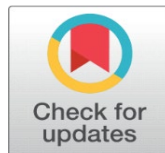


COLONIZING THE 'COMMONS' IN INDIA: IDEOLOGY, STATE AND INDIGENOUS PEOPLE (1860-1947)

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ABSTRACT

This paper delves into the historical intersection of 'Commons' and colonialism, examining how ideological paradigms during the colonial period shaped the regulation of locals' rights over these shared assets. Focusing on the experiences of pastoralists and forest dwellers, the study traverses through the evolution of colonial policies that sought to control and exploit the Commons for imperial gains. The analysis begins by unraveling the ideological frameworks underpinning colonization, exploring how European powers justified their control over the Commons through notions of progress, modernity, and civilization. The paper then traces the legal and administrative mechanisms implemented to regulate access and use of common resources, often at the expense of indigenous communities. Making use of a wide range of archival and oral history sources the paper attempts to assess the enduring impacts of these regulatory interventions on pastoralist and forest-dwelling communities in India generally and Kashmir in particular.

Keywords: Commons, Wastelands, Historical Changes, Ideology, Displacement, Indigenous Community, Kashmir



1. INTRODUCTION

Commons in history refers to shared resources, typically land or communal spaces, utilized by a community collectively for various purposes such as agriculture, grazing or gathering, often governed by customary rules rather than individual ownership. These resources included local forests, grazing lands, swidden fallows, and irrigation water. The nature of the resource may determine the relative efficiency of a collective provision of management inputs and a communal regime for decision making as compared to individual ownership.¹ Most typically, common property resources were subject to individual use but not to individual possession. Thus, common property resources could be viewed as involving property rights that were collective or property rights that were held in common by a social group.² Property rights determine access to resources (including natural resources such as forests and fields) and therefore condition how we look after them or fail to do so. Jeremy Waldron defines Property Rights as "the concept of a system of rules governing access to and control of material resources."³ Property rights establish relationships between people and things. They are also social and shape relationships between different groups of people. Property rights determine who

¹ RJ Oakerson, Analyzing the commons: A framework; The Neighborhood as commons: Reframing Neighborhood decline, Fordham Urban Law Journal, Vol. 44. Year, 2017, p. 3.

² Sanjeev Prakash, Social Institutions and Common Property Resources in the Mountains, Mountain Research and development, Vol. 18, No. 1, year, 1998. Pp. 1-3.

³ Jeremy Waldron, The Right to Private Property (Oxford: Clarendon Press, 1988), p. 31.

gets what and who is excluded in terms of access to resources. Understanding how property rights have changed is vital in helping us to understand not just environmental history but history and society in general. It has been suggested that the "history of property relations in a given society is thus, in a way, the history of the society itself".⁴ Commons can be seen as a particular category of property rights based on collective rather than state or private ownership, although there is some overlap between these three categories. Commons can be unowned and accessed by all or owned by a community and managed collectively.⁵ Moreover, Benkler argues that commons can be divided into different types according to two distinct parameters. The first parameter is whether they are open to everyone (for example, the atmosphere is an open commons). He also notes the existence of "limited-access common resources" where ownership is collective but limited to a group of villagers or members of an association.⁶ Common land and irrigation systems are examples of such managed commons. Benkler's second parameter is whether commons are regulated or unregulated—that is, are rules of use and access agreed to and enforced? Although Garrett Hardin suggests in his "Tragedy" paper that unregulated commons lead to environmental degradation via overexploitation,⁷ but Elinor Ostrom argues that communities can often find ways of regulating commons to solve this potential problem.⁸ The notion of usufruct is essential to the regulation of both common pool property and common-pool resources. The term, derived from Roman law, denotes the right to use and benefit from property that belongs to someone else, as long as the property is not damaged.⁹ The word usufruct is derived from the Latin phrase *usus et fructus*, which means "use and enjoyment of fruits." The concept of usufruct extends beyond the rights of ancient Roman tenants. It has an obvious connection with sustainability in establishing an appropriate use of property so that it can be enjoyed by future generations. Karl Marx, writing in *Das Kapital*, explains this principle:

From the standpoint of a higher economic form of society, private ownership of the globe by single individuals will appear quite absurd as private ownership of one man by another. Even a whole society, a nation, or even all simultaneously existing societies taken together, are not the owners of the globe. They are only its possessors, its usufructuaries, and like *boni patres familias*, they must hand it down to succeeding generations in an improved condition.¹⁰

