

HISTORY

The Law of the Jungle

Peter Linebaugh

*If ye kill before midnight, be silent, and wake not the woods with your bay,
Lest ye frighten the deer from the crops, and the brothers go empty away.*

*The Kill of the Pack is the meat of the Pack. Ye must eat where it lies;
And no one may carry away of that meat to his lair, or he dies.*

—Rudyard Kipling, “The Law of the Jungle” (1895)

Author’s Note: This article, “The Law of the Jungle,” is a slightly modified version of a chapter in my forthcoming book entitled *The Magna Carta Manifesto: Liberties and Commons for All to be published by the University of California in the spring of 2008. The overall thesis of the book is that the power of the freedoms derived from this English medieval charter (June 15, 1215), which include habeas corpus, prohibition of torture, trial by jury, and due process of law, cannot endure in our epoch without the recovery of the Charter of the Forest (September 11, 1217) which protected the access of commoners to the largest hydrocarbon energy resource of the day, the woodlands. In other words, restraints on state power required subsistence in the commons. The book tells the story of “The Great Charters of the Liberties of England”: how they helped inspire the Declaration of Independence, the Abolitionist movement, and the Welfare State; how they are lost and found in the annals of time very much according to the struggle of the various classes comprising society, how the rulers are frightened by them and how the common people can find in them an anchor in the storm. The separation of constitutional history from history of society in Anglo-American historiography made it difficult to apprehend the full depth of the rupture represented by the U.S. invasion of Iraq in 2003 and its bid to control planetary hydrocarbon resources. This particular chapter was further inspired by the remarkable work of the historians of South Asia, and I’d like to dedicate this article to one of them, Sumit Sarkar.*

“A frightful hobgoblin stalks throughout Europe. We are haunted by a ghost, the ghost of Communism”—is the opening of *The Communist Manifesto* in its first English translation.

The translator was Helen MacFarlane, a Lancashire Chartist, whose choice of words derived from the forest commons—“Hob” was the name of a country laborer, “goblin” a mischievous sprite. Thus communism manifested itself in the *Manifesto* in the discourse of the agrarian commons, the substrate of language revealing the imprint of the “clouted shoon” of the 16th century who fought to have all things common. The trajectory from the “commons” to “communism” can be cast as the passage from past to future. For Marx personally it corresponded to his intellectual progress. The criminalization of the woodland commons of the Moselle Valley peasantry provided him with his first experience with “economic questions” and led him directly to the critique of political economy.

The “science” of political economy provided a specious universal built upon the axioms that commodity exchange and private property were natural laws and mankind’s *summum bonum*. Actually, some of its major proponents, James Steuart, Thomas Malthus, James Mill, and J.S. Mill, were employees of the East India Company. The hobgoblin may have had a ghostly existence in Europe, but in India the forest commons, or jungle, and the creatures therein, were thriving. “Causes which

were lost in England might, in Asia or Africa, yet be won,” wrote E.P. Thompson in the midst of the colonial revolt.

In 1867 the Lord Chief Justice of England, Alexander Cockburn, argued in the notorious Governor Eyre controversy that the summary hanging of hundreds of people during the Morant Bay uprising in Jamaica during the previous year was criminal. Referring to the Petition of Right as well as to the Great Charter, he enunciated the principle of the rule of law, “every British citizen, white, brown, or black in skin, shall be subject to definite, and not indefinite powers,” and added “What is done in a colony today may be done in Ireland tomorrow, and in England hereafter.” This is the boomerang of imperialism, or blowback.

Sumit Guha sums up the modern ecological history of India by saying that at the end of the 20th century, about half the surface area of India was under cultivation while actual woodlands comprised 13 or 14 percent of the total area—wooded islands in a sea of tillage. In contrast, two centuries earlier the ratio was reversed—archipelagoes of cultivated field in a sea of modified forest. What happened? Rabindranath Tagore, the Nobel prize winning poet of Bengal, published a volume of poetry which he translated into English as *Stray Birds* (1916). He wrote, “The woodcutter’s axe begged for its handle from the tree. The tree gave it.” It is a gentle metaphor for imperialism.

