

How European Thought Influenced Property Rights on Forests and the Environment. A multi-national perspective"

Dr. Minoti Chakravarty Kaul

Much of what we first begin to comprehend about European thought on issues of property rights is revealed through the manner in which forest and wasteland tracts were settled in countries like India, Australia, Kenya, British Columbia, Burma and Thailand in the nineteenth century. Again there were differences in countries which were to be settled by European immigrants and those which were to be only kept as satellites of an European country.

Issues of property rights then were linked to the underlying philosophical principles on which European countries were governed. Thus it is that as jurisprudence as a discipline took root in academic curricula in major Universities; simultaneously there also emerged a demand to apply the new science of law to the emerging systems of governance in Europe and their overseas territories. Emergence of new technologies of natural resource exploitation made a great demand on settlement of rights. Forests and rights to them were therefore central as communication by sea and railway both required timber.

Therefore there came about a change in the rights to forests, even in those regimes which belonged to royalty and the limitation of rights surfaced in most of the countries of Europe. A very large part of this was due to the resurgence of thoughts on collective property rights initiated by the German Historical School and then propagated by the famous professor of jurisprudence - Sir Henry Sumner Maine in Oxford.

The ramifications of such thought were bound to create debate and to spill over into policy situations both in European countries and in the training of officials who took over the role of extending modern governance overseas in the colonies.

At one level we can illustrate the above by examining the Great European Discourse on property rights and their impact in Europe itself. Thus it is that the German Historical School, Von Savigny in particular had an overarching impact in the evolution of jurisprudence related to property rights both in Europe and in their overseas possessions. Emile de Lavaleye in Belgium, Fustel de Coulnages in France and Carlo Cattaneo in Italy all contributed to this discourse. At another level as in India we can trace this through the role that Adam Smith, Jeremy Bentham and the Utilitarian School along with David Ricardo and T. Malthus played on the training of early Colonial administrators like G.W. Traill who was an Orkney landowner and who settled the Kumaon hill region, G.C. Beadon who settled the adjoining tract of forested Himalayas in Punjab and B.H. Baden Powell. The first Inspector Generals of Forests were Germans. We also see that philosophical ideas emanating from Europe were reversed by these very administrators at the ground level.

Minoti Chakravarty Kaul is an Independent Researcher, Retired Professor from the Department of Economics, Lady Shri Ram College, Delhi University, India and recently Visiting Fellow at the Workshop in Political Theory, Bloomington, Indiana

University, USA

<http://www.lsrcollege.org/>

<http://www.indiana.edu/~workshop/>

Place: IFF, Schottenfeldg. 29, 1070 Wien, Seminarraum 3, 4. Stock

Time: 29. April 2004, 17.00 - 19.00