In his book *Changes in the Land*, the environmental historian William Cronon shows how changing patterns of ownership transformed the ecology of New England between 1600 and 1800.¹¹ The concept of buying and selling land was alien to the indigenous people, but granting usufruct rights or exchanging such rights was possible. Similar attitudes to land were apparently universal in the Americans prior to colonialism. In Australia, which was dominated by indigenous commons, notions of private ownership of land were unknown to the population before the arrival of the British. The existence of common community ownership was also important in India and, despite considerable enclosure, remains so in the twenty-first century.¹²

Different schools of thought have also taken a keen interest in the commons. Liberalism is associated with individualism and private property rather than collectivism and communal property, but some liberal thinkers have embraced the commons.¹³ Elinor Ostrom's work was influenced, perhaps surprisingly, by liberal theorists rather than collectivist socialists.¹⁴ Many on the left also have advocated the commons. Karl Marx and his coauthor Friedrich Engels were fascinated by the "communistic" property rights of peasants and saw the enclosure and subsequent destruction of the commons as a key stage in the creation of a market based social system. Marx's interest in the commons is a thread that ran through his entire life's work. One of his earliest pieces of journalism looks at the fight by peasants to continue to gather fallen wood in German forest commons.¹⁵ Engels argues that Marx became a socialist partly because of this attack on the rights of the commoners to pick up branches for their fires as they had done for many centuries. In his most

⁴ H. Franz Schurmann, "Traditional Property Concepts in China," *Far Eastern Quarterly* 15(4) (1956), p. 507.

⁵ Derek Wall, *Commons in History*, p. 20.

⁶ Yochai Benkler, *The Wealth of Networks: How Social Production Transforms Markets and Freedom* (London: Yale University Press, 2006), p. 60–61.

⁷ Garrett Hardin, "The Tragedy of the Commons," in *Managing the Commons*, ed. John Baden and Garrett Hardin (San Francisco: Freeman, 1977), p. 20.

⁸ Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990), 30.

⁹ William Hunter, *A Systematic and Historical Exposition of Roman Law in the Order of a Code* (London: Sweet & Maxwell, 1803), p. 399.

¹⁰ Karl Marx, *Capital*, vol. 3 (New York: International, 1976), p. 776.

¹¹ William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England* (New York: Hill and Wang, 1983).

¹² Minoti Chakravarty-Kaul, *Common Lands and Customary Law: Institutional Change in North India over the Past Two Centuries* (Delhi: Oxford University Press, 1996).

¹³ Derek wall, *Commons in History*, p. 26.

¹⁴ Elinor Ostram, *Governing the Commons*. p. 30.

¹⁵ Peter Linebaugh, "Karl Marx, *the Theft of Wood and Working Class Composition: A Contribution to the Current Debate*," *Crime and Social Justice* (1976): 5–16.

important work, *Das Kapital*, Marx describes how commons were enclosed in England and Scotland. Marx also worked on his anthropological notes in the last years before he died, and his study of commons was a central part of this quest to understand both earlier societies and existing indigenous groups.¹⁶ Engels discusses the indigenous North American commons in his work and wrote a history of the commons in Germany.¹⁷ Both Marx and Engels were fascinated by the anthropologist Lewis Morgan's book *Ancient Society*, which was based partly on Morgan's research into the Haudenosaunee or Iroquois confederation. They also note that the Roman author Tacitus believed that the early German tribes held land and property as commons. Although Marxists have generally been less interested in the commons than Marx or Engels was, there are some important exceptions. The school of British Marxist historians that include E. P. Thompson and Christopher Hill¹⁸ examined commons in some detail. Edward Palmer Thompson, usually referred to as E. P. Thompson, is probably the most important historian to have studied the environmental effects of commons. A lifelong Marxist, he fought the Nazis in Italy during World War II as a member of a tank unit. He joined the Communist Party but left in disgust after the Soviet invasion of Hungary in 1956. He was interested in promoting a democratic, environmentally friendly, and open politics in opposition to Stalinism. Highly politically active, he became an important campaigner for nuclear disarmament during the 1980s. Before his death in 1993, he wrote a series of important books, including *The Making of the English Working Class* and works on the poet William Blake and the Victorian designer, artist, writer, socialist leader, and environmentalist William Morris. Thompson's essay "Custom, Law and Common Right" is a detailed account of the changing nature of commons in England. He argues that commons have evolved as a result of battles over access between owners and users, with local elites trying to restrict access to commons and resistance from commoners spanning many centuries.¹⁹ This paper is an attempt to look at the history of the commons in colonial India. It traces out the evolution of "Wastelands" in the property rights discourse in India during Colonial period, and how it shaped the discourse on common lands and community rights along with the evolution of India's land and forest policies. This paper also argues that Locke provided a definition of waste and wastelands that was formative in the evolution of British political economy, which had a direct influence on the land revenue and forest settlements of British India. Hence, there are discursive similarities between Locke's labour theory of property, India's colonial land and forest legislation, and more widespread practices of accumulation by dispossession that involve the appropriation of landscapes of already-inhabited or already-used territories. An examination of Locke's labour theory of property and the way it was utilized by early English political economists, such as Adam Smith and Thomas Malthus, shows that it became a major influence guiding the policies of land use in South Asia throughout much of the colonial period.

