

LAND REFORMS IN INDIA

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1. INTRODUCTION:

Land reform (also agrarian reform, though that can have a broader meaning) involves the changing of laws, regulations or customs regarding land ownership. Land reform may consist of a Government-initiated or Government-backed property redistribution, generally of agricultural land. Land reform can, therefore, refer to transfer of ownership from the more powerful to the less powerful, such as from a relatively small number of wealthy (or noble) owners with extensive land holdings (e.g., plantations, large ranches, or agribusiness plots) to individual ownership by those who work the land. Such transfers of ownership may be with or without compensation; compensation may vary from token amounts to the full value of the land.

Land reform may also entail the transfer of land from individual ownership—even peasant ownership in smallholdings—to government-owned collective farms; it has also, in other times and places, referred to the exact opposite: division of government-owned collective farms into smallholdings. The common characteristic of all land reforms, however, is modification or replacement of existing institutional arrangements governing possession and use of land. Thus, while land reform may be radical in nature, such as through large-scale transfers of land from one group to another, it can also be less dramatic, such as regulatory reforms aimed at improving land administration.

Nonetheless, any revision or reform of a country's land laws can still be an intensely political process, as reforming land policies serves to change relationships within and between communities, as well as between communities and the state. Thus even small-scale land reforms and legal modifications may be subject to intense debate or conflict.

2. Historical Background:

Since its independence in 1947, there has been voluntary and state initiated/mediated land reforms in several states with dual objective of efficient use of land and ensuring social justice. The most notable and successful example of land reforms are in the states of West Bengal and Kerala. Other than these state sponsored attempts of reforming land ownership and control, there was another attempt to bring changes in the regime which achieved limited success; famously known as Bhoodan movement.

3. Classification of Land Reforms:

There are four main categories of reforms:

- I. Abolition of intermediaries (rent collectors under the pre-Independence land revenue system).
- II. Tenancy regulation (to improve the contractual terms including security of tenure).
- III. A ceiling on landholdings (to redistributing surplus land to the landless).
- IV. Attempts to consolidate disparate landholdings.

i) Abolition of Intermediaries:

Intermediaries like Zamindars, Talukdars, Jagirs and Inams had dominated the agricultural sector in India by the time the country attained independence. Quite naturally top priority was accorded to the abolition of intermediary tenures.

ii) Tenancy Reforms:

Rural India witnesses three types of tenants. They are- (a) permanent or occupancy tenants, (b) temporary or non-occupancy tenants, and (c) sub-tenants.

- a) The permanent tenants have the permanent ownership right over the land. The rent for permanent tenants is fixed. The right to

cultivate land goes from generation to generation so long as they pay rent.

Hence land is inheritable. Because of such security of holding, the occupancy tenants make improvement on their land. They are almost the owners of land, as they can mortgage or sell their land.

There is hardly any difference between the peasant-proprietors or the owners of land and occupancy tenants. The only difference is that while the owners pay the rent to the government, the occupancy tenant pays it to the land-lord.

- b) Temporary or non-occupancy tenants have no right to cultivate the land permanently. They can be evicted from land on minor pretexts. In their case, rent is too high. It may be increased arbitrarily. They do not make any improvement on the land for the fear of eviction.
- c) Sub-tenants are the tenants who cultivate the land of the big land owners. They cultivate land only on lease basis. The leases are rather oral. These can be changed at will. They pay rent either in cash or in share of the product. In any case the rent is exorbitant.

There is no security of tenure. Their position is not only weak and insecure but also pitiable. According to the National Sample Survey (8th round) 20 per cent of land is under the tenancy-at-will and sub-tenancy.

The tenancy reforms in various states have three important features, though the provisions are not similar in all cases.

These are- (a) security of tenure for the tenants, (b) fixation of fair rent and (c) grant of ownership rights to certain types of tenants.

(a) Security of tenure:

Sir Arthur Young rightly observed: "Give a man the secure possession of a bleak rock and he will turn it into a garden; give him a nine years lease of a garden and he converts it into a desert." This remark very pithily sums up the need for providing security of tenure. Security of tenure creates interest among the cultivators for improving their land. Further, it helps in attaining

two basic objectives of land reforms namely increase in productivity and promotion of social justice.

To protect tenants from ejection and to grant them permanent rights on lands, laws have been enacted in most of the states. They have three essential features.

