Exclusive Rights and Exclusion of Communities
in Common Property Resources

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Abstract

Common Property Resources are widely used by all the people of the village, it is regulated by government institutions and by the local communities. Each and everyone in the village have exclusive rights to access commons but some sections of the Indian society are not allowed to use because of the caste they belongs. The untouchability practice was still in many villages where Dalits are not treated unfair by the upper caste while they access to commons. The paper narrated retrospectively about the Dalit problem pertains with Common access and highlighted the contemporary issues.

Key word: Dalit, commons, Common Property Resources, Exclusion

Introduction

This paper is concerning over two most important issues, one is exclusive, that intend to find out the communities that have full rights over the common property resources (CPR). Second is to study on exclusion, where communities that were deny in access over commons. These two significant issues were taken on the grounds that through this study, the rights of a community will be found and in the meantime issues in access to CPR will be dealt with. Naturally, this world is meant to be shared among all, whereas we have divided up its resources in terms of ‘property’ on the basis of needs, customs and laws, as well as by mere fiat and force. In the state of nature, Locke believed that, Property is common in the sense that everyone has a right to draw subsistence from whatever nature offers. Property rights are always combinations of public and private. In private property, only an individual and his family have rights to use and get benefit. In CPR, access and utility are not constrained to an individual and his family but shared commonly by numerous individuals.

Before getting details of the CPR, it’s indeed to know about the word ‘commons’, it represent all resources used for human welfare, which are not necessarily owned by an individual or group of individual. CPR represents the resources used commonly by a community.
Other than the private holdings, most of the resources in the villages have been traditionally used as village common.

CPR is available for the common purpose, to use those commons; rules are framed by its stakeholder or by the institution. Some of the resources only can be used (e.g. buildings and roads) and in some resources monetary benefits could be achieved (e.g. fisheries and trees), usually, monetary benefits only get from the natural resources. It is commonly understood that everyone have right to use but in practical it is impossible, the common resources kept for common won’t be used by the other people. It seems to be universal but it is not, the people who are not part of the village are not allowed to use commons. Right to access in the common properties is a paradoxical. At this juncture, the exclusive rights and the exclusion of community must be studied to understand the status of community in access to commons.

**Context**

The CPR rights could be viewed into two aspect, a) natural resources and b) public properties. Many previous researches have conducted study in many issues related to CPR like efficient use of CPR and its significant (Gordon, 1954; Scoot, 1955; Hardin, 1968). Another school of thoughts has conducted regarding the Cooperative solution can overcome the collective action problem and help achieve efficiency in the use of such resources (Gibbs and Bromley, 1989; Ostrom, 1990) commons and importantly about the dependent of the poor on CPRs (Jodha, 1985, 1986, 1995). Further, Jodha observed that the rural poor are heavily dependent for CPRs for their livelihood.

Their contribution to theory building in the field of CPR is more worthy but mostly they only concentrated on natural resources, for example, Forest, Fisheries, and Water Bodies etc. However, Shyam Divan and Armin Rosencranz (2001) classified Property into two generic types: private and 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 common by many people.

Commons can be further classified into public properties like public transport, entertainment places, service offices, hospitals, etc. and natural resources like nature forests, ponds, lakes, rivers and streams, ores, minerals fuels, sand, mud, limestone, and other types of stones and salts. Moreover, previous researches have detailed connotations about various aspects of commons in the field of natural resources but less on the public resources, this propounded theoretical construction not enough to address the problem in access to CPR by its stakeholders particularly in India. Keeping various previous researches as a base, the following detailed classification of commons was made, they are produced below through
Although everyone has equal right to access these commons, Indian social set up prohibit some section of the people from the common access because of their caste they belongs. People were divided into various groups on the basis of caste, sub caste, class and sub class. The ideology of one group differs from the other one, even though they are from the same religion. In the villages, these groups live without mixing with the other people. Every group has own identity of customs, rituals and practices which won’t be coincide with the other one, with this way they are peculiar. In this situation, this paper aims to find the status of people access to the commons, importantly about communities that have exclusive right over the CPR and the communities that are excluded in the CPRs.