2. BRITISH COLONIALISM AND THE RATIONALE BEHIND COLONIZING THE COMMONS

Britain had a longstanding tradition of settled cultivation well before its emergence as a colonial power. The nation's state, subjects, and administrators were accustomed to a singular mode of cultivation, reflecting a significant leap towards civilization. This perspective persisted as the British transitioned into a colonial power. Consequently, when colonial administrators governed distant Crown colonies, they tended to label land beyond the scope of settled cultivation as 'idle wastes'. For colonial Britain, settled cultivation served as the benchmark for progressing from the 'state of nature' to the 'state of civilization. Spaces and populations outside the realm of settled cultivation were perceived as existing in the state of nature, requiring transformation to a cultured state through the adoption of settled cultivation practices. Within the colonial logic of administration, these areas and communities had neither their proprietary rights acknowledged nor their modes of production and land use deemed viable. Recognition of land rights only occurred when these lands were privately owned, and owners, either through personal labor or by employing others, converted these areas into settled cultivation. Labor played a pivotal role in the transformation of land from a natural state to one of civilization. In this context, John Locke and his labor theory of property significantly influenced various concepts, including English jurisprudence, colonization, and resource utilization. The notion of wasteland, as a colonial construct, emerged as an inherent consequence of this particular pattern of resource use and interpretation.²⁰

¹⁶ Ibid.,

¹⁷ Friedrich Engels, *The Mark* (New York: New York Labor News Co., 1928)

¹⁸ Thompson, *Customs in Common*, p. 170.

¹⁹ Christopher Hill, Winstanley: *"The Law of Freedom" and Other Writings* (Cambridge: Cambridge University Press, 1973).

²⁰ Judy Whitehead, 'John Locke and the Governance of India's Landscape: The Category of Wastelands in Colonial Revenue and Forest Legislation', in *EPW*, vol. XLV, no. 50, 11 December 2010, pp. 83–93.

According to John Locke, the Earth is initially the common property of all humankind, and any individual can only rightfully appropriate from this shared resource through legitimate means. Locke elaborates on this idea in his labor theory of property, asserting that labor is the sole rightful means by which an individual can claim ownership from the common stock for personal use. In a state of nature, where there is no governing authority, Locke argues that when an individual picks the fruit of a tree, their labor removes it from the common stock, where it was initially the common right of everyone. By doing so, the fruit comes under the exclusive ownership and consumption rights of the individual. In Locke's own words, "labour hath taken it out of the hands of nature, where it was common, and belonged equally to all her children, and hath thereby appropriated to himself."²¹

This principle extends beyond fruits to the cultivation of the land itself. In Locke's view, engaging in actions like tilling, planting, enhancing, or cultivating the soil is equivalent to the cultivator adding something to the Earth's materials. This "something" is the tiller's property, acquired through labor, and others have no claim to it.²² Thus, by advocating the application of individual labour to the appropriation of property, Locke, according to Henry Moulds, invalidates several other theories of property, e.g. the occupancy theory of the origin of property (it is not the one who sits on land, but the one who tills it, pastures it, mines it or in some way works it who acquires a property claim), the community ownership theory of property (getting the consent of fellow commoners before one can appropriate) as well as the utility theory of property (a man possesses his land merely because it is useful to him).²³

David Harvey, while dealing with the *future of the commons*, analyses the essence of Locke's labour theory of value. According to him, 'individual property is a natural right that arises when individuals create value by mixing their labor with the land: the fruits of their labor belong to them and to them alone'.²⁴ It operates through market operations where 'each individual gets back the value he or she has created by exchanging it against an equivalent value created by another. In effect, individuals, maintain, extend, and socialize their private property rights through value creation and supposedly free and fair market exchange'.²⁵ Here, the noteworthy part in Locke's theory is not the argument regarding the interplay of the free and fair market (which can always be challenged) but the corollary that emanates from the theory that 'individuals who fail to produce value have no claim to property'.²⁶ This was precisely the rationale behind the dispossession of the indigenous population groups from their land by the 'productive' colonist, according to the Lockean interpretation. The former group did not produce value and so these lands must be appropriated and people associated with such land should be dispossessed. So, not only were common lands termed as wastelands, but the people associated with such kinds of lands—those who preferred to keep land 'idle'—were also associated with negative categorization (since in terms of Lockean theory, such inhabitants could not claim individual property rights over this land). Therefore, as 'value' became the criterion of ordering land and the people associated with those lands, it was nothing but a truism on the part of the colonizers to view wastelands as idle lands, i.e. land untapped or not being tapped according to its potential. In other words, wastelands were not barren or infertile land as one would normally interpret but rather a social category where anything beyond the domain of private enclosures (as well as state-appropriated land) was categorized as the same. Thus, the logical architecture of this construct was—land which is yet to be enclosed, privatized and commoditized are the wastelands.

