

# IMPLEMENTATION OF LAND REFORMS IN INDIA

by

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on behalf of



**LAND REFORMS UNIT**

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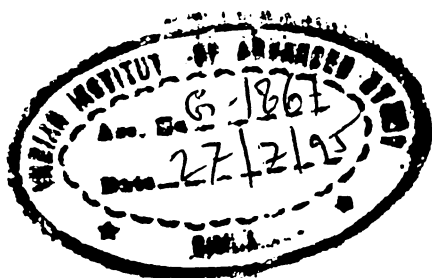
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S.K. Narula

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## CHAPTER I

### INTRODUCTION

The rural sector which accounts for three-fourths (75 per cent) of the country's population is the mainstay of the majority of the people in the country. In the rural society where land is the most relevant source of living for a large section of the people and the rights of land, however small in area, confer socio-economic status and dignity, the importance of land reforms and land records need no emphasis.

Land reform is a dynamic process which was set in motion in the country at the beginning of 19th Century after the British introduced the Zamindari and Raiyatwari systems. The adverse impact on the peasantry throughout the 19th Century forced them to protest against such oppression, the prominent among them bring the Kol Rebellion of 1830-32, Santal Rebellion of 1855, Birsa Munda Rebellion of 1895-1900, Deccan peasant uprising of 1885 and the Moplah Rebellion of 1860-1920. These movements were spontaneous. They were directed against the exploiting classes consisting of the Landlords, Moneylenders and Traders. These movements compelled the British Government to initiate suitable Land Reform measures to contain the rising discontent of the peasantry. These peasant revolts can be characterised as traditional peasant movements as they were organised by the peasants themselves involving local leadership and the traditional social organisations.

The period from 1920 to 1947 also witnessed many peasant movements in different parts of the country and their characters were different from the traditional peasant movements. There was continuous intervention of outsiders as leaders and organisers of the movement. The issues and objectives were very specific. They also acquired ideological dimensions. Examples of such peasant movements include those led by Mahatma Gandhi in Champaran, Bardoli and Kheda; movements led by Kisan Sabha under the leadership of Swami Sahajanand and N.G. Ranga in Bihar and Andhra Pradesh. The peasant movements led by Gandhi had limited objectives of redressing the immediate grievances of the middle peasantry in Champaran against the *Timi-Kathia* system, and in Kheda and Bardoli against the excessive land revenue. On the other hand, the movements led by Swamy Sahajanand Saraswati and N.G. Ranga took up the cause of the suffering peasantry and the tenants who were groaning under the exploitative proclivities of the feudal landlords. The Tebhaga and Telangana peasant movements were much more radical in content as they raised issues which were affecting the bottom strata of the peasantry like the bonded labourers, agricultural workers, share-croppers, tenants-at-will and the like. These had deeper ideological content which aimed at the restructuring of the agrarian structure by abolishing landlordism. These two movements not only involved massive mobilisation of the peasantry but were also violent in nature.

The cumulative pressure exerted by the peasant movements in the earlier two decades and on the wake of independence had compelled the Congress Government to initiate a spate of legislation on the Abolition of the Intermediary System in different States. This was the first phase of Land Reforms in the Country. These measures had benefited mostly the occupancy tenants in most parts of the country and it had adverse impact on the tenants-at-will, share-croppers, and agricultural labourers. The occupancy tenants were usually substantial tenants consisting of middle and rich peasants who became peasant proprietors during the first phase of land reforms. The share-croppers and tenants-at-will were left high and dry. As a result deprived sections consisting of the tenants-at-will, share-croppers, and agricultural labourers continued to be exploited. Kisan Sabhas organised them in various parts of the country in the 1950s and 60s. As a result of such pressure from below, different State Governments came out with various Tenancy Reforms legislations to confer security of tenure to the tenants and also prescribe fair rent. 222 laws on land reforms have also been included in the Ninth Schedule of the constitution giving protection under Article 31-B.

