

Devolution of Forest Management: A Cautionary Case of Pukhtun *Jirgas* in Dispute Settlements

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Published online: 20 July 2006
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Abstract Devolution of natural resource management is a widely claimed aim in policy discourse. The Government of Pakistan is undertaking devolution of Provincial Government, including the Provincial Forest Departments. In historical and current practice, forest management has been devolved to local, community-based *jirgas*. *Jirgas* achieve some of the aims claimed by devolution which often fail in community-based management organizations. They represent the interests of different asset-based groups and ensure use rights of all for subsistence. However, the internal logic on which they work is based on different principles than those envisaged by policymakers. A case study of Pukhtun agropastoralists in the Malakand Division, North-West Frontier Province, Pakistan, illustrates the *jirga's* role in forest management and questions some of the assumptions on which community-based management is founded.

Key words Forest · community-based management · *jirgas* · devolution · Pakistan · Pukhtun (pashtun, pathan).

Introduction

Devolution of natural resource management is a widely claimed aim in policy discourse.¹ The Government of Pakistan is currently undertaking devolution of Provincial Government, including the Provincial Forest Departments. Both initiatives have been encouraged and supported by the Asian Development Bank, the World Bank, and bilateral donors (ADB, 2003; ICG, 2004). In historical and current practice, forest management has been devolved

An earlier version of this paper was presented at a conference on Globalisation, Localisation and Tropical Forest Management in the 21st Century, Amsterdam, 22-23 October, 2003. I am grateful to the referees of Human Ecology for their comments which have guided the revisions for this version.

¹ cf. Ostrom, 1999; Shackleton *et al.*, 2002.

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to local, community-based *jirgas*. *Jirgas* achieve some of the aims claimed by devolution. They represent the interests of different asset-based groups and ensure use rights of all for subsistence. However, the internal logic on which they work is based on different principles than those envisaged by policymakers.

A *jirga* is an egalitarian body composed of all men concerned with a specific issue, plus other individuals who are respected for their skills in negotiation and reconciliation. Women do not participate in *jirgas*, although they may be influential behind the public arena. In Provincially Administered Tribal Areas of the North-West Frontier Province of Pakistan, such as the Malakand Division, *jirga* decisions are legally binding provided that there is consensus among all the parties involved. Representation is based on alliances, not by elected representatives of interest groups based on economic assets. Factions within the *jirga* are usually based on lineage, on patronage, and/or on cultural value orientations; and hence these alliances are fluid, depending on the issue.

The aims of this paper are twofold. The first is to question some of the assumptions on which community-based management (CBM)² is founded. Malakand Division of the North-West Frontier Province of Pakistan provides an interesting case for a number of reasons. First, although the state owns most of the forests and has laws to regulate forest use, the forests are under the *de facto* control of local communities. Second, *jirgas* are the first and major level of management and dispute settlement in Provincially Administered Tribal Areas (PATA). Third, the new Forest Ordinance, 2002, which was extended to include the Malakand Division in late 2004, specifies that local communities will be involved in forest management, under the supervision of the Forest Department (Government of NWFP, 2002). And fourth, there is heterogeneity of forest management practices, reflecting the ecological diversity and isolation that has stimulated the historical evolution of different patterns. There are areas where powerful khans manage forests in an autocratic and feudal manner; in other areas, forests are managed as communal property with stringent restrictions for those who are not ‘community’ members. In this paper I discuss just one of these patterns. Thus my second aim is to describe forest management practices in a specific ecological, historical, and community context.

It is ironic that devolution should be introduced as new. By the local account, *de facto* forest management has been devolved since the ancestors of the present Pukhtun population conquered the area of the present Malakand Division in the sixteenth century.³ Attempts at central control have predominantly focused on state control of timber logging and land registration. In practice, the state has had limited control, especially in remote areas. The inaccessibility of the research area has protected the forests from the intensive levels of state-controlled and illegal forest extraction seen in many other parts of Malakand Division.

The discourse of devolution is often associated with a number of related concepts, for example, decentralization, democracy, good governance, participation, and sustainable resource use. For example, after seizing power in 1999, President Musharraf claimed that “The strategic aim of the Government is to establish genuine democracy as soon as possible and transfer power to the people” (Government of Pakistan, National Reconstruction Bureau, 2002). To this end, the National Reconstruction Bureau was established to “Generate fundamental thought on promoting good governance to strengthen democracy through the reconstruction of institutions of State related to all aspects of governance and social welfare” (Government of Pakistan, National Reconstruction Bureau, 2002).

² Throughout this paper, I use the term community-based management as a general term for various forms of participatory, local-level management organizations.

³ Their legend corresponds to that cited by Caroe (1957, 1990). See also Ahmed, 1976.

The purpose of devolution is to make government more accountable and to ensure more equal representation through decentralization. The North-West Frontier Province Local Government Ordinance, 2001, defines decentralize or decentralized as "...conferment by the Government [of NWFP] under this Ordinance of its administrative and financial authority for the operation, functioning and management of specified offices of the Provincial Government to the local governments" (Government of NWFP, 2001, p. 2). "The new system...reorients [the] administrative system to allow public participation in decision-making. The essence of this system is that the local governments are accountable to citizens for all their decisions. It enables the proactive elements of society to participate in community work and development related activities" (Government of Pakistan, National Reconstruction Bureau, 2002).