3. DUBBING COMMONS AS 'WASTELANDS' IN BRITISH INDIA AND PRINCELY STATES

Baden-Powell⁵ (1892) in the book 'The Land Systems of British India' describes:

' We shall have something to say about this here- after; at present, it will only be necessary to note that the British Government has everywhere conferred or recognized a private right in land, and in large areas of country' (Bengal, Oudh and the whole of Northern India for example) it has expressly declared the proprietary right of the landlords and the village owners; it is then impossible any longer to say broadly that the State takes a rent from the landholders

²¹ Ibid.,

²² Henry Moulds, 'Private Property in John Locke's State of Nature', in *American Journal of Economics and Sociology*, vol. 23, no. 2, April 1964, p. 180.

²³ Ibid.,

²⁴ Ibid.,

²⁵ David Harvey, 'The Future of the Commons', in *Radical History Review*, no. 109, Winter 2011, p. 104.

²⁶ Ibid.,

regarded as its tenants. There are no doubt cases where Government is the immediate owner of particular lands, as it is of all waste and unoccupied land in general; but we are speaking of cultivated land in villages and estates.²⁷

The State authorization of private property rights in land resulted in the separation of public land from private land and facilitated the takeover of public land by the colonial government. Land not under cultivation, termed 'wasteland', as it did not provide revenue, was declared to belong to the State and taken over by the revenue department. Such land included lands near villages that were traditionally a common resource available to the villagers for grazing and other purposes. Such lands were also sought to be brought under revenue settlement. Title to such land was offered for consideration to local landlords and the general public through an order of the Court of Directors of the East India Company in 1856, and rules for selling 'wastelands' were published in 1864.²⁸ The policy of enclosures and fences was extended to India, and large chunks of common land became the property of the Crown.

Though various rules had from time to time been issued in different districts, for the disposal of Government Wastelands, the state of the country and its general development had allowed these lands to be expanded for agriculture to improve the revenue from the land. The Mughals and the British shared a preference for agricultural production systems and introduced taxes and collected revenue, staking ownership over the land and resources. Lands, which were not cultivated, were considered primitive. To be 'civilized' meant being settled, owning lands and property which were under crops?²⁹ In 1861, under the Viceroyalty of Lord Canning, the subject of government wasteland was first seriously considered and the value of State Forests — to be made out of the best and most usefully situated wooded and grass lands — was not even then recognized, and the occupation of the waste by capitalists and settlers was alone discussed.³⁰ The government asserted its ownership by enacting laws such as the Waste Land (Claims) Act of 1863 and the enactment of the Forest Acts of 1865 and 1878 and the establishment of Imperial Forest Department in 1864. The main purpose of these legislations was to assert government's control over all uncultivated lands in the country. With the realization of the value timber, the wastelands with large chunks of forests were demarcated as forest lands leading to the promulgation of the 1865 Forest Policy. The Land Acquisition Act (1894) further enabled the state to acquire the best lands for the Crown. Even today, the Act remains so powerful that it gives the state power to take land away from ordinary citizens.³¹ By the second half of the 19th century, the British government had codified a series of laws to enable it to extract as much as it could from the acquisition, sale and transfer of lands and forests.³² (2008 Kannan Kasturi)

David Ludden (1999)⁹ in the book 'An Agrarian History of South Asia' maintains:

