Dec 2, 1993

Natural Resources and Customary Institutions

NOMADIC PEOPLE and the SIWALIK FOREST COMMONS

1849-1993

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This paper has been prepared for the Mini-Conference of the Workshop in Political Theory and Policy Analysis, Bloomington, Indiana University, Bloomington, IN 47408 : Dec 11-13, 1993.

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"The more we learn of the people and their ways, the more profoundly must we become impressed with the vastness of the field and with the immense diversity which it presents." Henry-Sumner Maine, Village Communities , 1861 : 34-35.

A Prologue

1993 -- the Year of the Indigenous People -- is closing in on us just as the previous year -- 1992 -- the Year of Environment did. Are we going to let them go as others have gone before them? Or are we going to comprehend what indeed we were celebrating? Are we going to accept that the natural environment is the domain of the indigenous people for it is they who may have the answers to the three crucial questions of **what** to conserve in nature, **how** and for **whom?** For example, the nomadic people of the Himalayas are the repositories of knowledge which they have assimilated through generations of experience and learning. Will we admit therefore that this skill formation which has been acquired from the natural environment -- NATURE -- qualifies the designers by very definition [1] to be designated **"the indigenous people"?**

In keeping with this realisation has the U.N. Declaration made the nomadic and other indigenous people more visible to Governments of countries which are home to them? Maybe it is a beginning. And the challenge has been accepted. Recently the University of Tromso and the Centre for Sami Studies in Norway organised a conference [2] of those who recognise the importance of taking stock of a spontaneous movement begun, almost world-wide

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[1] Vincent Ostrom, "By indigenous, I follow Dante Alighieri to mean the language of the speech community learned by children from those who noursih and care for children." Personal communication : letter from Vincent Ostrom to Minoti Chakravarty-Kaul, 11/11/93, Bloomington.

[2] "International Conference : Indigenous Politics and Self-Government" organised by the Sami Dutkamiid Guovddas (Centre for Sami Studies) at the University of Tromso, 8-10 November, 1993.

it would appear, for recognising the aspirations of the nomadic people for self-determination.

In India, however there is a reverse movement. Whatever rights nomads had in the forests of the Middle and Lower Himalayas may dissolve before their very eyes. In fact their very nomadic style of living is threatened. The danger does not seem imminent because the trend is scarcely visible right now. And yet, there is no mistaking the "hidden agenda" contained within the policy of Joint Forest Management announced by the Government of Punjab in the Department of Forests in July this year.[3] It is a manifesto for the exclusion of the nomad from the forests of the Himalayas to areas which are already open to erosion. Once this policy of banishment takes effect and the nomads are indeed thrown to the mercy of the wilderness of the upper ranges or the wastes of the plains, it will be just another step towards their extinction. Ironically enough, this will be legitimised in the name of conservation of nature and wild-life.

And the nomads? Will they be prisoners of trust?

Introduction:

It is the aim of this paper to map out the customary institutions of natural resource-use systems which underlie the ecology of the Himalayan region of North West India. These are rules by which the nomadic people bring order into their relationship with others similarly placed, and more important with nature itself. The system is then the core of an "ethics" whose first principle is one of responsibility to the environment. Hence these customary rules have dual significance -- for, on the one hand they are practical measures for survival and on the other they reveal a moral responsibility -- something like the Gandhian concept of "trusteeship" -- trust being its guiding principle. The dynamics of such a system are set by the rhythm of the seasons and biotic diversity of the region. For the upkeep of this "natural order", a degree of **consensus** is required among all the people who derive sustenance from the eco-system. Competition for these resources may well damage the eco-system rather than enhance its efficiency. Therefore a- system based on customary usages is at variance with the dictates of competitive equilibrium in a political economy; customary usage rather than entitlement and the **rule of majority** decide issues of allocation of resources. The State and the voluntary community are thus external to the customary system.

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[3] Resolution No. 46/27/93-FT-III/8284, 14/7/93, Joint Forest Management, Government of Punjab, Department of Forests.

The subject:

Here we are talking about a traditional order found among the nomads whom we call -- an **involuntary community.** These people (like the Samis and fisherfolk in Norway) have been caught up in the centre of a global debate on the rights of man and the natural environment. In some cases, nomads -- like the Gaddis (alpine shepherds in North West India)-- have the weakest track record of rights (entitlement) among those who have shared the Himalayan resources. No "official" record of their customary rights exist. They cannot as a matter of legal recourse have access to what was a regional commons -- the Himalayas. Additionally, all their transactions have been on the basis of reciprocity. Therefore their dependence on mutual trust and good-will on the part of others has been great.

