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## Colonial Influences on Property, Community, and Land Use in Kangra, Himachal Pradesh

British rule in the western Himalayan hill state of Kangra, which began in 1846, represented both continuities with, and disjunctures from, pre-colonial notions of sovereignty, property, and rule. Early colonial administrators, like their predecessors the Katoch rajas, were attuned to the importance of symbolic representations of state power. The early British revenue assessments in Kangra were also modeled after those of the prior Sikh government. However, the first land settlement of Kangra in 1850 facilitated changes in the control, use, and area of agricultural and forest lands in Kangra. These changes resulted from three interrelated processes. First, during the inherently contentious process of recording rights to land, settlement officers in this hill region applied models of property rights and the "village community" that had developed on the plains and that were informed by European notions of private property and agricultural development. The result was the creation of new "traditions" of land use and control. Second, Revenue Department officials emphasized the notion of property as a transferable economic resource that was allocated to individual property owners, in contrast to precolonial conceptions of property as an instrument for securing political legitimacy by distributing "interests" in property among different groups. Third, the Revenue and Forest Departments' use of land ownership as the sole criteria for assigning rights to forests and uncultivated areas increased local inequities; landless and nonagricultural

groups were disenfranchised from resources to which they had previously possessed usufructuary rights of access and use.

Historical accounts indicate that precolonial property rights in hill areas significantly differed from those on the plains, especially in terms of the absence of a coparcenary village "community" and locally controlled and managed common lands (*shamilat*) (Baden-Powell 1892; Barnes 1855; Douie [1899] 1985). Notwithstanding these differences, Revenue Department officials during the first settlement applied models of land tenure and the "village community" from the plains to the hill areas. In addition to granting alienable rights to cultivated areas, the settlement created village common property (*shamilat*) where previously it had not existed and then allocated private rights to *shamilat* resources based on land ownership, in the process annulling the usufruct rights of landless households. Revenue Department officials, in the interests of promoting agricultural expansion, also granted extensive rights in the soil and forests of uncultivated areas to revenue-paying landowners. However, because of shifting policy objectives soon after the first settlement, the Revenue Department—and later and more aggressively the Forest Department—sought to reestablish territorial state authority and control over as extensive an area as possible through forest demarcation and the restriction of local rights to forest resources. In contrast to the competition between local and state forest use that developed during the late nineteenth century, the colonial administration played a facilitative role in promoting agricultural intensification. To this end, the civil administration subsidized the construction and repair of some of the largest gravity flow irrigation systems, known as *kuhls*, in Kangra and occasionally adjudicated water conflicts. The forms of property rights the British developed in Kangra reflect the confluence of utilitarian notions of agricultural development and private property, the experiences of Revenue Department officials in the plains, and a selective reading of local tradition and custom, interacting with shifting colonial priorities that first emphasized agricultural expansion and later forest conservation.

#### PRECOLONIAL PROPERTY STRUCTURES AND PROPERTY RELATIONS IN KANGRA

The political organization of Kangra hill state in the late eighteenth century conforms to Cohn's (1987) model of a little kingdom that at various

times and to various degrees was subject to the rule of Mughal successor states. Because of Kangra's unique position close to the routes linking Central with South Asia, the degree of autonomy of its ruling Rajput lineage was determined by who controlled the plains to the south and west and by the strength of their control. When regional political regimes—whether centered in Delhi, Lahore, or Kabul—were weak, the Katoch chiefs ruled as independent sovereigns in Kangra and at times reduced neighboring hill states to the status of their tributaries. When a plains-based central government consolidated its authority and rule and extended it over the Rajput-ruled hill states in the western Himalaya, the Katoch rajas themselves became tributaries.

Throughout the precolonial period, the control and exchange of land were used to consolidate, strengthen, and maintain political power. For a ruler, whether a Katoch raja, Sikh chieftain, Mughal emperor, or Afghan *durami*, the importance and meaning of land derived from its use as a medium of exchange for negotiating sovereign claims to territory and for transforming potential adversaries into political allies.<sup>1</sup> Rulers made gifts of land to individuals who served the ruler in a military, administrative, or other capacity (Habib 1963; Lyall 1874). Rulers gave land to religious institutions such as temples or mosques and to religious leaders, theologians, and saints (Dirks 1992; Habib 1963). Land grants were also given to potentially rival political groups to secure their support.

When a ruler assigned a grant of land to an individual, temple, or shrine, he transferred the right to the revenue from that area; the existing array of occupancy, cultivation, and other usufruct rights was left untouched. This conforms to the precolonial model of property relations based on overlapping sets of interests rather than on exclusive claims of ownership (Embree 1969). Habib suggests that in such areas a "single owner cannot be located" and that instead one finds the allocation of "different rights over the land and its produce, and not one exclusive right of property" (1963, n8).<sup>2</sup>