Of particular interest is that local tiers of elected bodies will have more power to control local services and to identify local needs for development and that seats on these bodies will be reserved for those who rarely get elected. For example, at the Union Council level (constituting one or more census villages), 21 members are: a) 12 Muslim members, elected to general seats, including four reserved for women; b) six members, elected to seats reserved for peasants and workers,⁴ including two reserved for women; c) one member elected to a seat reserved for minority communities; and d) Union Nazim and Naib Union Nazim elected as joint candidates. Elections were held in 2001; however, the effectiveness of the devolution process in Pakistan has been criticized severely (cf. ICG, 2004).

A similar discourse was used in a policy document of the North-West Frontier Province Forest Department:

Effective participation of the local communities in the sustainable management and development of forests requires the devolution of the requisite authority and responsibilities to them. Also, a more rational distribution of authority and responsibilities is needed within the forest administration. Such devolution requires the forest administration to concentrate on setting the criteria for sustainable forest management and monitoring their achievement leaving the bulk of implementation to the local stakeholders, especially where the forests are owned by the people or where they are the dominant right holders...

The policy would foster inter and intra-generational equity. Among others, it includes inter-gender equity, equity between the powers and tasks of Forest Departmental Personnel and the local communities, and between different groups in local communities. (Government of NWFP, 1999, p.7)

The actual North-West Frontier Province Forest Ordinance, 2002, also uses the discourse of devolution. Local committees are to be involved in making a local forest management plan, and community-based organizations may be involved in management.

The Divisional Forest Officer may assign to any village forest community, village organization, Joint Forest Management Committee constituted in the prescribed manner all or any of its rights of management over any protected forest, guzara forests, and protected wasteland, and may cancel such assignment, or such agreement, as the case may be, if he is of the opinion that such revocation is in the interest of forest conservancy. All forests so assigned shall be called community forest. (Government of NWFP, 2002, p. 1197)

⁴ No definition of peasant or worker is given.

The Forest Ordinance is not clear about the structure of community-based management organizations. Unlike the spirit of the 1999 document and other Forest Department policy documents (Javed *et al.*, 2002; Tawawalla, 2004), the actual Forest Ordinance emphasizes that the Forest Department shall remain in control of forest use and conservation and that its powers to enforce its rules shall be strengthened. Strict sanctions including heavy fines and imprisonment for rule breaking are detailed. And Forest Guards will be armed (Government of NWFP, 2002).⁵

Nowhere in these two Ordinances is democracy, good governance, participation or sustainable resource use defined explicitly. Rather, these concepts are used ambiguously and are interlinked by association which is reinforced by rhetoric. “Most ‘devolved’ natural resources management (NRM) reflects rhetoric more than substance, and is characterized by some continuation of substantive central government control and management over natural resources rather than a genuine shift in authority to local people” (Shackleton *et al.*, 2002, p.1). There is a wide literature on these concepts which will not be reviewed here.⁶

The central question is to what extent and under what conditions decentralization and devolution of rights to forests and management can advance more equitable and sustainable forest management. Distinctions need to be made between *de jure* rights articulated by government law and *de facto* rights and use rights practiced by local inhabitants. *De jure* forestland rights entail the rights of the state to protect the forests from deforestation, as well as the right to gain income from the forest. Simultaneously, state land registration has legitimized the traditional land rights of *de facto* private ownership for cultivated land, alpine pastures and forests; 60% of the revenue from state-controlled logging is granted to these royalty rightholders. However, in policy documents (both the previous Forest Department Working Plans and in the new Forest Ordinance), all local inhabitants have usufruct rights to fuelwood and building timbers. This ambiguity led to dichotomization of the rights of forest user groups and created new arenas for disputes over forests. At the same time, it reinforced patron–client relationships through which usufruct rights could be maintained.

This leads to the question of what is the most equitable institution for protecting the use rights of the entire population. More fundamentally, do the new institutional changes fit into existing conceptual frameworks and practices, particularly with regard to local level institutions? In the cultural context of the Pukhtun, it could be argued that institutions need to protect the structure of patron–client relations in which moral obligations to those without property rights are encouraged.

The idea of sustainable forest management—understood as deliberate efforts to maintain the forests’ ecological values, production services and their role as a source of livelihood for the rural poor—highlights contradictions between conservation and the livelihood needs of local residents and the income needs of the state. Both of these latter demand greater extraction of forest timber for income generation and this is antithetical to conservation.

One assumption of devolution is that formal changes in the institutional framework will enable weaker groups to have more power (e.g., reserved seats on elected bodies), and thus protect their economic and gendered interests. This leads to a second assumption that political factions will be based on economic interest. This ignores the indigenous logic of relations that are not based on economic interests alone, but rather are embedded in political

⁵ For a critical appraisal of implementation of the Forest Ordinance see Tawawalla, 2004. See Geiser, 2000; Sarhad Awami Forestry Ittehad, 2000; and Suleri, 2002 for criticisms of earlier forest reform proposals.

