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CURRENT FOREST AND WATER POLICIES IN INDIA

- SOME FACTS AND APPRAISAL

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Abstract

By now common property relations are considered not only viable, but also a desirable form of property for natural resource management. This has led to many development efforts. The emerging common property institutions are far different from the traditional local formations and have wider economic, even global relevances. Newer issues have come up, in the area of control and ownership, in mode of participation, in fairness criteria in distribution etc. On the one hand there is the question of perpetuating the traditional rights. On the other, there is the possibility of more widespread distribution of the benefits of common property resources and of improving the quality of rural life over a wider area. The choice is not merely ethical but also of management; the suitable alternative forms must be viable and sustainable, probably also productively efficient.

These second generation issues are the kind of questions we are going to face in future. This paper makes a modest attempt towards comprehension of common property from this perspective. The data base is the recent efforts of forest and water development in India through joint management. The effort is about ten years old with some degree of success. Assessments and evaluations have begun being available. The present study uses those information.

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BACKGROUND

India has only 3 per cent of land area to support 16 per cent of world population. Trees cover about 22 per cent of India's land area and occupy an important part in the economic and social life. It is a monsoon country with high seasonality and wide variability of rainfall. Per capita water availability is less than half of that of either U.S.A. or Japan. Judicious management of water and forest are therefore essential for the well-being of the people. In India, common property relations are considered by now, not only viable, but also a desirable form of property for renewable resource management like forests and water. This has led to many development efforts. Here, in this paper, we want to discuss some of the major problems currently faced by these CPR development efforts.

Common property relations were very strong in the traditional way of forest management. By all accounts, the resident communities - now called tribes -- enjoyed total control over forests. The indigenous system of management had, in some way, ensured that the needs of all sections of the community were met. However, this was not achieved simply by acknowledging community rights over every kind of property. By now it is fairly well documented that the forest-based tribes often had private property rights over cultivable land, forest patches for shifting cultivation or on specific trees within the forest in case of minor-forest-product collecting tribes. Along with that there existed community rights of the whole village or tribe on many kinds of plants and trees that are essential. Institutions like tribal or village organisations sanctioned these mixes of communal and private rights and enforced the accompanying regulations.

In the field of water management too the needs of all sections of the community were met, but far less equitably than in the case of forest management. In both drinking water and irrigation, community rights of the whole village were recognised by the state. But the villages were dominated by certain castes who were also dominant in the matter of water. The state sanctioned rights to each village. Within the villages dominant caste groups and communities exercised these rights and enforced the accompanying regulations. Water, particularly drinking water, was used as sources of power. Private property rights existed, but probably subsumed to community rights. The debate about the pre-colonial system of land rights in India is still not resolved. However, in many places the total cultivable land in the village were redistributed after each twelve years which would imply communal ownership.

From late eighteenth century onwards different parts of India came under colonial rule. The British had adopted different land settlement policies in different parts of the country, which had different implications for the CPR relations. Distribution of

water and trees are uneven. Although drinking water is required everywhere, irrigated lands and forests are dispersed in patches. Forests were largely settled as special areas where the state administration dealt only with the intermediaries. The traditional property relations could therefore perpetuate. In the plains a system of land revenue settlement called Permanent Settlement (*zaminadri* system) was established. Here too, the communal property relations could persist (see Sengupta, 1991). In other areas the state made direct settlement with cultivating farmers. Here common properties like water and village common land vested to the government. These areas faced considerable problems of CPR management and rights over CPR were never clearly defined or exercised. The community organizations were weakened but still were not extinct, for without them the farmers could not sustain their irrigated agriculture (Sengupta, 1991). The same comments would apply for drinking water too although private sources spread much faster in this area.

It was due more to industrial expansion, from around the beginning of this century, that the traditional CPR forest institutions lost much of their prominence. Beginning with the forest regulations during the late colonial period the aim of the older forest policies were meeting industrial needs. But in the eighties the emphasis has again been changed. Along with environmental benefits, non-market products for the subsistence of poor has become the primary forest management goal. In the past, forest management was directed towards exclusion of people. In stages large areas of forests were declared reserved and protected. About 90 per cent of all forests in India are now publicly owned. Since the late 1970's social and community forestry programmes in India have attempted a different line of management using peoples help. Since 1990 the government has taken up a joint forest management programme of degraded forest lands with local communities having the responsibility of protection. Currently there are thousands of village forest protection and management committees helping to regenerate several million hectares of degraded forests.

