-deh* for the entire village. Separated *shamilat* interests also existed on the basis of religion. In Jat Khor²⁸ there was a *Pana Hinduan* or sub-group of Hidus and a *Pana Mussalman* or sub-group of Muslims.

Customs of access -

Access to the *banjar kadim* or long fallows of the village commons lands was qualified by residence in the village or *sakin-deh*. Therefore not much of this could be given over to cultivation on any large scale because it reduced the *banjar* or waste available for common grazing. Customs were designed to keep outsiders from intervening in decision making. This explains why daughters of the village had no rights in the village lands and, why a bride's dowry did not include immovable property like land. This was a safety net because the custom of exogamous marriages prevented a girl from marrying within the same village. Since a girl's in-laws invariably belonged to another village it prevented the outsiders from coming in. The assumption here was, of course, that the village was peopled by members of the same clan or 'got' and marriage within the same 'got' was not allowed.

Another hurdle for outsiders was the custom of limiting inheritance to only male collaterals. Widows of the deceased land-holder held his property only till she remained a widow and did not remarry. Widows could have only a life interest in the land. A marriage custom of the Jats was *karewa* whereby the widow married her brother-in-law and so the property remained within the family.

Thirdly, when the man died without leaving any descendant at all, the land passed on to the members of the same *tholla* or sub-section of the same village or among the members of the same *patti* or *pana*.²⁹ The assumption here was that the members of the same *patti*, *pana* or *tholla* were related.

²⁶ W-U-A, *Mauza Gheora*, 1880.

²⁷ W-U-A, *Mauza Sowda*, 1880.

²⁸ W-U-A, *Mauza Jat Khor*, 1880.

²⁹ Kanjhawala's *Shajra Nasb* illustrates this.

Fourthly, a gift of any village land did not make the donee a co-sharer in the common land or of the income from the common lands of the village. These gifts were generally recognised as separate tenures like *makbuza* tenures, and the holders of such tenures were given a separate status of *malik kabza*. The ownership of such a *malik* extended only to the actual land given to him and did not carry any proportionate share in the common land or common income. **This then impaired even the State's ability to grant a *muafi* or rent-free tenure in any village.**

Fifthly, the most effective way to police access to the commons was to strictly enforce the rules for *Nau Tor*³⁰, that is cultivation of the virgin waste. This rule was strictly enforced as since any one who broke new waste could claim rights of ownership. This was a major way of keeping access closed to both outsiders who entered through the land market to become *maliks* or owners of private land and *ghair maurusi* or tenants-at-will who aspired to become land owners via statutory provisions of occupancy rights. For that matter *nau tor* was denied to even the *malikan-deh* or the proprietary body for this would upset the share of land each *malik* held in proportion to the others and so disturb the distribution of revenue liability which was in proportion of his share of land. Hence the rule for *nau tor* was an effective and simple means of keeping the balance in land ownership. **And so long as this was so the collectivity held.**

Customs of user -

Clarity of rules of user in the commons was a significant aspect of excluding certain sections of the village residents. For example (a) a *malik* or proprietor could build, re-build and mortgage the plot in the *abadi* on which his house was built but the *ghair-malik* or non-proprietor could not;

(b) a *malik* could graze his cattle on the grazing grounds but a *ghair malik* needed permission to do so³¹ and in some cases grazing fees had also to be paid as in the villages of Gheora and Sowda;

(c) but no one from outside could come and graze their cattle even if they were of the same tribe or even from the same cluster;

(d) no one could cut trees from the *shamilat* without the permission of the proprietary body and since *ghair maliks* or non-proprietor had the right to cut trees that they planted, they were not allowed to plant trees either!

³⁰ *Nau Tor* means breaking up virgin land, W-U-A, Section X, *Mauza Kanjhawala*, 1880.

³¹ W-U-A, Section XV, *Mauza Kanjhawala*, 1880.

(e) particular care was taken about the garbage and the cow dung which had to be thrown in the common heap in the *gitbadh* a place synonymous to the *gora deh* (in Punjab) or empty space for cattle to stand just outside the *abadi deh* or residential area.

Even though these were recorded, customary rules could be changed between one settlement and another as for example the proprietary bodies could ask for the imposition of grazing fees as some villages in Delhi did to prevent free-riding.

The economics of large scale municipal organisation also accounted for the provision of common pathways in between the houses and for the common drains and garbage dumps. This also prevented the use of low lying cultivable land from being used for housing. The rules for use of the various areas in the *abadi-deh* were carefully maintained in the Village Administration Paper. Any commercial use of the *abadi*, for example setting up of indigo vats or oil presses could be undertaken only with the permission granted by the proprietary body.³² There was special provision for the planting of trees in the *abadi*. A non-proprietor could not cut trees in his courtyard if the tree was planted by the owner. Similarly if he planted the tree, the proprietor could not claim it. The most important rule in the *wajib-ul-arz* was that the non-proprietor could not extend the *abadi-deh* or the residential site of the village.