The objectives of the land reforms have been to break the old feudal socio economic structure of land ownership, eliminate exploitation by providing security of tenure and regulation of rent for tenants and share-croppers, bring direct contact between the tiller and the State and give social and economic status to the landless by redistributive measures. These have been considered to be vital elements for modernisation and increased productivity in agriculture. Redistributive land reform measures could provide a permanent asset base for a large number of rural landless poor by taking up land based and other supplementary income generating activities. Consolidation of holdings, tenancy regulation followed by conferment of ownership rights on tenants and share-croppers and updating of land records would widen the access of small and marginal farmers to improve technology and inputs including credit and thereby directly lead to increase in agricultural production and farm productivity.

The Sixth Five Year Plan (1980-85) envisaged that legislative measures to confer ownership rights on tenants would be introduced in all States by 1981-82, that the programme of taking over and distribution of surplus ceiling land would be completed by 1982-83, that compilation/updating of land records would be completed in a phased manner by 1985 and that consolidation of holdings would be taken in all States with the aim of completing it in 10 years with priority being assigned to command areas of irrigation projects. The progress made in the Sixth Plan indicates that none of these has been achieved fully. Vigorous action with necessary determination is called for and the necessary legal measures require to be taken on a time bound basis.

The approach to the Seventh Five Year Plan (1985-90) stated:

"The Core of the anti-poverty programmes lies in the endowment of income-generating assets on those who have little or none of these. Hence, redistributive land reforms and security of tenure to the informal tenants have to be directly integrated with the anti-poverty package of programmes."

The Seventh Plan has emphasised that land reform should be looked upon as an intrinsic part of the anti-poverty strategy and should be taken up as a conjunctive activity with other rural development programmes, such as providing a land base for asset endowment under Integrated Rural Development Programme and development of land under Jawahar Rojgar Yojana for the surplus land distributed or the land over which tenants or share-croppers become owner. Strict enforcement of land reforms and revamping of credit institutions can provide necessary access to assets and resources for the poor as well as promote a more equitable social structure.

Closely linked with land reforms is the issue of land records. While the land records were earlier considered important mainly from the point of land revenue, the land records have now come to be looked upon as a means for ensuring social justice in rural areas, crucial documents for the effective implementation of land reform measures particularly for identification of surplus land and tenancy; identification and demarcation of Government lands and village common lands; and constituting the data base for implementation of rural development and agricultural programmes. The absence of correct land records has often been responsible for many land disputes to the disadvantage of the poor. The modernisation of the land records system and making them more accessible and relevant to rural people is therefore a matter of considerable importance.

Prime Minister of India in his Independence Day Address (1991) and again at the Conference of Chief Ministers held on 4th and 5th October, 1991, highlighted the importance of modernisation of land records as well as safeguarding the land rights of the rural people and announced a National consensus and decision that all available surplus lands will be distributed by 31st March, 1992.

The major objectives of the strategy of land reforms measures are:

- i) Abolition of Intermediary tenures.
- ii) Tenancy reforms.
- iii) Ceiling on ownership of agricultural holdings.
- iv) Distribution of Government wastelands including Bhoodan land.
- v) Consolidation of holdings.
- vi) Modernisation and updating of land records.
- vii) Tribal land alienation including measures for protection of lands of Scheduled Castes and Scheduled Tribes.
- viii) Improving the access of land to women.

## CHAPTER II

### ABOLITION OF INTERMEDIARY TENURES AND SECURITY OF TENANTS AND SHARECROPPERS

#### Abolition of Intermediary Tenures

Prior to independence intermediary systems of tenure such as the Zamindaris, Jagirs, Watans, Inams etc. existed over 40 per cent of the Country and these systems covered about half of the cultivated land in the former Princely States and British India. Absentee landlordism became a prominent feature of the Zamindari system with all its attendant abuses and exploitation. Even in the areas where Ryotwari and Mahalwari systems prevailed leasing of land occurred and a parasite class of intermediaries between the State and the actual cultivators developed leading to most inhuman exploitation of the peasantry and its consequent impoverishment. Apart from the rent collected, a number of illegal dues and exactions were made with the result that the actual cultivator was left with so little and insecure that he neither had the means nor the incentive to improve that land and raise agricultural production and productivity.

One of the solemn commitments of the Freedom movement was therefore to abolish all such intermediary interests in land and in the 1950's, the first land reform measures initiated in almost all States to enact necessary legislation and take administrative measures to replace the intermediary system. Some of the salient features of these measures taken were:

- a. Simplification of the number of tenures.
- b. Establishment of a direct relationship between the cultivator and the Government in the matter of payment of rent and taxes.
- c. Security to tenants and occupants on land and protection from arbitrary eviction.
- d. A host of illegal exactions and levies were removed bringing relief to the peasant.
- e. Lands and properties taken over were settled with peasants and occupants.