Irrigation and drinking water facilities were not only perpetuated, like the forests, but were also extended during the colonial period. The new facilities were based on the principle of private property. Still CPR relations emerged through self-organization efforts in the new systems (Sengupta, 1991). CPR relations also continued in the older systems. But these had little administrative support and functioned poorly. However, commercialization of agriculture, like industrialization in the case of forestry, divested the de-facto CPR organizations from much of their prominence. Lately, with the increasing concern about irrigation expenditure and growing realisation of the importance of participatory management, the emphasis is changing. The Command Area Development Programme commenced in the early eighties had taken up the task of formation of irrigation associations. The National Water Policy, 1987 advocated this strategy. Currently attempts are being made in several states and several systems to promote irrigator organizations and turn over parts of the administrative activity to them. Similar

attempts are also being made in the area of drinking water supply, if any.

The emerging common property institutions in both forests and water areas are far different from the traditional local formations and have wider economic, even global relevances. Newer issues have come up, in the area of control and ownership, in mode of participation, in fairness criteria in distribution etc. The joint forest management experience is about three years old. By now we have considerable knowledge of different efforts, their likely implications, even some facts to make fragmentary evaluations. In the area of irrigation the efforts are still rudimentary and the knowledge is vague. Organisational approaches in drinking water are experimental and successes are limited to small pockets, if any.

II

CPR ORGANIZATIONAL FORMS

The current programmes convey an impression of uniformity of modern CPR managements throughout this big country. In order to dispel this impression we begin by introducing a wide variety of modern forest based organisations, some having CPR consequences. Under the Forest Acts of the late nineteenth century two classes of government forests were created : reserved and unreserved. Reserved forests were worked either departmentally or through the issuance of permits. As regards minor forest produce in reserved forests, resident hill-men or jungle-tribes could collect them and sell them to the depots at the boundaries of forests. In the post independence period, intermediaries in the trade of forest produce have been abolished. Now-a-days State managed co-operatives often hold exclusive rights to purchase some specified minor products. But these are marketing cooperatives not CPR with management responsibilities.

Another institutional set up of the past were forest-villages. This concept was introduced ostensibly to meet the labour requirements of the forest department. Since labourers could not be obtained easily by the department for working in the deep forests some forest tribes were settled inside the forests by clearing small patches as villages. These labourers were often at the mercy of the forest staff. They had no right nor were their social organisations effective in exerting control over forests.

In settlements of village common land resources too, CPR relations were followed occasionally. Toddy trees abound in many coastal areas. Many of these grow naturally on the common land. Permits from the government are necessary for toddy-tapping from such trees. Earlier the government used to grant permit to the whole village. The village institutions used to divide the

rights on trees among its members. Since the forties these permits, indicating locations of each tree, are issued by the government to the heads of the households thus undermining the community control and institution.

In the late seventies it was realised that forestry programmes cannot be successful without peoples active participation. This led first to the Social Forestry programmes on village common land and then to the Joint Forest Management (JFM) programmes on degraded forests. The national policy resolution on JFM gives considerable latitude in the types of community groups which might be involved. These include panchayats, cooperatives and informal village organisations. Every state has enacted its own legislations favouring one or the other form. Thus a wide variety of local organisations have emerged. Panchayats of India are village level local self-governments and are modifications of the traditional panchayat systems. In the past the panchayat leadership used to be traditional village elders. In the modern system they are elected. Cooperatives are also of many different types. It need no mention that informal village organisations are of numerous types.

The situation regarding the water sources , is not very different. Maloney and Raju (1994 : 77-78) lists varieties of modern local organisations forms that have emerged in the water area. The four major modern forms are :

- statutory panchayats, panchayat unions, mandals
- registered associations like cooperatives under Cooperative Act, societies under Societies Act, trusts under Trust registration and companies under Companies Act
- water management associations registered or simply recognised under Command Area Development Programmes (CADA)
- committee structures like pipe committee, tank committee etc. both traditional and under various modern programmes

There is one noticeable difference. In water management, in larger systems, several tiers of organisations are proposed.

