

## Unit 17

# Tribe, Territory and Common Property Resources

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### Learning Objectives

After going through this Unit, you will be able to know:

- Historical development of the concept of 'commons';
- Relationship of 'commons' and mixed economy in India;
- Population growth and 'commons'; and
- Culture of 'commons'.

## 17.1 Introduction

The notions of territory and common property resources are very closely associated with the notion of tribe. In fact, one cannot imagine of tribes, at least in classical sense, without being identified with territories that have sustained them from time immemorial. Tribes are also known for practising 'common property resources', which among others, provides livelihood and binds them socially and emotionally. Thus, we see the notions of 'commons' (also known as 'common property resources') and tribes as inextricably linked with each other. In fact, 'commons' is one of the significant features in the lives of tribals. Therefore, we shall understand the concept of 'commons' and related aspects with special reference to tribes in India.

But what does 'commons' mean? The 'commons' is not easy to define- it is neither private property nor public property: neither is it a commercial farm nor a communist collective, nor a business firm nor a state utility, nor a jealously guarded private plot nor national or city park. The accepted understanding is that the *'commons' is natural resource shared by the local community that decides who uses it and how*. Our concern here is with understanding the principles that defines and determines the use of the commons with special reference to tribes in India.

## 17.2 Early History

The Romans distinguished between three types of property: *res privatae*- things capable of being possessed by an individual or family, *res publicae* - things built and set aside for public use by the state, such as public buildings and roads and *res communes*- natural things used by all, such as air, water and wild animals. This was codified in the Institutes of Justinian, the grand summation of Roman law, which said: "By the law of nature these things are common to mankind – the air, running water, the sea, and consequently the shore of the sea."

During the Middle Ages in the United Kingdom, the commons were shared lands used by villagers for foraging, hunting, planting crops and harvesting wood. In 1215, the Magna Carta established forests and fisheries as *res communes*, resources available to all. Several states declared in their constitutions that natural resources belong to the people and that the government acts as the people's trustee. In this understanding, commons is defined with respect to community.<sup>1</sup>

Beginning with the industrial revolution in 18th century when labor became a commodity and enclosure were put around land to demarcate the commons, the notion of community changed. This was the earliest form of privatization, first by the landed gentry and gradually by industrial corporations and subsequently by the two together. This alliance promoted the development through the open competitive market. Parallel to this there evolved another path of development under the patronage of the State.

These regimes differed in the way they regulated access. These worked differently in different parts of the world. Our concern is here with India.

### 17.3 Mixed Economy and the Commons in India

India took the path of the mixed economy-there was the private sector and public sector. In India the colonial state recklessly used natural resources uprooting a large number of local communities especially the tribal forest dwellers. After India became independent the state and private sector continued to recklessly use natural resources. This was justified for industrial development. Several tribal and peasant movements protested.

However, in the sixties when the recklessness began to undermine the natural resource base for industry the state changed its policy. On the one hand enclosures were made of 'reserves of nature' such as wild life sanctuaries, national parks and biosphere reserves. These were designed primarily to conserve biodiversity for industrial production. Further, the state allowed natural resource mining as well. On the other hand community rights such as *nistari* rights (for subsistence use) over some natural resources were recognised in some of these reserves. This resulted in the displacement of several millions of people, without being adequately and appropriately compensated. Several local communities suffered because the resource base for their livelihoods was taken away from them.

Research showed that a large number of these communities were deprived of their commons. For instance, N S Jodha has pointed out that common property resources have been degraded and their productivity is much lower today than in the past. Consequently, the rural rich depend very little on them. It is not worthwhile for them to collect and use meager quantities of products from these resources. On the other hand, the rural poor (small farmers and landless labourers) with limited alternatives increasingly depend on low pay-off options offered by such resources. In the villages studied by Jodha, 84 to 100 percent of the rural poor depended on common property resources for fuel, fodder and food; the corresponding proportion of rich farmers did not exceed 20 percent (except in very dry villages of Rajasthan); and intermediate categories of farm households depended on these resources more than the rich.<sup>2</sup>