This situation has undergone change in the last one century and a half. As Himalayan resources became commoditised -- the rules of the market and government regulated exchange. In this process the weight of customary institutions declined. The rights of the Gaddis and the other nomads started to undergo a transformation. Increasingly over time, the customary rights became privileges and these were converted into "concessions"; and enforcement depended on those who granted them and not on the recipients. Clearly this was not reciprocity. Trust had no role to play.

A whole institutional order in the Himalayas has been disturbed. There is a degree of imbalance created by recent policies. While on the one hand conservation is being pushed forward by movements like joint forest management, national parks and environment policies, but on the other hand another set of people -- the involuntary community -- who depend on natural resources, is being marginalised. This portends disorder. The nomads now seek "protection" for their customary institutions of access, withdrawal and monitoring of the use of the Himalayan resources; next they want "identity" in the political economy; and finally they may demand a new order for themselves based on principles of self-determination.

<u>This</u> is the real crisis in the Himalayan region --a moral one -- which policy makers do not want to accept as they must then take the responsibility to reverse the situation. On the other hand it is politically " convenient " to divert attention to <u>a</u> " perceived crisis" [4] like demographic pressure and cattle numbers -- problems which have no technical solutions. And -- this means no takers for moral responsibility for survival.

A Perspective:

We believe that involuntary communities have a moral perspective. The forest commons in the highly eroded soils of the

[4] David Ives and Messerli, The Himalayan Dilemma, (: 1989)

Himalayan foothills stand witness. They have survived and so have increased numbers of both human and cattle over the last one hundred and fifty years of recorded history. Such a co-incidence would have been impossible unless the resources had also been sustained. And such a possibility was real because of the customary institutions of resource-use.

These institutions have been disturbed by the impact of State intervention and market competition for resources. And therefore some of the problems of free-riding that has been harmful to the envrironment can be traced to the erosion of these indigenous institutions. Once we accept this explanation, it follows that the trend can be reversed and further that the two sets of institutions -- statutory and customary -- need not be mutually exclusive.

To delineate this analysis we will therefore attempt to examine, first a set of institutions by which nomadic people had organised the use of a customary common pool resource, like the Siwalik Forests in the foothills of the Himalayas;
and in the second place we follow closely the impact of statutory intervention on the institutions of customary usages. For example we will analyse the impact of enactments in the nineteenth century like the Acts of Land Settlements which defined and conferred usufruct rights in land, over pasture, within forests, and in water; then those which sought to curb these rights as in the case of Forest Rules of 1855 and the Indian Forest Act of 1878.

In the third instance, we analyse the contemporary situation which has emerged after 1947. Here we take up the enactments of the Federal Government to reverse the colonial pattern of land-tenure but which proved ineffective since agriculture and land-use patterns were substantially left to the different constituents of the political system. This has created a situation where the different States are almost competing to keep out the nomads from across their "own" territorial limits by statutory "enclosure" in favour of conservation and the creation of natural parks for wild-life sanctuaries. This process of alienation has furthered the marginalisation of the nomads which had been initiated in the colonial period. There have arisen conflicts between the nomads and the Governments of the different States adding social disturbance to an already eroded state of the environment.

Buffer Forests of the Siwaliks and the Nomads

The Ecology of Institutions: historical roots-

The forests in the Punjab have been sensitive to changes in the institutions of property rights in natural resources. These forests provided the means for survival for people with

competitive requirements. Therefore the first source of institutions was survival. No systematic records exist for the entire region nor for the entire period of the last one century and fifty years. We can at best lay out a stylised picture of how customary institutions evolved. For this reason we will use the scattered reports of British Settlement Records, and recent field trips to a tract of forests in the Lower Siwaliks into which the nomads migrate during the monsoons and in the winter. From these we learn that survival on resources which were scarce and depended on natural re-generation required that the people in the hills of north west India (now mainly in Himachal Pradesh & Punjab) co-operate. Such an order was self-organised and self-governed since the geographical terrain was difficult and the pre-colonial state could not have successfully intervened [5] nor could a market develop to mediate. We have for example, Barnes' report of 1849-52, which says : "primitive conditions of landed property" existed because the hill areas are "unmolested by invasion".[6]

The second source was the presence of traditional tenures. In these hills "two separate properties in the soil could exist - one where extensive wastes and forests are usually considered the undivided property of government; but even here there are subordinate tenures." [7] Barnes' report (1849-52) described the nomads as "The Goojurs and the Gudees who cultivate little and keep herds of buffaloes and flocks of sheep and goats have a claim upon certain beats of the forest which they regard as their Warisee, subject to the payment of pasturage tolls."