As a result of these measures more than 20 million tenants have been brought in direct contact with the State. Besides this, an estimated 15 million acres of waste, fallow and other classes of land have vested in the State, a large proportion of which has been distributed to the landless and marginal landholders.

#### Tenancy Reforms

Land to the tiller is the accepted National policy. In spite of this, the rights of tillers have not been adequately protected in many of the States. Tenancy reforms have been considered one of the key components of land reforms. There are incidence of oral, insecure tenancies-at-will which lead to low investment, lack of stake by the tenant in the land, low productivity leading to severe restraint on the growth process in the rural areas. Factors like absentee landlordism and leaving the land fallow by large and medium landholders leads to general impoverishment of the rural areas. Tenancy reforms, therefore, assume importance.

The following have been the basic objectives of tenancy reforms:

- i) Rent should not exceed the level of 1/5th to 1/4th of the gross produce.
- ii) Tenant should be accorded permanent rights in the land that they cultivate subject to the special right of resumption to be exercised by some privileged categories of landholders.



- iii) There should be security to the sub-tenants/share-croppers against eviction-at-will.
- iv) The sub-tenants/share-croppers should enjoy a degree of permanence in respect of the land cultivated by them.
- v) The landlord tenant relationship, except in the case of privileged few categories should end in conferment of the ownership rights upon the tenant.

Legislative provisions have been made in extensive areas of the country providing for conferment of ownership rights on tenants or allowing cultivating tenants to acquire ownership rights on payment of reasonable compensation to the landlords. Some of the States have acquired ownership of land from the landlords and have transferred it to the tenants who have to pay certain amount of premium to the States. As a result of this, an estimated 11 million tenants have acquired ownership on about 14 million acres of land. The National Policy, however, permits landowners who are members of the Defence Forces, widows, unmarried women, minors and persons suffering from physical and mental disabilities to lease out lands to tenants without loss of ownership. Without bringing the tenants and sharecroppers on record, security to tenurial rights cannot be ensured and these persons cannot get even a crop loan from credit institutions. One of the main reasons for inadequate growth in rice production in the Eastern region of the country has been identified as due to the large prevalence of share-croppers and hence inadequate flow of inputs and credit as well as inadequate development of land and exploitation of ground water as the owners are least interested in investment on land improvement on such lands.

Despite the legislative measures taken by States under tenancy reforms, it is found that in the States where tenancy has been abolished, concealed tenancy in various forms and guises has emerged. Further, under the guise of personal cultivation tenancy continues to be in existence on an informal or oral basis with the persons in cultivating but possession not being brought on record. Absentee landlordism also continues despite the policy objectives to eliminate absentee landlordism and make the tiller the owner of the soil. While the National Policy permits creation of tenancies or leases by specified disabled categories only, larger exemptions have been provided in some States. Even in States where tenancy and leasing has been permitted with restrictions it has been found that the actual rents being paid are higher, there is no actual security of tenure afforded to the tenants from eviction, landlords have resorted to eviction of tenants either on grounds of personal cultivation or have secured the voluntary surrenders and abandonment of tenancies through coercion or other means.

The "Operation barga" in West Bengal has brought about 1.4 million bargadars (sharecroppers) on record. Similar attempt has been made so that provisions for security of tenure have been made in the laws of the States which still do not provide for conferment of ownership rights on tenants/sub-tenants and share-croppers. Tenants and share-croppers are one of the under-privileged and exploited body of rural peasantry. Security to tillers of land is very vital for increasing agricultural production and alleviation of poverty.

The task of registering tenancy, and providing the tenants protection of the laws has per force to be through administrative interventions. To achieve this following policy interventions are suggested by Revenue Ministers in various conferences:

- i) Weak record base has been a major cause for denial of rights to the tenants. It is therefore, necessary that the rights of tenants be recorded during the survey and settlement operations.
- ii) There should be provision for making entries in the record of rights at the village level without there being a necessity to go through the entire gamut of Judicial procedure.
- iii) a regular system of monitoring at block, sub-division, district and divisional levels should be devised with active participation of the beneficiary organisations and social groups.