However, as Dirks (1992, 179) points out, land was only one of many mediums of exchange by which a ruler secured political legitimacy and maintained sovereignty. Dirks suggests that "the king ruled by making gifts, not by administering a land system in which land derived its chief value from the revenue he could systematically extract from it." In addition to gifts of land, rulers in Kangra distributed the hereditary right to cultivate a particular field, the rights held by transhumant Gaddis and Gujars to

particular grazing runs, the right to some inherited administrative posts, and the right to operate a water mill or to erect a fish weir. These rights were all called *warisis* and derived from the raja as a separate, taxable tenancy (Barnes 1855, 18-19; Lyall 1874, 17, 4-5; Baden-Powell 1892, 693-94). The proof of entitlement to a particular warisi was *the patta*, a deed that spelled out the rights and responsibilities that the warisi entailed and the terms by which it could be renewed. Maintaining monopolistic control over the power to grant a patta was central to the ruler's sovereignty. Lyall (1874, 21) mentions that the rajas "jealously" guarded their monopoly to grant pattas for warisis—"under them [the rajas] no *wazir* or *kardar* [administrative officers] could give *upattah* of his own authority." To do so could threaten the legitimacy of the ruler.

Unlike tenure systems in the plains—where village boundaries invariably included uncultivated areas of common land used for grazing and the locally regulated rights to those resources were a function of residency and land ownership (Kessinger 1974)—use of the uncultivated lands in Kangra appears to have been more informally regulated and at least nominally at the ruler's discretion. All individuals, regardless of whether they held rights to cultivated land or were even agriculturists, possessed usufructuary rights to uncultivated areas for subsistence purposes (Douie [1899] 1985, 69). These rights included the right to graze livestock, cut grass and leaves for fodder, remove thorns for hedges, and collect dry wood for fuel (Lyall 1874, 19). These usufruct rights were generally subordinate to the right of the ruler to grant a patta to an individual to bring a section of the uncultivated area into cultivation. However, Singh (1998, 95) does note that farmers could object to such a grant if it was made to an individual from another village, especially if they had already requested to extend cultivation to that area.

Lyall, in his revision of the original land settlement, and perhaps seeking legitimacy in history for asserting increased colonial rights in forests in Kangra, notes that precolonial rulers claimed all rights to forests and that they recognized two classes of forests. In forests reserved as shooting preserves, no grazing or collecting fodder was allowed. In other forests, individuals could cut timber for roofing or the construction of an agricultural implement, and for marriage and funeral ceremonies (Lyall 1874, 19). In forests where grazing was permitted, the ruler sometimes imposed a ban on grazing during the monsoon (Lyall 1874, 21). Lyall postulates that in addi-

tion to benefiting "trees and game," the imposition of a grazing ban served as an assertion of the ruler's authority and, for Lyall's purposes, provided a legitimizing model of strong state control of forest resources.

The precolonial Katoch rulers also sponsored the construction of nineteen of the longest and most complex gravity flow irrigation systems (*kuhls*) in Kangra. Most of these kuhls were named after the raja or rani who sponsored them. At least seven of these kuhls were constructed during the late eighteenth century at the apogee of Katoch rule (*Riwaj-i-Abpashi* 1918).

State sponsorship of kuhls was a means, much like land grants, whereby a ruler could strengthen sovereign control over a region. In exchange for sponsoring the construction of a kuhl, the ruler augmented the amount of grain the state received in assessed rent and increased his political legitimacy and authority. This legitimacy was strengthened because not only cultivators but artisans, traders, and others benefited from the construction of a kuhl, for it satisfied household water needs as well as the water requirements for livestock and the small kitchen garden found in most domestic compounds. The kuhls rulers constructed were also named after them, thereby ensuring that they would be remembered long after their death. In some cases, kuhl sponsorship was linked with religious patronage, thus strengthening the divine mandate of the ruler.

#### THE PRECOLONIAL "VILLAGE COMMUNITY"

In Kangra, rights in cultivated land were not part of a joint estate shared in common by a kin group (clan or lineage), as was often the case on the plains. Instead the hereditary right to cultivate land was "owned" by families and derived from the patta, received from the ruler. Although hereditary forms of proprietary rights were not easily transferred, they did constitute a strong and defensible claim to cultivate an area (Singh 1998, 57). Revenue was assessed on the basis of cultivated area per family holding, not at the village level. The landholders within a village had no corporate responsibility for revenue payment. If the rent from a family holding was not paid, the ruler's agent took action against the individual holder only; "the other landholders of the circuit had nothing to do with the matter; each plot or holding was a little *mahal* [place] of itself" (Lyall 1874, 28).

The lack of locally appointed village headmen and *village panchayats* further underscores the absence of coparcenary shareholders. In most plains

villages, the village headmen were local men whose primary responsibilities and authorities included revenue collection, maintenance of civil order, and the allotment of uncultivated land to prospective cultivators (Habib 1963; Kessinger 1974). In Kangra, headmen were appointed by the ruler or his agent, not by the inhabitants of a village. The headman's primary responsibility was the collection of land revenue. He did not have the authority to allocate the right to cultivate uncultivated land to other individuals.