(a) Tenants cannot be evicted without any reason. They can be evicted only in accordance with the laws.

(b) Land can be resumed by the landlord only on the ground of personal cultivation. But the land-lord can resume the land only up to a maximum limit.

(c) The landlord should leave some area to the tenant for his own cultivation. The tenant in no case should be made landless.

However, tenancy legislations in India are not uniform throughout the country. Each state has its own legislation. In Orissa, a limit has been imposed on the landlords for resuming land for personal cultivation.

(b) Regulation of Rent:

In Pre-Independent India rents were high for obvious reasons. A number of factors such as defective land tenure systems, pressure of population on land, absence of non-farm employment opportunities and the apathetic and lukewarm attitude of the government towards the tenants' interest were responsible for the continuous rise in rents. Fifty per cent of the total produce was paid as rent.

In some areas the rent was as high as 70 per cent. In addition to such high rent, the tenant had to provide certain free services to landlords. This was called Bethi and Beggary in Orissa. So at the beginning of the First Plan, the Central Government insisted on the regulation of high rent by State Governments. It was laid down that the rent to be paid to the landlord should not be more than 20 to 25 per cent.

Accordingly, different State Governments passed tenancy legislations to regulate rent. The main objective of such Acts was to make the rent fair and reasonable. However, the maximum rent differs from state to state. For example, while in Orissa and Bihar the rent is fixed at 1/4th of the gross

produce, in Punjab it is one third and in Rajasthan it is one-sixth of the gross produce. The rates also vary within the state because of the difference in the fertility of land.

(c) Right of ownership:

So far as right of ownership is concerned, tenants have been declared as the owners of the land they cultivate. They have to pay compensation to the owners. The amount of compensation should not exceed the level of fair rent.

In some states provisions have been made allowing the tenant to purchase the leased land on payment of a price to the landlord. If any dispute arises between the tenant and the landlord over the payment of price, this may be referred to a land tribunal. The tribunal will decide the price to be paid by the tenant to the landlord.

As a result of these measures about 40 lakh tenants have already acquired ownership rights over 37 lakh hectares of land. They have become better-off economically and socially.

In several states, in the matter of tenancy reform, legislation falls short of the accepted policy. What is even worse, the implementation of the enacted laws has been half-hearted, halting and unsatisfactory in part of the country. The legal protection granted to tenants has often been ineffective.

III) Ceiling on land holdings:

The third important step of land reforms relates to the imposition of ceiling on land holdings. Ceiling on land holdings implies the fixing of the maximum amount of land that an individual or family can possess. Land ceiling has two aspects: one, the fixation of ceiling limit and two, the acquisition of surplus land and its distribution among the small farmers and landless workers.

Ceiling legislations in India have been enacted and implemented in all states in two phases. The first phase continued upto 1972. The second phase started from 1972. The important provisions of ceiling legislations constitute (a) unit of application; (b) upper limit for land holdings; (c) exemption and (d) availability of surplus land and its distribution.

Bhoodan Movement:

The Bhoodan Movement was spearheaded by Acharya Vinoba Bhave. He collected land from the rich landlords and distributed that to the landless. About 4.2 million acres of land were received under Bhoodan, but so far only about 1.3 million acres have been distributed.

IV) Consolidation of Holdings:

Consolidation of Holdings means bringing together the various small plots of land of a farmer scattered all over the village as one compact block, either through purchase or exchange of land with others. The average size of holdings in India is very small. The size of the holdings is decreasing but number of holdings is increasing over time. This is due to the inheritance laws.

The inevitable consequence of this inheritance law is that farms are being subdivided and fragmented with every passing generation. Further there is a decline of joint family system which was prevailing in earlier period.