- iv) Conferment of ownership rights upon the tenants is the ultimate goal in tenancy reforms. Some States have conferment of rights without payment of compensation, other States may also make provisions for the same.
- v) The existence of tenancy is liable to be contested by the landholder. Oral evidence produced by the sharecroppers should be given due weightage at par with the documentary evidence.
- vi) Apathy and often hostility of the administrative machinery has been a cause for the rights of the tenants being not recorded. It is, therefore, necessary that the administrative machinery should be sufficiently motivated for this task.

## CHAPTER III

### DISTRIBUTION OF SURPLUS LAND TO LANDLESS AGRICULTURAL WORKERS AND SMALL LANDHOLDERS AND CONSOLIDATION OF HOLDINGS

#### Ceiling on Agricultural Holdings

'Land Ceiling' has been considered as one of the effective instruments for reducing disparities in ownership of land by prescribing a maximum ceiling area and acquiring the surplus land for distribution amongst the eligible rural poor and also to landless persons. Ceiling laws on imposition of ceiling on agricultural holdings were enacted in several States of India during 50s and 60s. These were implemented with varying degrees of effectiveness in different States. The ceiling set by these laws were very high in many cases, and the exemptions from the ceiling too many. Besides, there were many loopholes in the laws that rendered their implementation difficult. In order to bring a certain degree of uniformity in the ceiling imposed in various parts of the country and to plug loopholes, the National guidelines on land ceiling were evolved in July 1972 in consultation with Chief Ministers of States. Accordingly, the States enacted legislations or brought about amendments to their existing legislations on the basis of the National guidelines. The guidelines envisaged ceiling limit varying between 10-18 acres for the best category of land irrigated for two crop seasons and 54 acres for dry land and certain types of orchards.

Distribution of ceiling surplus land is one of the crucial objectives of land reforms success. However, the programme has not achieved the expected results. Since the inception of the land ceiling programme (till September 1993), a total of 7.35 million acres of land have been declared surplus under the pre-revised and revised ceiling laws and out of which 6.42 million acres have been taken possession. A total area of 5.05 million acres has been distributed to 4.88 million beneficiaries, of whom 35.9 per cent belong to Scheduled Castes and 14.2 per cent belong to Scheduled Tribes. In view of the large number of cases of dispossession of land allotted to Scheduled Castes and Scheduled Tribes, States have been requested to undertake scrutiny of all such cases where land has been allotted to the rural poor and ensure that those dispossessed of the allotted lands are restored possession with no harassment in retaining their possession. The overall achievements with regard to implementation of ceiling legislations is given in Annexure I.

The area declared surplus is much less than the estimated surplus on account of the following reasons:

- i) Provision for holding land up to twice the ceiling limit by families with over five members.
- ii) Provision to give separate ceiling limit for major sons in the family.
- iii) Provision for treating every share holder of a joint family under applicable personal law as a separate unit for ceiling limits.
- iv) Exemption of tea, coffee, rubber, cardamom and cocoa plantation and of lands held by religious and charitable institutions beyond the normal ceiling limits.
- v) Benami and farzi transfer to defeat the ceiling law.
- vi) Misuse of exemptions and mis-classification of lands.
- vii) Non-application of appropriate ceiling for lands irrigated by public investment.

It has been shown that a total of 1.29 million acres of surplus land is held up by litigation at various levels like Revenue Courts from the land tribunal down to the courts of the sub-divisional office or the land reforms deputy collector and hence not available for distribution. States have been encouraged to review such cases and expedite their disposal so that land is made available for

distribution. States have also been requested to take up measures for plugging loopholes in expediting decisions in cases under litigation by creating special benches of High Courts or by constituting tribunals under Article 323-B of the constitution.

The position of cumulative progress showing implementation of land ceiling laws during the successive plan periods i.e. Fifth Plan (1975-80), Sixth Plan (1980-85) and Seventh Plan (1985-90) as also up to September 1993 is given in the table 1 below.

