

The Extent and Nature of the CPRs in the Northeast

The Common Property Resources (CPRs) are important sources of livelihood to rural households in general and to the rural poor in particular. They are the livelihood both tangible and intangible of thousands of people. Far from being an exception to this, since most North Eastern States are on a hilly terrain inhabited by tribals, the CPRs play a more important role in people's livelihood in this region than in the rest of India.

The North Eastern economy is agrarian. Agriculture is the principal means of livelihood of most of its people 47.4 percent of whom are cultivators and 11.41 percent earn their livelihood as agricultural labourers. Table 2 shows the significance of land as a source of livelihood of the people of the Northeast. Thus, agriculture occupies an important place in the economy of the region but other sectors are neglected. 70 to 75 percent of the workforce of the region depends on the primary sector against 66 percent in India as a whole. More than 20 percent depend on the tertiary sector. These figures show the importance of CPRs as a source of livelihood of people of the region.

I. The Concept of CPRs in General and in North East India

The CPRs are community assets that provide both tangible and intangible livelihood (Shyhendra 2002: 3291) to their dependants. They include land used for cultivation and grazing, forests from which non-timber forest produce (NTFP) are collected, waste and *panchayat* land, watersheds, rivulets, rivers, ponds and other community assets. Some define the CPRs on the basis of their ownership and others according to their use (Menon and Vadivelu 2006). Most include among the CPRs only the natural resources like land, forests and water sources. Others include the sustenance of all the subalterns such as marine fisheries (D'Souza 2001: 58-64). Thus the term CPRs is used in different ways. In general, they refer to resources which are used in common and which have the physical characteristics of being difficult to demarcate. The dependants get from them benefits such as staple food from *jhum* (shifting) or other forms of cultivation, NTFP like edible fruits, leaves and vegetables, small timber and medicinal herbs (Lobo and Kumar 2007: 208).

However, implicit in much of the discourse is the fact of these resources being managed collectively unlike open access resources that are not. In the Indian context the CPRs can be described as the resources on which a community sustains itself mostly through equal usufruct rights. This right of being co-owners is conferred by some type of membership of the community or group such as a village or town. Its central purpose is not only the use or administration of the resource (Ahmad 1998: 253) but also sustenance that includes people's culture, economy, social systems and identity. Most tribes have customary laws and rules on how to manage and exploit these resources and on their protection and benefit-sharing.

The term CPRs has a different meaning in the Northeast from that in Mainland India. The classification of land is itself complex in the region. Each State and at times each community has its own classification. J. B. Ganguly (1978) mentions three categories: i. land owned by the village collectively, ii. land owned by the chief who distributes it among individual families and iii. land owned by the individual families. The first two categories are

CPRs and the third is private land. Because of the diversity, the whole region does not have a common definition. Four states namely Arunachal Pradesh, Meghalaya, Mizoram and Nagaland have a tribal majority and the remaining three are non-tribal. In each State CPRs are defined in a different way. The non-scheduled areas of Assam have three types of land – *patta* (individual ownership), *Aksonia* (temporary) *patta* and non-*patta* or *khas land* or CPRs. *Patta* land is owned in perpetuity on payment of a tax. *Aksonia* *patta* is usually for one year. *Khas* land is considered State property and its inhabitants are treated as encroachers. This definition does not hold good in the Sixth Schedule areas where the village headman play a role under the DAC and defines the CPRs to the customary law. However, land is under the direct control of the DAC.

In the customary laws of most other tribes the CPRs are land set apart by a tribe for the use of its members without the right of private ownership. Among the Nagas in Manipur, the land is held under the village council or the clan and no alienation is permitted under the customary laws (Singh and Devi 1991: 55-56). The Kuki-Chins do not have individual ownership. The chief of the Kuki village owns the land. The rent paid by each jhum cultivator to the chief within the chief's village varies from 3 to 5 tins of paddy. The right enjoyed by the chief is neither proprietary nor hereditary in nature and his office goes from one clan to another by rotation (Nongkynrih 2008: 18).

Thus, according to all the tribal customary laws community land is collective property and the residents of the village are users of the land. Among most of them the CPRs include: (i) village land and forests, (ii) streams, rivulets, and rivers (often shared with the neighbouring village), (iii) the village settlement area and (iv) village ponds, roads, footpaths, and burial ground, and (v) public open ground (Nongkynrih 2008: 19). In that sense the concept of the CPRs is somewhat different in the Northeast from that of Mainland India.

a. Management of CPRs

Though the management of the CPRs changes from tribe to tribe there are some commonalities too. For example, the customary law determines the utilisation of their village land and forests. The common land resources within the territory of the village are accessible to the whole community. No individual has exclusive property rights over the community properties. The territory of each tribe is well demarcated and each village maintains a permanent boundary (Shimray 2006: 36).

