

# Privatising the Commons

KANNAN KASTURI

Several hundred million people across rural India depend on the commons – natural resources such as forests, pastureland, “wasteland”, coasts, lakes and rivers that are shared by the community – for their livelihoods. These livelihoods are under threat with the state handing over these resources at an accelerating pace to corporations for industrial or commercial use. How has it come to be that communities have no legal rights over the natural resources they have used for generations? How does the state justify privatising these commons? How are communities reacting to this challenge to their lives and livelihoods? These and related questions drive the subject matter of the book under review.

*Communities, Commons and Corporations* is authored by Perspectives, a group of students and teachers from Delhi’s universities. The group declares in its programme that its task is to “document the lives and struggles of people on the margins of law and society”.<sup>1</sup> Perspectives has produced a few other works of such documentation in the past. Its earliest work, *Abandoned: Development and Displacement*, dates to 2007 and has been reviewed in this weekly.<sup>2</sup>

The methodology used for the present work is a combination of field visits – “sites of change, conflict and crisis” to “understand issues and situations ‘first-hand, on the ground’”<sup>3</sup> – and research based on secondary sources.

The book begins with a detailed first-person account of observations made during two field visits to communities who largely depend on natural resources over which they have no property rights – a forest community in Harda, Madhya Pradesh and a fishing community in coastal Kutch, Gujarat. This is followed by essays on the enclosure of the commons and the consequent displacement of communities in colonial and present-day India. The latter part of the book

## Communities, Commons and Corporations

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critically analyses the laws and policies that govern the appropriation of the commons today and interrogates the economic development that is taking place.

### What Are the ‘Commons’?

Bringing clarity to the notion of the “commons” is crucial for a work of this nature. Perspectives explains that the “commons”, in its view, are natural resources customarily used by communities over generations to support their livelihood. Forests populated by tribal communities, coasts, coastal waters and lakes used by fisherfolk, and pastureland and rivers sustaining villages are all part of the commons. The use rights of a community over some part of the commons may or may not be recognised by the state. Even where it recognises community use rights, the state considers itself to be the owner of the resource with the right to change the pattern of its use anytime. An example of the latter are the *gauchar* (grazing) lands in Kutch that Perspectives finds are vested with the panchayats, though legal ownership is with the state.

Any defence of communities living off the commons requires one to counter the view propagated by the administration, and often accepted uncritically, that these communities are “encroaching on public property”. There is a need to explain how these communities have come to be without rights over resources crucial to their survival in a world dominated by private property. Perspectives examines colonial history to provide an answer along these lines.

### Who Is the ‘Encroacher’?

Commercial interest – the sole objective of maximising revenue – informed the colonial attitude to different communities and natural resources. Settled

agriculture was encouraged, for revenue could be collected from land under cultivation. The needs of efficient collection – making individuals responsible for revenue and forcing mortgage or sale of their land for recovery of dues, among others – led the colonial state to institutionalise private ownership of cultivated land and maintain the record of ownership.

On the other hand, nomadic and semi-nomadic livelihoods that depended largely on forests and pastures were discouraged, for they were difficult to tax and yielded little revenue. Ignoring the legal rights of forest, fishing and pastoral communities deriving from custom and tradition, the colonial state assumed ownership of all land and other natural resources except land under cultivation from which it derived revenue.

Forests were exploited for revenue through commercial forestry after restricting the use rights of forest communities. Village commons were made to yield revenue by bringing them under cultivation. The legal regime established by the colonial state divided natural resources neatly into “privately owned” and “state owned”. It had no place for community ownership or management of resources.

Moving to the present, Perspectives notes that the injustices meted out to communities dependent on forests and other commons in colonial times were never reversed. The continuation of institutions like the forest department, laws governing land acquisition, and forests and policies towards “wasteland” from colonial times reflects the continuity in the outlook of the contemporary Indian state towards people dependent on the commons.

This outlook comes to the fore wherever resistance is offered by a community to appropriation by the state. While reading this book, this reviewer came across another instance of the forcible eviction of a community from the commons.<sup>4</sup> The community in question was of traditional fisherfolk who had been living in floating huts on the large Loktak Lake in Manipur for generations. The state chief minister reportedly termed them “encroachers” and justified

their eviction as necessary for the “development” of the lake.

### The Geography of Privatisation

While there has been continuity in the way the state views communities using the commons from colonial times to the present, the pattern of appropriation has changed in keeping with the changes in the economy.

In the colonial period, the state assumed legal ownership of the commons. Communities were however allowed its use as long as this did not come in the way of the state deriving revenue, wherever such possibility existed. Republican India saw large-scale enclosure of the commons and displacement of people by large dams and other industrial projects promoted by the state. The last two decades have seen a major change in the pattern of appropriation, with the commons now being transferred to private corporations.

Corporations, Perspectives observes, pose a threat to communities dependent on the commons in two ways (p 86)

by directly appropriating the land, water and forests on which they are dependent or by polluting these resources in a manner that their capacity to generate livelihoods is diminished or exhausted.

Perspectives draws attention to certain geographical areas where the privatisation of the commons is taking place at a rapid rate.

In the Himalayan states – Himachal Pradesh, Uttarakhand, Arunachal Pradesh and Sikkim – where the availability of agricultural land is low, making forests and pastures extremely important for livelihood, dozens of “run-of-the-river” hydro projects are coming up on the principal rivers.