These organisations forms may undergo drastic changes in near future. Several other Acts are already under way. The Ministry of Environment and Forests is planning to replace the Indian Forest Act of 1927 with the proposed Conservation of Forests and Natural Ecosystems Act. Within the proposed Act a new category of forests, called village forests will be created. The most important however, is the constitutional status given to panchayats under the Constitution Amendment (Seventy-Third) Act of April 1993. The Act is aimed at strengthening of local self-government by adequately backing them with financial and manpower resources. They will have powers to implement plans for economic development and social justice. It is not yet clear what would be the future status of the CPR organisations of specialised nature, like the forest protection committees and water users

associations.

However, one should not get the impression that the current policies are always geared towards CPR extension. The recently proposed Forest Act has the idea of allowing commercial plantation on non-forest land. There are about 30 million hectares of degraded forest land in the country. The government has neither the financial nor the managerial resources needed to develop them. Neither the people nor the NGOs have them. It has therefore become imperative to search for an agency which possesses the resources, namely, the industries. But this clause has been a bone of contention between the government and the public. Similarly, in the water sector encouragement to private sources like tubewells are still widespread.

III

INTERFACE OF ORGANISATIONS

Introduction of a whole new set of organisations has considerable implications on the extent of jointness and excludability of people from use of the resources. There were the traditional rules of membership. There are also other organisations within the villages. On the one hand there is the question of perpetuating the traditional rights. On the other, there is the possibility of more widespread distribution of the benefits of common property resources and of improving the quality of rural life over a wider area. The wide latitude given to current efforts have created new interest groups. Forest departments have stimulated the proliferation of new community level organisations completely dependent on the Forest Department for their existence but contributing little towards the protection of the forests. The new rules of inclusion and exclusion sometimes deprive the legitimate beneficiaries, those who contribute labour. In some states membership has to be extended to all the panchayat members. This result in improper extension if there already is an existing management group.

In the traditional systems the landless agricultural labourers did not have any ownership or usufructuary rights over irrigation sources. But research studies have brought out a very interesting feature : the landless often had a very important role in the irrigation institutions. In South India for example, water distributors are appointed since time immemorial to distribute water to cosharer beneficiaries. Almost always the distributors (called *neerpaichy* etc.) were landless labourers belonging to lower castes. Often they had this right as a hereditary right. The system might have been used to ensure fair distribution by someone with no vested interest. Such roles for the downtrodden do not have any place in the new forms of

organisations. The forest laws provide for the poor the rights of collection of minor forest products.. It is now recognised that common lands provided a substantial part and fuel, fodder and non-timber forest products in the living of the poor. But similar clauses have not yet appeared in water laws. In the past, the poorer section had rights of fishing and similar activities in the water bodies. These have found no place in the present set up.

There are also some welfare policies designed without any consideration of common property resources and have adverse side effects. These need closer attention. Land distribution to weaker sections are sometimes pursued without enough thought, resulting in privatisation of common property. The landless people are often provided government waste land. Their conditions may be better but it creates problems in other areas of resource requirement e.g. fodder shortage, allotment of non-perennial water bodies and such others.

In extension programmes it is increasingly realized that institutional economic factors overrule technical aspects. In general conflicts between traditional attitude to the resource and space and the nature of demand by the modern project is not satisfactorily solved. The task is to understand that the new projects are only one new element in the complex and dynamic systems from which the producers have made their livelihoods so long. On the other hand this agricultural system is also a part of the social system of reproduction and transformation. To some extent the forest programmes have shown awareness of these aspects. The programmes in water area are still indifferent to such needs.

At the same time, the possibility of more widespread distribution of the benefits, instead of perpetuating the vested interests have been realised in some areas. The women's component has received special attention in the JFM programmes. Some states have made it mandatory that one of the members representing a member household must be a woman. Women should also constitute a half of the managing committee. The W. Bengal resolution goes a step further by providing for small sub-committees of women. Within the Panchayat Raj Act provisions have been made for reservation of seats for women and for depressed communities (scheduled castes and scheduled tribes). Whether this composition will also transcend into the village functionaries, including the CPR groups is yet to be seen.