Like land ownership also the CPR classification and management differ from tribe to tribe. For example, traditionally among the Ao Naga of Nagaland there were four types of land – the common village land, clan land, individual family land and group or *Morung* land. The common village land managed and controlled by the village authority through the chief of the village consisted of the house sites, forests and woodlands. The village also held large areas of forest which was split into individual holdings for cultivation and for other purposes. The users had to pay rent to the chiefs. Clan land vested with the clan members in perpetuity and was held in common by the clan people as a whole. Jhum land was included under this. Individual land was in the name of the head of the family. Group land was allotted to a particular group, such as boys who stayed in the *Morung* (dormitory) and could collect

firewood from this land. Also those who were ostracised from the community were allotted some group land for their sustenance (Das and Nath 1979: 125-126).

At present, the land of most Naga tribes is classified broadly into primary or agricultural land and reserved land. The reserved land is broadly divided into three categories: (i) village land, which is kept apart for public purposes. A portion of this village land is forestland. The village land is used by the residents of the village and is under the control of the village council. (ii) Clan or *khel* land is land used only by the members of a *Khel*. (iii) Individual land is the land, which has been inherited or acquired. Such land is privately owned and the owners can lease it out (Tamuly 1985: 96-98).

Among the Thadou of Manipur the CPRs were under the absolute control of the chief who owned them, allocated *jhum* plots for cultivation annually and ensured that each family got an equal share. He consulted his ministers called *Semang Pachang* before allocating the plots. In return, each family paid to the chief a tax in the form of a basket (*vaibeing*) of paddy, approximately equivalent to a five litre container. Individuals or families could not claim ownership rights over the plots allocated to them. If families are unhappy with the chief they have to leave the village and live elsewhere but have to obey the law as long as they live in the village. This practice is still prevalent among the Thadou (Rajkhowa 1986: 96).

In the Mizo tradition, land was under the village council controlled by the chief who allocated it to the villagers as *jhum* land with the help of experts on shifting cultivation called *Ramhual*. In return the villagers paid *Fathang* a kind of tribute in terms of baskets of paddy to the chief. The British rulers curbed certain arbitrary judicial powers of the chiefs, such as permission of head hunting, power of protection of the criminals by the chiefs and so on by introducing the Rules for Administration of Justice in 1906 and in 1935. But the chiefs' power in respect of land matters and in social spheres was not touched (Das 1990: 6).

The Government of Assam abolished the chieftainship in 1954 through *The Assam Lushai Hills District (Acquisition of Chief's Rights) Act 1954* (Assam Act XXI of 1954), and brought land under the direct control of the state. At present, there are four categories of land in Mizoram. The first is the district forest over which the state exercises full control. Agricultural operations are prohibited on such land. The second is called 'safety supply reserve forests which are owned by the district councils and are beyond the reach of the village councils and individuals. Agricultural practices are not allowed here too. The third category is village council owned 'safety and supply reserve forests' which are meant for the benefit of the village community. The villagers are entitled to fuel wood from these plots for their household needs but not for sale or trade. The fourth category is unclassified forest under the village council. They can be allotted to individuals on patta or garden passes for homestead and cultivation (Mahajan 1991: 81-82).

The Tripura tribes present a different picture. Under monarchy land was allotted to people through the collectors appointed by the King. The collectors took the help of a Choudhury from each village while distributing the *Jhum* land. The villagers had the right to select the plot for *jhuming* but had to get the Choudhury's approval after selecting it. In those days land was classified into six categories of *Jhum*, *Nal*, *Lunga*, *Chera*, *Bhiti* and *Bastu*

land. Jhum land belonged to the community with no individual ownership and consisted of a house site, forestland and jhum plots and was managed by the village authority under the control of the Choudhury. The *Nal* land was situated in the plains or river banks with high fertility and it was individually owned by the villagers with permanent heritable right but with no right of alienation. The *Lunga* land lay between two hills and was used for permanent cultivation. It was allotted to the tribals with yearly tax which varied from tribe to tribe. *Chora* land was situated on both sides of the river. The villagers owned this land. The Bhati and Bastu land was permanent and heritable but not transferable (Roy 1986: 59-62). Thus, traditionally, tribal villages had some form of community ownership that was recognised by the King. Each village chief enjoyed customary rights of control over the village. Very little of it remains today because the tribes have been reduced to a minority and the law has been changed to recognise only individual land alone (Debbarma 2008: 113).