Here’s how it worked. In 1802 the Crown arrogated to itself sovereignty over the Indian forests. The teak tree provided planking for the decks on naval and commercial ships that exported the produce of India: it was teak which defeated Napoleon. They were ripped wholesale from the hills to provide “sleepers” or railway ties for the iron rails which carried Indian wealth from the interior to the port cities, and whose steam engines voraciously consumed more and more wood. The steam ships and iron railways of the British raj, useless without the Indian timbers and fuel for their construction, carried away the wealth of India. India seemed to provide the substances of its own undoing.

Indian Famine joined the English Enclosures, the American Frontier, the Scottish Clearances, African Slavery, and the Irish Famine as historical synecdoches of primitive accumulation when terror accompanied the brutal separation from the means of subsistence, Victorian holocausts all. After the “Indian Mutiny” of 1857, “English fury” took over. In English parlance the word “nigger” began to prevail. The sanguinary rod of rule rang the iron triangle formed by terror, racism, and expropriation. The frequency, extent, severity, and nature of Indian famines changed for the worse. They became less localized owing to the extension of the railways; many millions perished by starvation, cholera, small pox, and fever; and a new cause exacerbated the scarcities directly proceeding from lack of rain, i.e., lack of purchasing power. Agricultural wage laborers suffered the most. Government offered public works at starvation wages—breaking stones, digging ditches, and preparing railway beds. Those with strength and opportunity fled to the jungle.

One-and-a-half million died in Madras Presidency during the Great Famine of 1876-1878. Women and children who stole from gardens or gleaned in fields were “branded, tortured, had their noses cut off, and were sometimes killed.” In Poona leading an aborted conspiracy in 1879 B.B. Phadke became “the Maratha Robin Hood,” the father of militant Indian nationalism. Jotirau Phule (1881) said:

The cunning European employees of our motherly government have used their foreign brains to erect a great superstructure called the forest department. With all the hills and undulating lands as also the

fallow lands and grazing grounds brought under the control of the forest department, the livestock of the poor farmers does not even have place to breathe anywhere on the surface of the earth.

Dadabhai Naoroji, the nationalist, wrote at the end of the 19th century. “The Europeans are and make themselves strangers in every way. All they effectually do is to eat the substance of India, material and moral, while living there, and when they go, they carry away all they have acquired, and their pensions and future usefulness besides.” He continued, “How strange it is that the British rulers do not see that after all they themselves are the main cause of the destruction that ensues from droughts; that it is the drain of India’s wealth by them that lays at the their own door the dreadful results of misery, starvation, and deaths of millions.”

Government, in its Indian Famine Commission’s Report, offered the view that “the mortality, whether it be great or little, was due to the ignorance of the people, to their obstinacy and their dislike for work.” The Famine Commissioners blamed the Indian forest commoner whose alleged “improvident denudation” destroyed the topsoil, removed the forest cover, and lowered the water table. Government must step in “to turn to the best account the vast resources provided by nature.” “Measures must be taken” to prevent people who are *accustomed* to taking forest produce from doing so. Such practices were “recklessly destructive of the public property.” The Commissioners concluded, “so far as any immediate advantage is to be sought from the extension of forest in respect to protection against drought, it will, in our opinion, be mainly in the direction of the judicious enclosure and protection of tracts....” The raj criminalizes custom, and it does so in the context of famine, which it blames on the ignorance, obstinacy, and laziness of Indian commoners.

Commons in the forest provided the basis of subsistence agriculture in times of plenty and of dearth. *Kumri* was a system of shifting cultivation practiced in western India. *Jhum* was a similar system of forest cultivation under which a tract of forest is cleared by fire, occupied and cultivated for a time, and then abandoned for another tract. Among the Baigas, this form of agriculture is called *benar*. It is swidden agriculture, i.e., burning clearings in the forest, and seeding in the scattered ashes. They say “the axe is our milk-giving cow.” The forest was the people’s safety-net. The preservation of this net was partly the responsibility of the *panchayat*, the local jury or assembly. During famine, *sál* seeds were in considerable demand as an article of food. After the thorns have been cut off the prickly pear tree and it has been chopped up, it can be given to cattle in time of scarcity. Of the karkapilly tree, it is said “the leaves and twigs furnish a never-failing forage for the poverty-stricken feeder of milch goats; birds, beasts, and boys scramble for the plump arillus which encases its seeds....” Wild acacia tree provides “bark eaten in times of scarcity.” The Indian horse-chestnut “is given as food to cattle and goats, and in times of scarcity the embryo is soaked in water and then ground and eaten mixed with flour by the hill people.” And of sandalwood, “the leaves were eaten to a considerable extent in famine seasons in the Ceded Districts.”