Customs of Policing -

Policing customs of access and user was operationally the most important part of collective action. Large villages succeeded in closing access to the *banjar* as common lands by separating control for the *panas* and the *thollas* almost akin to "enclosure" without raising any physical barrier. For example, Kanjhawala had three *panas* holding the *banjar* or common waste exclusive to them in one compact area (Table 3) called *Harshe Pana Shamilat*. These sub-group commons that is the *pana* and *tholla shamilat* could be more easily given out for cultivation and also be partitioned, but before 1947 even these sub-group *shamilat* was kept mainly for grazing.

Policing the *abadi-deh*, or the common of residence was a decisive aspect of collective action since the *abadi-deh* decided the identity of a rural settlement as against an urban township. In the pre-colonial period, villages particularly in politically insecure areas were built upon a compact residential site without any formal partition. The lower castes particularly the scavenging castes were allowed to stay in a particular section of the *abadi*. In some cases the *abadi* may have been divided according to the different *pana* and *tholla* grouping. In Kanjhawala for instance, the founder *pana*, the house of Bhaktavar and Bhagmall, separated

³² See the disputes in the Punjab Chief Court *Common Lands and Customary Law*.

their houses from the rest of the village. No *malik* or proprietor had the right to alienate his plot but they could mortgage or give in gift. Non-*maliks* were specially not allowed to either mortgage, sell or gift the house or the plot on which the house stood.

Increasingly the policing of common lands became difficult because there were other ways in which the *maliks* could acquire more land than their shares, like for example through gifts. Here the customary rule was not to allow a gift to convey a share in the *shamilat deh or village commons* per se. If a gift of land was made in the instance where a *malik* died without an heir or *la wald*, care was taken to prevent any encroachment on the *shamilat*. This happened in Rani Khera in 1915 when the Saugama Village Panchayat or 100 Village Panchayat of the Dabas Jats partitioned all the common lands among the existing *maliks* of the two *Panas* of the village³³ and thus pre-empted access to the commons by the donees of a land gift from a *malik* who had died without heirs in the village. Similarly the rules of pre-emption prevented a *malik* to sell the land to an outsider especially since it carried with it a share in the *shamilat* of the *Pana* and the share in the *shamilat deh*.³⁴ This was truer still of any resident's house in the *abadi-deh*.

The State is a State

Free-riding the Commons?

Urban Delhi has been free-riding rural Delhi ever since the Mughals made it their capital. The Colonial State after 1861, assumed that "the waste" was open access and therefore available for it to appropriate. Although there was no formal law to acquire land, to build the Imperial City of New Delhi in 1911, nevertheless it grew on urbanisation of several villages via the 'legal formalities' for creation of "townships". When the colonial Revenue Department started to set up villages on the waste it caused a hemming in effect on the village communities which had previously supplemented the grazing on the village common lands with the waste outside their boundaries. This also pressed on the cultivated lands to produce more fodder. At the same time the complementary relationship of agri-pastoral communities got disrupted. Nomadic pastoralists found negotiating their winter grazing grounds in Delhi's villages increasingly difficult which in turn prevented them from taking the cattle of the plains to the

³³ Oscar Lewis' Field Notes.

³⁴ For court cases involving the conveyance of the *shamilat-deh* rights see *Common Lands and Customary Law*.

hills in summer. Thus the common lands of Delhi's villages got no respite from grazing pressure in the lean summer months.

After 1947, a national Government carried the hemming-in effect further with the acquisition of several villages for the Asiad Games and the housing colonies and transport companies. The provision of power and water for urban Delhi, required several dams to be set up in the foothills of the Siwaliks causing a reduction of pastures in those regions for professional herders and which in turn has reduced their capacity to accommodate the pastoral arrangements for the cattle of Delhi's villages.

Second, as the pressure on the commons grew and village communities sought help to formalise customs which could stand up in law courts, the Colonial State can be said to have initiated a process of free-riding of the commons because it strengthened pressures within the village community in opposition to customary usages and on the other hand backed up individualisation through institutional means. So, even though neither the colonial State nor the modern nation State could forcibly implant anyone on the village lands, both were responsible for the act of commission. In the nineteenth century the village customary law did not recognise an outsider's share in the common lands, however the colonial government gave *muafî* grants and recognised the *malik kabza* tenure, which did not necessarily carry shares in common lands. Similarly the State's right of escheat was also limited by the rules of village customs yet the colonial State did ever so often take over land of heirless estates.

