

# Chapter 16

## Changing Land Relations and Poverty in the Eastern Himalayas

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### 16.1 Introduction

North-East India consists of seven states: Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura with an area of about 255 thousand sq.km and a population of 31.4 million (1991) accounting for eight per cent of the area and four per cent of the population of the country. It has a long international border, bound by Tibet (China) to the north, Myanmar to the east, Bangladesh to the South, and Bhutan to the west. It is connected to the rest of the country by a narrow corridor about 30 km in width in north Bengal.

About 78% of the land area is hilly and mountainous and forms part of the South Asian rim, the land with the most dense precipitation and dense forests. Forests cover about 81% and the net cultivated area only 6.7% of the geographical area (Maithani 1998). The mountain region of north-east India (Eastern Himalayas) is characterised by special features that distinguish it from the rest of the Himalayas. The traditional land management system has provided sustenance and stability to the indigenous people for over the millennia.

The region is a rich source of biodiversity, ethnic variety, indigenous knowledge, and traditional institutions. It is home to over 200 tribal communities which, until recently, lived in isolated villages subsisting on shifting cultivation supplemented by

hunting, fishing, and food gathering. These villages existed as autonomous republics enjoying more or less sovereign powers over their territory. Within the village, the resources were owned collectively for the most part. All members of the group exercised their right to practise shifting cultivation (jhum) on the village land and engage in fishing, hunting, and other activities to earn their livelihoods within the boundaries of the village. These rights were socially sanctioned and behind them lay the force of custom (Mishra 1986). There were naturally no landlords and no landless labourers. The area needed for shifting cultivation was extensive and the shifting cultivation cycle lasted for 15-20 years and longer. Heterogeneity of ethnic stock, social organisation, languages, religions, and economic pursuits gave rise to a mosaic of lifestyles as a striking feature of this region.

### **Land system**

A natural corollary of the shifting cultivation regime has been community or clan ownership of land and forests. A variety of land management traditions exists, but the common feature that permeates all the groups in the whole region is that the land is tenure free. The unique feature of the land system is the absence of any legal instrument defining the ownership or rights to land. The land rights are guided by norms based on the customary laws which obviously vary from tribe to tribe according to their traditions and customs. In the absence of the codification of customary rights and laws, the prevailing land-tenure arrangements are very complex and at times unclear.

There are broadly two types of arrangement. In some tribes the land is collectively owned by the village community and plots are distributed among the households for cultivation by the Chiefs or the Village Councils. In this system, usually a new block of forest land is cleared by people collectively and then plots are distributed among different families and clan groups for private cultivation. In some tribes, particularly among the Mizo, the Village Councils allocate the plots by drawing lots to avoid subjectivity in distribution (Mahajan 1991). After some time, when the same block is selected for cultivation again, it is not guaranteed that a family will get back the same piece of land it had cultivated in the previous cycle. This system of land management does not permit private rights or permanent ownership and possession of individual pieces of agricultural land by the members.

The other category consists of groups and the village territory is permanently divided among clans or further among lineages, leaving aside some land as common village property. In such cases, clans or families confine their shifting cultivation to within their own portions of the village territory. In both cases, if a member leaves the village he/she will lose the right to the piece of land cultivated in that village.

There is no written land law, apart from the Shifting Cultivation Regulations enacted by different tribal councils after India became independent in 1947. These regulations recognised the village as the administrative entity and the village community as the owner of village land. Prior to independence, access to land and land-based resources

in these hills was guided by the Chin Hill Regulations of 1896. These Regulations also recognised the rights of the village community as well as those of individuals over their respective territories (Roy Burman 1989). This system guaranteed access to land to all residents for the purpose of earning a living and protected the tribal hill communities against any kind of land alienation. In appreciation of this healthy tradition, the tribal communities of the eastern Himalayas have been provided with statutory safeguards under the Sixth Schedule of the Indian Constitution to protect their rights to land and to preserve their cultural and customary practices of self management. The main characteristic features of the prevailing land system in the eastern Himalayas are as follow.

1. The rights to ownership of land rest with the people and villages. The state does not exercise sovereign rights over the land. Accordingly, land revenue is not collected.
2. Survey and settlement operations have not been carried out except in small areas in and around some towns. The British, in keeping with their policy of least interference, did not survey the land. After Independence also, because of a variety of reasons but mainly because of the reluctance of the people and indifference of the governments of the north-eastern hill states, survey and settlement could not be carried out.
3. The operation of the Bengal Eastern Frontier Regulations 1874, popularly known as the Inner Line Regulations, and Sixth Schedule to the Constitution of India restrict the acquisition of any interests in land and its produce by any person not native to the areas.