The Dang of Gujrat tell an old story of a sahib who was spotted with a telescope.

He said, “these are forests of gold. I must get them for myself.” Moving through the jungle he asked for the names of trees which he wrote down immediately in his book. With the names in his book, he did not need the rajas any longer, for he knew everything about the forest himself.”

Naming and expropriation go together. Like Adam before him, John Bull sat down to name the species of creation. James Sykes Gamble in 1902 published, *A Manual of Indian Timbers: An Account of*

the Growth, Distribution, and Uses of the Trees and Shrubs of India and Ceylon. Gamble belonged to the Indian Forest Department. Four thousand seven hundred and forty-nine species were identified and described, the “deracinated particulars” of the European scientific fact. He provides a three-part index, one for the European name, one for the Latin name, and one for the Indian vernacular. He explains one of its purposes, to help the English forester “be free from the obvious danger of having to rely on the diagnosis of a subordinate or workman.” Why was this obvious?

Arundhati Roy leads us to the answer. She records a conversation with a man of the forest.

In Vadaj, a resettlement site I visited near Baroda, the man who was talking to me rocked his sick baby in his arms, clumps of flies gathered on its sleeping eyelids. Children collected around us, taking care not to burn their bare skin on the scorching tin walls of the shed they call a home. The man’s mind was far away from the troubles of his sick baby. He was making me a list of the fruit he used to pick in the forest. He counted forty-eight kinds. He told me that he didn’t think he or his children would ever be able to afford to eat any fruit again. Not unless he stole it.

And indeed after naming came law. The Indian Forest Department was formed in 1864 with Dietrich Brandis, a German forester, as the first Inspector General of Forests. The first Forest Act (1865) contained provisions for the “definition, regulation, commutation, and extinction of customary rights.” The Indian Forest Act of 1878 was an act of massive, intercontinental confiscation. It destroyed the village forest commons undermining subsistence cultivation as well as hunting and gathering. Ramachandra Guha writes, “one stroke of the executive pen attempted to obliterate centuries of customary use by rural populations all over India.” Brandis expressed one of the consequences: “the rich shoal land in the ravines down which the streams descend attracted coffee planters who destroyed the magnificent timber, and this let in the wind which has extended the mischief done by the axe.” Brandis advocated “the formation of village forests for the exclusive use of the people.” In the debates preceding the 1878 Forest Act, Henry Baden-Powell advocated total state control over the forests of India with the extinction of existing customary rights, norms and practices and the denial of access to the land and resources of the forest. Baden-Powell, an Indian High Court Judge, regarded these as unwritten privileges rather than as ancient rights. He did so on the basis of the theory of “Oriental despotism.”

An opposing view prevailed in Madras whose Board of Revenue reported in August 1871,

There is scarcely a forest in the whole of the Presidency of Madras which is not within the limits of some village, and there is not one in which, so far as the Board can ascertain, the State asserted any rights of property—unless royalties in teak, sandalwood, cardamon, and the like can be considered as such—until very recently. All of them, without exception, are subject to tribal or communal rights which have existed from time immemorial and which are as difficult to define and value as they are necessary to the rural population. Nor can it be said that these rights are susceptible of compensation, for in innumerable cases, the right to fuel, manure and pasturage, will be as much a necessity of life to unborn generations as it is to the present. Here the forests are, and always have been, a common property.

The Madras Forest Act was delayed to 1882 because of the debate over “customary uses.” The Governor of Madras stated that the 1878 Forest Bill “is framed for the purpose of the acquisition by government and ultimate extinction of all such private or village rights.” Among the British governors, the debate over forest policy was conducted with the parallel to the Norman Conquest of England in mind. The parallel was mentioned in an 1822 minute, “the system we are following and now seeking to legalize is worthy only of the times of the Norman Conquest.”