4. Causes of failure of Land Reforms:

There are a number of causes for the failure of the programmes of land reforms. They are as follows:

i. Undue advance publicity and delay in enacting land laws:

Much publicity has been given in advance by the leaders of the ruling party to the proposed land reforms after independence. Again, the time taken for a bill to become an Act in many states has been unusually long and This has enabled the landowners to make necessary adjustments so as to be able to evade various provisions of land reform legislation.

ii. Loose definition of the term “personal cultivation”:

The term “Personal cultivation’ is quite loose. One could resume land for personal cultivation under the definition even while sitting at a distance of 200 miles. The Zamindars have been permitted to possess substantial areas of land for cultivation. Again, the laws have provided for many exemptions in the form of land awarded for gallantry, land under orchards, tea estates, well-run farms etc.

iii. Optional Nature of the Laws:

Most of the laws granting ownership rights to tenants are not mandatory. They are rather optimal. The tenants have to move the government for grant of ownership rights. They will not get them automatically. On many occasions, tenants hesitate to approach the law courts for this purpose merely out of fear of the landlords.

iv. **Malafide Transfer of Land:**

To escape the laws relating to land ceilings, the Zamindars have indulged in large scale transfer of land to their family members or kinsmen. Such Malafide transactions do not make any change in the operational aspect of agriculture.

v. **Lack of Social Consciousness among the Tenants:**

Prof. Khusro in his study entitled "Economic and Social Effects of Jagirdari Abolition" has emphasised the importance of social consciousness of the tenants as a factor responsible for the successful implementation of land reforms.

vi. **State side with the Big Farmers:**

N. C. Saxena has rightly observed that the state governments which control the land operations have moved favourably towards the big farmers. The interests of the small farmers have been vitally affected.

vii. **Lack of strong political will:**

The programme of land reforms necessitates adequate political desire, zeal and support. But unfortunately the political leaders only wear a mask of progressive socialistic outlook. In this regard, the report of the Task Force on Agrarian Relations deserves mention. The report says "Enactment of progressive measures of land reforms and their efficient implementation call for hard political decisions and effective political support, direction and control".

But in reality, this important factor is lacking and often standing in its way. The lack of political will is amply demonstrated by the large gaps between policy and legislation and between law and its implementation.

viii. **Bureaucratic corruption:**

It is an acknowledged fact that whenever some honest officials implement the laws relating to land reforms sincerely, they incur the wrath of the political leaders who ultimately put them in unnecessary difficulties.

Land reforms provide a golden opportunity to the Patwari and other functionaries of the Revenue Department to make money. Again in many cases the highly placed officials are themselves landlords.

The bureaucracy created to govern a colonial feudal system was entrusted to implement agrarian reform and element of all those policies which were inherently anti-feudal, progressive and democratic”.

ix. **Surplus land is fallow and uncultivable land:**

The holders of surplus land manipulate the land data in such a way that the land in excess in their possession is usually barren and uncultivable. Such a surplus land does not yield any benefit to the landless peasants. In this way the very purpose of land reforms legislation is defeated.

x. **Absence of records:**

Absence of records regarding ownership and possession of land and about its actual cultivators stands in the way of properly identifying the beneficiaries of land reforms.

xi. **Lack of uniformity in land reforms laws:**

Land reforms laws are not uniform throughout India. They are different in different states. This also accounts for the slow progress of land reforms measures.

xii. **Emergence of new agriculture technology:**

The new seed-cum-fertilizer technology, for its successful adoption, needs ample resources and dynamic entrepreneurship. Only large farmers can

fulfill these conditions. Hence on this count many economists have come out in favour of the abolition of ceiling on land holdings.

5. Remedial Measures

A number of remedial measures have been made to remove the difficulties and structural constraints pertaining to land reforms in India. They are as follows:

- i. The definition of personal cultivation in land legislation should be changed keeping in view the interests of landless farmers.
- ii. The residential qualification should be made compulsory for holding land.
- iii. Excess land taken over from big landholders should be distributed expeditiously. To assist the land reform beneficiaries, there is a strong need to link them for timely supply of inputs and investment to Jawahar Rozgar Yojana Prime Minister's Rozgar Yojana.
- iv. Updating and computerization of land records should be accorded top priority. Necessary funds should be made available to the states for this purpose. Certified extract of the record should be issued in the form of updated " Farmers Passbook'.
- v. Special attention should be paid to tribals. All left out agricultural land held by the tribals should be regularized at the earliest opportunity.
- vi. No transfer of agricultural land should be permitted to a non-agriculturist.
- vii. The state should identify wastelands, both public and private, and take up reclamation measures in these wastelands and distribute them among the poor.
- viii. Loans should be granted to the farmers under easier terms and conditions so that they can purchase the lands which are due to them.
- ix. Joint or community farm management among the marginal land holders and marginal farmers in the country should be encouraged.