A move in the same direction took place after 1954, the Delhi Administration took up the project of allocating land from the common lands (which are now referred to as the Gaon Sabha lands) to the "weaker sections" and "scheduled castes". These grants were of two kinds -- (a) plots of cultivable waste land; (b) plots for living space in the "abadi". In 1975-76, 2500³⁵ acres of land was distributed to the landless labourers and scheduled castes in the various villages of Delhi and all this has been from the common lands of the villages. In the same year, 4638 house sites³⁶ were allocated in what was known as the "extended *abadi*" or outside *Lal Dora* limit which demarcated the residential area of the village *abadi*.

The implications of such action will be discussed with reference to the Bisagama cluster because the data for land allocation is not available at the district level. The scheduled castes and the number of homeless however were not the only ones to seek relief, an additional source of demand for use of common resources were the number of marginal and small farmers as

³⁵ *The Delhi Administration Report, 1975-76*

³⁶ *Ibid.*

well. The landless poor were given approximately one acre each in lease from the Gaon Sabha land. In some cases, whatever was leased in 1975-76 was re-leased; in other cases additional amounts were given in 1983-84. Marginal farmers below Poverty Line were also given leases from the *shamilat banjar* which accounts for the decline in common lands in the cluster.

Table 4 : Land leased for cultivation from Gaon Sabha Land to landless poor: Cluster				
Village	1975-76		1983-84	
	Plots	Area (Acres)	Plots	Area (Acres)
Kanjhawala	128	126.45	133	131.45
Ladpur	93	67.78	94	67.9
Puth Khurd	12	12.89	16	16.7
Sultanpur Dabas	3	1.37	3	1.37
Jat Khor	46	44.3	76	66.75
Chandpur	33	21.48	57	40.6
Salahpur Majra	34	31.7	34	31.7
Nilwal	-	-	122	104.36

Source: Compiled from DRDA Registers in Nangloi & Mehrauli Blocks.

Institutions of the State and collective action

Formalisation of customary rules by law sounds contradictory but that was the first sign of the *malikan-deh*, giving in to increasing pressure on the commons. In those villages where rights were not recorded in the *Wajib-ul-arz* in 1880, landlords asked in 1910 for the formal entry of their rights. The settlement officer was constrained either to enter these rights in the *Wajib-ul-arz* or to give assurance to land-owners that their rights were not extinguished.

Enclosure of a kind was also instituted by the *malikan-deh* especially in those villages where grazing was insufficient, the land-owners asked the settlement officer to reserve certain areas of the "*shamilat*" or village common as grazing area. In such cases, the settlement officer in 1910 made certain entries so as to enforce section 150 of the Land Revenue Act of 1887. By this section, any co-sharer who encroached in the grazing land so reserved could be ejected and could be prevented from repeating such an offence.

Similarly the Jat maliks felt threatened by the growing numbers in the service castes. Initially their attitude towards the menial castes was one of accommodation as their acceptance into the village was on the condition of the complementarity of their services to the main occupations in the village. But over time the *malikan-deh* started to feel threatened by the large numbers of landless dependents, even as early as 1880 the Chamars alone were, "more

powerful in number than any other class or tribe in the district except the Jats".³⁷ In Rani Khera, the serving classes formed nearly 40% of the total population.³⁸ Additionally the service castes posed problems for the *malikan-deh* for they being landless veered towards market opportunities more than any one else.

Further the Colonial State modified the control of the *malikan-deh* and their relationship with tenants and other residents of the villages - the *Sakin Deh* - by changing the terms and conditions under which tenancy was regulated. The main tribes in Delhi, as in the cluster accounted for 91%, of the land holdings, but they were not antagonistic to tenants since the latter generally belonged of the same tribes.

Thus it was that tenants' customary rights of usage in the village commons got recognition in the Regular Settlement of 1880 in the *Wajib-ul-arz*. These were different for occupancy tenants (*maurusi*) who had heritable rights to the commons whereas it was not for the tenants-at-will (*ghair-maurusi*). This was an important legal difference although generally the two categories did not pay very different types of rent in 1880 or in 1910. In Delhi, in most cases, tenants paid only the government revenue on the land they cultivated;³⁹ and their position in Delhi was considerably strengthened by the Punjab Tenancy Act, 1868, which granted occupancy rights to a tenant who paid no rent and rendered no service in return for the land cultivated by him.

This did not matter in 1880, where the large Jat villages had cent percent owner cultivation or *khud kasht*. But in the district as a whole, tenants cultivated 35% of the land and, near Delhi, the proportion was 25%. By 1912, tenants cultivated some 44% of the land. In 1912, 9-1/2% of the cultivated land in Delhi was held in occupancy tenancy. The majority paid rents at revenue rates, that is, without paying *malikana* or the additional amount paid in recognition of the superior rights of the owner. This showed their strong position. And, even if a higher rent was due, an official report stated in 1910⁴⁰ that the landlord seldom took the matter to court because the occupancy tenants could retaliate by "claiming rights under a more privileged section"⁴¹ of the Punjab Tenancy Act of 1868 amended in 1887.