In Arunachal Pradesh, the tradition of land ownership changes from tribe to tribe. Among the Nyishis, CPRs were clearly demarcated. They included uncultivated forests, rivers and natural resources and were under the control of the village council and were used by the village community. Also among the Galo the CPRs owned by the village community included the land used for residential purposes such as houses (*nam*) and granaries (*nasu*) (Nongkynrih 2008). Among the Adis, land was allotted by the chief to individual households only for production. In theory its ownership was vested in the community (Agarwal 1991: 44). The Aka tradition lacked the very concept of individual ownership. Each family cultivated as much land as it needed in the *jhum* season after which it reverted to the community. However, a family could use wetlands on the banks of the river for settled agriculture but those continued to belong to the village (Fernandes and Bharali 2002: 22-23).

That changed with the *Balipara Frontier Jhum Land Regulation, 1947* promulgated by the Government of Assam. It gives customary rights to the tribal population over their jhum land, both of a village and of the community provided that such village or community has enjoyed the right to cultivate or utilise it for not less than five years prior to this regulation. The government accepts village/clan/individual ownership of land only in respect of what is under permanent or semi-permanent cultivation or is attached to a dwelling house. All other land including jhum land vests with the state (Nongkynrih 2008).

Among the Khasis of Meghalaya there were three broad categories of land. They are: (i) *Raid* land (community land); (ii) *Rykynti* (privately owned land); and (iii) Clan land. The *Raid* land belonged to the community and was within its jurisdiction. This community land was divided into residential land where houses and other common facilities were built and land for economic purposes used mainly for agricultural activities. Permanent residents of the village were its users. The right to use it was based on the membership of the village. The village headman did not have the authority to grant permission for such use to a non-Khasi. The CPRs belonged to the community and are controlled and managed by the village councils. The clan land was owned by the respective clans. The forest land was divided into sacred forest, village community forest, protected forest and individual forest. People could not use the sacred forest. Village community forest was controlled by the village darbar (administrative unit). People could collect leaves from the protected forest for domestic use not for sale. Individual forests could be used by the owner (Dutta 2002: 59). The case of Ri Bhoi

District in Khasi hills was unique because in almost the entire district the land was communally owned and controlled and managed by the chief representing a cluster of villages (Nongkynrih 2008). Though the traditional system of land ownership has not been abolished, in many cases the power of the *Darbar* has been reduced (Dutta 2002: 2).

Traditionally, the Garo (Meghalaya) CPRs (*Akhing*) were under the control of the Chief (*Nokma*). The homestead plots were owned not by individuals but by the community (Kar 1982: 29). At present, the land in the Garo hills is broadly divided into hilly land coming under the customary law and the plain land governed by the provisions of the *Assam Land and Revenue Regulation Act of 1886*, and adopted by the Garo Hills Autonomous District Council in 1952. The former type comprises almost 95 percent of the total land (Phira 1991).

In the tradition of the Jaintias of Meghalaya CPRs were owned by the *Syiem* (chief of the traditional state). The British regime took away the power of the *Syiem* and conferred the right of ownership of the CPRs on the State and converted all the *Rajhali* (private land of the *Syiem*) into Government land. The users of the land were made to pay taxes and were given *pattas* for a limited period of ten years. Thus, the community land in Jaintia hills was turned into government land and subjected to land revenue (Pyal 2002: 24).

II. Present Geographical Expanse of CPRs in the Northeast

It is not easy to identify the CPRs in the total land in the country because the land classification followed in India does not specify which categories fall under the CPRs. Chopra et al (1990) who used a nine-fold land use classification to estimate the total area under the CPRs, suggested that land 'other than current fallow', 'cultivable waste', 'pastures', and 'protected and unclassed forests' can be broadly categorised as CPRs. Based on this classification, they concluded that 21.55 per cent of all land in India were CPRs in 1980–81. No recent data is available on the extent of CPRs in the country.

No estimate has been made of the CPRs in the Northeast. Only a few state level studies give some estimates. For example, Ao (1991: 87) showed that in Nagaland in 1991, out of the total geographical area of 16,57,900 hectares, 6.28 percent came under government control, 85.75 percent under private control and 8 percent came under dual control. The first and the third categories are CPRs. Likewise, in 1986, out of the total geographical area of 10,47,700 hectares in Tripura, 5,72,000 hectares were covered with forests. Marshy land covered 2,26,700 hectares. That can be classified as CPRs (Debbarma 1991: 101). Bharali (2008) estimated CPRs at 1, 12,41, 450 hectares which is 44.07 percent of the total geographical area of the region. The highest is in Meghalaya where 71.31 percent of the total geographical falls under the CPRs while Assam has the lowest at 15.16 percent. 58.76 and 56.68 percent respectively of the land in Nagaland and Mizoram is CPRs while 50.74 percent of Arunachal Pradesh falls under this category (Table 1).