Madhu Sarin pointed out that "The impoverishment and alienation of forest-dependent villagers resulted in widespread forest destruction and state forest departments being in perpetual conflict with forest communities. In fact, it was the acceptance of the states' inability to control access by impoverished and alienated forest dwellers to state-owned forests that culminated in the birth of Joint Forest Management. State forests account for 23 percent of

India's land area and represent the country's largest land-based common property resource. Joint Forest Management has a particular significance for the majority of the country's 54 million tribal people and other disadvantaged forest communities, particularly women, as they continue to depend primarily on forests for their livelihood and subsistence needs."<sup>3</sup>

The 73<sup>rd</sup> amendment seemed to be a turning point. It enabled the local communities to manage their common resources according to their tradition. Through this measure the state gave legitimacy to community's responses to the scarcities and stresses created by market driven and state sponsored development- namely a rapid decline in their area and productivity. Common property resources constitute an important component of community assets in different ecological areas of India (and other developing countries) and are one of them. They are sources of a range of physical products; offer employment and income generation opportunities and broader social and ecological benefits.

These measures were taken to ensure efficient use of resources for industrial production of goods, facilitate capital accumulation, ensure cheap labor and protect community rights whenever possible. Commons were defined as common property resources. These included fisheries, wild life, surface and ground water, ranges and forests. The use of these resources was a function of 'excludability' and 'subtractability'. Excludability refers to the fact that controlling access over the physical nature of the resource by potential users may be costly and in the extreme, virtually impossible. This explains the second aspect; In this case, the user is capable of subtracting from the welfare of the others.

This process of industrial development (which was a combination of the private and the public sectors) accelerated on account of globalization. This is, as it has been argued, was necessary to cope with the needs and demands of a growing population. The result of this development was to the contrary; it impoverished those who lost access to the commons and enriched those who take possession of it. In other words, it colonized the commons. This is an instance of 'excludability' and 'subtractability'.

**Box: 17.1: Industrial growth and 'commons'**

As population grew exponentially industrial production diversified and intensified replacing the natural component in the products with a quantum of human labor. In the process it colonized along with the non-human nature in the external world, three gifts of nature that make us human beings, namely mind, body and spirit. This process of colonization developed nuclear-military operations to ensure control over commons- natural resources. On the one hand as nuclear military power increased, national security steadily decreased. On the one hand as population increased the carrying capacity of earth decreased.

Population growth and speedy heavy industrial development determined the progressive degeneration of the commons. From being available to a few, there has arisen a situation where they are gradually becoming inaccessible to all because not only have they depleted; they have also lost the capacity to regenerate. All the realms of nature defined by the five elements of nature- earth, air, water, fire and space are getting lost irrecoverably.

There are natural things such as air and water that are needed by all. These were polluted by the industrial world and other groups of people not engaged in the polluting production processes suffered the consequences of this pollution. This led to the commodity packaging air and water. That is to say what once belonged to many now belongs to just a few.

This entire process extracted resources from nature at a rate several times faster than the rate at which nature can regenerate itself. Nature here includes

not only natural resources in the external world but also of nature internal to human beings. This contributed to the diminishing nature's capacity for recovery and regeneration. This manifest itself in the 'acquired immuno-deficiency syndrome' (AIDS) at various levels-there were AIDS patients, the susceptibility to illnesses increases and inner resources to deal with the demands of a sped-up production process depleted. In other words, our vulnerability increased-the food we eat was either not clean, or, it was low in nutrients. It started to affect our gene code. Our food security was gradually being undermined, not only because of the insufficiency of food grain production,<sup>4</sup> but also because the quality of food that was available was not appropriate for sustainable health.

## 17.4 Population Growth and Impossibility of Commons?

Garrett Hardin (1968) in his 'The Tragedy of the Commons'<sup>5</sup> discusses the impossibility of sustaining commons under conditions of rapid population growth. The main points of his argument are summarized here. I quote relevant passages from Hardin's text.