³⁷ *Delhi SR, 1872-80*, p.3.

³⁸ Oscar Lewis, *Village Life in Northern India, 1954*, p.158. Monica Dasgupta, "Population Trends and Changes in Village Organisation : Rampur Re-visited," 1975, (Unpublished Thesis, University of Sussex, 1981, p. 46.

³⁹ *Delhi SR, 1872-80*, p. 76. *Delhi SR, 1906-10*, Chap IV.

⁴⁰ *Delhi SR, 1906-10*, Chap. IV.

⁴¹ *Ibid.*

Additionally, the number of occupancy tenants increased as a result of recording rent free tenures of Brahmins and menials as occupancy tenancy tenures in the settlements. Thus, these tenures, given originally for religious and other purposes, also became more or less permanent tenancies. The result was that the number of tenants with permanent rights of cultivation became large and well-entrenched sections. But, they were small men. Even as early as 1912, the average holding of an occupancy tenant was no more than 2 acres.

Even the *ghair maurusi*, cultivated about 32-1/2% of the land in Delhi in 1906-10. These were also "usually of the same agricultural tribe as the landlords and hereditary tenants" and they also seldom paid anything more than the Government revenue. They regarded themselves "as owners and are quite prepared to contest a demand for enhanced rent by claiming either proprietary or occupancy rights".⁴²

Tenurial Reforms and Tenure 1947

Controlling access to the commons was weakened by a major re-organisation of land ownership executed under a general blanket set of reforms in land tenure. The Delhi Land Reforms Act of 1954 statutorily transferred all lands held in common by the proprietary body of a village to an elected body known as the *Gaon Sabha* and also enforced consolidation of holdings. This meant three changes : Firstly, all *Shamilat* Land - *Shamilat Deh*, *Shamilat Pana* and *Shamilat Tholla* no longer belonged in common to the *Malikan Deh* or to the major sections of the proprietors or even to the subsections of the proprietors.⁴³ Secondly, the management and user rights were taken away from the groups of individual owners known as the *Malikan Deh* in the colonial period and transferred to the larger body of the entire village or rather their representative body - the *Gaon Sabha*. Thirdly, consolidation of holdings removed the system of *khet bat* which had "coerced" the villages to act collectively.

⁴² Ibid.

⁴³ "All rights of an individual proprietor or proprietors pertaining to waste lands, grazing of forest produce from forests, of fish from fisheries, lands of common utility, such as customary common pasture lands, cremation or burial grounds, *abadi* sites, pathways, public wells, tanks and water channels, or *khalihans* whether covered by an existing contract between such proprietor or proprietors and any other person or not shall with effect from the commencement of this Act be terminated in accordance with the provision of sub-section (2) and the said contracts, if any, shall become void with effect from such commencement:" Two, these rights in common would be transferred from the individual proprietors and groups of proprietors to the *Gaon Sabha* or any person or authority appointed by the Chief Commissioner. Delhi Land Reforms Act, 1954.

Table 5 : Change in property rights arrangement between 1880 and 1954.		
CommonProperty Resources	1880	1954
OwnershipRights	Proprietary body	Gaon Sabha
ManagementRights represented by Lamabardars	Proprietary body	Gaon Sabha & the Delhi Administration
User Rights	Entire Village without reservation	Entire Village without reservation
Source: Compiled by author.		

Politicking and village governance:

Apart from all common lands transferred by the Acts, from the *Maliks* of the village and the sub-groups to the *Gaon Sabha*, now the Nangloi Block (Kanjhawala) has 5 Circle Panchayats. The *Gaon Sabha* had an executive body, the *Gaon Panchayat*. The members of the *Gaon Sabha* were all those who were on the electoral rolls of the parliamentary constituency and not the *malikan deh* alone. They elected the *Gaon Panchayat*. The members of the *Gaon Panchayat* were not necessarily landowners. Their number was decided by the Chief Commissioner of Delhi. He also decided the number of seats to reserve for women and the scheduled castes in the *Gaon Panchayat*, the latter depending on the proportion of the scheduled castes in the area of the *Gaon Sabha* to the total population of such area.

