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Below the Surface of Private Property: Individual rights, common property, and the Nepalese kipat system in historical perspective

Werner M. Egli

This article will investigate the following questions: (a) how was it possible for some Kiranti villages in east Nepal—maybe only a tiny minority—to largely maintain their traditional rights in landed property over the course of the last 200 years? (b) what were the macro-sociological conditions which enabled this development? (c) which special characteristics of the groups concerned favoured the survival of traditional rights?

I do not adopt the mainstream perspective on the investigation of the Nepalese kipat system of land tenure which was initiated by Caplan (1970), adopted by Sagant (1978), Müller (1984), and others, and continued by Forbes (1999). This focuses on the discontinuity in the historical change from collective rights in land to private property, from tribal to state law, from a clan-based economy to a market economy, or as “a broad shift in local-national political relations, a shift shaped by Nepal’s transformation from a kingdom on the edge of the British empire to a nation-state on the edge of an international market economy” (Forbes 1999: 116). Instead, I try to show that the often neglected individual rights belonging to the kipat system had a continuity, beneath the surface of private property. In so far as this article is a contribution to recent trends in the discussion of common property resource management systems, it shares the criticism contained in Hardin’s neo-classical theory, the ‘Tragedy of the Commons’ (1968), which shows that “privatisation and government control are not the only mechanisms to affect the use of natural resources. There is a middle way: rules developed at the community level” (Achesson 1989: 358). Its consequences coincide with Neef’s conclusion in his recent study of the Djerma and Fulbe in Niger and the Fon and Ayizo in Benin, that a government should not introduce private property rights, or insist on their effective application in instances where they have been introduced already, if special circumstances exist, such as “high social cohesion of the

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1 This article is based on a talk given at the Blockseminar der Schweizerischen Ethnologischen Gesellschaft in 1998, under the title ‘Kollektive und individuelle Eigentumsrechte bei tribesl Gruppen Nepals im Laufe der neueren Geschichte’. For critical remarks on a draft of that talk I am indebted to Dr Joanna Pfaff-Czarnecka, Zurich University.

2 Even though I think the investigated case is not unique, the proverbial hetrogenity of the Kirantis from village to village (Vansittart 1980: 66f.) must be taken into consideration.