## **16.2 Evolution of the System**

Nearly every village was originally settled by the members of one clan who cleared the forests and endured all the hardships of pioneers. Customarily, such pioneers are treated as ultimate owners of the village land, the title of which is passed to their descendents. All subsequent settlers, especially those belonging to other clans are tenants of some type, although in practice they are treated and act as full and equal members of the village community. When a member of another clan is granted permission by the chief or the village council to settle in a village, that piece of land continues to be the property of the village and the family enjoys only the usufruct rights (Elwin 1964). In the case of members of the founder clans(s), a sort of ownership right on the piece of land so allotted is claimed by the settlers who enjoy heritable and transferable rights to the land, although transfer of land is subject to strict community control.

This way, each family acquires users' rights over the plot(s) of land it clears for cultivation. In course of time, each family may possess a number of such plots in different parts of the village within which they rotate while practising shifting cultivation. The custom allows individual families to develop their plots into permanent holdings by making terraces and raising fences or plantations. Nothing is

to be paid by the families for converting their jhum plots into permanent holdings. The investment made by the family, mainly in the form of labour, is treated as the rent or price paid by the family for using the land as one's private property. Therefore, in actual practice, the ownership of land can be placed into three categories, viz., (i) common village land, (ii) land owned by the clans, and (iii) land owned by individual families (Elwin 1964).

It is interesting to note that, although the land is communally owned, the individual households are not prevented from taking up permanent cultivation of the land allotted for shifting cultivation. Very often clan and lineage holdings are confused with private ownership of land. The clan and lineage lands are held almost permanently by individual families who enjoy heritable and transferable rights subject to the usual restrictions common to all tribal communities that land cannot be transferred to a person who does not belong to the tribe and to the village (Das 1989).

In determining the obligations of persons, it is pertinent to examine the issue of property. Property rights are defined in the dictionary as the right to possess, enjoy, and dispose of a thing. It is the act of 'appropriating' or 'making proper to oneself' some part of the resources of the universe. In the context of the eastern Himalayan region, the landed property of the members of a clan or tribe had a dual meaning. While devolution of property was from the community to the individual, the devolution was subject to the control of the community. It could then be said that it belonged simultaneously to the community and the individual, either alone or in a family group (Hidayatullah 1983). In fact the land is often regarded as being owned by the clan, but a family could, by clearing a portion of land, create a kind of secondary or subordinate ownership. When such families became extinct, the land reverted to the clan (Hidayatullah 1983).

### **16.3 Individualisation of Common Property**

As stated in the previous section, custom allows individual families to convert their shifting cultivation jhum plots to permanently held property by developing the land into terraced fields or orchards and/or by raising crops on the land continuously for more than three years. This was not necessary when the population was low and land was abundant. But with the increase in population, an awareness of the ownership of land developed because of the scarcity of well-situated lands for cultivation. The last one hundred years have been marked by rapid changes in the otherwise stable community resource management system that had lasted over the centuries. With the decline of traditional institutions caused by the impact of outside exposure and extension of modern state machinery to the hill areas, the tendency to acquire and accumulate private property increased, taking advantage of the loopholes in the custom.

The extension of regular administration in the late nineteenth century, followed by extension of roads, communication, and education facilities, especially after

Independence, led to the opening up of mountain areas to outside influences, bringing about certain changes in the techno-institutional milieu associated with shifting cultivation (Maithani 1998). Improvements in living conditions, decline in the death rate, and increase in life expectancy together contributed to the a population explosion; a process that continues in the eastern Himalayas. The population of the region increased from less than a million during British occupation in 1926 to over 31 million in 1991.

The beginning of private land acquisition actually started with the annexation of the hills by the British in the 19<sup>th</sup> century. Although the British overtly adopted the policy of least interference in the traditional practices of the hill tribes, several measures they introduced in relation to the land were actually aimed at decreasing communal control and consolidating colonial authority over the hill tribes. The system of chieftainship, for example, was tampered with by conferring upon the chiefs private ownership rights over land under their jurisdiction. Traditionally, a chief functioned as a guardian and custodian of tribal land and forests and not as the landlord. The chiefs did enjoy certain privileges such as free labour and grain dues, but they were never recognised as the owners of village land (Roy Burman 1989). Land remained the common property of the village or the clans. The real motive of the colonial government was political (Mishra 1986). The result was the imposition of land rent and privatisation of the village commons by the chiefs whenever and wherever the opportunity arose. This process transformed the democratic chiefs into hereditary ones in some communities, resulting in concentration of land in a few hands at the cost of the means of survival of a large number of shifting cultivators.