**Table 1**

**Cumulative Progress of Implementation of Land Ceiling Laws (Million Acres)**

<b>Pre-revised and revised ceiling laws</b>	<b>As on 31.03.80</b>	<b>As on 31.03.85</b>	<b>As on 31.03.90</b>	<b>Latest till Sept. 93</b>
Area declared surplus	6.91	7.21	7.23	7.35
Area taken possession	4.85	5.70	6.21	6.42
Area distributed	3.55	4.26	4.65	5.05
No. of (million) beneficiaries	2.48	3.29	4.36	4.88

Source: Annual Report, 1992-93, Ministry of Rural Development.

The State-wise achievements upto September 1993 has been shown in Annexure II.

**Financial assistance to the assignees of ceiling surplus land**

Since the beneficiaries of surplus land are mostly poor people and much of the surplus land being of poorer quality needs development, so as to render it cultivable, a scheme for providing financial assistance to the assignees of ceiling surplus land is being implemented by Government of India since 1975-76. Assistance by way of grant is given to poor farmer at the rate of Rs. 2500/- (54 pounds approx.) per hectare for various purposes like simple land development, provision of inputs as well as immediate consumption needs. The total amount is shared equally by the State Government and the Central Government. Under the scheme of financial assistance to the assignees of ceiling surplus land, an amount of Rs. 57.71 crores have been released upto 1991-92 as grant, since inception of the scheme and an amount of Rs. 50.41 cores has been utilised by the States. With effect from 1988-89, the benefit of scheme have also been made available to scheduled castes/scheduled tribes allottees of Government and Bhoodan land (explained afterward) and have also been covered for those allottees who have been restored their alienated land.

The State Governments have been advised by the Central Government to dovetail this scheme with other programmes of rural development like Integrated Rural Development Programme (I.R.D.P.), Jawahar Rojgar Yojana etc. so that these beneficiaries should be entitled for more subsidy from different rural development programmes.

While considerable progress had been made in the distribution of ceiling surplus land but still a large area of ceiling surplus land is not available for distribution for various reasons such as litigation in various courts, land having been reserved for public purposes or being unfit for cultivation. The following measures have been suggested in the Revenue Ministers Conference held during December 1988 for more effective implementation of land ceiling laws:

- i) Concerted efforts should be made to expedite disposal of pending cases.
- ii) Surplus ceiling land should not be reserved for public purposes as this would be against the National Policy making surplus ceiling land available for distribution among the rural poor.
- iii) Top priority should be given to the landless poor, particularly the members of scheduled castes and scheduled tribes in the distribution of ceiling surplus land.
- iv) Allotment of ceiling surplus land to the cooperatives, even of rural poor, was not considered desirable. Surplus land should be allotted to the eligible rural poor individually. Cooperatives of such allottees could be formed for sharing the other facilities and inputs.
- v) Land, which is unfit for cultivation, should be put to productive use for purposes of horticulture, growing tree crops, afforestation, pasture development etc. and allotted to rural poor.
- vi) It is necessary to associate the potential beneficiary groups with the implementation of the law. The Gram Panchayat of the village/villages where ceiling surplus land is situated may be necessary parties to the proceedings.
- vii) Due legal validity and importance should be given to oral evidence *vis-a-vis* the documentary evidence which are often "farzi" and manipulated.
- viii) The land, so taken possession of, may be allotted on annual basis to the eligible rural landless. In the event of the landholder finally succeeding in the claim after all appeals have been exhausted, the land may be returned to him.
- ix) The assistance of voluntary agencies, local bodies, social activists and organisations of rural poor should be mobilised for effective implementation of ceiling laws.
- x) There should be a ban on transfer of ceiling surplus land allotted to the rural poor. Legal provisions be made, so that even where lands had been transferred, no rights accrued to the transferees in such cases.
- xi) At least 40 per cent of the distribution should be made in the name of female members of the households and the remaining jointly in the name of husband and wife. The surplus land already distributed shall be converted into joint names of husband and wife.

#### **Distribution of Government Wasteland and Bhoodan Land**

Alongwith distribution of ceiling surplus land acquired under ceiling laws, State Governments have also been distributing culturable Government wasteland, village common land and land received under Bhoodan movement. Distribution of Government wasteland and Bhoodan land has been one of the important strategies of land reforms in India; but this has perhaps not received the attention that had been due to it. It has been decided that wasteland which is at the disposal of the Government should be distributed amongst the eligible rural poor.