The areas for which the most continuous, accessible historical record is available from medieval to modern times are those that came under direct British administration, and their institutional geography divides roughly into two groups of territories. Zamindari and malguzari regions covered the northern river basins and the valleys and plains in the central mountains. Here, agrarian regions colonialism meant landlordism (in western Punjab, Ganga basin, Bengal, and Assam, and also in many western mountain regions, in Uttarakhand, the Indus valley, Sindh, and Bundelkhand). The expansion of cultivation and legal struggles produced various admixtures of private farmer and peasant holdings, which became ever more prominent in territories of (later) malguzari settlements in the Central Provinces (Chhattisgarh, Khandesh, and Berar). Regions of ryotwari and mahalwari (village) settlement covered the peninsula, including most of the coast and the interior (Madras and Bombay Presidencies), and also Myanmar, Ceylon, and eastern Punjab. These regions had some zamindars and Native States, but the British regime for the most part enforced individual farm property rights. Here, the land of individual owners 'ryots' was assessed individually and revenue was collected in return for a pattah that became a title to private property. In Punjab, Uttar Pradesh, and the Nagpur territories (across Chhattisgarh and much of the central mountains), the British applied a motley combination of zamindari and ryotwari modes, depending largely on local circumstances. Like all ryotwari and

²⁷ Baden-Powell, B.H. (1892) *The Land Systems of British India, Vol I*. Clarendon Press, Oxford [Reprinted in 1974 by Oriental Publishers, Delhi].

²⁸ M.S Vani, 'Customary Law and Modern Governance of Natural Resources in India -- Conflicts, Prospects for Accord and Strategies', Chiang Mai, Thailand, ICNEC Kathmandu, Vol 1, pp 409-446).

²⁹ Nitya Ghotge, *How grazing lands became 'waste' lands, Agenda (Enclosure of the Commons)*. year, 2011.

³⁰ Baden-Powell, B.H. *The Land Systems of British India, Vol.I*

³¹ Nitya Ghotge, *How grazing lands became 'waste' lands, Agenda (Enclosure of the Commons)*. year, 2011

³² M.S Vani, 'Customary Law and Modern Governance of Natural Resources in India -- Conflicts, Prospects for Accord and Strategies', Chiang Mai, Thailand, ICNEC Kathmandu, Vol 1, pp 409-446.

*mahalwari revenue settlements, these were temporary; that is, the amount due to the state would vary according to periodic assessments by state officials.*³³

As captured in the above paragraph, the proprietorship of wastelands in India at the time of British occupation varied in accordance with the historical and political conditions prevailing in each province. With the land under different proprietary regimes presented a complex situation of land settlement. The actual identification of wastelands and forestlands took place through the process of "settlement", a term applied to the method of assessing the land revenue demand. Extensive land survey and settlement operations were carried out throughout the country to streamline the land revenue collection system. These operations resulted in creation of detailed village records and often demarcation of cultivated lands and wastelands/forestlands on maps.³⁴

4. COLONIZATION OF COMMONS: PROCESS AND IMPACT

Beginning of colonial interest in forestry could be traced back, according to Guha and Gadgil, from the reservation of teak forests" in Malabar in 1806. They inform that with the depletion of Oak forests in England and Ireland, the teak forests of the Western Ghats were used for shipbuilding. As Indian teak was durable it was extensively used in Anglo-French war by Royal Navy and by merchants" ships in later period.³⁵ There was a reversal in colonial policy of extending cultivation at the expense of forests when colonial state faced with an acute shortage of usable timber at the time of railway expansion. The early years of railway expansion saw an unprecedented assault on the forests. Private contractors, both Indian and European, were chiefly responsible for this devastation. Lord Dalhousie had in 1862 called for establishing a department that could meet the requirement of railway companies.³⁶ The forest department was started because government realized that the forest wealth of India was not inexhaustible and would be eliminated soon if private enterprises were not contained in time. It was in this situation that the Indian Forest Department was formed in 1864 with the assistance of German foresters.³⁷ For the effective functioning of this department, legislations were enacted to curtail the rights of the indigenous communities. The early attempt at asserting state monopoly was brought through the Indian Forest Act of 1865, which later was replaced by a more comprehensive legislation namely, Indian Forest Act of 1878. The perceived ambiguity in Act of 1865 with respect to state proprietary rights over forests was resolved through the Act of 1878. The Indian Forest Act of 1878 established that customary use of forest by the villagers was based not on right, but on privilege and this privilege was at the mercy of local rulers and now British being the ruler were the repository of same privilege. The Act on one hand, allowed the usurpation of the forest by the state without any legal settlement of rights by 'reserving' the certain blocks of forest for sustained timber production for colonizer commercial interests by limiting the customary rights of users (village community) and on the other hand, through forest settlement operations specified the extent and limits of rights in particular blocks where villager's rights could be exercised.³⁸

This was done through the classification of forest in three types. Reserved Forests were established in areas already owned by the British Indian Government. They were intended to provide ecological stability and maintain the supplies of commercial timber which British strategic and developmental goals required especially in areas with large compact stands of commercially valuable species that could sustain long term exploitation. This manifested more prominently in the Princely State of Jammu and Kashmir. Here the exploitation of forest by local population was restrained.³⁹ The second category was of Protected Forests, which would become reserved forests in future and hence were demarcated and covered with working plans. In these, access was reserved to commercially valuable trees and restrictions were imposed

³³ David Ludden, *THE NEW CAMBRIDGE HISTORY OF INDIA - IV. 4, An Agrarian History of South Asia*, University of Pennsylvania, 1999.