In the area of water the alternative institutional process includes bold experiments. Property rights on water, radically different from the traditional and conventional, have been successfully introduced by imaginative facilitators. The two great success stories of participatory water management in India are the Sukhmajori project and Pani Panchayats of Maharashtra. In both the cases all the villagers were given equal rights on common property of water. The landless could sell their water rights and could use the earning for other activity. But such provisions have not been made within any official programme of

irrigation association. The recent Panchayat Raj Act asserts rights of panchayats over village common resources but is silent about the procedure of allotment within the villages.

IV

BENEFIT DISTRIBUTION AND MODE OF PARTICIPATION

The challenges faced in CPR extension activities are different in the two areas. In the area of irrigation from public works, the authority was already committed to supply water to farmers. The primary task has been to make arrangements so as negotiations can be made with groups of irrigators instead of individuals. The detailed work programmes are only operationalisation of this task. Where groups exist the bureaucracy has to recognise it and come to certain working arrangements. Where they don't; groups have to be formed. The responsibilities of these groups need to be indicated. They vary from fee collection, maintenance, operations to construction and agriculture development. The approach may be termed *communalization* of irrigation, although it has come to be known also as "privatisation. In case of forests, unlike that in irrigation, the major problem was exclusion of people from benefits. Here the primary approach is formulation of appropriate principles for their *inclusion*. In case of water, the beneficiaries were already "included" -- rarely does any official programme talk of inclusion of additional beneficiaries like landless labourers. In this case the task is of communalization and containing *free riding*.

The task of inclusion of people in forestry has not been a straightforward process. Being guided by the conservation objective many State governments had earlier passed laws preventing felling of trees even in private land. Thus a participating farmer may not be able to reap the benefits of one's own labour. A Tree Patta scheme introduced in 1985 had extended to landless labourers, usufructuary rights on trees, though no right on the land where the tree is growing. But this scheme had to be withdrawn after a Central government order was issued clarifying that the forest department lands cannot be leased to private parties. Consequently, many landless people who had worked on these schemes suffered and their distrust towards administration increased.

The Forest Policy of 1988 had this as a glaring contradiction. It had recommended both growing of trees on wastelands by the landless and at the same time regulation to govern the felling of trees on private holding. The JFM programmes envisage contribution of labour by the villagers in the ways of afforestation and maintenance. In turn those who contribute labour have been given certain rights over the non-timber forest products (NTFP). But the JFM resolutions do not give any legal rights to the Forest Protection Committees. It has been noted that this creates considerable uncertainty and prevents

One must not fail to note that this conflict between the government and the people is a consequence of the success of the project, not of its failure. The conflict is rather intense; since stakes are high after the success of the participatory regeneration process, both the parties are investing considerable amount in bargaining. It is important to analyse whether the development of this nature owes its origin to the kind of product development adopted in the participatory model. In those areas where commercial forestry products were not developed as at Sukhomajori, the situation is better. Enthusiasm of villagers like that of Arabari are still very high. Rural communities often express a sense of collective possession of geographical spaces (territories) and a great attachment to it. Benefits such as these - other aspects of appropriation regime beyond property (Weber and Reveret, 1993) - are not to be overlooked. The ease of obtaining the essentials like fodder and fuelwood may also be a greater consideration. Villagers of Arabari now want to add a further dimension to the project, to ensure a continuous flow of NTFP and other benefits. The friendly treatment and the cooperative spirit shown to the people of JFM areas by the Forest Department staff may also be a contributing factor to participation. There are cases of all-womens' forest protection committees as one was reported from Ranchi district. The approach came from the realisation that women's work in the household has increased disproportionately as a result of the depletion of CPR and that encouraged them to participate actively in this field. Considering that the poorer section in general depend more on CPR, similar interest may be found amongst landless labourers too. Such questions are not faced in case of CPR efforts in water since the commercial orientation is universal. But one need to have a fresh look and ponder whether everything is well in their orientation. The odd examples of dissociating water rights from land rights and extending the former to all have been discussed earlier. Both the cases registered high enthusiasm in the initial years but suffered set backs.

In modern CPR organisational efforts such an ethical dilemma seems inevitable. What should be the right objective of CPR development? Commercial orientation and commercial valuation may not always be the right criterion of evaluation. Yet, one cannot deny that suitable alternative forms must not only be viable and sustainable, but also productively efficient. A decade of experience brings us to such questions of developmental approach.

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