They have held on to this inheritance by a system of transhumancing -- unique to these parts of the Himalayan range. Nomads are therefore a self-organised people. Till lately they have refrained from being bound within accepted social formations of the hills and the plains. Hence these nomads of north west India are to a degree, even now, involuntary communities. Yet they were not isolated individuals nor did they bind themselves to a regimen of either municipal or political discipline; the option of "voting" with their feet was always open. Today, this has changed, for how far they can "run" depends on the limits of political boundaries and the boundaries of a market demand.

Rules, survival and tenure in the Punjab:

Pastoralists and cultivators in the doabs of the Punjab had evolved a system of "common access" to natural resources like pastures in riparian tracts, in the forests of the Lower Siwaliks

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[5] Rudyard Kipling's story : "Namgay Dooley" in Life's Handicap illustrates this point.

[6] G.C. Barnes, Settlement Report of Kancrra, 1849-52 : 18.

[7] Ibid : 19.

and in the alpine meadows of the Upper Himalayas which provided for their sustainable livelihood and did not rely on State intervention. I describe "common access" resources in the Punjab as those which were governed by customary rules designed by communities of pastoralists and cutivators to prevent conflict in the use of jointly demanded resources. Inspite of these rules there could still be "free-riding" and over-use. And these were handled by the user communities largely through patterns of land-use which alternated long and short fallows both in the un-demarcated customary grazing runs in the "common access" regions and those within the boundaries of demarcated "private access" common lands. Policing these **usage** boundaries of the regional and the private commons required constant transaction between the user communities as there were bound to be conflicts which had to be settled in the actual place and time of use.

Governing "common access" resources like forests therefore required complex and diverse arrangement of institutions of access and user rights to them. Such diversity could be the source of both stability and instability fraught with conflict. It all depended on the adaptability of the multiple arrangements to the change in the needs of those who used the"resources. In the nineteenth century survival in an uncertain political and natural environment was the key issue. Diverse institutions of managing the commons enabled communities to manage these uncertainties. Survival was possible because people saw the rationale of "mutual aid" in managing the commons. This was not altruism. If people were to live inspite of uncertainties both natural and political then they had to see the need to evolve -- a "rational strategy".

It was logical that such need should have been recognised in the "frontier" province of India - the Punjab. The boundaries of this tract were open to "free-riding" (if that is the way we can describe the centuries of invasion into India) and would have required large military establishments to protect and none of the inhabitants could have afforded this. To survive meant sharing the cost of protecting the resources first from outsiders (invaders and the despotic state) and second from free-riders among themselves(those who shared the commons). Such protection required "co-management of uncertainties" and sharing of risk. In the Punjab this could be done by a strategy which had three components:

first: a land-use pattern of alternating long fallows and short fallows;
second: a property rights pattern which combined private and common and pri-munal holding of natural resources;
third: a mix and match of seasonal fallows over entire regions and eco-systems affected by different degrees of uncertainty.

An overriding influence in this strategy was the degree of uncertainty. All resources were not equally affected by uncertainties and not all at the same time. Hence some resources were more secure than others and allocation of these resources without a market had to be worked out by the communities who

needed them. A certain amount of order in the use of these resources was brought about by the pastoral and cultivating communities of the Punjab by grading the resources by their degrees of uncertainty and then arranging a calendar of use both communal and private for the whole year which was to be observed at different locations by them. It was natural that these arrangements involved give and take. It also involved designing rules of access and use such that mutual monitoring and enforcement was possible. Without such built-in safeguards a regulation of "common access" would have been impossible to execute and therefore meaningless. In other words, the rationale of holding a resource as common pool was that it minimised transaction costs of several kinds: first, that involved in allocating resources; second, that required for policing their use between different users over space and time.