The mineral-rich areas of central and eastern India – encompassing the states of Odisha, Chhattisgarh and Jharkhand, and parts of Madhya Pradesh, Andhra Pradesh and West Bengal – are densely forested and home to a large tribal population. Today, there is a major push to open new mines and coal blocks under the most pristine forests and parts of these woods have already been allocated to various corporations. Scores of thermal power plants are also under construction

in these states, clustered near coal reserves and water sources.

A third geography that is being privatised rapidly is India’s 8,000-km long coastline, dotted with fishing villages and salt-farming communities. Numerous private ports and port-based special economic zones, refineries, thermal power plants and petrochemical industries are coming up along the coast. It is not just the competitive advantage of locating industry dependent on physical imports near the coast that is attracting corporations. Perspectives points out that land is cheaper and easier to acquire on the coast as fishing communities do not possess ownership rights over the land they use.

These are, of course, not the only regions or causes figuring in the takeover of the commons. Most cases of land acquisition across the country involve some common land. Perspectives cites the example of the POSCO steel plant which requires 4,004 acres of land, of which only 438 acres are privately owned. The government land, most of it classified as “forest” land, has been used for betel vine cultivation by local villagers for generations.

### The Impotency of Law

There are laws to protect the commons such as the Environment Protection Act (EPA). Then there are laws of fairly recent origin aimed at recognising the rights of traditional users of the commons such as the Forest Rights Act (FRA). How do these laws measure up against their stated purpose?

Any impact on the environment is clearly of great concern to communities surviving on the commons, affecting as it often does, larger numbers than the enclosure of the commons itself. The EPA requires an environment impact assessment (EIA) as a precondition for most projects. The EIA process is considered the mainstay of the state’s effort to protect the environment. In a detailed assessment of the EIA process, Perspectives points to its many flaws including the most basic, the hollowness of the high-sounding “public consultation”. The public affected by a project can at best voice its opinion at a “public hearing” but has

no powers to stop the project or even to set preconditions.

An excellent essay that forms the opening chapter of the book details the struggle for livelihood of Harda villagers and assesses the impact of measures such as the Joint Forest Management (JFM) initiative and the FRA. Perspectives finds that JFM – a two decade old policy initiative, intended to get the co-operation of forest dwellers in achieving forest department objectives while at the same time providing avenues for them to improve their income – has not brought any positive change to the forest communities. The distribution of land titles under the FRA has barely progressed, with a paltry 3,000 pattas issued to forest dwellers (tribal and non-tribal included) in Harda district, two years into the programme, when just the tribal population of the district numbers 1.2 lakh.

Why have the FRA and the JFM policy failed to bring any improvement to the ground situation of the forest dwellers? Perspectives rightly locates these failures in the highly asymmetric power structure that exists in the forest areas. The forest department has been responsible for guarding the forests from “encroachment” for a 150 years, and in the process, accumulated immense powers over the forest dwellers. It will obviously resist any dilution of its powers – as will happen if forest dwellers are granted rights over forestland. The blatant abuse of power by the forest department and the police in districts such as Harda has attracted

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the attention of the Supreme Court which recently ordered<sup>5</sup> the state to set up a district-level grievance redressal authority.

Perspectives concludes that legislations and policies will not prevent the appropriation of the commons and dispossession of the people under the current dispensation. “They will either be circumvented, or violated, or poorly implemented, or will actively facilitate this dispossession” (p 96).

The last portion of the book interrogates “growth” and critiques the current pattern of development. It argues that economic growth today is strongly linked to the handover of natural resources to corporations. The ability of this type of development to generate secure jobs is questionable; however it is

certainly leading to large-scale destruction of traditional occupations and existing livelihoods. It concludes that this growth is not just “non-inclusive”, but actually comes at the cost of the most disadvantaged sections, creating poverty and worsening inequality.

Right at the beginning, Perspectives states that it has written this book primarily for other students. The style adopted is in keeping with such an audience – direct, assertive and impassioned at times. Observations and experiences from field visits are woven in to add weight to arguments and some very incisive analysis. The book could have done with some tighter editing and a better presentation of data. However, these minor failings do not take away its intrinsic value. *Communities, Commons*

and *Corporations* is an honest telling of a story that needs to be told.

Kannan Kasturi ([kasturi\\_kannan@yahoo.com](mailto:kasturi_kannan@yahoo.com)) is an independent researcher and writes on public interest and policy.

#### NOTES

- 1 From the programme of Perspectives, available at the end of the book under review.
- 2 Ramaa Vasudevan (2008), “Accumulation by Dispossession in India”, *Economic & Political Weekly*, 43(11), 15 March, pp 41-43.
- 3 See fn 1.
- 4 Iboyaima Laithangbam: “Evicted from Lake, Manipur Fishermen Left High and Dry”, *The Hindu*, 24 August 2012 (<http://www.thehindu.com/todays-paper/tp-national/article3814207.ece>) last accessed on 3 September 2012.
- 5 Milind Ghatwai: “3 MP Districts to Have Authority to Tackle Abuse of Power Complaints”, *The Indian Express*, 2 September 2012 (<http://www.indianexpress.com/news/3-mp-districts-to-have-authority-to-tackle-abuse-of-power-complaints/996925/>) accessed on 3 September 2012.