⁶ Cf. for example, Campbell and Vainio-Mattila, 2003; Gauld, 2002; Geiser, 2003; Sundar and Jeffrey, 1999.

and social relations based on kinship, patron–client relations, and cultural value orientations. In addition, it assumes cooperation among members of a group and ignores historical, geographical, and ecological contexts which help to account for the heterogeneity in patterns of natural resource management.

Underlying the proposal for devolution is the idealization of CBM. Protagonists for CBM have been criticized extensively on two counts: a) communities do not represent homogeneous interests, and hence local élites have tended to dominate, and, b) these local-level organizations do not protect the equitable distribution of resources (e.g., Agrawal and Gibson, 2001; Campbell and Vainio-Mattila, 2003; Platteau and Abraham, 2002; Sivaramakrishnan, 2000, 2001; Steimann, 2003; Sundar and Jeffrey, 1999; Sundar, 2000). In response, stakeholder analysis, supported by the work on entitlements (Leach *et al.*, 1999) has attempted to address these criticisms. The poor success of bilateral donor-supported CBM projects in the Malakand and Hazara Divisions of NWFP using different participatory approaches⁷ is a consequence of assumptions which have been undergirded by ‘participatory’ methodological approaches.

...the incorporation of analysis of power, meaning and social complexity is especially crucial to implementing policy, and specifically to evolving effective local strategies for institution development. The methodological challenge which the need for such decentralized and reflexive social analysis presents to development planning has barely been addressed. For one thing, participatory research methods (e.g., Participatory Rural appraisal—PRA), which have gained wide currency recently are weakest when it comes to the analysis of social relationships, those relations which set the social *conditions* for participation itself (Mosse, 1999, p. 333).

My own study, with its more intensive focus on just one community, has, like Mosse’s own study, sought to throw light on “those relations which set the social *conditions* for participation itself.” There is a need for in-depth case studies to reconsider some of the assumptions of CBM. This necessitates analysis at village level within a specific context. I will begin with a stakeholder analysis and show how greater insight can be gained by analysis of actual, individual practice.

I looked at how *jirgas* operated in 1994, even though alternative forms of CBM are now being proposed, firstly because the Forest Ordinance was only recently promulgated in Malakand Division and will take some time to be implemented. Secondly, there have been few changes in the research area since 1994 with regard to forest management. Furthermore, the Forest Ordinance grants the same rights to forest use and income for royalty rightholders as existed before. Third, the process of reform in the Forest Department, initiated in 2002 in non-tribal areas of NWFP, was evaluated as poor in May, 2004, and some international donors have withdrawn their funding (Tawawalla, 2004). Fourth, various forms of CBM schemes have been initiated over the past 15–20 years in other parts of Malakand Division but no forest projects have been initiated in the area of study. Fifth, the poor record of success with these projects suggests that the logic on which CBM is based is flawed.

In the second section, the research methodology will be explained, followed by a description of the research location. The third section will present a case study of how forests are managed in a specific context, Ajmir Village, and will illustrate the inadequacy of stakeholder analysis. The conclusions, section four, will address the opportunities,

⁷ For comparative overviews of CBM projects in other parts of the regions cf: Geiser, 2000, 2003, 2005; Hasan, 2001; Knudsen, 1999; Steimann, 2003; and Suleri, 2002.

barriers, and conditions that are necessary for decentralization and devolution of forest land rights to enhance participatory and sustainable forest management.

Ajmir

Methodology

During the summers of 1993 and 1994,⁸ I lived with a family in Ajmir Village (Fig. 1). The administrative (census) village of Ajmir comprises two villages: Ajmir and Logai, with a total population of 2,652 (Government of NWFP, 1993). As a consequence of land sales and dispute settlements, the land distribution and management of forests in the two parts are different.⁹ This paper concentrates on Ajmir village. There are 211 households; most are extended households, including adult sons and their families. Akhund Khel¹⁰ is the dominant *khel* (descent group) in terms of numbers, landownership, and power.

The Pukhtun are exceptionally hospitable and honest informants; however, many are suspicious of outsiders (particularly non-Muslims) and do not understand the concept of research. Therefore, a great deal of my research is based on observation and informal interviews which were recorded later in field notes, as well as in-depth interviews with key informants. A census of all 211 households in Ajmir provided information about household members, genealogy, and sources of livelihood: landholding, *banda* (alpine pastures and forest) shares, transhumance patterns, migration patterns, and remittances. For those households that I could not interview census data were obtained through key informants.

In addition, a survey of 108 households was made which was fairly representative of a cross-section of the community in terms of *khel*, *sub-khel*, economic resources, and place of residence. The interviews focused on details of livelihood, rights to the *bandas*, and disputes. Interviews were also conducted in Logai Village and with residents in all 32 *bandas* of the administrative village of Ajmir.

Life histories were also collected to document changing livelihood patterns even though none of my informants knew their correct age, nor did many have any idea of events outside their area that I could use to locate an event historically. One of my female students¹¹ conducted research on the activities of women during part of the fieldwork in 1994. Living with a family made me a participant observer of everything from women's chores to the strategic planning of *jirga* meetings, which often included men and women.