The absence in the hills of coparcenary village communities was described by the early British settlement officers. For example, Baden-Powell notes that "in the hills . . . villages, in the proper sense of the term, hardly exist; we have merely aggregates of a few separate holdings . . . in reality the management is as nearly raiyatwari [peasant cultivated and owned] as possible," and "we find no 'villages' in the ordinary Indian sense, and consequently . . . no joint-proprietary communities over villages" (1892,2:537, 692). Barnes, referring specifically to Kangra, wrote that

[the inhabitants of the hill village] have no community of origin, but belong to different castes. There is no assemblage of houses like an ordinary village, but the dwellings of the people are scattered promiscuously over the whole surface. Each member lives upon his own holding, and is quite independent of his neighbor. There is no identity of feeling, no idea of acting in concert. The headman, who is placed over them, is not of their choice, but has been appointed by the Government. In short, the land enclosed by the circuit, instead of being a coparcenary estate, reclaimed, divided and enjoyed by an united brotherhood, is an aggregation of isolated freeholdings quite distinct from each other, and possessing nothing in common except that for fiscal convenience they have been massed together under one jurisdiction. (1855,16)

However, the effects of "massing" holdings together for the sake of convenience during the first settlement had considerable effects on the control and use of uncultivated areas.

#### THE FIRST BRITISH SETTLEMENT OF KANGRA

The early years of British rule in Kangra were marked by strong continuities with, and disjunctures from, precolonial administration. The first

summary land settlement made in 1846 immediately following the forcible annexation of Kangra from the Sikhs was only a slightly modified version of the Sikh government's prior system of revenue collection. And in some important respects, the first regular settlement by Barnes in 1850 was also modeled after the Sikh system. Symbolic continuities with prior ruling regimes also existed. For example, British officers chose Kangra Fort as the first district administrative headquarters. Barnes writes that although the fort had a garrison and was close to the town of Kangra, the main reason for choosing the fort was "the prestige attaching to the name . . . the same spot which had ruled so long the destinies of the hills still continued to remain the seat of local power,—the center whence order emanated, and where supplicants repaired for redress" (1855,15).

Despite drawing on local referents that emphasized continuity with previous state regimes and helped to legitimize their own rule, the British were self-consciously aware of the marked difference of their rule. Barnes writes at the conclusion of his account of the history of Kangra state, "I turn with pleasure from the narrative of wars and insurrections to the quiet details of our administration and the general statistics of the district" (1855,15). The pen of British authority was extensively used in the first regular settlement to codify previously unwritten customs and rules and to confer new rights. Within the space of only a few years, "the quiet details of . . . administration" wrought significant changes in property rights in Kangra.

#### *The Influence of Settlement on Land Tenure and Agriculture*

After four years as district commissioner, G. C. Barnes conducted the first regular settlement. In determining the rates of assessment, Barnes was guided by the rent rolls from the prior Sikh government and the summary British settlement. In fact, as Lyall pointed out twenty years later, Barnes's settlement was "nothing more than the old native assessment very slightly modified" (quoted in A. Anderson 1897,12). The primary changes consisted of a reduction in assessment rates on unirrigated areas and the removal of the host of extra taxes that had accompanied the land revenue.

However, although the rates of taxation between the precolonial and colonial regimes were remarkably consistent, the methods of tax payment and the nature of property rights were significantly altered. Barnes, using the system prevalent on the plains, shifted responsibility for paying land revenue from individual families to all of the landholders in a revenue vil-

lage, who were then made jointly responsible for the revenue. As Lyall observed twenty years later, this "bound together the landholders of each *mauzah* [revenue village] into a kind of village community" (1874, 28). Barnes also reversed the "ancient and time-honored custom" of paying rent in kind by commuting in-kind to cash payments (1855,52). The switch from in-kind to cash payments was part of the then prevailing utilitarian philosophy of agricultural development in Europe. That Barnes embraced this philosophy is strongly suggested by his comments on the effects on farmers of substituting cash for in-kind payments: "It has taught them habits of self-management and economy, and has converted them from ignorant serfs of the soil into an intelligent and thrifty peasantry" (1855, 52).

Although he did not explicitly acknowledge this, by conveying the same rights in land that had been granted to landholders in the North-Western Provinces, Barnes conferred full proprietary rights in cultivated land to individuals who had previously held an inheritable but not alienable right. Subsequent Revenue Department officers have argued that the introduction of the right to alienate land was an unintended consequence, a "mere incident of the (first) settlement" (A. Anderson 1897,9). Whether intended or not, this new right had long-reaching consequences once rights holders realized they had been granted the power of alienation. By 1890 14 percent of the total cultivated area was under mortgage, and an additional 5 percent had been sold (A. Anderson 1897,9). Settlement officers unanimously attributed the increase in alienated land to the need to raise capital for bride-price payments among high caste Rajputs as well as upwardly mobile Rathis and Thakurs seeking to legitimize their claims to Rajput status (the dowry system only relatively recently supplanted the prior bride-price arrangement) (A. Anderson 1897; Connolly 1911; Middleton 1919). During this period, the price of a bride increased tenfold from Rs 20-40 to Rs 200-400 (Parry 1979, 243).