Even though these were complex arrangements yet, the transactions for drawing up the use-patterns were essential at a time when uncertainties made human survival itself costly. In effect, this meant that all those communities which had certain over-lapping demand for a resource preferred to use the most vulnerable tracts as long fallow and -- open to "common access" because policing them (for private use) would have been prohibitive; while those resources which were more secure from both natural and political uncertainties and whose protection was feasible even by individuals or by smaller community effort were used as short fallow and open only to enclosed or "private access".

These considerations were of practical importance, as we can see in the diverse management systems of land-use and property rights in the inter-riverine eco-systems of Punjab. These doabs were dynamic and the climatic conditions all along them were severe and uncertain. And then there were repeated invasions ever since the Aryans themselves first settled in the north. Inhabitants were required to be on the move constantly and sometimes instant decisions had to be taken. Survival in uncertainties of such magnitude required both vertical and horizontal mobility on large-scale and pre-thought out strategies which required minimal amount of time to execute. For example, in pre-colonial Punjab, the forests in the several Himalayan and Siwalik ranges and also in the plains, the riparian areas open to alluvion and diluvion and the spinal ridges of the vast rain-less tracts could not be used all the year round, yet both cultivators and pastoralists required them as complements to their main occupation at certain times of the year. Arrangements for such use were made by nomadic and semi-nomadic pastoralists by both vertical and horizontal mobility over the year. In the process they even helped sedentary cultivators to herd their cattle in times of stress like floods and famine.

We can derive the following conclusions:
ONE : the ecological history of the doabs dictated the system of tenure in natural resources. This explains the importance of diversity in institutional arrangements in forest management,

particularly in the absence of State regulation of property rights. Such diversity could be sustained only by constant transaction among those who participated in the system. Participants were the **actual** users.

TWO : any agreement was possible if there was trust and the foundation for this was not just ethnic or caste affinity but an ecological one - one which concerned all - the question of survival; a realisation that they were, as John Lawrence[1] described them like a bundle of sticks which could stand up only if they stood up together. Such togetherness could last only if inter-action between users was **reciprocal.** Reciprocity could not be enforced nor could it be stable unless it was the result of **consensus.** What would induce concensus?

THREE : Concensus was derived from **Ascription.** By ascriptive rights I mean those based on a secular source of power and not that which is associated with the principle of Hindu caste hierarchy.[8] In the Punjab the pastoralist could be a Gujar or Gaddi and the cultivator could be a Jat or a Rajput but the basis of consensus could not be caste because **all** these people could belong to either religion. Ascriptive rights here arose from yet another hierarchy. It arose from the position that each user of natural resource occupied in the niche within the eco-system. For example a nomad realised the power of the cultivator in providing "common of shack" after the autumn harvest at a time when snow lay in the alpine pastures and fields. Or, a nomad knew if he cut down the protective cover of forests it was likley to cause floods downstream and wash away the fields of the very cultivator from whom he could expect reciprocal accommodation. Therefore he would not. At the same time the cultivator knew the value of the fertiliser which his fields obtained when the sheep or cattle were penned. Or the insurance provided in times of famine and invasion when the pastoralist moved the most important part of the mobile capital of the cultivator away from destruction. Mutual recognition by users that **all** users had the power to impose an externality on the others acted as a strong inducement for reaching concensus. The example of the Lower Siwaliks illustrates these elements.

"Ecology and Custom in the Siwalik Buffer forests:

In the nineteenth century, the Lower Siwalik forests of Shahpur Kandi, the Karanpur and Brindaban bamboo forests and those of Una were a part of the **regional commons** of inter-riverine tracts of the Punjab. The institutions of communal control here needed to mimic those required for a system of "common access" resources, but not quite. For, within these forests there were a whole range of rights belonging to individuals, communities and to the State both by law and by

[8] Madhav Gadgil and Ramchandra Guha have put forth arguments that caste was ecological adaptation.

custom. Yet, these right-holders could not ignore those of the outsiders because these forests were like "buffer reserves" in relation to the entire eco-system of the riparian region lying between the rivers Ravi, Beas and the Sutlej. Governing these forests required balancing the needs of three regions.

