

Who should own indigenous lands?



Christopher Wood F469950

Evaluate the claim that the governance of indigenous lands is best left to local communities.

Due to the expansion of globalisation, concerns over the management of resources has grown from local issues to worldwide issues on how people should engage with the sustainable development and administration of global resource systems or commons. Common resources can be overseen and governed by a mixture of institutional arrangements that can be generally represented as governmental, private or communal. This essay will look at the merits of both private ownership of resources as endorsed by Ronald Coase and common property regimes often employed by communities, a solution advocated by the economist Elinor Ostrom, whilst using further evidence of these two competing ideas, by examining the plight of the indigenous group of people known as the Dongria Khondh in their battle against the powerful private multinational company Vedanta.

One of the issues that arise with common resources, is the question of ownership and who has the right to manage and divide these resources, especially as the marketplace expands and the resources of the planet begin to be depleted (Shipman, 2015, p. 119). Ronald Coase investigated this problem of exhaustible resources and suggests a solution to protect resources by arguing that ownership of the commons by assigning property rights would by its action promote a positive outcome. The assignment of exclusive property rights and the potential for bargaining results in behaviour that is changed or altered to account for the negative impact our

choices have on others, regardless of which party is initially assigned property rights. Private ownership and the resulting economic benefit for both parties encourages an equitable solution to rights, ensuring resources are used in a way that prevents overuse and preserves sustainability (Shipman, 2015, p125). A clear example of Coase's arguments can be seen by comparing a public communal space surrounding a residential area to that of the grounds surrounding a private residence where the owners have to pay a service charge to maintain the grounds. Public areas tend to be unkempt and abused, private grounds are generally better kept and preserved, this action suggests that individual ownership and financial incentive motivate an innate positive outcome (Shipman, 2015, p. 130). Further evidence of the positive outcome of using property rights can be seen in the real-life case study of the collaboration between the Vietnamese government and the World Bank. The Land Administration Project, assigned land rights to citizens, enabling them to grow crops and feed their families, along with having the extra benefits of allowing family members to gain access to education and the owners to leverage this land to get finance, so they could expand and increase their wealth, this, in, turn, would encourage growth within the family unit, regionally and then nationally (The Open University, 2016a). However, assigning property rights doesn't always have a positive outcome, especially when the rights of the smaller landowners clash with the development of large real estate projects. In this case, the same Vietnamese government decided to seize inherited land from citizens, leading to violence and arrests. Free market economic policies of larger private concerns dominating the individual citizen's claims and rights to land (The Open University, 2016b).

An alternative to managing common resources can be found in the theories of prominent economist Elinor Ostrom. Ostrom suggests that many issues surrounding rights, ownership and depletion of resources, are better-taken care of by cooperation, assigning rights to collectives and not individuals (Shipman, 2015, p. 133). This is especially useful when dealing with resources such as the fish rich waters off Alanya in Turkey. Here the Fisherman became aware that unregulated fishing would lead to permanently exhausting stocks of fish.

Using principles such as:

‘ Rules are well matched to local needs and conditions.

Individuals affected by these rules can usually participate in modifying them.

A system for self-monitoring members’ behaviour has been established.

A graduated system of sanctions (against rule-breakers) is available’.

The fishermen devised a plan following these guidelines that provided a flexible arrangement for the community to gain rights and access to fishing stocks, whilst gathering approval from the government in the form of the Aquatic Resources Act, which recognised the communities right to administer their own rules. (Open University, 2016c) Despite this success, Ostrom recognises accomplishing a positive result in the management of common resource pools tends to have more success in smaller communities. Globalisation has presented problems concerning resources that need the varying parties to agree on a specified agency and a set of actions, which on this larger scale may prove to be difficult (The Open University, 2016d).

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A clear example highlighting the potential problems involving power imbalances between private commercial companies and local communities can be seen by examining the plight of the indigenous people Dongria Khondh and their battle with the mining company Vedanta. The dispute centred around the land surrounding the Lanjigarh region and holy mountain of Niyamgiri. This land held great spiritual importance and familial ties to the Dongria Khondh, being rich in biodiversity and holding a prime place within the local community. On the other hand, the mountain was also known to be rich in the mineral Bauxite, a valuable resource to a company such as Vedanta (Bhagwat, Jones and Mohan, 2015, p. 150). Because of the inherent power imbalance between the two competing actors, it was necessary for outside agencies to become involved, to aid mediating in the dispute. These expert groups consisted of namely the Central Empowered Committee (CEC) along with the Ministry of Environment and Forests (MOEF), these two groups visited the area and gathered information from Vedanta and representatives of the local communities (Bhagwat, Jones and Mohan, 2015, p. 151). Prior to this Vedanta had established mining facilities, assuming 'terra nullius' or 'no mans land' assuming that this land belonged to no one, the invisible cultural significance to the indigenous people wasn't recognised (Bhagwat, Jones and Mohan, 2015, p. 151). Conflicts between homogeneous cultures and private entities are fraught with difficulties, especially in jurisprudential precedents. This issue of jurisprudence concerning governance presents complex problems, despite formal international rights as set out by the UN, there is very little political will to enforce them. Consequently, access to valuable resources where there isn't clear governance, can leave the productive potential of such lands greatly

underused and can be a barrier to economic progress, whilst confusion reigns for the indigenous peoples perceived inherent right to keep resources that are vital for their survival.

Using the examples above it is clear to see that governance of common resources can have different outcomes depending on the scale and complexity of the situation. Personal and local situations can be governed quite simply by cooperation and economic incentives based on private property rights. On the other hand interactions between governmental institutions, international private companies and local communities has proven to be difficult. The most important lesson to draw attention to, is that advocating a particular course of action for solving problems relating to the governance of common resources may work in some settings but fail in others. Further, policies also have to be adaptable to recognise the informal cultural setting and arrangements of those who depend on these diverse ecosystems. Cooperation between individuals, communities and governments along with flexible arrangements between the different actors is vital to ensure equitable access to common resources.

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