It has been further noted that in many States, an additional problem had arisen to the fact that just prior to the abolition of ex-intermediary interests, the erstwhile Zamindars settled a large portion of the land with their own Kith and Kin or with the big farmers. In many instances, the management of the land in the post abolition period has not been well organised, with the result that the new influential land holder class was allowed to get away with substantial gains.

#### **Government Wasteland**

Apart from the distribution of ceiling surplus land, States also have provisions, legislation for distribution and allotment of Government lands, Gaon Sabha lands to the rural poor for various purposes such as agriculture, house-sites etc. Large tracts of Government wastelands had been available at the time of Independence. More land was obtained on account of the process of vesting of the intermediary interests. Large scale distribution of Government wasteland has been undertaken in most

of the States to the eligible rural poor. As per reports received from the States so far 12.46 million acres of Government lands have been distributed to landless poor. The State-wise figure of the Government wasteland has been given at Annexure III.

In a number of cases, it has been observed that allottees of Government Wastelands have not been found in possession. Instructions have been issued by the Government to all the States for making a complete survey of the Government wasteland distributed and to ensure possession to the allottee.

In the Revenue Minister's Conference held on 14th March 1992, the following measures have been agreed for securing larger land base for the rural poor:

- i) State Governments should make a thorough assessment of the availability of wastelands and take urgent measures for distribution to the landless poor.
- ii) High priority should be given to Scheduled castes/Scheduled Tribes and women in the matter of allotment of land for cultivation, afforestation and other productive purposes.
- iii) Correction in the records of rights should be made prior to handing over of the title deed of the settlement.
- iv) The established Gram Panchayat Institutions, Organisations of the beneficiaries, Voluntary Organisations active in the area should be associated with the process.

#### **Bhoodan Land**

The Bhoodan Movement which was launched by the late Acharaya Vinoba Bhave has been a part of the social movement for bringing about equitable distribution of land through non-government people's process. In some of the States the movement met considerable success. The information available from the various States shows that 4.59 million acres of land have been donated and out of which an area of 2.33 million acres have been distributed so far. It has also been noted that in many instances the Government land, land belonging to others and land under litigation had also been donated. Notwithstanding these factors, there is still substantial area of Bhoodan land available in many States. State Governments are taking steps to distribute these lands expeditiously.

**Measures suggested in various land reforms conferences for improvement are:**

- i) The Bhoodan Act should be amended to lay down that once a rightful donation has been established by the authority all suits related thereto shall abate.
- ii) Unauthorised possession over the Bhoodan land may be made penal cognizable.
- iii) A detailed survey should be made in respect of Bhoodan land alongwith that of Government wasteland.
- iv) Undistributed Bhoodan land, free from encumbrances should be distributed on priority basis to the landless poor.
- v) There should be a regular monitoring at the district level/State level of the programme.

#### **Consolidation of Holdings**

The programme of consolidation of agricultural holdings though not a redistributive measure but is necessary for better development planning and achieving efficiency and economy in agriculture. This measure acquires added importance in the Indian context because the average size of the agricultural land holding in this country is not only small but highly fragmented. This has stood in the way of rationalisation of agriculture and induction of adequate investment of capital and inputs on land. Therefore, this programme of consolidation of holdings has been considered as a component of land reforms implementation in India. Consolidation of holdings has been completed for all practical

purposes in the States of Haryana, Punjab and Uttar Pradesh. It has also been taken up in large areas of Bihar, Orissa, Maharashtra and Himachal Pradesh States. A total area of 151.01 million acres has been consolidated in the country so far. This constitute about 44.28 per cent of the cultivated land. With the increasing emphasis on increasing productivity of the land, consolidation has assumed greater importance than before.

The factors inhibiting consolidation of holdings are:

- a) fear of displacement among tenants and share-croppers and lack of up-to-date land records;
- b) advantage of having land in fragmented parcels in the flood and other natural calamities;
- c) apprehension that the bigger farmers would get a better deal; especially when lands are not homogenous; and
- d) local strong sentimental reasons and inadequate appreciation by and participation of people.