According to the 8th article of the minute by Governor Buckingham and Chandos, “This is probably much the same process which the Norman Kings adopted in England for their forest extension.” Sir William Robinson also opposed the Act, writing “the system we are following and now seeking to legalize is worthy only of the times of the Norman Conquest.” Remarkably, this debate, now archived in Delhi, was printed. The discussion was haunted by the ghost of the “Norman yoke” and Magna Carta, the Normans having been the French conquerors of the Anglo-Saxons in 1066, who appropriated forest lands to their own advantage. Some versions of the story of the Magna Carta portray it as an ethnic, cultural, and linguistic victory against despotic outsiders.

In 1885 a petition to the governor of Bombay from the cultivators of the mountain ranges of the Tannah District provided a list of subsistence uses that could be compared with those mentioned in the English charters of liberty. The hearths burn fuel hewn from the forest, the simple huts from time to time need new rafters gathered from the woods, the cattle require grazing grounds, wood is need to make farm implements such as the plough, in seasons without grain petitioners require the fruits and vegetables of the jungle, its “wild productions,” the ability to sell flowers and mangoes from the open land provides some cash. The 9th article noted, “the powers proposed to be given to the police are arbitrary and dangerous, arrest without warrant of any person suspected of having been concerned at some unknown time of being concerned in a forest offence (taking some wild bee’s honey from a tree or the skin of a dead animal).” He linked the two principles of subsistence and freedom from arbitrary arrest: chapter 39 of Magna Carta and chapter 13 of the Forest Charter which says “Every free man shall have also the honey that is found within his woods.”

Henry Baden-Powell launched in 1875 the *Indian Forester*, with a German forestry expert, W. Schlich. It combined scientific enterprise (observation and experimentation) with assiduous record-keeping (“every forest officer who is worthy of the name keeps a note-book”), and abject loyalty to authority (“we are suppliants at the threshold of every temple of government”). Its first article was hostile towards *kumri* agriculture. Baden-Powell sent impressions from Dehra Doon, warning against “the frightful injury caused by fire,” issuing forest diktats (“I would simply prohibit, as far as possible, *all cutting*...”), and in capitalizing the letters of general prohibitions (“From therein fire MUST ABSOLUTELY be kept out and GRAZING.”), one hears the slap of the swagger stick of the sahib. As one hill man of Dehra Dun put it, “the forests have belonged to us from time immemorial: our ancestors planted them and have protected them: now that they have become of value, government steps in and robs us of them.”

They wrote with the blind superiority of the imperialist. The prologue to the journal emphasized the “utilization of forests”—the harvesting of produce, the extraction of rubber, the production of fruits, the charcoal burning, “the transport of forest produce by land and water, dragging, carrying, carting, snow-sledges, timber slides, floating and boating, and of all things road making,” and it mentions the different methods of disposal of forest produce by sale, by permit, by government agency, and by auction. *Kumri, jhum* etc. is left out entirely. “Next we mention protection of the forests and their produce against men and beasts....” The cat is out of the bag. The prologue concludes with the characteristic imperial elision of knowledge and force, “the field is a wide one; let us try and occupy it successfully.”

Baden-Powell published his *Forest Law* in 1893. At near 500 pages, it had every appearance of the definitive: 27 lectures, schematic conspectus of each part, liberal footnotes to German experts. Although it considered the rights of litter, of lopping, of grass cutting, of wood for building, for fuel, for industrial and agricultural implements, and for minor forest produce, its definition of a

“right” was anything but reassuring to the Indian ryot or forest dweller. Rights, he explained, have to be established and defined in order to be legal. Custom is recognized insofar as it is uniform, uninterrupted, and longstanding. Although he mentions Manwood on *Forest Law* (1598), there is never a mention of the Forest Charter. There is no evidence that he ever consulted the panchayat. Forest laws are required, he says, “A forest is really as much the subject of property as an orchard or a garden; but owing to its natural origin, in most cases, the ignorant population has an inveterate tendency to regard it as ‘no man’s goods,’ or as free to all: and the feeling is, that it is theft to steal a gold ring from a shop, or even apples from an orchard or roses from a garden, but it is not harm to cut a tree, or turn in some cows to graze in a forest.”