"The tragedy<sup>6</sup> of the commons develops in this way. Picture a pasture open to all. It is to be expected that each herdsman will try to keep as many cattle as possible on the commons. Such an arrangement may work reasonably satisfactorily for centuries because tribal wars, poaching, and disease keep the numbers of both man and beast well below the carrying capacity of the land. Finally, however, comes the day of reckoning, that is, the day when the long-desired goal of social stability becomes a reality. At this point, the inherent logic of the commons remorselessly generates tragedy. As a rational being, each herdsman seeks to maximize his gain. Explicitly or implicitly, more or less consciously, he asks, 'What is the utility *to me* of adding one more animal to my herd?'"

"This utility has one negative and one positive component.

- 1) The positive component is a function of the increment of one animal. Since the herdsman receives all the proceeds from the sale of the additional animal, the positive utility is nearly + 1.
- 2) The negative component is a function of the additional overgrazing created by one more animals.

Since, however, the effects of overgrazing are shared by all the herdsmen, the negative utility for any particular decision making herdsman is only a fraction of - 1."

"Therein is the tragedy. Each man is locked into a system that compels him to increase his herd without limit — in a world that is limited. Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all."

"The National Parks present an instance of the working out of this tragedy of the commons. The parks themselves are limited in extent. .... , Whereas population seems to grow without limits. The values that visitors seek in the parks are steadily eroded. Plainly, we must soon cease to treat the parks as commons or they will be of no value to anyone."

"In a reverse way, the tragedy of the commons reappears in problems of pollution. Here it is not a question of taking something out of the

commons, but of putting something in — sewage, or chemical, radioactive, and heat wastes into water; noxious and dangerous fumes into the air; and distracting and unpleasant advertising signs into the line of sight. The calculations of utility are much the same as before. The rational man finds that his share of the cost of the wastes he discharges into the commons is less than the cost of purifying his wastes before releasing them. Since this is true for everyone, we are locked into a system of “fouling our own nest,” so long as we behave only as independent, rational, free enterprisers.”

“The tragedy of the commons as a food basket is averted by private property, or something formally like it. But the air and waters surrounding us cannot readily be fenced, and so the tragedy of the commons as a cesspool must be prevented by different means, by coercive laws or taxing devices that make it cheaper for the polluter to treat his pollutants than to discharge them untreated. We have not progressed as far with the solution of this problem as we have with the first. Indeed, our particular concept of private property, which deters us from exhausting the positive resources of the earth, favors pollution. The owner of a factory on the bank of a stream — whose property extends to the middle of the stream — often has difficulty seeing why it is not his natural right to muddy the waters flowing past his door. The law, always behind the times, requires elaborate stitching and fitting to adapt it to this newly perceived aspect of the commons.”

#### 17.01 Action and Reflection

Bring out the argument of Garrett Hardin on unsustainability of ‘commons’ under the conditions of rapid population growth.

At a very basic level, given that air and water are fluid all human beings can be expected to suffer pollution, some more and some less depending on one’s life situation-time and place of residence, wealth and means to either deal with problems that arise from pollution. Similarly loss of forest cover, extinction of several plant and animal species is likely to affect different groups of people differently- they may result in disasters (both man made and natural) such as floods, earthquakes, illness and diseases...etc.

There is another side to this phenomenon namely; more often than not those who suffer are not responsible for the problem (they have no control over access). In principle everyone has a right to life and for this reason to air and water cannot be owned or rather no one should be denied air and water. It is no solution to bottle clean mineral water or create oxygen cubicles for these can be used by those few who can pay for it and the rest have no access to clean air and water and have to depend on medications to deal with their sufferings. Efforts are also being made to create environmentally friendly technology as well and also formulating disincentives for polluters and incentives for non-polluters. This does not solve the problem because these measures cannot be universalized and their benefit cannot be shared by all of human kind.

It is clear that the right to commons is not confined only to community rights over property to ensure livelihood for the poor. More than this it is concerned with protection and sustainable use of natural resources for the good of all. In other words, those who have control over access have to understand that the consequences of misuse can extend to those who have no access (these people may be in the vicinity of the resource or they may be placed at some distance from it).