³⁴ Neeladri Bhattacharya, *the great agrarian conquest, the colonial reshaping of a rural world*. (Permanent black, India, 2019.) pp. 70-80.

³⁵ Ramchandra Guha and Madhav Gadgil, *State Forestry and Social Conflict in British India, Past & Present*, No. 123, Year, (1989). P. 144-45.

³⁶ Ibid.,

³⁷ Ramchandra Guha, *Forestry in British and Post-British India: A Historical Analysis*", *Economic and Political Weekly*, vol.18, No 44(Oct. 29, 1983), pp. 1882-96.

³⁸ Ibid.

³⁹ *Report of the Forest Inquiry Committee of 1895*, JKA, Srinagar.

on activities like grazing. In third category of Village Forests, the full governing power had been assigned to village authorities by the state government. To maintain the reservation of above forests state appointed Forest Settlement Officer, who would identify the claims of local people and could grant them wholly or partially, or could terminate them through compensation in the best interest of the colonizers.⁴⁰ As traditional rights of villagers progressively curtailed it led to the outbreak of rural unrest and its detrimental impact on village community and its potential threat for government was acknowledged in reports sent by officials. So, government modified its policies through the Forest Policy Resolution Act, 1894 to accommodate the demands of locals on forest lands i.e. including clearing land for agricultural extension. Forests under government management were divided into four categories: a) Protective Forests, reserved to maintain environmental stability; b) National Forests, reserved as areas providing a sustained supply of commercial timber; c) Minor Forests, including village forests and areas yielding only inferior timber, fuel wood and fodder; d) Pasture lands. Despite all show of concern for locals the restrictions on popular access to forest resources were maintained as body politic took precedence when larger interests were served by limiting individual use and access.⁴¹ Next revision came through the Indian Forest Act of 1927, which further extended the government control. Basic forest classification of 1878 Act remained and as per new provisions government was allowed to assume management of private forest and extend protective control over forests not owned by the government. It further restricted the rights of locals in forests. In 1935 with the passing of Government of India Act, 1935, forestry administration came under the authority and control of provincial legislatures and role of central government was restricted to research and education but it still continued to exert strong influence in practice.⁴² The last legislation in context of Indian forest policy under British colonial rule came in 1944 in response to increasing public outcry and its capitalization by Gandhi during Civil Disobedience Movement. Based on the guidelines of 1894 Act the status quo was maintained by asserting that as per Act of 1944 preservation of physical and climatic conditions were top priority, and a minimum amount of forest should be maintained to insure the country's wellbeing. If these conditions were fulfilled, then agriculture should take precedence over forestry.⁴³

5. IMPACT

Foresters and villagers had very different ideas of what a good forest should look like. Villagers wanted forests with a mixture of species to satisfy different needs – fuel, fodder, leaves.⁴⁴ The forest department on the other hand wanted trees which were suitable for building ships or railways. They needed trees that could provide hard wood, and were tall and straight. So, particular species like teak and sal were promoted and others were cut. In forest areas, people use forest products – roots, leaves, fruits, and tubers – for many things. Fruits and tubers are nutritious to eat, especially during the monsoons before the harvest has come in. Herbs are used for medicine, wood for agricultural implements like yokes and ploughs; bamboo makes excellent fences and is also used to make baskets and umbrellas.⁴⁵ A dried scooped-out gourd can be used as a portable water bottle. Almost everything is available in the forest – leaves can be stitched together to make disposable plates and cups, the siadi (*Bauhinia vahlii*) creeper can be used to make ropes, and the thorny bark of the semur (silk-cotton) tree is used to grate vegetables. Oil for cooking and to light lamps can be pressed from the fruit of the mahua tree. The Forest Act meant severe hardship for villagers across the country. After the Act, all their everyday practices – cutting wood for their houses, grazing their cattle, collecting fruits and roots, hunting and fishing – became illegal.⁴⁶ People were now forced to steal wood from the forests, and if they were caught, they were at the mercy of the forest guards who would take bribes from them. Women who collected fuel wood were especially worried. It was also common for police constables and forest guards to harass people by demanding free food from them.⁴⁷

⁴⁰ Richard Haeuber, *Indian Forestry Policy in Two Eras: Continuity or Change?*, *Environmental History Review*, Vol. 17(1): Year, 1993.pp. 53-54.