The imperialist was also haunted by the spectre of communism. Baden-Powell was part of a worldwide debate following the Paris Commune of 1871. His study of *The Land System of British India* argued that there was no tribal stage in the formation of villages and hence no such thing as tribal property. His book was reviewed by Thorstein Veblen, forming part of the international discussion. Since such property did not legally exist, there was no “need for its explanation in an a priori assumption of “collective ownership,” or holding “in common.” This scholarship gave backing to privatization by doubting the existence, past or present, of social commoning. The village commons is entirely nugatory. Dietrich Brandis discussed the communal forests of French and German villages at the conclusion of his *Memorandum on the Demarcation of the Public Forests in the Madras Presidency* (Simla, 1878): “they are not based on theories and Utopian schemes.”

After naming, after law: science.

Darwin buckled down to writing *The Origin of the Species* during the summer of the India Mutiny in 1857 including the evidence of his correspondents from the Indian empire. Colonel Poole reported from the north-west frontier of India that the Kattiyar breed of horses is generally striped. Mr. Blyth and Captain Hutton of India kept whole flocks of geese hybrids descended from the common goose and the Chinese goose. In 1849 his friend, Hooker, was kidnapped in Sikkim returning from Tibet through a mountain pass. He had been collecting rhododendron seeds for Kew Gardens. In response a regiment was moved towards Darjeeling, while Sikkim was annexed for the Crown making “botanizing,” as this bio-piracy was called, more secure. Meanwhile, the rhododendron seeds, collected at different altitudes in the Himalayas, were found to possess “different constitutional powers of resisting the cold” in England and provided Darwin with an example of plant acclimatization at different temperatures, in his chapter on the Laws of Variation. In *The Origin of the Species*, Darwin refers to childhood observations of Scotch fir ecology on both enclosed and unenclosed heath which were later confirmed by similar observation near Farnham, Surrey, where heaths were both enclosed and unenclosed. In 1876 an article in the *Indian Forester* quoted Darwin to the effect that for tree plantations to flourish, browsing cattle and human woodcutters alike should be excluded.

And after science: myth.

Rudyard Kipling wrote “The Law of the Jungle” as a poetic, oracular coda to his *Second Jungle Book* (1896). It has found its way into the pep talks of American football coaches, into the handbook and lore of the United States Marine Corps, as well as into the rituals and games of the Wolf Cubs. It is a masculine, predatory creed whose rhythms of solidarity might be mistaken for the sound of marching boots,

THE LAW OF THE JUNGLE

As the creeper that girdles the tree-trunk the Law runneth forward and back

—
The strength of the Pack is the Wolf, and the strength of the Wolf is the Pack

Despite its numbing rhythm, a closer study reveals a socialist code of conduct. It is against accumulation, primitive or otherwise, and it provides a moral economy for the pack, the cub, the mother, and the father. It is based on the jungle commons. The eighteen stanzas of “The Law of the Jungle” enjoin one to wash, to sleep, to keep the peace, to live unobtrusively, and to sit down in order to prevent war. One takes no pleasure in killing, one leaves food for the weak, one shares the kill, hoarding is forbidden, the children may draw on the food of the pack, the mother is given privilege to food. Yet, Fear pervades the jungle. It provides a guide to virtuous conduct during the crisis of privatization when violence is inherent in all aspects of environmental losses.

The Mowgli series originated in a tale he had written about the Indian Forestry Department. Mowgli is a boy brought up by wolves. “How Fear Came” is a version of the Fall where Satan is replaced by “Man,” or the people of the plains and the empire. They brought catastrophe to the creatures. Hathi the Elephant explained, “ye know what harm that has since been done to all our peoples—through the noose, and the pitfall, and the hidden trap, and the flying stick, and the stinging fly that comes out of white smoke, and the Red Flower that drives us into the open.” Malthusian gloom set in, and like kept to like.