Table 1: Total CPRs in the North East in 2003

States	Protected forest	Unclassed Forest	Permanent pastures	Cultivable Waste	Fallow land Other than Current fallow	Total Other CPRs	Total G.A.	% of CPRs to Total G.A.
Ar.Pradesh	953500	3182700	44000	33000	36000	4249200	8374300	50.74
Assam	-	895800	167000	80000	82000	1224800	7843800	15.61
Manipur	417100	117800	24000	-	80550	639450	2232700	28.64
Meghalaya	1200	837200	154000	449000	158000	1599400	2242900	71.31
Mizoram	356800	524000	23000	121000	170000	1194800	2108100	56.68
Nagaland	50800	781300	-	65000	77000	974100	1657900	58.76
Tripura	66400	204100	27000	1000	1000	299500	1048600	28.56
All NE	1845800	7603100	439000	749000	604550	11241450	25508300	44.07

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III. CPRs and Women

As explained already the concept of individual ownership is weak among the tribals (Fernandes and Bharali 2002: 22-24). They depend mostly on these CPRs. CPRs help them to sustain their livelihood, particularly the women. Tribal women have more control on CPRs management. For example, a little over 25% of Indian tribals sustain themselves on *jhum* (shifting cultivation) on the CPRs. The customs differed according to the tribe (Roy Burman 1993: 176-177). Common to all or most of them was the gender-based division of work and of control between the family and social spheres. Most tribes kept the control of the resource under the village council made up of men alone. It took the decision about the plot to be cultivated that year, the area to be allotted to each family according to the number of mouths to feed and which family with excess adults would assist which one with a deficit of workers. Here its role stopped and the man of the family took over, chose the plot his family would cultivate that year and performed the religious rites to mark the beginning of cultivation. At this stage the woman took charge of cultivation and organised work in the field (Fernandes and Menon 1987: 77-82). A result of this division is that, from a gender perspective it was more equitable than settled agriculture. In the latter, the man owned land as an individual, took decisions on the type of crops to be grown and decided the division of work. Men did what was considered difficult work and allotted to women tasks that involved standing in wet fields and bending for a long time (Misra 2000: 74-77). Women's lack of control over the resource and the division of work is seen.

Dependence on the CPRs gave the woman greater control over their sustenance than her counterparts in caste societies had. She was in charge of the community resource in as much as she controlled the family economy and production. It was also the basis of her relatively high status in her community as well as the locus of her work. She was not equal to the man in her family but had greater control over its production and economy than her counterparts in other societies did. Around these resources she met other women and exchanged information. That is where she got

employment and access to resources required for her own sustenance and that of her family (Menon 1995). Since she controlled the family economy, her dependence on the CPRs was greater than that of men. She also had a bigger vested interest in treating them as renewable i.e. in their sustainable use (Ganguly Thukral 1992: 8-9). However, her control over the family economy and the consequent relatively high status depended on abundant resources (Pathy 1988: 26).

It is clear from what has been said above that the CPRs confer a relatively high status on women, especially tribal women. It is equally true that they are more dependent on the CPRs than other women are. As a result, deprivation from CPRs has serious implications for their economic as well as social status. However, the land laws ensure the alienation of the CPRs from these communities because they recognise only individual ownership. This situation is worst in the North East because of its peculiar land system. Nagaland and Mizoram run their civil affairs according to their customary law the former under Article 371A and the latter under 371G. A second category comes under the Sixth Schedule. It is the case with Meghalaya, like the Karbi Anglong and NC Hills districts in Asom. A third category, for example the Kok Borok of Tripura, like the Tiwa, Rabha and some other tribes in Asom has district autonomous councils (DAC) without the Sixth Schedule. The rest do not have a specific system though a few modifications are made in their favour. Articles 371A and 371G recognise community ownership. Also the Sixth Schedule does the same but in practice transfers power over land from the village to the DAC that controls most departments except law and order, rehabilitation and elections (Fernandes, Pereira and Khatso 2005: 22-23). Most others tribes, for example those of Manipur and Arunachal Pradesh (AP) live according to their community based law but the State recognizes only individual ownership. The Manipur tribes have some protective mechanisms while the AP tribes only have the administrative rules framed in the colonial age (Barooah 2002) but it is difficult to call them protective mechanisms. The result of the non-recognition of community land is deprivation of the CPR dependants.

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