The impact of this change has been to exacerbate the trend towards both privatisation of the commons and for the diversion of the common property agricultural resources to non-agricultural uses. Scheduled castes have an important role to play where as in 19 villages in the cluster the proportion of scheduled castes was about 23%. The previous 'managers' of village affairs however are not totally out of the scene. Where they can hold on and out, they have tried to maintain their authority; but where they fear being overruled they have followed the line of least resistance. For example in Madanpur Dabas the Gaon Pradhan⁴⁴ has whole heartedly joined in the schemes for utilizing *banjar*, leasing the fishing rights in the *johads*, planting the *banjar* with eucalyptus etc.

Further pressure on the commons has been added by the provision of milch cattle to the poor in programmes such as the IRDP which the Delhi Rural Development Authority (DRDA) has executed. The poor in the village cluster in all the three identified classes: the agricultural labourers, the marginal farmers (with less than an acre) and the small farmers (with less than 3 acres)⁴⁵, and all getting an income less than Rs.3600/- per annum, have shown preference for milch cattle. If the Government does ultimately provide according to revealed preference, the

⁴⁴ Interview with the village *Pradhans* in the cluster villages Sample Survey, 1986, see my CPR Project, Ford Foundation.

⁴⁵ DRDA Registers, at the Block Level in Nangloi.

total number of cattle required will be 2187 heads of cattle with shrinking grazing reserves. At the same time 95% of the recipients will be without any land of their own. The cattle will depend on the fodder grown elsewhere either within the village or other villages in the area. In fact a large amount of fodder is now provided by the Government through fair price shops. These schemes are likely to raise the level of dependence on the same over-used grazing land and also on the Government for further support.

Decisions regarding the use of common lands or *Gaon Sabha* Land as they are now called are bound to be dictated by considerations other than those of the erstwhile *malikan-deh*. The *Gaon Sabha* is allowed to lease out the common land, and is enjoined to give preference to co-operatives which would be set up among the landless labourers. This hope is belied; none of the leases or cultivation have been to co-operatives. Land has been leased to the landless, but on an individual basis.

The Delhi Administration has also sanctioned small plots for house-sites and has already given 617 plots involving 15.72 acres of land in seven villages of the cluster. In Kanjhawala 807 plots were to be given in 1990 to the majority of scheduled castes. The result has been the steady incorporation of increased numbers of non-landed residents in the cluster villages on a permanent footing.

By-passing the Community and imposing a Tragedy?

It is clear that all these put the village customs to the test. Policing the pattern of use of the commons as *banjar kadim* and as the *abadi-deh* became most difficult. The change in the use of the *banjar kadim*, or the waste was reflected in two major trends which occurred all over Punjab and Delhi but to a lesser extent in the cluster : first, by the increased cultivation of the *shamilat* or the areas held in common; and second, by increased partition of the common *banjar*.

Decline of the long fallows :

The control over the cultivation of the long fallows or *Nau Tor* broke down in the face of demographic factors. The cultivated land availability per capita in the cluster had fallen from 1.11 acres in 1880 to 0.35 acres per capita in 1980. The fall in the area of uncultivated land makes the per capita availability even less. This implies that the room for further extension in cultivation with the increase in population is very narrow. The extensive margin being limited made it compulsory to exploit the intensive margin of cultivation.

The availability of *banjar* shows an even greater decline in relative terms. In 1880 the average extent of the *banjar* per 100 of the population was 36 acres which is a little more than

what was available in the Delhi Province of that time. This fell drastically to only 1.33 acres per 100 of the population in 1980. In the meanwhile, the number of cattle in 1982 increased in the Union Territory of Delhi and so must it have increased in the cluster only we do not have the statistics to be able to prove this; for the 1977 Census records for the individual villages is not available. In 1982, the Cattle census shows 37 cattle per 100 of the population on an average in the cluster. The implications of the numbers is that every 100 persons in the Cluster have 37 heads of cattle; and the land at their disposal is approximately 36.33 acres of both cultivated and un-cultivated common lands, for the upkeep of the cattle.

Table 6 : Cattle, Population and Land : The Cluster : 1982			
Village	Cultivated land per 100 of population	Banjar per 100 of population	Cattle
Kanjhawala	31	1.12	30
Ladpur	41	1.91	30
Puth Khurd	28	0.48	N/A
Sultanpur Dabas	48	0.48	37
Barwala	19	0.07	N/A
Madanpur Dabas	45	0.86	N/A
Rani Khera	29	0.19	36
Rasulpur	30	0.18	37
Mubarakpur Dabas	32	1.23	N/A
Salahpur Majra	51	1.11	44
Jat Khor	48	8.85	91
Punjab Khor	108	0.37	17
Chandpur	25	2.21	22
Gheora	42	0.10	38
Sowda	47	0.74	31
Average	35	1.33	37
Source: <i>Khasra Girdawari</i> Records at Mehrauli; and Delhi Cattle Census unpublished Schedules from the Directorate of Statistics and Planning at the Tees Hazari Complex.			