Initially, limited participation of the hill tribals in commercial activities like plantation restricted their fusion with the main current of capitalist development. Growth of trade and increasing differentiation among peasant farmers, which were the crucial factors in such a transition, did not emerge to a significant degree because the strong ties of kinship and communal ownership of land did not permit their property instincts to gain the upper hand over their collective instincts (Karna 1989). But, in course of time, several factors combined to break the traditions and foster a growing disregard for time-tested customary laws, giving way to the introduction of commodity relations in the village community.

Increasing exposure to the outside world, together with the implementation of several policies and programmes for tribal development, led to destabilisation of the traditional resource management system. The main development effort in the post-independence period was focused on control of shifting cultivation in the region. The thrust of the policy of control over shifting cultivation was to induce hill tribals to change over to settled agriculture, horticulture, and plantations, with far-reaching consequences for property-land relationships. Wide-ranging incentives, including a 100% subsidy, were granted to convert jhum (shifting cultivation) fields into terraces. The response to this programme from the elite was quite impressive, resulting in the transfer of jhum fields into the private property of individual families (Mishra 1986).

Consequently, the land available for shifting cultivation, real common village land, decreased substantially, while the number of families engaged in shifting cultivation increased considerably. This naturally led to shortening of the jhum cycle, decline in productivity, and degradation of land.

#### **16.4 Increasing Inequality and Poverty**

Studies on changing property relationships in land ownership on account of a change in land use and cultivation technology have proved conclusively that emergence of mechanisms for the de facto privatisation of land have tended to create inequality in the context of landholdings (Datta 1988; Saikia 1989; Talukdhar 1995). The new institution of property has given rise to a thriving land market in many parts of the region where the secondary and tertiary sectors have expanded rapidly during the last decade. The high incomes of well-connected and highly placed persons enabled them to amass savings and invest them in purchase of land, thus accentuating inequality (Mahajan 1987; Datta 1989; Roy and Kuri 1997).

In the state of Arunachal Pradesh, for example, the area available for shifting cultivation declined from 461,000 ha in 1970-71 to 241,100 ha in 1990-91, halving in just 20 years. At the same time, holdings under permanent agriculture, which constituted only 25.2% of the net area sown or 34108 ha in 1980-81, rose to 92,616 ha or 55.9% of the net sown area by 1990-91. On the other hand, the net sown area under shifting cultivation declined from 101,330 ha in 1980-81 to 73,000 ha or 44.1% in 1990-91 (Das 1989; Govt. of Arunachal Pradesh 1991). Similar changes have been observed in other states, especially in Meghalaya, Mizoram, and Nagaland. Most tribes have developed arrangements to provide permanent and heritable entitlements in the use of specific areas of land for terraced cultivation and perennial cropping. In some cases, this is formalised through the issue of a 'patta' (title) by the chief or village council. As a result, the attainment of considerable private rights over the common land has become an established practice. However, these transfers are mainly without any legal basis and depend on community recognition in a customary framework. Tenancy arrangements are also becoming more common, although at present they are confined to certain areas in Assam, Meghalaya, Nagaland, Manipur, and Mizoram. In the case of Meghalaya, a study of the South Khasi hills observed that, in instances in which the people of the area earlier had land of their own, during the last decade or so nearly 90% of the farmers had lost their land. In Kokogorah village, out of 48 families only eight were left with land while others had become share croppers and/or agricultural labourers. In Bordhup village all 35 farmers lost their land and became share croppers. It was the same story in six other villages (Dutta 1976). Another study of a hill district in Assam found that, in several villages, non-tribal immigrants had acquired complete control over the tribal land. Although technically land belongs to the tribals, the system locally known as 'Paikas' through which tribals give their land on hire, usually to non-tribals for payment in cash or kind, is key to this process. Once tribal people enter this trap, they hardly ever come out of it (Bordoloi 1986).

The emergence of private rights over land is creating a situation in which the better educated and articulate members of the community are able to manipulate customary arrangements to their benefit to take land into private ownership, and this has contributed to the concentration of land in the hands of an affluent few, disturbing the former egalitarian character of tribal society. Consequently, there is a real possibility of certain members of the communities obtaining rights to unduly large amounts of land. Tenancy, in particular, represents a pernicious trend that has allowed non-tribal cultivators access to tribal hill lands; an access otherwise forbidden by law (Das 1989).