- x. The administrative machinery should be kept free from unnecessary political interference and harassment.
- xi. The poor peasants should be provided legal aid upto the level of the Supreme Court. The Lok Adalats should be empowered to dispose of land reform litigations along with prompt disposal of cases by rural courts, i.e., Nyaya Panchayat/Rural Nyayalaya.
- xii. Strong political will should be created so that the government can achieve the goal of egalitarian society through the instrumentality of land reforms.
- xiii. Landless, small and marginal farmers' representatives should be given representation in local Panchayat bodies and ministries so that they are associated at each decision making level.
- xiv. The rural peasants should be made conscious about their on rights through different educative programmes and media.
- xv. Peasant organisations should be formed to protect the interests of small and marginal farmers. Through such organisations they can file claims for conferment of ownership right and can fight against exploitation.
- xvi. Scientific studies of agrarian structure of different areas separately should be conducted at regular intervals. Since the problems of one region differ from that of the other, the findings of these studies should be utilised to bring about a change in desired direction.

In fine, in a country like India characterized by a tradition of inequality and exploitation of the poor, the land reform measures can “lead to a real burst of enthusiasm, a genuine release of energy among the working peasantry”. What it needs is the proper implementation of land reforms. There are two barriers that hinder proper implementation – (i) ignorance of the poor, and (ii) selfishness of the rich.

In order to remove these hindrances the poor should be motivated through education and persuasion and the rich should be compelled to cooperate through coercion, it certainly requires a government with strong political will and a bureaucracy with commitment to achieve the desired results.

6. LAND REFORM IN RELATION TO ARUNACHAL PRADESH AND GRANT OF OWNERSHIP RIGHTS.

Arunachal Pradesh is one of the few State where cadastral survey has not been done and thus no RoR has been Prepared.

The Arunachal Pradesh (Land settlement and records) Act 2000 came into force w.e.f 01/09/2008 and rules were framed in 2012 and became effective w.e.f 14/02/2013

However, the facts remains that till date the ownership rights have not been given to the tribals/farmers.

A large area is still classified as USF (Unclassified State Forest) despite the fact that this area is held under customary Laws and thus it is private land. This land is generally under Jhum cultivation and at places as grazing land also.

The forest Department classifies this land as USF meaning thereby it is Government land. The ground realities, however, is that this land is under the possession of the Tribals/farmers at various places. The Government in 1988 issued the directive for grant of Land Possession Certificate (LPC) for such areas and LPCs have already been issued in almost all the districts for the land classified as USF by the forest department.

The fact, However, remains that LPC is neither a Record of Right (RoR) nor a ownership certificate. In most part of the country the Record of Rights have been settled but in absence of cadastral survey it could not be prepared in Arunachal Pradesh.

This is the one of the most important land reform needed in the state. In absence of ownership rights the farmers are not able to get the complete benefits of various schemes announced by the central Government as well as state Government. The farmers are not able to get the loans from the banks and financial institution.

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two basic objectives of land reforms namely increase in productivity and promotion of social justice.

It is therefore, utmost important that tenancy rights must be given to the farmers so that there is a security amongst them regarding a certain piece of land and the land can be used through its potential.

Land is one of the most important resources for any developmental work and its true potential can be realised once the security of tenancy is given to the farmers.

Some amendment in Arunachal Pradesh land settlement and records Act 2000, and rules framed there under may be necessary to achieve this objective.

It is also learn that there is a acquaint shortage revenue field functionaries at the ground level and this should be address by the competent authority.

Any land reforms need a strong political will. As the new system may be beneficial to some citizen while it may not be good for a few citizens.

Grant of tenancy rights/ownership rights will require computerisation of land records, completion of a huge land records and its maintenance etc and therefore necessary administrative structure should be in place before announcement of reforms.

In other state at the time of survey and settlement large number of post are created to carry out the survey of land and settlement proceeding thereafter. This post ere continue later on and became an integral part of revenue administration. Most of this work was started in pre independence era and it continued in post independence era also. This technical staff who was expert in survey and settlement became backbone of revenue administration.

Unfortunately, due to unfavourable geographical location of the state the cadastral survey of the state could not be undertaken and the technical carder required for the job could not come into existence. In rest of the country the patwaries, kanungoes (revenue inspectors), naib- tehsildars, tehsildars form the backbone of revenue administration. Every patwari is

assigned two to three villagers and he is the custodian of complete record of right under his jurisdiction. Total number of revenue functionaries in the state are quite less and are attached with the office of DC/ADC.