In the cluster as a whole there is a decline in the area which is uncultivated by 570 acres or by 12% between 1880 and 1980 while the area under cultivation in the same period increased by 624 acres or by 4%. Only two villages Puth Khurd and Sultanpur Dabas have reserved grazing land from the total number of villages in the cluster. This is in spite of the fact that the Gram Panchayats were enjoined by the Panchayati Raj Act of 1954, to reclaim waste lands for "establishment, management and care of common grazing grounds and land for the benefit of the persons residing within its jurisdiction." The entire cluster has only 402 acres of *banjar* in the *shamilat* or *Gaon Sabha* Land and if we add to this the amount of land kept in the two villages of Puth Khurd and Sultanpur Dabas, we get a total of 798.25 acres in 1983-84.

Thus the decline in the common *banjar* waste has been to the tune of 1611.68 acres that is from 2409.93 acres in 1880 to 402.7 acres of *banjar* and 395.55 acres of grazing land in 1980. The decline is to the tune of 83% in *banjar* alone. These 1611.68 acres have obviously been used for cultivation and other purposes not necessarily related to agricultural production or cattle raising. For example, extension of the *abadi* area has taken place, schools, hospitals, roads and even railways have taken up *banjar* land.

Table 7: Uncultivated land and Banjar waste for grazing The Cluster of 15						
Village	Uncultivated Land		Banjar Shamilat		Grazing Land	
	1880	1980	1880	1980	1880	1980
Kanjhawala	589	605	42.5	57.7	-	-
Ladpur	296	215	97.87	66.0	-	-
Puth Khurd	339	428	279.12	34.69	-	3.19
Sultanpur	603	566	255.3	12.51	-	359.66
Dabas Barwala	458	604	283.97	3.02		
Madanpur Daba	185	48	244.2	13.63		
Rani Khera	251	107	192.06	4.48		
Rasulpur	112	105	91.06	1.83		
Mubarakpur Dabas	216	107	188.5	21.97		
Salahpur Majra	176	115	65.78	16.55		
Jat Khor	238	199	61.00	108.44		
Punjab Khor	224	140	-	5.51		
Chandpur	191	149	77.87	47.50		
Gheora	433	344	113.8	3.16		
Sowda	104	113	34.4	5.71		32.7
Total	4415	3845	2409.93	402.70	395.55	
Source: Compiled from: 1. <i>Jamabandi</i> Records 1880 for all <i>Mauzas</i> 2. <i>Khasra Girdawari</i> Records of 1980 for all villages.						

From extensive to intensive cultivation -

-of *shamilat* was by way of converting long fallow to short fallow, in other words intensifying the use of land. It was easier for the *panas* and *thollas* to convert the *shamilat pana* and the *shamilat tholla* to short fallow cultivation than doing the same to the *shamilat-deh banjar* even before 1947. The reason for the difference may have been an institutional one. A clause in the Punjab Tenancy Act 1868⁴⁶ amended in 1887 prevented the *malikan-deh* from acquiring occupancy tenancy on common lands particularly because the *shamilat-deh* was then difficult to partition. Thus keeping *shamilat banjar* under the exclusive control of the *pana* and the *tholla* enabled the *panadars* and the *tholladars* to lease out the *banjar* for cultivation more easily than was feasible if they had been a part of the *shamilat-deh*. Besides, the *maliks* within

⁴⁶ The Punjab Tenancy Act 1868, Section 9 clause II; and The Punjab Tenancy Act 1887, section 10.

the *panas* and the *thollas* could also take on the tenancy in the *banjar* themselves or give them out to the *kamins* as a part of their service conditions to the *pana* and the *tholla*. This was the case of the *Harshe Pana Shamilat* in Kanjhawala and also in the *Tholla shamilat* of the Founder *Pana*. (Table 4)⁴⁷ Such cultivation was profitable as the rent contributed towards the common income of the *pana* or the *tholla* as the case happened to be. If the land rented out was in the *shamilat*, the income went towards the common income of the village proprietary body.

Villages	Total area cultivated (acres)		Shamilat cultivated (acres)	
	1880	1980	1880	1980
Kanjhawala	1615	1653	91	131
Ladpur	1365	1430	8.78	68.8
Puth Khurd	1917	2037	1.66	16.8
Sultanpur Dabas	1339	1234	121.5	1.26
Barwala	1017	854	1.75	-
Madanpur Dabas	476	714	-	3.88
Rani Khera	515	675	-	-
Rasulpur	298	303	-	-
Mubarakpur Dabas	364	474	38.59	-
Salahpur Majra	723	768	-	21.07
Jat Khor	577	586	1.75	41.5
Punjab Khor	1510	1603	-	-
Chandpur	513	546	-	23.21
Gheora	1347	1396	576.75	-
Sowda	384	361	-	-
Total	13960	14634	841.78	307.12

Source: Compiled from 1. *Jamabandi* records of 1880 of all *mauzas* 2. *Khasra Girdawari* Records 1980 of all villages.

