Shifting Cultivation in Eastern Himalayas: Regulatory Regime and Erosion of Common Pool Resources

I. The Context

Persistent global poverty and deterioration of the environment and natural resource base has prompted the wider development community to reorient its focus from private income, consumption and resources to public and community owned and controlled resources and their management. Global experience and lessons on poverty and development during the past several decades have also reinforced the importance of public domain as it provides sustenance to millions of poor people having little or no access to private resources and thus their significance in poverty reduction and environmental management. Hence there has been a resurgence of interest on commonly held resources and their management. However as the issues involved in Common Property Resources or Regimes (CPR) borders around rights and responsibilities that in view of existing legal framework is not clearly defined, divergent views and perceptions have characterized CPR research. Another distinguishing feature of CPR research particularly in developing countries has been its almost exclusive focus on marginal areas and indigenous people who are major users of such property regimes. Although newer research has brought CPR issues in urban areas, cyberspace and other previously inconceivable domains, focus on CPR still dominates larger and contested resources like forests, water, marine resources and people dependent upon them for a living.

Historically much of Eastern Himalayas (constituting part of present-day Bangladesh, Bhutan, India, Myanmar, and Nepal) remained outside the sphere of direct influence of the larger South Asian Empires including the latter day Colonial forces. Largely due to this vacuum in central authority that did not necessitate development of complicated land revenue system as elsewhere in South Asia, land in much of Eastern Himalayas remained under customary rights and as open access resource. Therefore shifting cultivation developed as the principal mode of production for the indigenous ethnic groups inhabiting the Eastern Himalayas. Roaming kin groups have traditionally demarcated their area where family or kin groups practiced shifting cultivation without any interference from external authorities. Local governance structure mediated conflicts and reinforced the traditional practices. Over generations the land resources have thus been transformed into common pool resources for sub-groups of tribes and ethnic groups legitimizing shifting cultivation as the accepted and viable means of livelihood. In recent times however to harmonize with national land rights and revenue system and to forestall perceived threats of environmental degradation, state authorities are enacting laws, regulations to abolish shifting cultivation. Although legal prohibitions exist in all the regional countries, the practice

continues and has often merely moved into inaccessible areas to avoid governmental censure.

This paper attempts to examine the implications of legal and governmental regulatory framework discouraging shifting cultivation in the Eastern Himalayan countries of Bangladesh (Chittagong Hill Tracts), Bhutan, India (8 Northeastern states), and Nepal (Eastern Zone). Recent research indicates the presence of the system despite the governmental prohibition and the underlying issues are far more complex than the simplistic regulatory effort to suggest otherwise. The overriding cause of environmental degradation in the region can be attributed to large-scale logging allowed and often tolerated by state authorities rather than the traditional practice of shifting cultivation. Other governmental policies like resettlement of outside people, conversion of traditionally held land under reserve forest, and governmental support to create alternative leadership and governance structure is continually eroding the common resources of the Eastern Himalayas. While environmental degradation goes unabated in tandem with such policies the indigenous people are threatened with their livelihood practices. The underlying philosophy of such policy points towards national integration and mainstreaming of people and resources, and eroding the common resources seems to be strategy to achieve such goals. This paper will look into two major issue (I) marginalisation of indigenous people and the practice of shifting cultivation due to various governmental policies and (ii) privatization of erstwhile common resources for the obsolescence of the practice itself. The current state of knowledge indicates that such practices are eroding the control over common resources by the indigenous people who have been practicing shifting cultivation for centuries. Such disenfranchisement impinges upon equity and sustainability issues of land management in the Eastern Himalayas. The paper is based on recent empirical research on the region to sift through the complex arguments centering on shifting cultivation from the perspective of common property.