7. Provision of the Arunachal Pradesh land Settlement and Record Act-2000

i. **“Government”** means the State Government of Arunachal Pradesh;

ii. **“Government Land”** means land acquired by the Government under Land Acquisition Act or through donation of the public for establishment of Administrative Headquarter, Government Institutions and facilities under various wings of the Government or such land as defined under Section-9.

iii. **“Land owner”** in relation to any land means a person who acquires rights of ownership in respect of such land by:-

- i) Inheritance or acquisition in accordance with a local custom.
- ii) Purchase, if such purchase is not contrary to local customs;
- iii) Gift or donation as per local custom;
- iv) According to provisions under section 88;

iv. **“Village authority”** and **“Village council”** means a village authority and council as constituted in accordance with or under any statutory law for the time being in force or under any local custom respectively;

v. **Section (9) Title of lands etc;**

(i) All Lands, public roads, lanes and path and bridges, ditches, dikes, and fences on or beside the same, the beds of rivers, streams, nallahs, lakes and tanks, and all canals and water courses and all standing and flowing water, and rights in or over the same or appertaining therefore, which are not the property of any person or community are hereby declared to be the property of the Government.

(ii) Unless it is otherwise expressly provided in the terms of grant made by the Government, the right to mines, quarries, mineral products including

mineral oil, natural gas and petroleum shall vest in the Government, and it shall have all the powers necessary for proper enjoyment of such rights.

vi. Government's right to trees, forest etc.

Section (10)

- (i) The right to all trees, jungles or other natural products growing on land set apart for forest reserves and all trees, brush wood, jungle or other natural product, wherever growing, except in so far as the same may be the property of any person or community, vests in the Government, and such trees, preserved or disposed of in such manner as may be prescribed, keeping in view the interests of the people in the area with regard to the user of the natural products.

vii. Rights of land owner.

Section (88):

- I. Every person, who , at the commencement of this Act, holds any land from the Government for agricultural purposes, and his successors-in-interest shall, subject to the provisions of sub-section(2), become the owner thereof as and from such commencement.

Provided that all leases of Government land on the date of commencement of the Act, shall continue to hold of commencement of the Act, shall continue to hold such land on lease as per original terms of allotment until such time as appropriate rules for allotment of Government land for purposes other than agriculture are framed under appropriate provisions of the Act with the right to transfer the allotted land to any member of a indigenous Arunachal Pradesh Schedule Tribe of the State on payment of fees as may be prescribed by the Government.

- (i) No rights shall accrue under sub-section (1) in respect of land which;-
 (ii) Are a part of the bed of the bed or a river, Nallah, a stream or a public tank.
 (iii) Have been acquired by the Government for any purpose according to the provisions of any law in force for the time being relating to acquisition of land, or

- II. Objections to accrual of right under sub-section (1) may be filed before the competent authority within such time and in such form and manner as may be prescribed by any person who has interest or claims to have an interest in the land either in his individual capacity or as a member of the village or community.
- III. Should any objection be made under sub-section (3), the competent authority shall enquire into objection in such manner as may be prescribed and decide the same.
Should to the provisions of this Act the decision of the competent authority shall be final.
- IV. Every person who, at the commencement of this Act, holds from the Government for a purpose other than agriculture shall, subject to sub-section (2), be entitled to the settlement of that land on such terms and conditions as may be prescribed.
- V. Nothing in this section shall entitle any person to the sub-soil rights in respect of the land, of which he has become the land owner under sub-section (1), or which has been settled with him under sub-section (6).
- VI. Nothing in this section shall entitle any person to the sub-soil rights in respect of the land, of which he has become the land owner under sub-section (1), or which has been settled with him under sub-section (6).

8. PROPOSED COURSE OF ACTION

Amendment in section 88 (1) and 88 (6)

After the word government add

“or is in possession of the land “

Conversion of LPC into record of right (ROR)

In terms of section 23 of the Act the government may by notification direct the revenue survey of any local area with a view to the settlement of the land revenue and to the preparation of a record of right connected there with. The government may convert the existing LPC as draft record of right and after inviting claims and objections the permanent record of right could be issued.

Once the records of rights of issues the land revenue will also be payable.

The government will be required to take a decision on the land revenue to be charged from the tribals/farmers.