The increase in land transactions during the latter part of the nineteenth century was made possible by the recent changes in property rights and by the introduction of a bureaucratic set of procedures and laws (e.g., district courts, land laws, codified statements of rights regarding land ownership, etc.) that provided the means for transferring property from one owner to another.<sup>3</sup> Urban-based moneylenders and other urban groups began to accumulate land under these laws. The Punjab Land Alienation Act of 1900 was an attempt to slow these forms of land transfers by prohibiting "non-

gricultural" castes from purchasing agricultural land. In Tehsils Dehra and Harnit<sup>ur</sup> of District Kangra, for the nine-year period preceding and following passage of the land act, the percentage of total cultivated land mortgaged declined from 13.8 to 3.8 and from 9.5 to 3.5 percent respectively (Connolly 1911, 6).

Following the first settlement, the cultivated area in Kangra also increased. By 1890 it had increased 8 to 10 percent. Hill slopes that had been infrequently cultivated previously were terraced and cultivated annually, and some forested areas were converted to agriculture. This agricultural expansion was facilitated by shifting the authority to control the expansion of agriculture from the ruler to the landholders of a hamlet (accomplished as part of the first regular settlement), offering the financial incentive for intensifying agriculture provided by twenty-year fixed assessments, and increasing grain prices.

Expanding irrigation also accompanied the increase in cultivated area. In Palam subdistrict, between 1851 and 1890, 146 acres of uncultivated area were converted to agriculture and irrigated by constructing new kuhls and extending preexisting kuhls (O'Brien 1890, 14). Between 1850 and 1916, forty-one new kuhls were constructed in Kangra Valley (*Riwaj-i-Abpashi* 1916). In 1855 Barnes observed that after the first settlement, single-cropped fields were double cropped, and kuhls were "projected and executed" (1855, 63). In 1897 Alexander Anderson remarked on the "new watercourses" that had been constructed since LyalPs first revision of the settlement in 1874 (A. Anderson 1897, 60). And Middleton, in the introduction to *the Riwayat-i-Abpashi*, noted that the records pertaining to kuhl irrigation drawn up during Lyall's revised settlement were no longer accurate owing to post-1874 judicial verdicts and to new kuhl construction (*Riwaj-i-Abpashi* 1916).

The right to alienate land granted to landowners in the first regular settlement of 1851, coupled with subdivision through inheritance, resulted in some tenant cultivators becoming owner cultivators and decreased the overall average landholding size. In Palam subdistrict, of the 2,060 hectares sold by landowners between 1871 and 1890, 14 percent was sold to individuals who were landowners in 1871 and who were also moneylenders, 41 percent was sold to individuals who were landowners in 1871 and who were not moneylenders, 20 percent was sold to new agriculturists who did not own land in 1871, and 25 percent was sold to European tea planters (O'Brien 1890, 4).<sup>4</sup> In Tehsil Palampur, between 1871 and 1890, the num-

Table 1: Percentages of Cultivated Land, District Kangra, by Caste, by Tehsil, 1919

Tehsil	Brahmins	Rajputs	Rathis	Girths	Others
Palampur	21.0	20.6	17.5	9.1	31.8
Kangra	11.5	21.3	5.8	33.1	28.3
Nurpur	12.6	55.1	10.0	2.5	19.8
Total for District Kangra	14.9	35.6	11.3	12.4	25.8

Source: Middleton 1919, 3.

ber of small landowners increased from 13,854 to 22,081, the number of medium landowners declined from 5,553 to 5,178, and the number of large landowners declined from 1,064 to 716.<sup>5</sup> During this same period, the average size per holding for small landowners decreased from 0.8 to 0.6 hectares, for medium landowners it remained constant at 3.0 hectares, and for large landowners it increased from 9 to 10.4 hectares (O'Brien 1889, 1890, 1891a, 1891b). Many of the large and medium holdings belonged to European and local tea planters (O'Brien 1890).

In the decades following the first settlement, absentee landownership increased, and consequently so did the tenant-cultivated area. In 1874 tenants cultivated 92,003 hectares (19 percent) of the cultivated area in District Kangra (Lyll 1874, 86-93).<sup>6</sup> By 1897 the tenant-cultivated area in the district had increased by 71,000 hectares to 163,203 hectares, or 32 percent of the total cultivated area (A. Anderson 1897, 5). During this period, the total cultivated area of the district increased from 480,704 to 509,579 hectares, and the owner-cultivated area decreased from 388,739 to 344,803 hectares. The decrease in owner-cultivated area, when summed with the increase in the district's cultivated area, is roughly equivalent to the increase in tenant-cultivated area. These trends suggest that the increasing numbers of small landholders were also tenants because their average landholding size was too small to maintain a household. This could account for the increasing tenant-cultivated area between 1871 and 1897. The decreasing owner-cultivated area suggests land transfers from owner cultivators to members of moneylending castes such as the Mahajan as well as increased out-migration for employment.