If we accept the goal to be “the greatest good for the greatest number” as Bentham said, then it is clear that this could not be achieved in the free market economy as Adam Smith had suggested in *The Wealth of Nations* (1776) that an individual who “intends only his own gain,” is, as it were, “led by an invisible hand to promote...the public interest.” According to Hardin ‘Adam Smith did not assert that this was invariably true, and perhaps neither did any of his followers. But he contributed to a dominant tendency of thought that has ever since interfered with positive action based on rational analysis, namely, the tendency to assume that decisions reached individually will, in fact, be the best decisions for an entire society. If this assumption is correct it justifies the continuance of our present policy of *laissez faire* in reproduction. If it is correct we can assume that men will control their individual fecundity so as to produce the optimum population. If the assumption is not correct, we need to reexamine our individual freedoms to see which ones are defensible’. Hardin argues, “The evils of overpopulation cannot be overcome either with technological solutions or without relinquishing the privileges the industrial system provides. For instance, farming the seas or developing new strains of wheat will not solve the problem. Further, maximizing population does not maximize goods.”

Can the state then ensure ‘greatest good for the greatest number’? We have seen that the state has become the primary promoter of violence especially when it concerns natural resources. The State waged wars and has created conditions of terror: we are very familiar with displacements on account of construction of large reserves of nature, large dams, industries, military stations, roads, etc. In these and other similar cases the state perpetrates in the name of public interest, which refers to larger common good for the population within the territorial boundaries of the nation-state. These terms (public interest and common good) are defined as national security and increases industrial production.

Thus neither the state nor the market alone can ensure the greatest good for the greatest number. This is because they both hold monopolies over natural resources. They bring many benefits with a runaway engine that has no internal regulator to tell it when to stop depleting the commons that sustains it. They in fact compete over natural resources and they differ in the way they design options for the poor who in fact lose control over natural resources and thus are without any livelihood-the state and the market can offer only jobs which are very difficult to generate. With the idea of creating more livelihood opportunities for the poor especially in non-urban settings, the notion of community-based commons was instituted.

**Hardin concludes:**

“... The commons, if justifiable at all, is justified only under conditions of low-population density. As the human population has increased, the commons has had to be abandoned in one aspect after another... The freedom of breeding will ruin to all... The only way we can preserve and nurture other and more precious freedoms is by relinquishing the freedom to breed, and that very soon... Only so, can we put an end to this aspect of the tragedy of the commons.”<sup>7</sup>

**Box: 17.2: Subsets of problems on man**

There has developed in the contemporary natural sciences recognition that there is a subset of problems, such as population, atomic war, and environmental corruption, for which there are no technical solutions. There is also an increasing recognition among contemporary social scientists that there is a subset of problems, such as population, atomic war, environmental corruption, and the recovery of a livable urban environment, for which there are no current political solutions. These two subsets contain most of the critical problems that threaten the very existence of contemporary man.<sup>8</sup>

The relinquishing of the freedom to breed is meaningful only in a limited sense namely to exercise restraint on reproduction. It cannot be interpreted in an absolute sense because this would be tantamount to annihilation not only of the reproductive processes but also of the deeper sense of sociality that defines our sense of being in the world with a future. The recognition of the impossibility of a technical solution suggests that perhaps we should try to formulate the problem in a different way that is, with different terms of reference.

For instance, we should consider that the natural world, which is an expression of the work of nature, is meant to be shared because it is not the product of any one's labor. Further, that sharing is not possible without determining what one's share is and how it can be used for the production and reproduction of goods. For this purpose natural resources are defined as 'property' by law and custom<sup>9</sup>. In other words, what is it that can be shared?

'Greatest good for the greatest number' defines the modern industrial system and is in turn defined by it. This objective is unattainable because the industrial systems, structures and processes of production and reproduction need a large population of cheap labor to sustain itself. Furthermore, greatest good cannot be standardized. What is greatest for one may be the lowliest for the other. To attain this goal, thus, requires standardizing, which is again impossible because it will undermine the freedom of which it is an expression. It then becomes a fetish. There is no technical solution to fetishism.

## 17.5 Culture of the Commons

A sense of sharing and exchange is implicit-something that is shared is common. One way of sharing is by means of exchange and the other way is to be part of a similar circumstance. Different communities have defined this relation from the standpoint of their respective cultural world-views.