States have been advised by the Government that following measures should be taken for effective implementation of consolidation programme:

- i) Peoples should be educated about the benefits of the consolidation programme.
- ii) Care should be taken to see that the rights of tenants and sub-tenants are not jeopardised and interest of the small and marginal farmers is well protected.
- iii) Consolidation work should be taken up, on a priority basis, in areas covered by the command of irrigation projects where the lands were, more or less, of the same quality and there would be less resistance to consolidation.
- iv) With a view to avoiding duplication of work and to cut down cost and time in updating of land records, suitable integration of consolidation operations and survey operations would be attempted.
- v) Senior experienced officials should be deputed for consolidation work to ensure fairness and prompt disposal of complaints.

## ANNEXURE I

### Land Ceilings : Achievements with regard to implementation of ceiling legislations (till September 1993)

	Area (in million Acres)
1. Area declared surplus	7.35
2. Area taken possession of	6.42
3. Area Distributed	5.05 (100.00%)
(i) Scheduled Castes	1.75 (34.70%)
(ii) Scheduled Tribes	0.70 (13.90%)
(iii) Others	2.60 (51.40%)
4. Number of Beneficiaries (in Nos)	4.88 (100.00%)
(i) Scheduled Castes	1.75 (35.90%)
(ii) Scheduled Tribes	0.69 (14.20%)
(iii) Others	2.44 (49.90%)
5. Area declared surplus but not distributed (Sl.No. 1 to Sl.No. 3)	2.30
6. Total Area not available for distribution due to	
(i) Involved in litigation	1.29
(ii) Reserved/transferred for public purposes	0.35
(iii) Unfit for cultivation	0.37
(iv) Miscellaneous reasons	0.19
Total (i) to (iv)	2.20
7. Net area available for distribution (Sl.No. 5 to Sl.No. 6)	0.10

(Figures in brackets are the percentages)

Sources: *Quarterly progress report on the implementation of land ceiling laws for the quarter ending September, 1993.*



**ANNEXURE II**  
**Land Ceiling Achievements: State-wise (till September 1993)**

(area in lakh acres)

	<b>States/ Union Territory</b>	<b>Area declared surplus</b>	<b>Area taken possession</b>	<b>Area distributed</b>	<b>Number of beneficiaries</b>
1.	Andhra Pradesh	8.01	5.72	5.11	4.37
2.	Assam	6.10	5.65	4.79	4.27
3.	Bihar	4.75	4.00	2.79	3.30
4.	Gujarat	2.48	1.56	1.30	0.30
5.	Haryana	1.21	1.16	1.13	0.38
6.	Himachal Pradesh	2.84	2.81	0.03	0.04
7.	Jammu & Kashmir	4.56	4.50	4.50	4.50
8.	Karnataka	2.74	1.60	1.17	0.72
9.	Kerala	1.36	0.94	0.64	1.43
10.	Madhya Pradesh	2.91	2.59	1.85	0.72
11.	Maharashtra	7.23	6.48	5.57	1.40
12.	Manipur	0.02	0.02	0.02	0.01
13.	Orissa	1.74	1.63	1.51	1.30
14.	Punjab	1.38	1.05	1.02	0.27
15.	Rajasthan	6.10	5.52	4.40	0.77
16.	Tamil Nadu	1.85	1.71	1.50	1.24
17.	Tripura	0.02	0.02	0.02	0.01
18.	Uttar Pradesh	5.39	5.02	3.66	3.16
19.	West Bengal	12.70	12.01	9.40	20.57
20.	Dadra & Nagar Haveli	0.10	0.09	0.06	0.03
21.	Delhi	0.01	0.01	0.01	0.01
22.	Pondicherry	0.02	0.01	0.01	0.01
	<b>Total</b>	<b>73.52</b>	<b>64.16</b>	<b>50.49</b>	<b>48.81</b>
		<b>or</b>	<b>or</b>	<b>or</b>	<b>or</b>
		<b>7.3</b>	<b>6.42</b>	<b>5.05</b>	<b>4.88</b>
		<b>million</b>	<b>million</b>	<b>million</b>	<b>million</b>

Source: Quarterly progress report on the implementation of land ceiling laws for the quarter ending September, 1993.