The primary landowning castes during this period were (and continue

Table 2: Land Ownership, by Caste, Kangra Valley, 1890

	TOTAL FOR KANGRA VALLEY			
	No. Holdings	Cult. Area (ha)	Avg. Holding (ha)	% Total Holding
Girths	5,466	9,676	1.8	14.4
Brahmins	5,869	16,723	2.9	25.0
Mahajans	1,282	4,194	3.3	6.3
Rajputs	5,557	15,259	2.8	22.8
Rathis	4,061	11,827	2.9	17.6
Others	6,332	9,344	1.5	13.9

Source: O'Brien 1889, 1890, 1891a, 1891b

to be) Rajputs, Brahmins, Rathis, Thakurs, and Girths. Table 1 shows the ownership of cultivated land by caste for District Kangra in 1919, and table 2 gives land ownership statistics by caste for Kangra Valley in 1897. Table 1 indicates that together, the two highest castes (Brahmins and Rajputs) owned just over 50 percent of the total cultivated land. In 1931 they made up 44.2 percent of the district's population. Table 2 demonstrates a similar trend in Kangra Valley and also illustrates the relatively small differences in average landholding size between castes.<sup>7</sup>

#### *The Influence of Settlement on Property in Kuhls*

Consistent with their interest in promoting agricultural expansion, the Revenue Department also facilitated, subsidized, and generally supported the expansion of irrigation networks. This process involved regulating the construction of new kuhls, codifying irrigation customs and rights, mapping kuhl networks, and shifting dispute resolution from the village level to the district courts.

Settlement officers asserted that state claims to the natural waterways of the district represented a continuity with, rather than a change from, previous customs. Lyll (1874, 56) wrote:

In order to retain in its hands the power of making new irrigation channels where needed, the Government directed all Settlement Officers to assert its title to all natural streams and rivers. In Kangra the

title of Government, by old custom of the country, was particularly clear, and I accordingly asserted it.

Permission to construct a new kuhl could not be granted unless the government had a record of the existing network of kuhls. Irrigation rights were first recorded in the second settlement. Maps were drawn of every stream showing the position of each kuhl, its headworks and main channels, and the villages through which it flowed. Appended were attested records of the customary rules regulating the relations between communities that share one kuhl regarding water distribution, the manner of constructing the headworks, responsibility for repairs and maintenance, and a short history of the kuhl. A glossary of specialized irrigation terms was also included. These statements of rights were bound, and copies were kept at the Palampur and Kangra Tehsil offices. They constituted the first edition of the *Riwaj-i-Abpashi* (Irrigation Customs).

The *Riwaj-i-Abpashi* represented the first time that complex irrigation customs guiding the measurement and distribution of a single kuhl's water to as many as sixty different hamlets were reduced to writing. Settlement officers determined the irrigation customs and practices relating to a specific kuhl by calling a public meeting and asking those present to describe their customs and practices. After writing them down, the officers read them aloud and incorporated suggested changes, and then prominent village leaders attested to the veracity of the statement with their thumbprint or signature. The resulting document constituted a legal record of rights that was, and still is, used as the basis for judicial decisions regarding water disputes.

Lyll acknowledges the difficulty of creating an accurate statement of irrigation rights in this manner. He notes that "probably these statements are sometimes incorrect. . . . the custom is often vague and difficult to define" (1874, 243). If irrigation customs appeared vague to a settlement officer, one wonders if they appeared equally vague to the shareholders whose irrigation water depended on them. Or factions well represented at the general meeting may have presented the settlement officer with a picture of rights in a kuhl that favored their own interests. The complex effects of codification aside, the creation of the *Riwaj-i-Abpashi* did constitute a new template against which the civil administration would resolve subsequent conflicts over irrigation rights and responsibilities.

The civil administration also indirectly supported kuhl regimes by helping to reconstruct kuhls following natural disasters, and by adjudicating water conflicts during periods of water scarcity. On 4 April 1905 Kangra was devastated by a severe earthquake that wreaked havoc throughout the district; 12,663 people died in Kangra and Palam Tehsils alone (Middleton 1919, 5).<sup>8</sup> In addition to leveling most structures in the valley and destroying roads and bridges, the earthquake occurred at the beginning of the rice planting season, when labor demands and dependence on kuhl water were greatest. To avert a localized famine, the administration mobilized the military to restore transportation links and rebuild the destroyed kuhls.

The colonial government also sponsored the construction of two new kuhls. One was built to supply water to the growing town of Palampur. The British were interested in developing Palampur as a trading center with Afghanistan and eastern Turkestan, where they sought a market for Kangra tea. The second kuhl was constructed to provide water to the town of Dharmsala, a hill station and headquarters of the district administration.

#### *The Influence of the Settlement on Property in Uncultivated Areas*

Barnes, in the first regular settlement, implied—and subsequent government decisions affirmed—that landholders had been made coproprietors of the uncultivated areas to which they had previously held only usufruct rights. However, Barnes did not dwell on this point because, as Lyall speculated twenty years later, he did not want to draw attention to the fact that he had "effected a revolution in the old state of property," something a settlement officer was not empowered to do (Lyll 1874, 19). Barnes converted the landholders of each hamlet into a coproprietary class and transferred to them ownership rights in the uncultivated areas, known as the waste. This transfer of property had many implications. It nullified the rights of landless households to forest resources collected from unenclosed uncultivated areas. Revenue from these areas, previously paid to the ruler, was now collected by the *hmbedar* (village tax collector) and distributed to all landholders in proportion to the amount of revenue each paid. And now landholders, rather than the state, had the authority to grant permission to an individual to reclaim and cultivate an uncultivated tract.<sup>8</sup>

The transfer to landholders of rights in these areas may have been an unintended consequence of the application of land use categories from the plains to the hill states, or it may have been an intentional, if implicit,

policy to promote agricultural expansion and intensification by simplifying the process of bringing new areas under cultivation and more intensively cultivating already cultivated areas. The statement of rights created during the settlement operations for each hamlet was the first instance of previously orally transmitted customary rights and practices being set to writing. It constituted a new arena in which social groups could assert competing claims to resource access, control, and use, and it provided opportunities for Revenue Department officials to import new land use categories and forms of property. For example, Barnes noted that in the preparation of the record of rights for each hamlet, he gave the subject headings and elicited information with questions and even suggestions. Furthermore, he instructed the *tehsildar* "to write down the actual practices as observed ... and not to fill up details after his own imagination" (1855, 67).