Shifting cultivation is sustainable because it defines relations to land and forest in terms of individual rights and collective responsibility. Briefly, shifting cultivation is a system of clearing patches of forest in succession for husbanding crops and then leaving the clearing fallow for forest regeneration. In the best example of the system any family will move from one clearing to another once in two years, over at least twenty four clearings. The internal logic of the system is that a clearing is husbanded for one year and fallow for forty-eight years. In these forty-eight years the clearing is re-forested. It is important to note that at any point in time different clearings are at different stages of regeneration. The family or the group of people (could be from different families) have a right to their produce depending on the amount of work they have done. When a clearing is left fallow then it becomes the commons from where firewood, roots and other forest produce can be taken by members of the group. This system allows for regeneration time. One reason why the clearing in fallow becomes the commons is because the recovery of the forest is a collective responsibility. In other words there is no right over land. There is only right to use the product of labor and along with it there is the obligation to restrict use of the commons to forest produce, and allow for regeneration.

The worldview underlying this system amongst the Koiras of Abujmarh in Bastar, Chattisgarh, is that the forest belongs to Talurmuttee (mother earth). The territorial boundary of a settlement is in fact the same as the area over which a particular Talurmuttee has jurisdiction. That is to say, without Talurmuttee's consent it is not possible to make a clearing for settlement. The Koiras observe that whenever this is not done there is no peace in the settlement-people fall ill, there is crop failure and animals from the forest such as the tiger and the cobra enter the settlement and disturb everyday life. Furthermore, a settled social life can be sustained by continuously fulfilling

one's obligation to Talurmuttee. This entails making offerings before beginning a new cultivation cycle and before eating the new harvest of crops and fruits like mango, tamarind. Any disturbance in the relation with Talurmuttee results in disturbance in social life.

The institution of the kaser gayata maintains this relation. There is person from a particular clan who is known as the kaser gayata. He is a caretaker on behalf of the settlement and Talurmuttee. He knows the sacred geography of the settlement-this is constituted of the sacred places within the boundaries of the settlement. These places circumscribe the place for work. Of these sacred places the most important is the sacred grove where the shrine of Talurmuttee is located. Here no activity can be undertaken.

Among the Warlis, "the farmer refuses to put poison bait for the rats which are devouring the crop. 'But the rat has the first right to share of the crop' the Warli farmer would tell ..." When a tiger or a leopard takes away a goat or a calf from the herd the elders would say: "whatever is edible will be eaten, the animals also go hungry."<sup>10</sup>

According to the labor theory of value commons, that part of the world we live in is where human labor has not been invested. Thus human beings cannot own it. This includes the realm of nature-both human and non-human. This realm has been created by 'the work of nature' which is independent of the labor or the work of man. The scale of time and space required for self-regulating processes in nature to workout extends over several thousands of years. These processes have creatively and continuously added to the abundance and diversity in nature. It constitutes nature's capacity for self-regeneration.

Over approximately four hundred years of history of the industrial revolution we have observed that the time and space for creative self-regulatory processes has shrunk. On account of which variations and plentitude are no longer infinite and inexhaustible. This has undermined not only the survival of species but also the basic conditions of life itself. At various levels of our existence we suffer the depletion of the capacity to recover and regenerate.

#### 17.02 Action and Reflection

Is the idea of 'commons' linked with freedoms of mind, body and spirit? Justify your answer.

To overcome this crisis the relation between man and nature needs to provide for the time and space required for nature to recover its creative capacity. This work of nature can be protected from the work of man by recognizing rights of nature to time and space and according design systems of use that do not violate these rights. Indeed human beings must take from nature only that much which will not only leave enough for others at a given point in time but will also give time and space for creative processes in nature to work out.

## 17.6 Conclusion

The self-regulatory capability of nature is a gift. It is the condition for the possibility of human existence. How could there be time and space for the work of nature when human relation to nature is mediated through groups?

The idea of commons is not limited to property but to other freedoms of the mind, the body and the spirit that are linked with it. The first thing we have in common is freedom without which there is neither the mind nor the spirit. These three are gifts of nature. We cannot be free until we cooperate with each other. This is because no one can live by himself in absolute freedom.