Rudyard Kipling was born in Bombay in 1865, descended from three generations of Methodist preachers. The Mowgli stories owe something to his evangelical background (Bunyan’s *Pilgrim’s Progress*). He was devoted to his *ayah*, and as a child he dreamt in Hindustani. His father worked at a Bombay Arts College named after a Parsi benefactor who also endowed a neighboring Jainist animal hospital reputed in England to illustrate the Indian “love of animals.” In 1891 his father, John Lockwood Kipling, wrote *Beast and Man in India*. European observers, however, “mostly look at nature along the barrel of a gun.” “In India,” he believed, “we are nearer the time when creatures spoke and thought,” accordingly he has a short chapter on animal calls.

That was also the year that he shipped his son, Rudyard, to England, and an abusive upbringing by puritanical guardians. This childhood uprooting was marked in his memory by the miserable cruelty suffered by the dogs at the neighboring hospital. At the United Service College, whose headmaster was sympathetic to the socialist outlook of William Morris, young Kipling was in touch with the agricultural laborers and small cottagers from whom he heard about poaching, smuggling, wrecking—all community forms of appropriation that are half-way between moral economies and social banditry. This tale occurs during famine, and the suggestion is that scarcity is the time when the law especially is needed. Kipling’s description is remarkable for its ecological signs—a tree which does not bloom (mohwa), wild yams which dry up—and it is remarkable for the Water Truce, in which the predatory animals stop hunting, and the water hole is a peaceful gathering place for all, an *encuentro*.

George Shaw-Lefevre of Wimbledon Common founded the Commons Preservation Society in 1865. Within fifteen miles of the center of London, there were 74 such commons. The Society had two purposes, one “that the people should have some interest in the land of the country,” and two “that the amenities of everyday life should be placed within reach of rich and poor alike.” The Society soldiered nobly in defense of the great parks of London as “amenities” for the health of the urban proletariat, not as a platform of social and economic equality.

Lord Baden-Powell, the founder of the Boy Scouts, similarly wanted to improve the health of the slum children of the English industrial cities. He denigrated his half-brother's, Henry Baden-Powell's, book as "his manual on forest law, whatever that may be." *Scouting for Boys* was published in 1908, and the Wolf Cubs, whose activities and rituals were based on the anthropomorphic stories of Mowgli in the *Jungle Books*, were started in 1916. A code of conduct for the 20th century anglo-american boys thus emerged, mediated by Rudyard Kipling and Baden-Powell, from the Indian subcontinent jungles just at the time when those forests and the human cultures they sustained were falling under the axe. The Indian forest was enclosed and its commoners expropriated at the same time that the English worker finds relaxation in the parks which are developed from the ancient English commons. The exotic imaginary of the Indian forest as evoked in Kipling's *Jungle Books* provided the template of healthy activity for the masses of urban children in the English cub-scout movement even as the vast safety-net in the forests of India were expropriated in the midst of famine.

Kipling stayed with friends in Allahabad who introduced him to the Seonee jungle. Kipling may be contrasted with Verrier Elwin who went out to India from Oxford to join a mystical Christian ashram, then became a follower of Gandhi and the Non-Cooperation movement, finally abandoned the independence movement and lived with the "tribals," becoming an Indian citizen after independence. He records several talking animal stories collected by people of the Seoni forest. Verrier Elwin lived with the Gond people who inhabited that jungle. The gender of the action in the Mowgli stories however tends to be male; the gender of commoning in the English forests tended to be female—gathering, nutting, gardening, gleanng, pig-keeping, cow-caring. A big difference between Kipling's Mowgli story and reality was described by Verrier Elwin: there is no "subjugation of woman in a Gond village." When Gandhi's reform movement reached the Seoni, it impoverished them all as much as the expropriations of the Forest Department—women prevented from dancing, alcohol prohibited. In 1939 reformers warned Gandhi of these so-called immoralities.