⁴¹ *Ibid.* p. 56.

⁴² *Ibid.*,

⁴³ *Ibid.*,

⁴⁴ Ramchandra Guha, *Forestry in British and Post-British India: A Historical Analysis*, *Economic and Political Weekly*, vol.18, No 44(Oct. 29, 1983), pp. 1882-96.

⁴⁵ *Ibid.*,

⁴⁶ *Ibid.*,

⁴⁷ *Ibid.*,

The new forest laws changed the lives of forest dwellers in yet another way. Before the forest laws, many people who lived in or near forests had survived by hunting deer, partridges and a variety of small animals. This customary practice was prohibited by the forest laws. Those who were caught hunting were now punished for poaching.⁴⁸ While the forest laws deprived people of their customary rights to hunt, hunting of big game became a sport.⁴⁹ In India, hunting of tigers and other animals had been part of the culture of the court and nobility for centuries. Many Mughal paintings show princes and emperors enjoying a hunt but, under colonial rule the scale of hunting increased to such an extent that various species became almost extinct. The British saw large animals as signs of a wild, primitive and savage society. They believed that by killing dangerous animals the British would civilize India. They gave rewards for the killing of tigers, wolves and other large animals on the grounds that they posed a threat to cultivators.⁵⁰

The life of pastoralists also changed dramatically under colonial rule. Their grazing grounds shrank, their movements were regulated, and the revenue they had to pay increased.⁵¹ Their agricultural stock declined and their trades and crafts were adversely affected. First, the colonial state wanted to transform all grazing lands into cultivated farms. Land revenue was one of the main sources of its finance. By expanding cultivation, it could increase its revenue collection. It could at the same time produce more jute, cotton, wheat and other agricultural produce that were required in England. To colonial officials all uncultivated land appeared to be unproductive: it produced neither revenue nor agricultural produce.⁵² It was seen as 'waste land' that needed to be brought under cultivation. From the mid-nineteenth century, Waste Land Rules were enacted in various parts of the country.⁵³ By these Rules uncultivated lands were taken over and given to select individuals. These individuals were granted various concessions and encouraged to settle these lands. Some of them were made headmen of villages in the newly cleared areas. In most areas, the lands taken over were actually grazing tracts used regularly by pastoralists.⁵⁴ So expansion of cultivation inevitably meant the decline of pastures and a problem for pastoralists.

Second, by the mid-nineteenth century, various Forest Acts were also being enacted in the different provinces. Through these Acts some forests which produced commercially valuable timber like deodar or sal were declared 'Reserved.'⁵⁵ No pastoralist was allowed access to these forests. Other forests were classified as 'Protected'. In these, some customary grazing rights of pastoralists were granted but their movements were severely restricted. The colonial officials believed that grazing destroyed the saplings and young shoots of trees that germinated on the forest floor. The herds trampled over the saplings and munched away the shoots. This prevented new trees from growing.⁵⁶

These Forest Acts changed the lives of pastoralists. They were now prevented from entering many forests that had earlier provided valuable forage for their cattle. Even in the areas they were allowed entry, their movements were regulated. They needed a permit for entry.⁵⁷ The timing of their entry and departure was specified, and the number of days they could spend in the forest was limited. Pastoralists could no longer remain in an area even if forage was available, the grass was succulent and the undergrowth in the forest was ample.⁵⁸ They had to move because the Forest Department permits that had been issued to them now ruled their lives. The permit specified the periods in which they could be legally within a forest.⁵⁹ If they overstayed they were liable to fines.⁶⁰ The extent of the area available for grazing has gone down tremendously with the extension of area under cultivation because of increasing population, extension of irrigation facilities, acquiring the pastures for Government purposes, for example, defense, industries and agricultural

⁴⁸ Sramek, Face him like a Briton: Tiger hunting, imperialism and British masculinity in colonial India. *Victorian Studies* 48 (4): 2006, pp. 659-680.

⁴⁹ Shafqat Hussain, Sports-hunting, Fairness and Colonial Identity: Collaboration and Subversion in the Northwestern Frontier Region of the British Indian Empire, conservation and society, 2010, Vol 8. P. 112-126.

⁵⁰ D. Beaver, The great deer massacre: Animals, honor, and communication in early modern England. *Journal of British Studies* 38 (April): 187-216.

⁵¹ Neeladri Bhattacharya, *the great agrarian conquest, the colonial reshaping of a rural world*. pp. 339-60.