**Exclusive Rights and Exclusion in CPR**

Exclusion is one of the most complex issues nowadays that the country faced with. In India, Caste identity is the specific reasons for the exclusion by the upper caste. Raising this issue would unfold the conspiracy of the upper caste rules of this county to which they may be obliged to answer. It is necessary to toss a few lights of the Dr. BR. Ambedkar movement in access to the commons. He launched the satyagraha for asserting the

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**Classification of Common Property Resources**

- **Common Property Resources (Non-Monetary benefits)**
  1. Temple
  2. Government Water Tap & well
  3. Kalam (place for drying grains)
  4. Vandipettai (Car Shed)
  5. Buriyal Ground
  6. Village Road
  7. Saavadis (Common place where village people recreate)
  8. Common play Ground
  9. Hospitals, Anganwadis, Schools and other government buildings

- **Common Property Resources (Monetary benefits for stakeholder)**
  1. Fishery from Canal, River, Tank and other water reservoir
  2. Village Vested Assets: Trees and small forest for Lease
  3. Village Markets

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civil rights and access to water at Choudar Tank, Mahad (Kolaba) on 20 March 1927 along with many of his brethren and also launched his temple entry movement at Nasik in 1930 these two movements was important in the Dalit history to assemble the depressed for emancipation.

Prior to the discussion about the objectives of the paper, it’s indeed to know about the two important things: a) transformation of CPR and b) institutions governing CPR. Previously, the commons are managed by communities but thereafter transformation was took place. Particularly the forest, by implementing of the Indian Forest Act, 1865 by the British colonial governmental of forests vanished from India. As a result co-operation from the people also disappeared. Around 1921, the people of Garhwal and Kumaon hill regions of India were involved in mass violence against this state management of forests. This ultimately led to the violence against this state management of forests. This ultimately led to the recognition and formation of Van Panchayats in 1931 (with a regulation under the District Scheduled Act of 1874). Van Panchayats is the institution that manages the village forest, even at present it is functioning well with the involvement of villages of Himachal Pradesh, Uttarakhand, and Andhra Pradesh.

At present, CPRs are governed by many institutions, they are private ownership, state ownership, common or community ownership and open access. When it comes to the management of resources, they can either be owned by someone or maintained under certain custodianship. Second, there can be situations in which there are rights that exclude others from using the resources or no such rights. Accordingly, different regimes of managing the resources emerge conceptually. Among these, the most commonly and operationally relevant ones are: private property regime, public good regime, common property regime, state property regime, and open access regime.

There are some rules framed by the users or the governing institutions to use the resources. If that is governed by the state government, it frames the rule, Village Panchayat frame the rule if it vested with Panchayat. Mostly the basic rule is access to everyone therefore everyone in the setup has equal rights over it. Usually, common places like are only usable and natural resources can generate income those income will also be divided by and benefited by the group of people. Subsequently to the above concept there is another to be thought of that is rights to access to those commons only particular group of people only has the exclusive rights over those commons. The other than the group have only very few access over those resources.

To understand better about the institutions that manages CPRs, Tamil Nadu State was taken to exemplify the position. Concerning with the strategies, Lease and licensing of Fishery rights in water sources vested and regulated by Village Panchayats and Panchayat Union Councils. This rule has come in the force on the 23rd august 1999 and prohibits fishing without lease or license in water.
sources under the control of village Panchayat or Panchayat union council.

Another Government order has passed by the Department of Rural Development on November 2001, this has a greater importance in regulating Panchayat asset pertaining to lease. Lease of land and immovable property like masonry, brick, wood, mud or of any materials belonging to a Panchayat are permitted but with the consent of Inspector. Leasing of Government Poramboke vested with the Panchayat but it has power to lease only road sides and street margins and no such lease shall be valid. The commons like grass, trees, public market, minor forest, use of public places for erecting advertisement boards, unusable (eg: fallen trees) or unserviceable (worn-out machinery tools) vested with the Panchayat are power to lease.11

In addition, the Tamil Nadu rule of 2001, determined the claim of trees growing on public roads or other property vesting in or belonging to village Panchayats only it has ownership12. The Tamil Nadu Panchayat rules, 1999 related to public landing places, halting places and cart stand. These rules make Panchayat in generating income by fixing minimum rate for various car/vehicle Panchayat collect and for making this arrangement Panchayat must get permission from inspector13. Therefore, in Tamil Nadu, the Panchayat have strategy in managing commons but with the consent of various department and the independent in managing commons are very limited, like the vested commons only Panchayat Commons are used and benefited by the villagers through collective action. In all these above common properties every individual have exclusive rights to access and utilize.