The Malakand Division was chosen because I had contacts working there; however, I did not want to work in an area where bilateral development projects were taking place because I did not want to bias the research with expectations that it would bring development funds. The only district in which on-going development projects were not taking place was Shangla District. In fact, little research had or has been done there, partly because it is relatively remote.

⁸ Exploratory research was done throughout Malakand Division for 4 months during 1991.

⁹ Mishra *et al.*, 2003, reports variations within the same area of Himachal Pradesh.

¹⁰ The Akhund Khel consider themselves to be *miangan*, i.e., descendants of a religious Pir (in this case an Akhund). However, unlike many other *miangans*, they claim that their land is *mali kahanimat*, i.e., land cleared of non-believers, and inherited not *Tserai*, i.e., it was not given by a khan but conquered at a later date than the conquest of the Swat valley in the 16th century. Therefore, their position should not be confused with that described in some of the literature on Swat (e.g., Barth, 1959, and Ahmed, 1976).

¹¹ Katinka Korver, M.Sc. student, Wageningen University.



Fig. 1 Location of Ajmir.

My formal introduction was through the NWFP Agriculture Department; hence my safety was the responsibility of the District Agricultural Officer who insisted that I must live in the household of one of the Agricultural Field Assistants. The Agricultural Officer was a Miangan and, therefore, he wanted me to stay with a Miangan Field Assistant in whom he had confidence. Therefore, the selection of a research location based on strictly research criteria was not an option.

Location

Ajmir lies at the top of the Kana River valley that runs parallel to the Swat River and the Indus. Poor roads and state services are a symptomatic consequence of political disunity, comparative poverty, and relative isolation of Ajmir. As a consequence, it has remained a relatively heavily forested area. At the time of research, the area was on the northeastern fringe of Swat District, on the border of Kohistan. Subsequently, Swat District was divided into three districts: Swat, Bunir, and Shangla.

The founder's only son distributed all the land of the administrative village among his 11 sons, each receiving land for cultivation, fodder, and *bandas*.¹² The 32 *bandas* in Ajmir were included in this distribution. According to the Village Officer's records, the total forest area is 2,169 and 3,070 ha of mountain grass, i.e., 5,239 ha are *banda* of the total of 5,668 ha of land in the administrative village. Only 265 ha are cultivated. It takes about

¹² This division was never changed. In Swat, land was redistributed about every 20 years according to the size of lineage and following. This was never done in Ajmir.

three hours to walk to the uppermost *bandas* near the Akhund Khel hamlet and about six hours to the farthest *bandas* in the administrative village.

The montane production strategy¹³ in Ajmir is characterized by transhumance to higher pastures (2,500–4,000 m) during the warmer months and the careful balance between crop and fodder production near the permanent settlement (2,000 m). This agro-pastoral system is changing due to population pressure and the natural limits on increasing animal carrying capacity and/or agricultural production. Two common responses are labor migration and decreasing numbers of animals. Among Akhund Khel, the option of intensifying agricultural production is pursued by few because of limited labor and financial resources. Furthermore, there are no households self-sufficient in grains or having more than a few mature buffaloes, so all are dependent on supplementary sources of income almost exclusively based on migration within Pakistan¹⁴ and sale of forest products.

Forest Management

Forests are the only source of fuel and timber for building. For all residents of Ajmir, the forests have been commercialized through the sale of timber, fuel wood, roots, bark and leaves. Furthermore, they are the most important source of wild foods, such as green leaves which are a major source of vegetables in the diet.

In 1969, the Malakand Division was incorporated into Pakistan as a PATA. In 1972, all the forests situated in Swat were declared the property of the provincial government. The forests were declared Protected Forests in 1974 when the Forest Act of 1927 was extended to Swat. Under the terms of the 1927 Act, the forestland rights of local inhabitants had to be registered, primarily to sanction state-controlled commercial felling. Although the state claims ownership, the rights of landholders are acknowledged. In Protected Forests, owners (termed royalty right holders¹⁵ by the state) are entitled to 60% of the revenue (Javed *et al.*, 2002, pp. 6–7), although this royalty distribution can be rescinded at any time. Prior to registration, commercial felling was on a small scale but from the late 1980s until the state moratorium in 1993,¹⁶ state controlled commercial felling dramatically changed the value of forests and the income of those with royalty rights. The registration of land entailed registering the forests as separate from other land, including alpine pastures,¹⁷ even though forests and alpine pastures (*bandas*) are conceptualized as one spatial entity. Forestland registration did not improve the clarification of rights for different stakeholders. However, it did improve the standard of living of those with rights to royalties from commercial felling. Simultaneously, it weakened the livelihood security of those without royalty rights.

¹³ See Orlove and Guillet, 1985.

¹⁴ At the time of research, five men had migrated to the Middle East. In 2004, about 25 men had migrated there (personal communication).