Barnes while settling the forested tracts noticed : "The forests of the lower hills are apportioned out among the Guddees or shepherds, of the snowy range, who in the winter season bring down their flocks to graze. In the same manner the Goojurs , with their buffaloes, will take up important divisions on a hill-side, and carefully respect their mutual boundaries. Not unfrequently, as buffaloes rejoice in different shrubs and grasses than those which sheep and goats affect, and a Guddee and a Goojur will possess a concurrent claim upon a certain tract of forest. Either would instantly resent the intrusion of the same tribe bringing in the same class of animals to graze; but, as their respective herds delight in different esculent matter -- the rights of the two are perfectly compatible.(p 19)

Official Policy and the Pastoralists:

In other words the ecological history of the agricultural and pastoral communities became the basis of their customary law of property rights.[2] Forests in the Punjab and rights to them were governed by these customs. This was so both in the hills and in the plains. The British did realise the presence of a parallel source of law and they also recorded them at two different points of time once at the time of village settlements and then at the tribal level across districts.[3] Such administrative recognition meant a record which "systematically" cut across "customary boundaries" of both agricultural and pastoral communities which inhabited the length and the breadth of river systems of the Punjab. Recognition of the ecological foundations of customary tenures were either over-looked and/or ignored. Thus it is that the Land Settlements of the British systematically set up sedentary village communities in the Siwalik forests. The rules of the Village Administration Paper were meant to be the customs of the village community but the pastoralist was by and large not represented here. When the forests were demarcated in the Hoshiarpur tract, the common lands of the villages were sometimes incorporated in them and other land was allocated to the communities. This process of allocation and substitution took little notice of the pastoralists view and rights. The will of the sedentary communities became paramount and relegated those of the nomad to the rules of the Forest Department. In addition to this it was apparent that the Colonial State was also trying to legitimise its own rights to land and resources like forests. For example rules of forest governance made by the government of Punjab created "Reserves" & demarcated them at the very first Regular Settlement in 1848, but the Forest Deparment took over only in 1866. Up to this time the general rules of 1855 applied. With the coming in of the railways and additional responsibility,

a further move was made to secure the rights of the State over resources like forests. Thus in 1869 the Conservator of Forests felt that "an attempt should be made to obtain certain tracts as the absolute property of government and that government in return should give up or considerably modify its rights in other tracts. These proposals were accepted and the Settlement of the Siwalik forests was begun by Duff and Roe in 1870. This resulted in the creation of nine blocks of forests totalling 10,813 acres including the Brindaban and Karanpur Forests in the Lower Siwaliks.

These were created as Reserved Forests under section 34 of the Forest Act in notification No 110 F dated 6th March 1879. Inducements given to the people to relinquish their rights in these areas in return for some concessions were granted in the remaining demarcated forests.

Nomads were indirectly by passed in another instance. Shamilat forests whether in the hills or in the plains had never been brought under the purview of the Forest Act of 1878. But they were effectively brought under departmental control through statute. For example, in 1961 at the time the Village Common Lands Act was passed in the Punjab, there were 972,214 acres or 1518.97 square miles of common lands in the Punjab and these were brought under the control of the Forest Department of the Punjab through another statute -- the Punjab Land Preservation Act.[4] In addition to this there was 3,649 acres of Village Common wastelands under the Civil Department. This signalled an extension of State influence over shamilat forests and hence also signalled a species of joint forest management outside the sphere of reserved state forests. These were therefore additional restrictions which had not been hitherto exercised.

This process of administrative allocation became the cause of several conflicts. Court cases over these situations indicate this. At times the tension between these departments over policy and execution spilled over into the manner in which the forests could be used by the pastoralists and the cultivators. The Hoshiarpur District Settlement Records indicate this. The fate of the Gaddi shepherds were particularly vulnerable to such policy decisions.[5]

Colonial rulers were not the only ones to do so. Legislation in the post-independence period has done the same[6]. Official policy has both discouraged and distorted land-use arrangements. This has had a double-edged effect on forests. On the one hand cultivating communities in entire eco-systems have been bound down by prescribed forest shamilat boundaries and thereby forced to look inwards while on the other hand, pastoralists have been squeezed out of their "customary" grazing runs into either new territories or have been induced to pressurise the communal forests of the cultivating communties. The trend in this direction has been further heightened by uncertain and sometimes hostile eco-political climate, like the closing of international boundaries as in 1959 when whole groups of pastorlists were shut out of entire regions of pasture as in Tibet.[7] The official

scape-goat turned out to be the very victims of official policy : namely the cultivating communities and the pastoralists. The cultivating communities appeared to be over-stocking their common lands while pastoralists were made out to be "free-riders" in the forest commons.