It is now clear that the agrarian economy of the mountain tribes of north-east India has to a great extent come under the influence of the market mechanism. The group of tribal landlords and businessmen emerging in the wake of market linkages is either investing in ostentatious consumption or in the real estate and construction industry. Given this market exigency, it is no surprise that the voluntary shift from shifting to settled cultivation has acquired momentum of late, despite the difficulties encountered by government agencies in motivating the people to give up shifting cultivation until a few years' back (Maithani 1998). Besides the rush to use valley bottoms for wet rice cultivation, the cultivation of hill slopes with cash crops is becoming popular among the hill tribes. Because of its commercial value, this transformation has also brought tribal land into the market place (Karna 1989).

In the Khasi hills, the transition from community land ('re-raid') to private land ('re-kynti') has exhibited numerous distortions in customary practices. The chiefs and headmen, who were formerly the patrons and custodians of community land, have started issuing 'patta' (leases) to Khasis and non-Khasis alike by charging a fixed rent, 'salami' (Rymbai 1975). Even the clan leaders themselves are issuing 'patta' to fellow tribals on the resale or transfer of 're-kynti' (clan land) or 're-raid' (village land) which is a clear distortion of the custom. In Nagaland, an individual may acquire land either by inheritance or by purchase or by developing terraces on a plot of land, in which case the plot becomes the private property of the individual in recognition of the hard work expended. In Mizoram, the State Government distributed garden passes (land leases for raising orchards) through its shifting cultivation control programme and later under its new land-use policy. The gullible farmers, who could not adjust to and manage the new technology of settled cultivation, sold leases to return to the easy way of shifting cultivation. Land transfer is allowed only among the tribal community under both statutory and customary laws. Once this process started, a class of dominant clan leaders was able to exert substantial control not only over agricultural and forest land but also over urban land.

The purpose of this discussion is to explain how the process of privatisation, not a popular trend until recently, has now taken firm root in every domain of economic life. The penetration of the commodity market and increasing monetisation and commercialisation together with changes in tillage practices have transformed the nature of property relations in land in the whole region to a substantial degree. The

uniqueness of these changes is that, whereas the general trend in the country has been alienation of tribal land by non-tribal outsiders, in the case of mountain tribes in north-east India, land appropriation was started by people from within the group in the wake of linkages that were established with the world outside. Increasing control of communal property by individuals, the growing importance of individual ownership of land, and the widening network of economic relationships began to erode the traditional egalitarian system of distribution and exchange (Karna 1989). This has led to the emergence of class-like groupings that are questioning the virtues of reciprocity and obligatory relationships. The stronger groups and individuals among them are now completely engrossed in appropriating maximum benefits from both the traditional customary systems and the new government programmes. Thus, the forces generated by the ongoing process of uncontrolled linkage and the opportunities provided by government-sponsored development programmes for the region tend to create new avenues of inequality and exploitation. It is the nature and extent of control exercised by the different categories of people that reflect the real situation in changing agrarian relations. The village heads and clan leaders may not own land in the exact sense of the term, but their effective control may extend to a very wide area.

It is now an established fact that socioeconomic changes among hill tribal groups have occurred as a result of changes in the mode of agricultural production and the spread of individual land ownership. Clan leaders have been gradually converting flat valley lands into fields for wet rice cultivation and the change over from shifting cultivation has resulted in a series of changes in the rights of individuals over land and in the social relationships within the tribes and communities. Obviously, private ownership of land has helped to alter the distribution of wealth (NEC 1976-77).

The instances of transfer and alienation of land in which the tribal people themselves were in control are certainly developments of a more serious nature. The communities that were able to maintain their original egalitarian ethos in their socioeconomic structure, one in which inequality and exploitation were unknown and village solidarity provided strong ties of social harmony, are now differentiated not only in terms of power and privilege but also in terms of wealth and income. It is no longer surprising to come across a Naga or a Khasi owning a thousand acres of land. Nowhere in these areas would customary practices have permitted such a concentration of land. It is integration with the outside world that has introduced hitherto unknown phenomena like absentee landlordism, realisation of rent from land, share cropping, land mortgage, landlessness, and so on. Absence of a land law regulating rights to use, transfer, and leasing has further compounded the problem.

### **16.5 Imperatives of the Land Policy**

As is well known, technological change at a certain stage invariably leads to institutional change. A technological change, for example, from shifting cultivation to permanent cultivation of land, necessarily leads to change in traditional property

rights over land. This is what is happening in the eastern Himalayan region. The areas thus converted to permanent agriculture, horticulture, and plantations have passed out of the common ownership of the village community to and into the private ownership of individuals and families. Not that shifting cultivation has disappeared. It is still quite common among all the groups. Nevertheless it is now more concentrated in relatively remote and backward areas and on marginal lands. Even within the villages, the poor and the landless depend most on shifting cultivation. In a general process of marginalisation, entailed by greater and greater individualisation of land, inequality is accentuated because of the peculiarities of customary laws guiding land ownership in the region. Shifting cultivation, which is still widespread in the region, is now clearly associated with poverty, and this leads to further marginalisation of the already marginalised farmers, pushing them into wage labour and irreversible degradation of land which becomes detrimental to the interests of society in general (Mahapatra 1989). In fact, some of the growing unrest that is now prevalent in north-east India is attributable to these changes.