However with the cooperation of others he can. That is to say my freedom is linked to the freedom of the other. To be free one condition is independence. In this the highest form of freedom is the freedom from 'self'. Without this the other cannot be free. Property relation could be designed to ensure that there is no other in the process of using it for production. Such property relations constitute the commons for forest dwellers in India. The sacred groves are one instance. The commons is the source of regeneration and revitalizations. What makes sacred groves commons is the capacity for self-regeneration or self-reproduction. This capacity cannot be valued; it is valueless because its scale of time and space is far beyond the human scale. A realm of nature that cannot be measured is thus left untouched. It is inaccessible.

There are no technical solutions to this problem, that is to say no technology or technique can measure it. This makes it the commons. The commons are indispensable and for this reason people have a relationship with it. The struggles for the recovery of the commons are thus not confined to the restoration of community ownership. It must be based on an understanding that nature has as much right to expression, and this is our freedom. The cultural systems described are only illustrations of what exists on the ground in many parts of India. From them we learn alternative principle of organizing the economy. These may not be universalisable. However, for that reason they should be given space for self-expression and not be transformed into either private property or public property.

## 17.7 Further Reading

Prabhu, Pradip. 2003. *Nature, Culture and Diversity: The Indigenous Ways of Life*. In Smitu Kothari, Imtiaz Ahmad and Helmut Reifeld, eds., *The Value of Nature-Ecological Politics in India*. New Delhi: Rainbow Publishers.

Singh, Chahatrapati. 1986. *Common Property and Common Poverty- India's Forests, Forest Dwellers and the Law*. New Delhi: Oxford University Press.

### Endnotes

1 <http://www.friendsofthecommons.org/index.html> last accessed on 1 August 2005

2 N.S. Jodha Common property resources and dynamics of rural poverty in India's dry regions in *Unasylva* - No. 180 - Vol. 46 - 1995/1

3 M. Sarin Joint forest management in India: achievements and unaddressed challenges in *Unasylva* - No. 180 - Vol. 46 - 1995/1

4 "Declining food grain production and access to food remain the two biggest problems confronting the country. There must be something terribly wrong with the way we look at agriculture. With more than 70 percent of the population still engaged in agriculture and allied activities and an equal percentage of farmers tilling an average of 0.2 hectares of land and somehow surviving against all odds, time has come to set the balance right..." Devinder Sharma *Politics of Diversity and Food Security* in Smitu Kothari, Imtiaz Ahmad and Helmut Reifeld, 2003. ed *The Value of Nature-Ecological Politics in India*. New Delhi, Rainbow Publishers.

5 "The Tragedy of the Commons," Garrett Hardin, in *Science*, 162(1968):1243-1248.

6 The word "tragedy" following the philosopher Whitehead: "The essence of dramatic tragedy is not unhappiness. It resides in the solemnity of the remorseless working of things." He then goes on to say, "This inevitableness of destiny can only be illustrated in terms of human life by incidents which in fact involve unhappiness. For it is only by them that the futility of escape can be made evident in the drama."

7 "The Tragedy of the Commons," Garrett Hardin, in *Science*, 162(1968):1243-1248

8 Beryl Crowe (1969) *The tragedy of the common revisited* reprinted in Garrett Hardin and John Baden *Managing the Commons* W.H. Freeman, 1977

9 Property is classified into two generic types: private and the common. Within private property, only an individual and his family have legal rights to the benefits arising from its resources and capital. Within common property, access and utility are not limited to an individual and his family but are shared commonly by many people. Common property can be further classified as being of two distinct types: that which is the product of organised labour, and that, which is the product of nature's labour. In the former class feature public transport, entertainment places, service offices, hospitals etc. etc. These things are now generally called public property. In the latter class fall natural forests, ponds, streams, ores, minerals, fuels, sand, mud, limestone and other types of stones and salts in Chahatrapati Singh Common Property and common Poverty-India's Forests, Forest Dwellers and the Law. Oxford University Press Delhi.1986 p 1.

Pradip Prabhu. Nature, Culture and Diversity: The Indigenous Ways of Life in Smitu Kothari, Imtiaz Ahmad and Helmut Reifeld, 2003. ed The Value of Nature-Ecological Politics in India. New Delhi, Rainbow Publishers.. p 77