It is necessary to put the contemporary "disturbance" of eco-systems in perspective:

ONE : Pastoralists have been put out of their terrain in which they operated earlier and the "customary runs" which they had arranged before are now beyond their control, hence their use pattern of the biotic species have been totally regimented in the course of at least one hundred years. Such arrangements as the Forest Department made for them were bound to be environmentally unsound, if not inappropriate, because the policy of Reservation of Forests were not meant for pastoralists but for "scientific" exploitation of timber.

TWO : Such being the case, it appeared that traditional nomadism even when not coupled with increasing cattle numbers as in the case of Jammu and Kashmir, [8] have taken the brunt of the blame for endangered forest environment. Despite these set-backs these communal institutions of both horizontal and vertical control of resources have persevered. In Jammu and Kashmir, between Kathua and Jammu in the south-east and south and Riasi and Punch in the north and north-north-west, [9] "the Bakrwal, a nomadic ethnic group numbering some 10,000 ... practise sheep and goat husbandry and utilise the various biotopes of the different altitudes." History tells us that some of these pastoralists of Jammu and Kashmir had been in operation in Kulu and Manali and in the Siwalik ranges in early nineteenth century. But now they are locked in another terrain. In fact the Bakrwal group had ancestors in the Kagan valley which was in British Punjab and now is in Pakistan.[10]

THREE : Similar trends are visible in the Siwaliks both in the Punjab and in Himachal Pradesh as well. The "migratory Gujar graziers from the plains below take their buffalo herds through the valleys ... on their routes to summer pasture every year. And most important, Gaddi shepherds pursue the largest scale transhumant sheep and goat herding in the entire Himalayan region." [11] In the Lower Siwaliks there are single village shamilat forests as in the Shahpur Kandi of Gurdaspur district which hosts as many as 900 heads of cattle.[12] However, generally speaking and particularly the colonial and post-colonial departments of forestry have held these tenure systems responsible for the disturbance to the eco-system of the Himalayan forests.[13] A 1959 report of the Forest Department of Himachal Pradesh had the following to say:

"...these graziers with their large flock, which are ever on the increase, have always been conspicuous *enemies* (my emphasis) of

the forests particularly in hill tracts. In a forest tract, in which their flocks graze in concentrated manner or through which they pass, undergrowth vanishes, regeneration is no more, seedlings are eaten away, shrubs and bushes are munched and even the saplings cannot escape uninjured. They have been a constant headache to the Forest Department and inspite of the best efforts their number had been on the steady increase." [14]

Such sentiments are repeated by forest officials in the Punjab even now. The people however have a different story to tell. This author met some of the dwellers of the forests in the Lower Siwaliks and the gist of what transpired in those meetings expose official indifference and gross neglect of institutions of local communities. In the absence of a change in the attitudes of bureaucratic administrators such a situation is not likely to change. And therefore reversal of these trends are not likely to be imminent even when in recent times starting from 1990, the Central Government has initiated joint forest management in several states in India [15] and this has been followed by the declaration of the Panchayat Act 1993, which seeks to re-instate participatory political and economic decision making.

Punjab has concurred in these intentions and legislated as well. But there is a difference. The Punjab Resolution of the Forest Department [9] reveals much less than what it declares. It has set out to form Protection Committees for the joint management of forests which inlcudes the local communities but not a word about the pastoralists! In the circumstances the local communities have been given several incentives to keep the nomads out of their forests without actually stating these intentions. This is gross miscarriage of intention. It is also sheer injustice!

Pastoralists have been joint partners in managing the forests under severe stress factors which operated in the area perhaps more sharply in the buffer forests than elsewhere. Over the last two hundred years the nature of the relationship between the regions have become competitive and therefore conflictual. The strain on the communal system of management has been severe. Despite this situation, forests continue to survive.

It indicates the importance of the pastoralists' role in the eco-systems of the Himalayas. They have the mobility to keep away from political turmoil in the Punjab. Their transhumancing makes it possible to provide relief to the highly pressurised villages in the foothills of the Siwaliks of Gurdaspur, Hoshiarpur and Una districts. They have sought to use alternate pastoral resources in the High Himalayas where the terrain would make it difficult if not inaccessible to others thus reducing the competition in more accessible slopes.