The history of the term *shamilat*, referring to village common property, in Kangra exemplifies this process. *Shamilat* was first introduced into the district as a land use category during the first regular settlement. *Shamilat* was imported from the plains; it had no pre-British referents in Kangra. Twenty years after the first settlement, Lyall argued that landholders had not manufactured their own title to the wastes by putting *shamilat* in the record of rights, but rather that "the real inventors of the definition [of *shamilat*] were the native officials and clerks who worked under Mr. Barnes" (1874, 31) who had inserted "*Shamilat*" as the heading in the village records.<sup>9</sup> Whether the creation of *Shamilat* as a land use category was intentional or not, it did encourage the expansion of agriculture by granting landholders the right to break up and cultivate the waste, free of extra revenue, for the duration of the settlement.<sup>10</sup>

Following the transfer of rights in uncultivated areas from the state to coproprietary landholders, Revenue Department officials attempted to privatize as much of it as they could. In the following passage, Barnes describes how he approached areas declared as *shamilat*:

Whenever ... I saw an opportunity, I insisted on a partition of the estate according to the number of shares. Every inch of profitable ground was divided and allotted to one or other of the co-partners. I ignored as far as my means would allow the very name of "*Shamilat*," for experience has assured me that the smallest portion left in common will act as a firebrand in the village. It is sure to lead to dis-

sension, and forms, as it were, a rallying-point for the discontented and litigious to gather round. (1855, 67)

Similarly, during the second settlement, Lyall allocated as much of the waste as he could to individual households. Uncultivated areas such as hay fields, hedgerows, and plots surrounded by individually held property, when found "in the exclusive occupation and possession" of individuals, were also recorded, with the consent of the village, as the private property of those individuals (1874, 218).

#### *The Influence of the Settlement on Property in Forests*

Early colonial forest policies in Kangra reflected a mix of shifting policy objectives regarding the distribution of rights and obligations between state and society, as well as growing tensions between the Revenue and Forest Departments regarding the control of Kangra's forests. At the time of the first settlement, the primary policy objective, secondary to forest conservation, was to encourage agricultural expansion into uncultivated areas (Tucker 1982, 115). To facilitate agricultural expansion, the first settlement emphasized local control over the district's forests. Rights to forests were "partially assigned" to the landowners of a village to provide local incentives for forest protection and to pay the forest watchman (Lyall 1874, 30). In addition to providing local incentives for forest conservation, this approach eliminated the need to develop the institutional capacity for forest conservancy and saved the colonial administration the expense of surveying the forests and identifying the various right holders.

However, less than five years after the first settlement, demand for land for tea plantations by British planters (Rangan, this volume) and the increasing value of timber for railroad sleepers (ties) led to a shift in forest policy in Kangra. District civil administrators attempted to reinterpret the intent of the initial settlement report in such a way as to recoup government rights to forests and uncultivated areas that had been "lost" during the first settlement, when such rights had not been valued. They did this to claim the right to allocate uncultivated areas to British tea planters and to assert government ownership and control over increasingly valuable forest tree species. Although the chief commissioner of Punjab rejected these early attempts on the part of Kangra district officials to "reclaim" lost forest rights, subsequent district Revenue Department officers were able to

implement a series of increasingly restrictive regulations governing access to forest resources. These culminated in the demarcation of forests in Kangra in a process that Vandergeest and Peluso (1995) have called "the territorialization of state power." By restricting what actions could or could not occur within a bounded and mapped spatial area, the colonial government explicitly linked territorial control with state authority. The second district commissioner of Kangra began this process by introducing new rules governing forest access and use in Nurpur and Dehra subdistricts. The new rules divided the forests within village boundaries into three parts. In one part the Forest Department annulled all customary rights to collect forest products and kept it as a reserve for a rotational period of at least three years. In the remaining two parts, the Forest Department also curtailed forest use by making it a penal crime to burn grass in the winter to improve subsequent fodder production. The Forest Department also required, contrary to the first settlement, that a landowner seek permission from the deputy commissioner to break up and cultivate any unenclosed uncultivated area.

The whittling of local rights in forests continued. In 1859 landowners who previously sought permission from the hamlet tax collector to cut green timber for building or agricultural purposes were now required to request permission from the subdistrict officer. They also had to pay for the timber, whereas previously they had received it gratis. In exchange, 25 percent of the value of the timber sold by the government was returned to the village from which the timber was cut. Three-sixteenths of the total sale went to village officials, one-sixteenth to the community of landholders, and none to landless households. Similarly, the district commissioner reserved the right to refuse permission to an individual to break up and cultivate uncultivated forest areas, even if the applicant offered to pay the value of the standing timber. This permission was generally refused, except when requested by Europeans who wanted to plant tea gardens or cinchona groves, for which cases the government "saw good reason for sacrificing its forest rights" (Lyll 1874, 238).

