

Rethinking Anticommons: Property Rights and Resource Contestations in India's Forests

Abstract

In this dissertation, we try to understand the implications of anticommons property (multiple exclusion rights and no exclusive use privileges) on the governance of natural resources. We evaluate how anticommons influence conflicts around resource-use and how they get created and transformed in both policy design and implementation. This relatively new, but intensely debated, category of property, has come to characterize a wide range of resource contexts. Posited as symmetrically opposite to the commons property (multiple use rights and no exclusion right), anticommons are typically analyzed in terms of a tragedy – that of resource underuse. The dominant characterization of the anticommons property is one of “phantom tollbooths”, where robber-barons (holders of exclusion rights) extort and loot value from legitimate resource users bringing ruin to the economy. Consequently, a reassignment of rights to the most valuable resource-use is usually proposed as a solution.

This dissertation offers a fresh understanding of the anticommons problematique. We argue that like the “tragedy of commons”, the “tragedy of anticommons” too is a false problematic premised on a uni-dimensional view of natural resource, absolutist notions of property, and monolithic conception of the State. The narrow focus of the current scholarship on efficiency considerations fails to explain the ubiquitous existence, creation, and persistence of anticommons. Further, most of the existing policy prescriptions prove conceptually problematic and practically untenable. We argue that the very persistence of anticommons in the form of disaggregated rights (exclusion and use rights) and departmentalized governmental decision-making points to the inescapable multiplicity of use-values of a resource. These get valued differently a) by different individuals / groups of individuals within the local context, and b) at different scales by local, regional, national, and global communities. Once we acknowledge the multidimensionality of the resource, it is imperative to recognize the intrinsic conflict among the multiple use-values of the resource. Consequently, the fragmentation of rights in an anticommons emerges as an institutional response

to mediate such conflict. We, thereby, present a radical rethinking of the role of anticommons in resource governance – rather than a problem of excess institutions that introduce unnecessary inefficiency in resource-use, they represent an institutionalized contestation necessary in the modern economy and society. In this dissertation, we undertake a conflict based analysis of the various processes that lead to creation, persistence, and navigation of the anticommons - at the scales of both policy design and policy implementation. In the process, we hope to displace the theoretical construct of anticommons from its current conceptual moorings (in efficiency-based analysis) to, what we believe, is a more useful frame of analysis (conflict).

The empirical support for our work comes from the analysis of anticommons in India's forest governance architecture. We develop and analyze two inter-linked case studies – a) a critical review of policy design of the Go/No-Go and the Inviolable policy that sought to “objectively” demarcate India's forests across mining and conservation purposes, and b) the analysis of resource contestations in a chosen field site of Hasdeo Aranya forests in Chhattisgarh in central India. Our data collection and analysis involved a mix of qualitative methods comprising of a close critical reading of several thousands of pages of government documents, primary interviews with senior-level bureaucrats and policymakers, and ethnographic fieldwork in the Hasdeo Aranya forest region of north Chhattisgarh.

The core contribution of this dissertation is in displacing anticommons from the efficiency to the conflict paradigm. We argue that the domain of existence and persistence of anticommons is in the conflict-ridden Machiavellian world of resource contestations, rather than the Coasian world of mutually beneficial exchanges. We explicate the nature of forces that lead to the creation and navigation of anticommons – both de jure and de facto. We also make the first attempt to develop the intellectual framework, conceptual vocabulary, and methodological tools to carry out a conflict-based analysis of anticommons. Our secondary contribution is to the literature on policy design, where we demonstrate that conflict and negotiation – inter-ministerial conflict in our case - offer useful frames for analyzing the policymaking process. We also develop a rich empirical base and a robust theoretical foundation for an understanding of trade-offs involved in India's forest governance, especially in the context of recent policy debates.

Keywords - anticommons, property rights, resource contestations, forest governance, conflict