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[9] Resolution of the Forest Department No. 46/27/93-FT-III/8284, the Government of Punjab, Department of Forests, 14/7/93.

Hence nomadism among pastoralists hitherto held responsible for environmental problems may have to be reviewed in the light of their successful role : first, in managing alternate sources of vegetation and thereby supporting bio-diversity of the Himalayas; second, in providing support to traditional systems of communal management observed in the remnants of shamilat forests or the commons in the Lower Siwaliks. These forested tracts still have cultivating communities who host nomadic and semi-nomadic pastoral kafilas from both the alpine ranges of the Himalayas and from the sub-tropical regions of the Bist and the Bari doabs.

Meanwhile the nomads have secured for themselves the weapons of collective bargaining. One section -- the Gaddis have formed a trade union on the 15th of August this year. Another set ____the Gujars have taken to the courts for redressal. Both sections have also started to mobilise political support. They are also tailoring customs suited to the conventions of statute!

Notes

1. About village communities : "Bound together by the ties of blood, connection, and, above all, common interest, like the bundle of sticks, they are difficult to break." John L.M. Lawrence, Selected Reports on the Revision of Settlement under Regulation IX of 1833, in the Delhi Territory, 1846 : *66.*

2. See C.L. Tupper, Punjab Customary Law, Vol. 1,2 & 3, (Simla : Civil and Military Gazette, 1881); also T.P. Ellis, Notes on Punjab Custom, (Civil and Military Gazette : Lahore, 1921) also for a discussion on customary law, see author's Ph.D. dissertation at the Delhi School of Economics, 1990.

3. See the volumes on Customary Law recorded for every district in the Punjab after the publication of C.L. Tupper, Punjab Customary Law, 1881.

4.

Shamilat Forest Under Forest Department 1960-61

Shamilatt	Area on April acres	April	Added during year	Area on March 31 acres	miles
Under the Punjab Land Preservation Act (Village Common Wastelands)	965,598	1507.95	7559	972,214	1518.97
Village Common Waste lands managed under Civil agreement & Miscellaneous lands	3649	5.73		3649	5.73

Punjab Forest Administration Report, 1960-61 : 1.

5. Hoshiarpur District Gazeteer, 1904 : 129.

6. Ester Boserup, The Conditions of Agricultural Growth, (London : George Allen and Unwin Ltd, 1965) : 18. See also Minoti Kaul, Common Lands : The History of an Economic Asset with reference to Delhi Haryana and the Punjab, Unpublished

7. Richard P. Tucker, "Mountain Minorities and Ecological Change in the Himalayas" , Cultural Survival Quarterly, 10, No. 3 (1986) : 40-42.

8. Michael J. Casimir and Aparna Rao, "Vertical Control in the Western Himalaya : some Notes on the Pastoral Ecology of the Nomadic Bakrwal of Jammu and Kashmir," Mountain Research and Development, Vol. 5, No. 3 (1985) : 221-232.

9. Michael J. Casimir and Aparna Rao, "Vertical Control in the Western Himalaya: Some Notes on the Pastoral Ecology of the Nomadic Bakrwal of Jammu and Kashmir," Mountain Research and Development, Vol. 5, No. 3, (1985) : 221-232.

10. Ibid.

11. Richard P. Tucker, "The Evolution of Transhumant Grazing in the Punjab Himalaya", Mountain Research and Development, Vol. 6, No.l, (1986) : 17-28.

12. Interview of Sarpanch of Dhar village in Shahpur Kandi by the author in the course of field-work undertaken during September 1992.

13. "But in many mountain and hill tracts, the changes caused by logging of commercial timber have evolved in intricate counterpoint to traditional local land-use systems which inhibit regeneration of the forests. Intensive grazing, especially by goats and sheep, has been a key contributing factor in non-tropical mountains in the developing world, " Richard P. Tucker, "The Evolution of Transhumant Grazing in the Punjab Himalaya", Mountain Research and Development, Vol 6, no.l, (1986) : 17-28.

14. B.S. Parmar, Report on the Grazing Problems and Policy of Himachal Pradesh. (Simla : Government Press, 1959) : 14.

15.Arvind Khare, Joint Forest Management, Regulations Update 1992, Society for Promotion of Wastelands Development, New Delhi 110001, Preface.