¹⁵ The new Forest Ordinance states “right holder means a person who does not have proprietary rights over forest but has rights or privileges over reserved forests, protected forests, wasteland as per record of rights admitted at the time of settlement or subsequently admitted as right holder by Government” (Government of NWFP, 2002, p. 1152).

¹⁶ In response to flooding in other parts of the country and to prevent forest commissioners from harvesting timber in excess of sustainable yields (ADB, 1995, p. 12). The moratorium remains up to the time of writing, March, 2005.

¹⁷ Forest land was registered under the Survey of Forests. Other land was registered under the Settlement Record. Both were completed in the mid 1980s in Ajmir (cf. Southwold-Llewellyn, *n.d.*, for details).

Furthermore, it ignores the customary usufruct rights embedded in the moral right to subsistence based on Islamic principles and customary practice (cf. Southwold-Llewellyn, 2002; Scott, 1976; Sundar and Jeffery, 1999).

By law, the state has total control over the management of the forests: no one can cut down a tree without permission. Legally sanctioned extraction is controlled by the Forest Department through Working Plans administered by the Forest Development Corporation through private contractors. The role of the Forest Department is largely regulatory, though not effective in terms of consistent implementation by lower-level officials or in terms of practices of local residents.

Ajmir is included in the Working Plan for Alpuri, 1984–1994,¹⁸ which was designed “To meet the essential requirements of the local people for timber, firewood and grazing” (Government of NWFP, 1984, p. 63), thus implicitly acknowledging the rights of all local people. What is not acknowledged or stipulated is the heterogeneity of local rightholders and their practices in forest management with regard to whom they allow access to ‘their’ *bandas*, and particularly the forests that are part of their *banda*.

It is through rights to the *banda* that both usufruct and royalty rights to the forests are claimed. The *banda* is an area, usually the side of a mountain partitioned from another *banda* by natural features, where nuclear families settle during the summer as a respite from the cramped extended-household dwellings in the permanent settlement. In addition, as part of the montane production strategy, the *banda* provides grazing for buffaloes, cows, sheep and goats. Migrants to the *banda* may clear part of the land to cultivate a few crops (primarily fast growing maize and potatoes) if the altitude will permit.

Akhund Khel *banda* shares, whether inherited¹⁹ or bought, have been subdivided over successive generations. Hence rights to *banda* resources are expressed in fractions of a share. One *banda* is divided into two shares; the others are divided into between 5 and 40 shares. All shareholders have equal use-rights to grazing and forests, regardless of their share size. For example, someone with 1/5 share of half the *banda* has as many rights as someone with 1/40th share to the other half. Any decisions about change in management must be made, at least in theory, with other right holders. The profits from logging and rents for grazing are distributed in proportion to size of share. And the risk of overexploitation of the forest by those needing and selling fuelwood must also be shared. This contrasts with the state’s view that shares are individually owned.

During the last two to three generations, many Akhund Khel sold their shares in the *bandas*. Today, only 40% of Akhund Khel households ‘own’ a share in a *banda*. Whole *bandas* were sold for a buffalo, or to repay a debt because the *bandas* were not a source of cash income.²⁰ Many of these *bandas* were bought by the other *khels* in the vicinity who previously had no *bandas*. Others were sold to Gujars, a transhumant group from Bunir District.

¹⁸ This remained applicable until the Forest Ordinance became law at the end of 2004. The Forest Ordinance gives the same rights of use as those stipulated in the Working Plan (Government of NWFP, 2002).

¹⁹ In principle, sons inherit equally when their father dies. However, sometimes, the land is divided equally among the sons and their father before his death. Also, if the family has little land, larger shares may be given to elder brothers. And in the past, when a man had more than one wife, the inheritance of sons born to different mothers was not equal.

²⁰ Another factor may have been that, after incorporation, owners did not feel that their ownership was secure; but none of my informants mentioned this.

Actors at the Local Level

Land registration encoded the legal rights of royalty right holders, and by implication the management rights of right holders against non-right holders. In this context we can identify different social actors with different sets of interests: government officials, right holders, non-right holders, and women.

Government Officials

The Divisional Forest Officer²¹ told me that everyone is allowed to cut fuel wood from the Ajmir area, regardless of whether or not they are right holders. He said his role was to protect the forest, but “We must solve local people’s needs before the forest can be preserved.” He told me that if a permit for building timber is granted, a *jirga* of right holders must give permission for the tree to be cut.

The implementation of policy is through local Forest Guards. The Range Officer (senior to the Forest Guard) told me that the rules concerning fuelwood are the same throughout Malakand Division. In many parts of Malakand Division, fuelwood collection is heavily fined, although in the Ajmir area, the Forest Guards say they are tolerant because there is no other source of heating.²² There did seem to be consensus, in practice, that it was up to the royalty right holders to decide who could take fuelwood. This contrasts with the intention of the Working Plan and the Divisional Forest Officer’s interpretation of the Working Plan that all local residents should have fuelwood.

Local residents view Forest Guards as corrupt. I was told repeatedly that a person caught with timber is fined unless they bribe the Forest Guards. On the other hand, there have been incidents elsewhere where Forest Guards have been beaten up or even killed by right holders selling wood illegally.