Relationship is very important for common access, unless a mutual relationship to commons cannot be used effectively. In the absence of social relation there is no way the commons used collectively. Another important thing is, commons are not necessarily for all. It does not mean for all, it is limited to particular area, wider. It is exclusive to the people of village but people from the other community restrict Dalits from using commons. This is mainly because of untouchability practices by the caste Hindus.

There are a few studies tended to the issue of untouchability consistently. Sukadio Thorat(2009)14 makes it clear through his studies that in about one-fifth of the sample villages (21 per cent), the SCs were being denied access to CPRs like grazing lands and fishing ponds. The percentage of such villages was more than the national average in Andhra Pradesh (48 per cent), Tamil Nadu (40 per cent), Orissa (34 per cent) and Bihar (32per cent). In some cases, the CPRs in the SC-dominated settlement had been encroached on by the non-SCs STs. efforts to regain such lands or to access the village CPRs by the SCs led to severe punitive measures by the higher castes. Numerous instances of violence between SC and Non-SCs/Sts have been documented in this regard.

In addition, the problem of the SCs is further intensified by the fact that, a) they
lack access to CPRs; b) due to the lack of access they have to use their own fields for grazing cattle; c) since most of them comprise the landless and the near-landless, they have restricted or no access to village grazing land; d) as a result, their capacity to rear animals is considerable reduced. The consequences of exclusion and discrimination in the fishing ponds in villages are much the same. Exclusionary and discriminatory access of the SCs to fishing ponds also deprives them of sources of livelihood in the villages.

In Tamil Nadu, a system of community temple are existing, where temples are owned by a community, it is called “Pankali Kovil”. The temple was fully administered and financially supported by a community. In some area, two more community can also join together. But in these types of temple, lower caste peoples are not allowed in any part of the temple. Community makes the rule for management of the temple. In this type of temple the community has the exclusive rights over it and no other are allowed using. This is not the common, and the people from other community have no rights to ask for rights but the temple constructed on Poramboku land (Government Land) that is common and everyone in the village have right to worship. Recently in Salem District of Tamil Nadu the problem of temple access was occurred. Clashes happened between Vanniyars (Upper Caste) and Dalits over temple festival because Dalits tried to worship but it was objected by Vanniyars. The revenue divisional officer of Salem Taluk imposed prohibitory orders under Section 144 of the Code of Criminal Procedure on 21 villages in the district. That temple was in the Poramboku Land, this is nothing but the social exclusion of Dalit people from the temple i.e. common.

Another recent study was conducted in the six villages results indicates that there has been a substantial loss of common property compared with the pre-displacement situation. In the pre-displacement situation, every household has access to grazing land, but, in the relocated site, only 29.3 per cent of other caste, 37.6 per cent of Schedule Caste, and 39.4 per cent of Schedule Tribe, families have got access to grazing land. Summarily, the Untouchability is still prevailing and the Non-Governmental Organization battling for eradicating untouchability practices among the SC.

Conclusion
To conclude, once CPRs was generally used and managed by the communities but after British period, it was regulated. There was decline in the commons and eventually community managed commons are reduced. At present most of the commons are managed by the government institution and in those institutions Dalits are not equally included. Even though many of the theories propounded the collective action for the better benefits but the untouchability practices are the barrier for the failure of collective action in India. As much as possible the untouchability practices must be eradicated so Dalits will get benefited by
the common as the other people gets.

References:
1 Shyam Divan and Armin Rosencranz (2001), Environmental Law Policy in India: Cases, Materials and Statutes, 2nd Ed, Oxford University Press, New Delhi, P. 16
4 Ibid. Shyam Divan and Armin Rosencranz (2001) P. 16
5 Goldy M. George (2011), Caste Discrimination and Dalit Rights over Natural Resources (www.countercurrents.org/goldy310811.pdf) retrieved on 25.03.2015
7 Dr. Raj Kumar (2008), History of the Chamar Dynasty, Kalpas Publications, New Delhi, p 449
10 Tamil Nadu G.O. (Ms) No.169, Rural Development (P3) Department, Dated 16.08.1999
11 Tamil Nadu G.O. (Ms) No. 277, Rural Development (C-4) Department, Dated 22nd November, 2001
13 Tamil Nadu G.O.(Ms)No.184, Rural Development (C4), dated 30th August, 1999
14 Sudhadeo thorat (2009), Dalis in India: Search for a common destiny, Sage Publication, New Delhi. p 143