In addition, the emerging threat of alarming deforestation and resultant large-scale land degradation also call for immediate rethinking about the continuation of an autochthonous system of land management in the region. Unregulated commercial felling of forests caused by uncertain tenure and shortening of the shifting cultivation cycle are stripping the land of its protective vegetative cover. An expanding network of roads and, in particular, the burning of charcoal for black topping, as well as the ever growing demand for timber for rapid construction in the new capital towns and market centres have further exacerbated the forces of land degradation. Denudation of hill slopes in an area where rainfall is very high (mean annual rainfall varying from 1,200 to 12,000 mm) is bound to cause heavy loss of topsoil during the monsoon. According to one estimate, 19 million tonnes of soil are lost annually due to soil erosion in north-east India, and floods occur more often now than before (NEC 1990); and this has become so serious that the Supreme Court of India intervened drastically during the hearing of a public interest writ petition by ruling to impose a complete ban on forest felling for outside export of timber in December 1996. This particular development is a living testimony to the extent of deterioration that has taken place in land resource management in the eastern Himalayas. All this is mostly caused by uncertain land tenure, a situation arising out of the inadequacy of customary laws to control misuse and abuse of land, forests, and mineral resources in the rapidly changing internal and external environment of the region. The imperative of adjusting land tenure regimes to the changing and emerging scenario cannot be denied, as persisting with the autochthonous rules will cause severe problems with respect to efficiency of land use, equity considerations, social harmony, and political balance. As people-land relationships have been changing at a rapid pace in the last two decades, some land tenure rules need to be put in place, either endogenously through collective action or exogenously through an appropriate land policy instrument that meets the needs and aspirations of all stakeholders.

What is surprising is that, although state governments are well aware of the emerging situation, no serious attempt has been made to formulate a land policy aimed at preventing concentration of land among a few families and strengthening the livelihood security of resource poor, shifting cultivators. Perhaps the real reason for this inaction lies in the economic interests of the tribal elite who, being drawn mostly from the erstwhile chiefs, clan leaders, village heads, and high status families have a vested interest in not codifying the custom and legalising land ownership (Mishra 1993). Once it is notified and becomes public, it may give rise to internal dynamics creating pressure for the imposition of a land ceiling and redistribution of the surplus land among the deprived sections.

The importance of elaborate land legislation has not been appreciated by the ruling elite of the region. Their complacency seems to be induced by the seemingly abundant land resources and low land to person ratio. However, continuing with the laissez faire policy for land is bound to create problems in the near future, particularly when the cultivable land has already become scarce and the population is increasing rapidly. While there is still widespread reluctance to have land surveyed and recorded, real resentment is also growing at the community level against the few members abrogating rights to undue amounts of land. In any consideration of the land policy for the eastern Himalayas, the issues of land degradation, efficiency of land use, and marginalisation of the poor will have to be factored and harmonised. Considering the favourable land person ratio, the egalitarian ethos of the communities, and availability of a wide range of technologies for agro-forestry, it should not be difficult to integrate the objectives of ecology, equity, and efficiency into a common policy framework.

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# **Chapter 17**

## **Participatory Forest Management (PFM): Rediscovery of a Promising Mechanism for Poverty Alleviation in the Mountain Areas of South Asia**

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### **17.1 Introduction**

This paper provides a brief background to the political and socioeconomic context of the Hindu Kush-Himalayas, an area that includes the mountain regions of South Asia. An overview of the common property resources of the mountain regions of South Asia is provided to illustrate the importance of these resources to the quality of life of the people in this region. The overview includes rangelands, water, and forest resources. These three common property resources also have the potential to fuel growth and poverty alleviation in the mountain areas of South Asia.

The second part of the paper focuses mostly on the re-emergence of participatory forest management in the Hindu Kush-Himalayas and argues that community-based natural resource management remains the key to growth and poverty alleviation in the region. The policy framework is analysed to emphasise the importance of enabling policies and accompanying rules to support participatory forest management in the region. Potential barriers to the implementation of participatory forest management are discussed and appropriate solutions are recommended.