The interpretation and implementation of the law varies among different Forest Guards.²³ The perceptions of local residents about how the Forest Guards operate also differ from how the Guards see themselves and how higher levels of officials perceive them. “Thus the understanding and motivations of government officials at these local levels crucially mediate how the policies formulated a higher levels are actually presented to their intended beneficiaries” (Springer, 2000, p. 87). In this case, the intermediary role of the Forest Guards in representing and implementing the policies of the state is inconsistent and impotent.²⁴

Royalty Right holders

De facto rights of right holders to decide who can take timber and fuelwood from ‘their’ *banda* are supported by customary practice and the impotence and inconsistency of Forest Guards. Their rights in relation to other right holders and to non-right holders are also ambiguous, and embedded in conflicting principles of sociopolitical organization and moral

²¹ Interviews on 28 June, 1993 and 2 August, 1994, with Salar Khan, Divisional Forest Officer for Alpuri whose area included Ajmir.

²² Cf. Southwold-Llewellyn, 2005, for detailed ethnography on the interpretations and practice of four guards working in Ajmir.

²³ See Steimann, 2003 for an example in Hazara.

²⁴ See Gururani, 2000: 185–88 for a comparative and mostly similar account of the position of Forest Guards in India.

rights and duties. Any right holder in Ajmir can grant permission to a non-right holder to cut timber, collect fuelwood, or graze animals. The size of the share is important for distributing the rents collected for grazing and particularly the revenues for timber harvested by the state. In recent years, some of the larger *banda* right holders have received sums up to Rupees 900,000 (approximately US \$33,457)²⁵ in royalties. Such windfalls have enabled investment in land, housing, migration to the Middle East, and local enterprises (e.g., shop or water mill). Hence, some of the larger right holders want to protect the forests; but given the structure of share-holdership, management practice, and social organization, it is difficult for them to cooperate as a group in changing the management of the *bandas*. Rather, their cooperation, or lack of cooperation, is dependent on wider social and political interests.

One of the most difficult aspects of describing resource management is that there is little consistency in management principles. As with the Forest Guards, there is variation among informants who hold similar positions in the community. Unlike the Forest Guards, most of whom I interviewed only once, the accounts of individual right holders varied with each of numerous conversations over a two year period. The conflicting constructions of one large right holder about who may collect fuel wood in his *bandas* are typical:

- 1) Everyone should have access to fuelwood. There are no restrictions. No one needs to ask. How can anyone live here without fuelwood?
- 2) Anyone who is a member of the community may collect fuelwood. [Who is a member of the community is a fluid concept.]
- 3) Anyone who has paid rent for grazing their animals in the *banda* can collect fuelwood.
- 4) Only those who are given permission by a shareowner can collect fuelwood.
 - a) A shareowner will give permission to anyone who asks.
 - b) A shareowner will give permission to anyone who gives him political support.
 - c) A shareowner will let anyone collect fuelwood, except his enemies
- 5) Only shareholders may collect fuelwood.

It is the fluidity of these “principles” that characterize the management of *bandas*. On the one hand, they use the discourse of the government that forests need to be protected to extricate themselves from obligations to those who do not have a share in the *banda*. On the other hand, if private right holders limit access, they will reduce opportunities to enhance prestige and to mobilize political followers in *jirga* meetings. Without clients you cannot develop economic resources such as labor for cultivation or for building new enterprises, such as a water mill. Therefore, these conflicting constructions are a form of risk management, giving maximum alternative options in the present and for the future.

Non-Right Holders

The use rights of non-right holders are also recognized: other Akhund Khel, other *khels* living in this part of Ajmir, tenants, and those who rent grazing rights in the *banda*. There are, however, differences in the nature of their rights. In practice those from Akhund Khel and the other *khels* who have no *banda* share, or do not have sufficient fuelwood in their own *bandas*, take fuelwood. Those who are tenants of the cultivated land of *banda* right holders usually may take fuelwood from the landlord’s *banda*, as may those who stay in the *banda* and pay rent for their animals. Access is based mostly on relations with a particular right holder.

²⁵ The rate of exchange in June, 1993, was Rs. 26.913 to \$1.

On any day, there is a continuous procession of people carrying heavy loads of fuelwood and timber down the mountain from the *bandas*. Most are men; many have returned for the summer to collect fuelwood for their household consumption during the winter. Much of it is for sale to supplement subsistence. From the perspective of the right holders, subsistence is based on household need for fuelwood. From the perspective of the poorest, the sale of forest products is an important part of their subsistence.

Women

Women are the largest group dependent on fuelwood for household tasks. Most women denied collecting fuelwood because it is shameful. From observation, however, many of the Akhund Khel women, particularly those considered too old to maintain purdah, carry bundles of cut fuelwood, as did women from other *khels*.

Although I heard many complaints from women that some *banda* right holders did not allow them rights to collect fuelwood, I know of no disputes that directly involved women. Women's complaints are addressed in the *jirga* by men. It is behind the public arena that they exert their influence. Men discuss strategies for their role in a future *jirga* meeting with respected women. And if there is a serious dispute within the *khel*, women will discuss among themselves how the dispute can be resolved and how they can get their husbands to act according to their plan.