The Indian Forest Service, created in 1865, generally competed with the Revenue Department for control of forest lands (Rangan and Sabcrwal, this volume). The Revenue and Forest Departments also tended to manage forests for different packages of forest uses, with the former emphasizing the provision of forest products to meet local subsistence needs

and the latter emphasizing the production of commercial forest products, especially timber and resin. In 1869 the Forest Department succeeded in acquiring from the Revenue Department the forests of Nurpur, Dehra, and Hamirpur Tehsils. However, the Revenue Department retained control over the forests in Tehsil Kangra because most of the forest area had been purchased by tea planters or was not available for forest conservancy because of proximity to towns and stations. Acting on the suggestions of Baden-Powell, the Forest Department in Nurpur and Dehra Tehsils attempted to demarcate and acquire absolute rights to some forests in exchange for permanently relinquishing some rights in the remaining forests to village communities. The demarcated forests obtained in this manner were declared reserve forests in 1879.

This method of acquiring absolute rights to small, isolated patches of forest was considered unacceptable to Forest Department officials and hence not applied beyond Nurpur and Dehra Tehsils. In the remaining *tehsils* of the district, the conservator of forests sought to achieve control over a greater area of forests than had been achieved in Nurpur and Dehra. To this end, the conservator called for a general demarcation of the forests in Kangra according to the following principles: (1) there would be no "give-and-take" negotiations with landholders over rights of access and use, (2) no change was to be made in forest management either inside or out of the demarcated areas, and (3) forest areas that might be broken up for agriculture should be demarcated separately from forest areas that would be permanently maintained as forests (A. Anderson 1887, 2). By 1885 the demarcation of all the forests in the district as either reserved or protected was completed. A total of 257.5 square miles of forest was demarcated, of which 75.5 square miles were closed against grazing and other usufructuary rights (A. Anderson 1887, 3).

By demarcating areas as reserved forest, the Forest Department ensured that those areas would not be converted to agriculture in the future. The process of demarcation gave the Forest Department an opportunity to further restrict the access to, and use of, forest resources within demarcated areas. The department made the payment of land revenue the only basis on which valid claims to forest resources could be established in the record of rights. This nullified the claims to forest resources of all landless individuals and families who had previously possessed customary use rights to the forests within the demarcated areas.<sup>11</sup> Landless individuals without rights

to forest resources collected and sold wood, charcoal, and grass in the small towns of the district. The demarcation and associated rules also sought to control this illegal market in wood and grass by prohibiting it or requiring a license to sell these products.

The Forest Department also restricted the cutting of green brush and the tree species that could be cut for building purposes. Cutting green brush for noncommercial purposes had previously been allowed after asking permission from the village tax collector. In practice, however, this rule was rarely enforced, and in 1864 the deputy commissioner, whose authority superseded that of the district Forest Department official (Saberwal, this volume), passed an order that there would be no restriction whatsoever on the cutting of brushwood. Had this order been implemented, it would have undermined Forest Department authority, but as Anderson happily notes, in the forest settlement, "fortunately the order was not made generally known, and certainly was not acted upon" (1887,8). During demarcation the Forest Department reintroduced the restriction on green brushwood cutting, admittedly more as a demonstration of its territorial authority than for erosion control. However, even the Forest Department was aware of the limits to which they could go before facing social unrest. Anderson suggests that whereas requiring the permission of the subdistrict or forest officer would be preferable, doing so would "raise a storm of opposition" and therefore was not advisable. Similar restrictions were imposed governing which tree species could be cut for building or agricultural purposes. A list of sixty-two tree species was drawn up for which the right to cut would only be given on payment to either the tax collector or the forest officer. Local opposition to this rule was strong enough to compel officers of the Revenue Department to ask forest officers to reduce the number of restricted tree species. Other examples of the restricting impacts of demarcation include the instigation of charges for trees used in wedding and funeral ceremonies, limits on the number of trees that could be claimed for building purposes per year, and the types of activities considered legitimate building purposes.

#### CONCLUSION

The property rights regimes instituted by colonial administrators represented attempts to define a colonial vision of the state and its relations with

communities, an effort that simultaneously helped create a specific locale of local "community." The property rights in cultivated, uncultivated, and forested areas the colonial administration promulgated and the commutation of in-kind to cash payments were informed by a combination of contemporary utilitarian ideas of agricultural and economic development prior experience with the Northwest Frontier Provinces settlement, shifting policy priorities, and conflicting mandates and power struggles between the Revenue and Forest Departments. The first settlement granted cultivators the right to alienate the land they tilled, the right to cultivate previously uncultivated areas, and substantial rights of forest access and use and made a village "community" collectively responsible for revenue payments. These changes, combined with the initial policy preference for agricultural expansion over forest conservancy, a fixed twenty-year settlement, and rising grain and bride prices, resulted in unprecedented land transfers and mortgages, the expansion of cultivated areas at the expense of forestlands, the emergence of a noncultivating mercantile elite, an increase in tenant-cultivated agricultural lands and absentee landownership, and an increase in the number of small landholdings.