II. The "Common Property" Concept: Traversing a complex terrain

Common Property Resources, Regime, Common Pool Resources etc. are concepts increasingly found in ever proliferating literature on concerns about resource management, sustainability of production systems and environmental degradation. Among them, Common Property Resources (CPR) is the most frequently used term, while the term Commons is often used in a simplified and confused manner to describe anything under the general rubric of being in the public domain. The term Common Property Resources includes a few attributes, like being non-exclusive resources to which a group of individuals have coequal use rights (Jodha 1990). These users have access but not ownership over the resource itself. Indivisibility is another characteristics of CPR, as appropriation of units of resources would not lead to individual gain but increased individual risk (Noronha 1999) and loss of sum total of the resource. Fishing grounds and grasslands are examples in this category where parceling of the entire area amongst users are either not feasible or desirable. Another attribute of CPR is

that the users are members of the group as local residents, and the group itself is much broader than merely the custodian of the property. Therefore, a village, an ethnic group, lineage or kin group can be the users of a particular property. Community pastures, community forests, uncultivable wasteland, untitled water bodies, streams etc. can be classified under CPR. Such resources are usually devoid of any management plan to manipulate to alter the resource base. Nonetheless, regulations exist among users for following a use pattern that is deemed necessary for sustainability. There are elaborate range management practices followed by nomadic herders in the Hindu Kush Himalayan areas spreading from Afghanistan to Bhutan that ensures continued survival of herds and herding communities. Therefore management of CPR is almost invariably there but not necessarily in the sense management by skills (technical, manipulation) as is understood by forest management plans. Thus, a strategy aspect of management is very much there, be it in rotational grazing or allowing natural regeneration by maintaining fallow cycles in shifting cultivation. Much of these "strategy of avoidance" (Noronha 1999, p. 49) is indeed part of a complex institutional regulatory mechanism that exists among all CPR users.

Another common confusion within the realm of CPR is Common Property versus Communal Property. By implication the latter has something to do with title and implies some form of exclusive rights for a group, family, etc. In this case communal property can be inherited and passed on to next generations, while inheritance is not the issue in Common Property. Common Property usually means non-exclusive access for members of the given group. When people move away from the place they also loose the right on this non-exclusive access.

Common property is a form of property management but it is not an immutable or exclusive form of property. There are overlaps between common property and open access resources, seasonally or by apportions under special circumstances. Some open access resources like fishing grounds have been converted into common property, as in the case of off shore fisheries in Southern Bahia, Brazil (Cordell and McKean 1986). Or in the case of Northern Nigeria, herders including transhumant Fulani have access to privately held agricultural plots after harvest. The post-harvest stubble is left for the poor and grazers in many parts of South Asia as well. In Kerala, South India, very poor are allowed to glean green manure and silt from tank beds that are used for community based irrigation based on CPR arrangements. In such cases the CPR or private property can be converted into open access and open access can be turned into common or private property through institutional acceptance and sanctions. Thus the overlap of otherwise differentiated property system also does occur lending further complexity to the common property concept.

The term also evokes idyllic imagination intertwined with traditional management of resources based on equity and bonding among the users. Conservation is also credited with the traditional management patterns. Although there are considerable debate on this issue (Noronha 1999), most CPR does require some

form of agreement among the users that determines the use pattern by individual family/groups and regulations controlling overuse of resources. Institutional arrangements of some sort are often credited with sustainability of the resources. Use of same resources over generations has thus led to often simplistic conclusions that traditional management pattern of such non-private resources are the best way to manage from a sustainability angle. Without taking a position at this point it may be stated that many management patterns of CPR is perhaps the option available to local users but not necessarily the only and perhaps the best option considering productivity, equity and sustainability.