Jungle is a Hindi word in origin meaning waste or forest. Among the forest people of western India, the *jangli* is associated with a discourse of wildness as well as with a particular eco-system. Ajay Skaria refers to "the cathexis of the forest" or to its affect and energy as provided or discerned by the *adivasi*. The Dang periodized history as two epochs, the time of tax collectors, land demarcation, and forest guards, and the time before when freedom prevailed, along with hunting, fishing, gathering, shifting cultivation, and mahua-collection. This time was called *moglai*. Thus Kipling in his Mowgli stories summons up not a Golden Age nor a Garden of Eden but a specifically Indian characterization of a recently lost commons. While it is true that Kipling was the bard of British empire, his "underground" or "Mowgli" self should not be seen ethnically or even nationalistically, but in sympathetic relation to the people who came before. The boy named Mowgli brought up in a wolf pack personified the epoch of historical freedom known as *moglai*, which was passing before their eyes.

Mowgli was a hobgoblin but not a communist. Kipling's accomplishment with Baden-Powell's help was to displace the ancient discourse of commoning and the modern political discourse of communism into childhood. Early in the 20th century in the heyday of the privatized nuclear family the human relations of the commons was repressed in a kind of Freudian commons, or consigned to the bedroom and nursery in the children's utopias of *Peter Pan*, *Treasure Island*, *The Land of Oz*, and *The Wind and the Willows*. The *Jungle Books* end with Mowgli rejoining human society,

and taking a position in the Indian Forestry Department, the “great superstructure” of discommoning.

Gandhi arrived in England in 1888 in order to study law in one of the Inns of Court and to become a barrister. To pass his exams (in 1891), he had to read Broom on *Common Law* and Williams on *Real Property*. In Broom he would read that the forest laws were insupportable until “the people of England” passed “the immunities of *carta de forestâ* as warmly contended for, and extorted from the king with as much difficulty, as those of *magna carta* itself.” Knowledge of the Norman Conquest at the time stressed the violent creation of the royal forests; so, when Joshua Williams lectured on the subject at Gray’s Inn in 1877, he emphasized that the king pulled down houses and churches. Although Gandhi wrote that Williams on *Real Property* “read like a novel,” he’d find in it no references of herbage or pannage and only two to estovers, unless Gandhi read Joshua Williams’ lectures delivered ten years earlier at Gray’s Inn on *Rights of Common*, in which case he’d become acquainted with the Forest Charter and its numerous references to customary usufructs (28 citations to herbage, 21 to estovers, 8 to pannage). Herbage is the custom of pasturing cattle in the forest; estovers are the customary rights to wood for fuel, for shelter, and for equipment; and pannage is the custom of letting swine feed off the mast (acorns, bark) of the woods to pasture. Williams stressed that the “people of England” stated in the Forest Charter that “all forests which King Henry our grandfather afforested should be viewed by good and lawful men” in order to disafforest them. In other words, something like a jury would remove some woodlands from royal jurisdiction. Gandhi however was more interested in vegetarianism, theosophy, ballroom dancing, and the punctilio of English gentleman’s fashion than he was in English law. Gandhi may have just read “the rights of common . . . are, for the most part, rights which arose in a primitive state of society, and which are unfitted for society as it now exists.” Communism is childish: Mowgli must grow up.

In the theory of John Locke, useful human activity confers prescriptive right; property right arises directly from labor. Joshua Williams in his Gray’s Inn lectures expressed it like this: “The right to take fuel to burn in a house, if claimed by prescription must be claimed in respect of an ancient house; for prescription is a title acquired by a use, for time whereof the memory of man runneth not to the contrary.” The issue of memory is important because it can be disturbed by trauma, such as famine, when the vulnerable members of the community—the elderly are precisely those possessing the customary knowledge—are quickest to succumb. This from a forest settlement report of 1916:

The notion obstinately persists in the minds of all, from highest to the lowest, that Government is taking away their forests from them and is robbing them of their own property. . . . The oldest inhabitant therefore and he naturally is regarded as the greatest authority, is the most assured of the antiquity of the people’s right to uncontrolled use of the forest . . . My best efforts however have, I fear, failed to get the people generally to grasp the change in conditions or to believe in the historical fact of government ownership.

Elwin observed the result of failure to resist: “He became both timid and obsequious, and it was almost impossible to develop in his mind a sense of citizenship, for he no longer felt at home in his own country.”