Concomitant with the expansion of agriculture during this period was the increase in the area irrigated by kuhl. As had the precolonial regime, so the colonial civil administration facilitated the expansion of irrigation networks. Although the facilitative role of the colonial administration in water management represented more a continuity with precolonial rule than a disjuncture, the role of the colonial state in forest management differed sharply from that of its precolonial predecessor and from its own role in irrigation management. Soon after the first settlement, forest conservancy began to compete with agricultural expansion as an administrative policy goal. To secure more complete control over forest access and use, a series of regulations and orders was passed, first by the Revenue Department and later by the Forest Department. These forest rules whittled away at local usufructuary forest rights and eliminated those of nonlandowning households, thus underscoring the fact that forest demarcation can also be a form of community demarcation.

## NOTES

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- 1 Sec Ncalc. 1969 for the meaning of land control in precolonial India as a source and instrument of political power, in contrast to British conceptualizations of land as an input within an economic system whose internal logic is profit maximization. Further analyses of the political and social functions of land in precolonial India are found in Embree 1969; Dirks 1985, 1992; and Cohn 1987.
  - 2 For example, interests in (i.e., claims to) the produce of a field are distributed among the cultivator; the various village artisans such as the potter, basket maker, iron smith, and water master who receive a portion of the harvest as compensation for the services they provide; the individual who may hold the hereditary right to cultivate the field but engaged with another for the fields' actual cultivation; and the individual who claims the right to the revenue from the field.
  - 3 Under certain conditions, land transfers also occurred during the precolonial context. Land could be transferred by gift if the patta holder had no heirs. Similarly, proprietors in arrears of revenue could mortgage their land to another individual, who would then be responsible for paying the revenue and in exchange would receive half of the harvest from the former proprietor-cultivator. In some cases, if the arrangement became long term, or "by error at [the] first settlement," the former proprietor's claim to the land was reduced to that of a tenant, and the mortgage holder became the proprietor (Lyll 1874, 66). Although these forms of land transfers did occur, the hereditary right to cultivate land was not bought and sold as a commodity before the first regular settlement (Barnes 1855).
  - 4 The 2,060 hectares sold between 1871 and 1890 represent 12 percent of the total cultivated area in Palam Ilaqa (O'Brien 1890, 4).
  - 5 The size classes for small, medium, and large holdings are < 2.4, 2.4-7.6, and > 7.6 hectares respectively (O'Brien 1890, 14).
  - 6 Tenancy in Kangra is complicated. Historically some "tenants" held a hereditary right to cultivate land, were responsible for paying half the land revenue, and divided the remaining surplus with the "owner" (Barnes 1855, 19). At the other extreme were "tenants-at-will" who had no hereditary occupancy rights to the land they cultivated. Many tenants also owned land or were artisans or others whose trade was their main occupation. Lyll divides tenancies into thirteen different classes depending on the nature and origin of a tenant's claim to cultivate land (1874, 223-24). The range of payments tenants made to the landowner included (1) none, other than their share of the land revenue, (2) fixed cash rents, (3) fixed rents in kind, (4) part grain and part cash rents, and (5) shares ranging from less than one-fourth to more than one-half of the harvest. The majority of tenants paid half the produce as rent in Kangra in the late nineteenth century, and the average tenant's holding was 0.5 hectare (Lyll 1874, 228, 84). In-kind payments made at harvest time to the *kohli* (water mas-
- ter), artisans, and others were set aside before the harvest was divided between the tenant and landowner (Lyll 1874, 59).
  - 7 The Mahajan caste, composed primarily of traders, has the largest average landholding. During the British period, many Mahajan families accumulated much land and wealth as money-lenders. Before land reform legislation in the 1970s, twenty-five of the fifty-eight holdings greater than ten acres belonged to Mahajans, eighteen were owned by Brahmins, and nine were owned by Rajput families (Parry 1976, 56).
  - 8 Landholders did not at first realize that the authority to grant such rights now rested with the community of landholders within each village, and no longer with the state. Lyll comments that during the operations of the second settlement, he "must have been asked several hundred times by landholders to give *thempattah*, or grants for waste plots" (Lyll 1874, 22).
  - 9 Lyll provides more basis for his argument that the landholders could not be held responsible for the reclassification of uncultivated areas as joint village property because although they did adopt the term *shamilat* for unenclosed waste, they frequently referred to it using the contradictory term *shamilat sarkari* (government common property), thus indicating that the settlement notwithstanding, they still associated those areas with government ownership.
  - 10 This was consistent with British policy encouraging agricultural expansion and conversion of forests to agricultural lands in the Ganga-Jamuna Doab during the preceding decades (M. Mann 1995: 211-12).
  - 11 Landless households were allowed to "graze a few cattle, to collect dry wood, and to cut grass" in undemarcated areas, but only "as an act of grace and on sufferance," and only to meet domestic requirements (A. Anderson 1887, 6).