III. Shifting Cultivation: nature inspired or historical and cultural compulsion?

Shifting farming locally known as Jhum, tseri, Podu, Khoriya and various other names is widespread is much of Eastern Himalayas covering North East India, Bhutan, Eastern Nepal, Chittagong Hill Tracts of Bangladesh, North Eastern Myanmar and remote areas of Yunnan, Sichuan provinces of China. It is also practiced in other mountainous areas of South East Asia, Indo-China, and elsewhere. It is considered as one of the early forms of agricultural production and often originated in the transition from food gathering to food producing system. It is carried out by slashing the vegetation and burning them to allow chosen crop growth. That is why it is also known as slash and burn agriculture. By the name itself it is understood that it is not carried out on a single plot on a permanent basis, and that signifies the shifting nature of the practice. Thus plots are brought under cultivation for a period and then left fallow while the group selects another suitable plot. In semi-tropical Eastern Himalayas the shifting cultivation system is initiated with the advent of cool and dry season. It is practiced in steep slopes and forested land of hills that have reasonably good soil composition and other natural advantages for vegetative growth that the locals can identify. Vegetation excluding a few large trees is cleared and cut into pieces and left in small heaps to dry. They are then Set to fire and allowed burning. Propitious cultural and religious ceremonies are Carried out invoking blessings of supernatural powers and to enhance bonding of communities. The burning of debris is planned in such a way that the spring rain almost invariably follows the burning and scattering of the ashes, enhancing the fertility of the soil. Cultivation is done by sowing seeds in holes dug by sticks and no other tillage is undertaken. Seed are usually sown in mixtures of perennial and season crops and according to their demand, local preference and wisdom. The crop mixture allows phased harvesting ensuring food security throughout the year and also provides needed diversity for nutrition and food preference. Successive harvests also provide space for perennials and add organic manure for better growth and increases soil fertility. The cycle is usually for 1-2 years after that the plot is abandoned and allowed to regenerate. Rarely the cycle may extend for 3 years. However cereal crops are usually grown only in the first year and only the perennials are left for the next year or so. As cereal productivity declines after

the first year this practice is a feasible strategy and provides time for the ground cover to reach a reasonable level with perennials still there to protect the top soil.

The land tenure and property rights in Eastern Himalayas remained largely outside the land survey, titling and establishment of settlement based on revenue payment to state, as was the case in rest of Indian sub-continent. As a result private property in land was the aberration and communal holding became the norm. The seven North Eastern States of India (Assam, Meghalaya, Arunachal, Tripura, Nagaland, Manipur and Mizoram) were brought loosely under the British India governed by the Chin Hill Regulation of 1896. Even prior to the Chin Hill Regulation, the Bengal Eastern Frontier Regulation of 1874 (also popularly known as Inner Line Regulation) restricted the acquisition of land in the hilly areas, beyond the borders of Bengal. Both these Regulations recognized the rights of the village community over their respective territories. Thus the British recognized the sanctity of communal ownership and customary rights and left land management to the locals. The Chittagong Hill Districts of Bangladesh were also acceded to British India under the Chittagong Hill Tracts Regulation of 1900. Under this Regulation the British authority accepted self-management of land by the tribes over the areas claimed by them as tribal territories. In hills and mountains of Eastern Nepal and Bhutan shifting cultivation known as Khoriya and Tseri respectively has been practiced for generations on un-surveyed presumably state land and forests. The inaccessibility and remoteness of such land meant little or no interference or control by the state on such practices.

Much of Eastern Himalayas resembles a frontier type settlement history. As population was sparse and land enjoyed profuse vegetative cover due to abundant rainfall and warm, humid climate much of North Eastern India, CHT of Bangladesh North Western Myanmar remained mostly under forest cover, excepting small pockets of settlements. Unlike the Western Himalayas and Trans Himalayas the land here is productive, hills are far less stony and smaller, rainfall is higher, and climate is warmer. These areas are also unique as the region is still largely inhabited by indigenous people of Tibeto-Burman origin. Unlike the Western Himalayas Indo-Aryan incursions never took place and wars and colonization was limited among the dominant ethnic groups of the region.

Further as land was not surveyed community and their leaders held authority over territories inhabited or claimed by them. In this region different ethnic and kin groups have own territories and settlements are dispersed over open wide space, as a matter of tradition and delineation of territories across divides (hills, rivers). Such territorial control and consequent settlement pattern are therefore conducive to the shifting cultivation practice.

IV. Shifting Cultivation: Environmental Degradation or a way of Life?

V. Regulations to Control Shifting Cultivation and Privatization of the Common Pool Resources