Management in Practice

In this Provincially Administered Tribal Area, the first tier of the legal system is community-based *jirgas*. How they operate is central for understanding how forests are managed, and how disputes over rights to forest use are resolved.

Right Holders of the Same Banda

In theory, right holders of the same *banda* have *jirga* meetings to decide who can use their *banda* for grazing and what rents will be charged for grazing, who can collect fuelwood, and what trees will be cut. Because the Akhund Khel *banda* shares are usually inherited, they are generally close relatives: brothers and father's brothers' sons. Rarely is there agreement among them.

On one level of analysis, this disunity is surprising since they share a common economic interest in their *bandas*. There is a Pukhtun adage which exemplifies segmentary opposition in acephalous patrilineages: I against my brother, my brother and I against our father's brother's sons, my brother and I and our father's brother's sons against our father's father's brothers' sons etc. This adage illustrates how the principles of lineage solidarity and economic interest, are cross-cut by the principle of autonomy. All three principles are key to understand how coalitions are formed and broken within *jirgas*.

The introduction of state controlled commercial felling clearly marks the right holders as a financial interest group. However, their inability to act as a group is embedded in their history of actions and ideas about the self in relation to others, i.e., their identity (cf. Southwold-Llewellyn, 2005). Barth (1969) explains that the distinctiveness of Pukhtun culture is based on value orientations which "... emphasize male autonomy and equality, self-expression and aggressiveness in a syndrome which might be summarized under the concept of honour (*izzat*)" (p. 120).

In terms of economic self-interest, the right holders have a common interest in controlling the amount of fuelwood and timber leaving the forests. As a group, most of them acknowledge the needs of everyone to have fuelwood; but it is not in their interest for non-right holders to sell what is not for their domestic need. Furthermore, many right holders are selling timber without the agreement of their joint right holders. Yet, in practice little can be done to stop the illegal, informal economy because of disunity among right holders. This lack of cohesion is an integral part of Pukhtun identity that underscores their sociopolitical organization based on patron–client relationships as well as kinship. This contrasts with the idea that common interest will promote trust and collective action (Poteete and Ostrom, 2004).

Patron–Client Relationships

In principle, every man living in Ajmir should be present at *jirga* meetings. Respect is given to those who have conciliatory skills, irrespective of age or *khel*. Those who are not Akhund Khel are particularly important in their role as mediators for resolving disputes concerning Akhund Khel. However, gaining a consensus of support depends on a loyal following. It is through their support in *jirga* meetings of their patrons that non-right holders gain access to fuelwood and timber.

Individual autonomy and self-interest are exemplified by the concepts of *dushman* (an enemy or foe) and of *dost* (a friend). One informant told me: “The changing value of *bandas* is a major source of *dushmani* in the village. It is only natural because some are getting richer and others getting poorer.”²⁶ *Dushmani* reinforces patron–client relationships and is a key factor in the inability of right holders to agree on a common policy in managing their joint *bandas*. A non-right holder told me that he can take wood from a friend’s *banda* while others who are not friends (*dushmani*) cannot. In answer to questions about special things he would do to represent friendship he said: “If anybody attacks my friend, then I will support him. I would support him even if I thought he was wrong because he is a friend.” What if you are a *dost* of one shareholder and a *dushman* of another? “If there are five owners, and one is a friend, it is all right because the one rightholder will say that I took his share.”

Therefore, one means of access to fuelwood, as well as sanctions, is linked to patron–client relationships, which by their very nature are divisive. A sanction against stealing can be the threat of violence; yet, the offender will have a protective patron. Likewise, right holders are only likely to report persons to the Forest Guards who are someone else’s client. In both cases, there is a risk of conflict among the right holders, thus having the effect of protecting use by clients.

Relations with cultivating tenants are more complex. Akhund Khel landlords cannot have tenants of their own *khel*. “No matter how poor, a Mia will not work for others.” Since the economy is only partially based on agriculture, tenants, like everyone else, are more dependent on migration, especially since they get only a 1/4 share of the crop, plus inputs and fodder.²⁷ Hence, there is a scarcity of labor, especially since most women of Akhund Khel are excluded from agricultural production activities due to their socio-religious status as Miangans. One landlord told me that he must give fuelwood and grazing to his tenants, otherwise, “how will my fields be cultivated?” Nevertheless, cultivating tenants are in an

²⁶ Banerjee, 2000, notes that during the Colonial Period, Pathan violence increased as an egalitarian social order was replaced by feudal hierarchy.

²⁷ A ¼ share is unique to Kana and Alpuri. In Swat, tenants receive ½ share of the crop.

insecure position. Few have a tenancy for more than a few years, even though most of them have lived in Ajmir for generations. This general practice reduces the power of tenants and it is symptomatic of the fluidity of patron–client relations.