The change was not uniform. The situation is made clear from Table 12. In Kanjhawala a large part of the *banjar* was in the *Panas* and these had not been partitioned prior to 1947, hence they became a part of the *Gaon Sabha* land after the 1954 Act. Some of these lands have now been given over for cultivation. In Sultanpur Dabas on the other hand, a large amount of *shamilat* had been cultivated in 1880 but now a greater amount of the *banjar* has been reserved for grazing. In Gheora neither of these trends are observed instead there is a reduction in the area both cultivated and *banjar*, indicating the move towards non-agri-pastoral use of the waste in the village.

Cultivation of the *shamilat* in the cluster had not changed very much over the years. In 1880, some 8 villages out of the 15 cultivated *shamilat* land. In the case of 6 villages there has been an increase in the area of *shamilat* cultivated, while a decrease has taken place in two. In

⁴⁷ *Misl Haqiyat, Jamabandi records, Mauza Kanjhawala, Bundobast 1880.*

the case of Gheora, for example, a large amount of *shamilat* was cultivated even in 1880, but it was in the hands of the *panas*. Such exclusive use of the common lands protected them against transfer to the *Gaon Sabha* after 1954! Nevertheless a large amount of the *Pana shamilat* was acquired for the extension of the *abadi* and the railway track that was set up.

Reduced areas of *shamilat* (common lands)-

-is again evidence that the *malikan-deh* have tried a last ditch attempt to protect the *shamilat* by partition or that their customs of access have given way to pressure. Surprisingly, in the Delhi territory, even though partition of common lands did take place in the period following Beadon's settlement in 1910, nevertheless in 1915-16, the total number of *shamilat* holdings were 959 spread over 337 villages with 72,972 acres of land which meant, on an average, 2.45 holdings per village with an area of 189 acres per village. A part of the holdings were cultivated which on the average was about 27 acres per village so that grazing land per village was 152.55 acres. The size of each holding of *shamilat* was not less than 100 acres. Even if parts of these large holdings were used in small plots, there is no doubt large holdings were still kept that way for the purpose of grazing for the entire village. Common lands still represented 21% of the total area, which was 4% of the total holdings in rural Delhi. Private ownership was 72% and Government a mere 1% of the total area.⁴⁸

Statistics show evidence of both the percentage of the total area kept in *shamilat* in the sub-clusters and the proportion that continued to be kept so even as late as 1980. In fact in one of the villages there were no common lands in 1880 but had 128 acres of *shamilat* in 1910! Inter sub-cluster relationships have been fairly strong and even though there may not be direct dealing on an every day basis, there is nevertheless a certain amount of clan influence at work on several occasions. This is true not only within the sub-clusters but also between the larger groups. Oscar Lewis' field notes of Rani Khera village, 1952, reveal the occasions when the entire One Hundred Village Panchayat or *Saugama*, had meetings in the early part of the century to resolve disputes. This happened in Rani Khera in 1915 when the *Saugama* panchayat met as described above.⁴⁹ It happened again in 1978 on the occasion we mentioned in the beginning of the article and again in 1986 when the Maha Jat Sabha met over the issue of land being appropriated by the Delhi Administration in the Delhi villages for setting up IGNOU!

⁴⁸ RADP, 1915-16.

⁴⁹ Oscar Lewis' Field Notes kindly lent by Monica Dasgupta; also Oscar Lewis, 'Peasant Culture in India and Mexico, A comparative Analysis, Rani Khera Village in October 1952 and Tepotzlan in Mexico', in Mc Kim Marriot ed. *Village India: Studies in the Little Community*, Bombay, 1961, p.155.

Despite the tenacity of the communities the area kept as village common lands in 1980 halved in the inner 15 villages of the cluster since 1880! Whereas in 1880, these 15 villages had kept 4740.8 acres of *shamilat* out of a total area of 18,634 acres i.e approximately 25% of the total land. A hundred years later, the percentage declined to 12.5% in 1980, i.e. out of a total area of 18,707 acres approximately 2293 acres was available as *shamilat* or common land - a 52% reduction. This was despite the fact that one village, Punjab Khor did not have any common lands in 1880 but did have 128 acres in the year 1980.

The gross results for the entire cluster however does not really tell of the actual position of individual villages. The degree of decline was not uniform. It varied from a decline of 1.5% to a decline of 86% in the area kept as common lands. But there was a certain amount of similarity within the sub-clusters.