⁵² Gorky Chakraborty, Wastelands as a colonial Construct, pp. 487-490.

⁵³ Wasteland Rules, JKA, Jammu, year, 1917.

⁵⁴ C.S Old records file no. 84-B-6 of 1901. JKA, Jammu.

⁵⁵ Revenue Department Records, 47/SW/1432-1904, JKA, Jammu.

⁵⁶ Ibid.,

⁵⁷ C. S. Old Records, File No. 242 of 1931. JKA, Jammu.

⁵⁸ Report of the Forest Inquiry Committee, JKA, Srinagar.

⁵⁹ Old English Records, File No. 242 of 1931. JKA, Jammu.

⁶⁰ *Report of the Forest Inquiry Committee of 1895*, JKA, Srinagar.

experimental farms. [Now] breeders find it difficult to raise large herds. Thus, their earnings have gone down. The quality of their livestock has deteriorated; dietary standards have fallen and indebtedness has increased.

Third, British officials were suspicious of nomadic people. They distrusted mobile craftsmen and traders who hawked their goods in villages, and pastoralists who changed their places of residence every season, moving in search of good pastures for their herds. The colonial government wanted to rule over a settled population. They wanted the rural people to live in villages, in fixed places with fixed rights on particular fields. Such a population was easy to identify and control. Those who were settled were seen as peaceable and law abiding; those who were nomadic were considered to be criminal. In 1871, the colonial government in India passed the Criminal Tribes Act.⁶¹ By this Act many communities of craftsmen, traders and pastoralists were classified as Criminal Tribes. They were stated to be criminal by nature and birth. Once this Act came into force, these communities were expected to live only in notified village settlements. They were not allowed to move out without a permit. The village police kept a continuous watch on them.⁶²

Fourth, to expand its revenue income, the colonial government looked for every possible source of taxation. So, tax was imposed on land, on canal water, on salt, on trade goods, and even on animals. Pastoralists had to pay tax on every animal they grazed on the pastures.⁶³ In most pastoral tracts of India, grazing tax was introduced in the mid-nineteenth century. The tax per head of cattle went up rapidly and the system of collection was made increasingly efficient. In the decades between the 1850s and 1880s the right to collect the tax was auctioned out to contractors. These contractors tried to extract as high a tax as they could to recover the money they had paid to the state and earn as much profit as they could within the year. By the 1880s the government began collecting taxes directly from the pastoralists. Each of them was given a pass.⁶⁴ To enter a grazing tract, a cattle herder had to show the pass and pay the tax. The number of cattle heads he had and the amount of tax he paid was entered on the pass.⁶⁵

These measures led to a serious shortage of pastures. When grazing, lands were taken over and turned into cultivated fields, the available area of pastureland declined. Similarly, the reservation of forests meant that shepherds and cattle herders could no longer freely pasture their cattle in the forests. As pasturelands disappeared under the plough, the existing animal stock had to feed on whatever grazing land remained. This led to continuous intensive grazing of these pastures. Usually nomadic pastoralists grazed their animals in one area and moved to another area. These pastoral movements allowed time for the natural restoration of vegetation growth. When restrictions were imposed on pastoral movements, grazing lands came to be continuously used and the quality of pastures declined. This in turn created a further shortage of forage for animals and the deterioration of animal stock. Underfed cattle died in large numbers during scarcities and famines.

6. CONCLUSION

The transformation of wastelands has unquestionably benefited the colonial state by boosting agricultural production and generating revenue from cultivating food and cash crops. In this process, the state took control of community spaces, enhancing them for individual planters and cultivators in the guise of progress. This was achieved by converting these areas from a natural state to a civilized one in the name of adding value. The ideological justifications underpinning colonial actions were deeply rooted in imperial ambitions, frequently casting indigenous practices as regressive or inefficient. This lens of perception served as a rationale for the imposition of regulatory frameworks that systematically introduced centralized control mechanisms. The consequences of such interventions have left an indelible mark on the communities reliant on common lands for sustenance and cultural cohesion. For pastoralists, forest dwellers, and shepherds, the repercussions have been both pervasive and intricate. The specter of displacement loomed large, severed ancestral ties to the land and engendered a profound loss of identity.

⁶¹ Dr. Aditi Didwal, An overview of Criminal Tribes in India with Special Reference to Criminal Tribes Act, 1871, Vol. 12, Year, 2021. PP. 2348-2359.

⁶² Ibid.,

⁶³ Revenue Department Records, File No, G.R. 84, year 1924. JKA, Srinagar.

⁶⁴ Ibid.,

⁶⁵ Old English Records, File No. 242 of 1931. JKA, Jammu.