Underlying all these relations is the threat of violence. The Forest Guards are afraid of violence; and it is not surprising that the new Forest Ordinance authorizes them to carry arms. However, the threat of violence curtails the extent of its use and affects the management of *bandas*. Some right holders are constrained by their fear of what non-right holders would do if they did not have fuelwood:

If we do not allow our landless relatives to collect wood, there would be a collision between them and us. When it snows, everyone needs a lot of wood. If they have no wood, those without would fight with us. A poor man will be in opposition to me if I do not give him wood. How can we live here if everyone is in opposition?

On the other hand, tenants from other *khels* repeatedly told me that they were afraid of Akhund Khel. The threat of violence also works as a counter-balancing force. It may be used to terrorize weak individuals, such as tenants of another *khel*, or to forge temporary alliances. But it has little potential to protect the self-interest of right holders, as a group, against non-right holders.

Political Alliances with National Political Parties

The *jirga* is also a microcosm of national political party factions. Akhund Khel is divided into four, sometimes five, subdivisions based on descent. These sub-*khels* are mixed in terms of landholdings and domicile; and all are closely related through intermarriage. Each sub-*khel* has its own leaders and supports different national political parties in alliance with another sub-*khel*.

Whichever political party is in power enables supporters to use force. For example, in the spirit of community-based development, several drinking water schemes have been introduced by a succession of political parties. The government supplied the materials and the local community organized the labor. When the Pakistan People's Party was in power, the Muslim League supporters in the hamlet were not given pipes. The reverse happened when the Muslim League gained power. This affected the poor as well as the wealthier. Naturally, it led to physical conflict with the use of Kalashnikovs and rifles to steal pipes from the opposing faction.

These sub-*khel* alliances are not stable because no one wants anyone else to be a leader. These sentiments underlie the lack of cooperation and help to explain the limited resources provided to the area.

Conclusions

During the colonial period, the Forest Department created legislation to protect the forests (from the local population) in order to log the timber (for state revenue). Similar policies were adopted by the ruler of Swat. The policies of the colonial Forest Departments in India and Pakistan never did work as intended because they disregarded the logic of indigenous institutions.²⁸ In practice, local-level management of forests has always been devolved in

²⁸ Irrigation in Tamil Nadu is another example. See Mosse, 2003.

Ajmir. However, the community-based forest management which operates in Ajmir does not fit the ideals of community-based management envisaged by donor-driven policymakers.

Devolution assumes that participatory forest management will be based on homogeneous interest groups, stereotyped as economic interest groups. As a consequence of government forest policies, economic group interests have been reinforced by: 1) forest land registration which has dichotomized users into royalty right holders and non-royalty right holders; and 2) by both state controlled and illegal commercial felling which has increased incomes for royalty right holders. However, the institutions that manage the forests are structured by parallel hierarchies based on cross-cutting linkages of kinship and/or patronage. These alliances are fluid due to cultural values which emphasize autonomy and competition. This management structure is reinforced by the *jirga* where factions represent a cross-section of the dominant patrilineages that include both right holders and non-right holders. The voice of the weakest is not heard through their coalition as an economic interest group, but through their support of a patron. And although women are not present in *jirga* meetings, they do have influence.

In spite of the difficulties illustrated by the case of Ajmir, placing responsibilities on local inhabitants does provide opportunities for sustainable forest management. It is obvious that forest use cannot be controlled effectively by state edict or local-level officials. And furthermore, the government does not have the resources to provide either the human or material infrastructural support to realistically create new institutions everywhere. It would be a better use of limited resources to support the existing institutional framework of *jirgas*, flawed though it is.

In the present context, equitable use rights are most likely to be protected in the short-term by supporting existing management institutions that protect the use rights of all. Strong principles of the moral rights of everyone are based on Islamic ideals, and reinforced by patron–client relationships.²⁹

This case illustrates that the Forest Department is not in a position to control forest use. Under the management of local *jirgas* the extent of forest exploitation is less than in many other areas where the Forest Department has greater control. This is not to say that *jirgas* maintain sustainable forest management. Rather, they address the contradictions between conservation and livelihood needs. More fundamentally, the examples of both *jirga* and community-based management should raise the question whether the assumption that devolution will lead to better livelihoods and sustainable resource use is correct.

The devolution of local government was introduced in 2001. Although power has yet to be devolved effectively from the Provincial Government, elections have taken place. A proactive structural change is that one-third of the seats are to be held by women. A woman from Ajmir has been elected to the Union Council. She has outstanding personal qualities, acknowledged by her election, but she is not able to attend the Union Council meetings because no provision has been made to keep the women in purdah during the meetings. Her husband, one of the poorer members of Akhund Khel, attends the meetings on her behalf. Nonetheless, this is a promising first step.³⁰

Platteau and Abraham (2002) argue that there is a need for strong central government control to change patterns of elite hierarchies at the lower level. As I have pointed out, strong central government control is unrealistic in this context. More encouraging, they further argue that the interests of commoners can be protected in situations where elites have diversified opinions. *Jirgas* are such an arena. In the case presented, *jirgas* are strongest where

²⁹ A fuller explanation is in Southwold-Llewellyn, 2002.

³⁰ Cf. Gupte, 2004, for an example of how women are marginalized in CBM in India.

community-based management has been criticized. They prevent local elites from domination and they protect equitable distribution of subsistence needs from the forests.

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