Village	Shamilat (acres)		Change	
	1880	1980	Acres	Percentage (%)
Kanjhawala	563	441	-122	-22%
Ladpur	270.40	201	-69.4	-25%
Puth Khurd	597.5	203	-394.5	-66%
Sultanpur Dabas	636.5	427	-209.5	-33%
Barwala	440	64	-376.0	-85%
Madanpur Dabas	285	48	-237.0	-83%
Rani Khera	243	51	-192.0	-79%
Rasulpur	111	28	-83.0	-75%
Mubarakpur Dabas	254	65	-189.0	-74%
Salahpur	147	112	-35.0	-24%
Majra				
Jat Khor	172	209	+37.0	+22%
Punjab	0	128	+128	+100%
Chandpur	160	126	-34	-21%
Gheora	793.4	108	-685	-86%
Sowda	68	67	-1	-1.5%

Source: *Wajib-ul-arz* of all the *mauzas* in the *misl haqiyat*, *Bundobast* of 1880 and the *Khasra Girdawari* Records of 1980 from their respective record rooms.

Extended Abadi-deh (Residential site) in the cluster -

In spite of the rules of entry, like the *Lal Dora* limit and restrictions of transfer of residential plots and houses, the community in the Delhi area failed over time to prevent intrusion on its *abadi-deh*.⁵⁰ Thus in the cluster, the area devoted to residential area increased from between 1880 and 1980 by 136%, while the population in the same period rose by 225%

⁵⁰ For details see the court cases in *Common Lands and Customary Law*.

. The number of occupied residential houses rose from a total of 2598 between 1951 and 1981 by 127%, that is from a total of 2598 to 5909.

Even before 1954, the extension of the *abadi* has been done at the instance of the Government which destroyed the green wooded areas of villages. One such glaring instance has been the Gheora village, where the rail track and the extended *abadi* was carved out of the green area in the village.⁵¹

Village	Abadi		
	1880 (acres)	1980 (acres)	Percentage change
Kanjhawala	26.5	42.3	+59.6%
Ladpur	14.3	36.6	+156%
Puth Khurd	24.53	44.04	+79%
Sultanpur Dabas	10.6	20.91	+97%
Barwala	15.63	23.16	+48%
Madanpur Dabas	7.03	16.45	+133%
Rani Khera	5.8	15.84	+173%
Rasulpur	3.41	10.62	+211%
Mubarakpur Dabas	4.78	19.47	+307%
Salahpur Majra	7.56	14.69	+96%
Jar Khor	5.75	14.82	+157%
Punjab Khor	-	29.49	-
Chandpur	8.59	25.2	+193%
Gheora	8.40	28.15	+235%
Sowda	4.75	8.02	+68%
Total	147.63	349.82	+136%

Source: Compiled from the Jamabandi Records 1880; Khasra Girdawari Records in the Delhi & Mehrauli Tehsils.

CONCLUSION:

Common lands have thus become "open access" resources. Not only a larger group uses it but there is also a diversion away from activities related to agriculture. This has had three major consequences on common property resources: One, a shrinkage in the area that is common and, two, greater intensity of use of such resources and, three, a shift away from agricultural-related to non-agricultural-related activities. The area under common lands has also suffered depletion from encroachments and Government acquisition. These have caused disputes which have not always gone in favour of the *Gaon Sabhas*.

The *Gaon Sabha* is thus not just a representative body of the village residents or community but the micro unit of the State. It represents, therefore, not only the aspirations of the village community but also executes political and economic policy formulations of the State, that is, of the Government in power. Therefore, there is a major diffusion in the rights of

⁵¹ See the map of Gheora, tehsil record room.

ownership, management and user in the common property resources of the villages. Such resources are, therefore, not adjuncts to agricultural activity in the village but are rather subsidiary to social and political activity of the Delhi Administration.

The implications of these trends are first of reducing the incentive for collective management thereby attenuating the policing of the commons; secondly, at the same time increasing opportunities for free-riding on the shrinking waste lands for grazing with the consequence of degrading such land and the impossibility of reversing the trend towards desertification of the soil. Thirdly, of intensifying cultivation as a result of increasing demand from the demographic and cattle expansion in the rural areas of Delhi. Fourthly, of market-led urbanized use of common resources which helps in further diverting agricultural and grazing land to non-arable and non-pastoral use.

Now urban Delhi free-rides the rural hinterland. While the "policy framework" of the Government was instrumental in laying down an economic infrastructure of electricity, transportation, communications, markets and industrial estates in Delhi, this has helped in the retention of the population in Delhi's villages.

The history of the Bisagama cluster thus illustrates both the institutional construction of communities at work which preserved communal control over common property resources in the long run and the deconstruction of the same through legislative intervention of the State over the last century and half.