In May 1913 a village clerk petitioned for exemption from forced labor. “They are not allowed to fell down a tree to get fuel from it for their daily use and they cannot cut leaves of trees beyond certain portion of them for fodder to their animals.” Social order began to be monitored by the statistics of wood theft, which no more foretold the coming storm of *satyagraha* than did the Moselle River statistics foretell the 1848 revolutions. Defiance of forest regulations formed part of

the campaign led by the Indian National Congress in 1920-2 and 1930-2. Women and children committed the bulk of “forest offences.” In 1911 Sonji wanted wood to rebuild his house, but Forest Regulations required that he ask permission from the English authorities. Instead he told his chief who said take the teak since he was “master of the forest.” Sonji duly took the wood, he was challenged, the commoners assembled, and incendiarism spread.

While the non-violence, the passive resistance, and the spiritual purity of the concept of *satyagraha* has had powerful effects in the Indian independence movement as well as the America civil rights struggle, it left the commons behind. *Satyagraha* did not include estovers. A British missionary wrote in 1921, “the ignorant have been stirred up by the [Congress] agitators to believe that Gandhi is King now, and that the British rule is at an end—the results being that the villagers have been trespassing in the reserved forests and taking leaves and branches for firewood ad lib” *Ad libitum* meaning at one’s pleasure, but you could not take just as much as you pleased. We saw that Sonji consulted his chief before cutting down the teak to rebuild his house.

In 1959 I visited Murree, a hill station north of Rawalpindi, where the villagers had rights to graze their animals, to cut grass, to carry away dead trees, to lop trees which were more than 16 ft. high, to cut one tree to meet the funeral expenses, and once in five years to take 315 cubic feet of wood for building purposes. England, Magna Carta, seemed at the time far away.

In 1973 Chandi Prasad Bhatt hugged a tree, and saved it from the axe, thereby initiating the chipko movement which became a worldwide flashpoint of discussion on feminism, environment, and development. Apart from the drumming, the invocation of the sacred, the movement was also marked by a deep sense of history recalling customary rights back to 1763. Women in fact were the repository of local tradition. “In the act of embracing the trees, therefore, they are acting not merely as women but as bearers of continuity with the past in a community threatened with fragmentation.” That continuity, we now can say, goes back to the Charters of Liberty. The ghost that haunted Europe—the commons—was full-bodied in India.

In South Wales, Alfred Russell Wallace’s first job was in 1840 to survey lands in anticipation of railroads and enclosure. The powerful miners, the angry artisans, the sullen laborers, and resentful small farmers resisted through nocturnal outlaw organizations known as Rebecca’s Children. Its modern historian writes that “an extramural nation took shape.” In latter years he called enclosure an “all-embracing system of land-robbery.”

He journeyed to the Amazon and the Orinoco where he lived with indigenous peoples and then departed for the Indonesian islands, searching for the bird of paradise.

I have lived with communities of savages in South America and in the East, who have no laws or law courts but the public opinion of the village freely expressed.... There are none of those wide distinctions, of education and ignorance, wealth and poverty, master and servant, which are the product of our civilization....

Poverty and crime have accompanied the extension of commerce and wealth. “A great landholder may legally convert his whole property into a forest or a hunting-ground, and expel every human being who has hitherto lived upon it. In a thickly-populated country like England, where every acre has its owner and its occupier, this is a power of legally destroying his fellow-creatures....” The system of land tenure originated at the Norman Conquest when the whole land of

the kingdom became vested in the Crown. Tenures with customary rights of commoning evolved from villeinage.

Was there a Golden Age, a real age of *moghat*? The debate in India has been lively. The Gond people believed that when the government took the forest an "Age of Darkness" commenced. Gandhi as trained in English law would have run across the phrase "prescription is a title acquired by a use, for time whereof the memory of man runneth not to the contrary." As one hill man of Dehra Dun put it, "the forests have belonged to us from time immemorial." And Russell: "... mankind will have at length discovered that it was only required of them to develop the capacities of their higher nature, in order to convert the earth, which had so long been the theatre of their unbridled passions, and the scene of unimaginable misery, into as bright a paradise as ever haunted the dreams of seer or poet."