### ANNEXURE III

#### Distribution of Government Wastelands

Sl.No.	State	Area Distributed (million acres)
1.	Andhra Pradesh	3.040
2.	Assam	0.375
3.	Bihar	0.975
4.	Goa, Daman & Diu	0.009
5.	Gujarat	1.373
6.	Haryana	0.003
7.	Himachal Pradesh	0.017
8.	Karnataka	1.322
9.	Kerala	0.273
10.	Madhya Pradesh	0.079
11.	Maharashtra	1.023
12.	Manipur	0.032
13.	Mizoram	0.074
14.	Orissa	0.664
15.	Punjab	0.110
16.	Rajasthan	0.093
17.	Tamil Nadu	0.207
18.	Tripura	0.132
19.	Uttar Pradesh	2.228
20.	West Bengal	0.432
	<b>Total</b>	<b>12.461</b>

Source: Revenue Minister's Conference on Land Reforms held on 14th March 1992 at New Delhi.

## CHAPTER IV

### UPDATING, MODERNISATION AND COMPUTERISATION OF LAND RECORDS

#### Land Records

In a society which is predominantly rural and where the bulk of the population depends upon agriculture, the importance of having accurate, updated and easily acceptable land records can hardly be over emphasised. Updating land records are vital for increasing productivity of land, implementing various rural development programmes and for effective implementation of land reform measures, particularly for security of tenure for tenants and share-cropper and consolidation of holdings. Properly maintained land records minimise land disputes and create social harmony in villages.

Although the importance of a proper land records system has been emphasised right from the first Five Year Plan (1955-60), yet land records are not complete. Even in the States which could boast of a sound land record system in the past the quality of record keeping and updating of land records has gone down. This is primarily due to neglect of revenue and land record administration. Inadequate staff with unduly large jurisdiction, poor infrastructure and office facilities, lack of equipment, dearth of office and residential accommodation, lack of training facilities etc. have contributed to the deterioration of land record administration. This is because of the reason that during the British period, the record of rights were prepared by carrying out cadastral surveys followed by settlement operations which were time consuming, staff oriented and involved high cost. The equipment used in these operations were also outdated.

The revenue department in the State is neglected in the matter of allocation of funds for their maintenance activities and the modernisation of their equipment. Funds are not available in the States even for routine activities like printing of various forms and stationery. Important posts in the survey and settlement department remain vacant for long periods. States have been acknowledging that the resource constraints are the main reasons for the neglect of land records administration. While the rural social scene has undergone major transformation with an increase in development activities and the setting up of an entirely new hierarchy of development administration from the grassroots level upwards alongwith the creation of "Panchayati Raj" structures to oversee their work, the structure of the revenue administration has never been reviewed or its role redefined in the light of these changes. The result is that it still functions on the basis of old hierarchial pattern.

The Revenue Minister's Conference on land reforms in 1985 reviewed the position and the same issue was also considered in the 1988 Revenue Minister's Conference. The main recommendations that emerged are the following:

- i) Survey and settlement operations where pending should be expedited.
- ii) Lowest level revenue functionaries should be strengthened by rationalising their jurisdiction.
- iii) The Central Government should help the States in a big way for strengthening of revenue administration and updating of land records and its modernisation by induction of new technology.
- iv) Computerisation of land records may be taken up on a pilot basis in each State. This project shall be funded wholly by the Central Government.
- v) There is an urgent need to rationalise and strengthen land registration offices with a view to modernise the maintenance, storage and retrieval of land registration documents.

Prime Minister of India in his Independence Day Address (1991) observed that:

"You must also be aware that there are frequent land disputes... The source of these conflicts are the land records which are not kept properly. The only method to avoid this is to keep our land records in the villages properly so that people know about their ownership and proprietary rights. We want to launch this campaign throughout the country so that in every village, proper land records are made available."

Prime Minister again observed at the Conference of Chief Ministers held on 4th and 5th October, 1991:

"For a poor person, for a small person, for a weak person, a land record is a weapon. It is not just a record, it is not just a piece of paper or not one entry tucked away somewhere in the Tehsil Office, but it is a weapon to him. You are giving a weapon in his hands. If he has no weapon, he has no way of fighting the more influential sections of society who may always want or sometimes want to deprive him of his rights. Therefore, giving him land should also be followed by giving him the right in the shape of a record and making him viable economically."

### **Land Records System in North-Eastern States**

Large parts of North-Eastern India have no land records system. There is also no arrangement to prepare records of rights and interests in land. The existing land management system in these areas consists of variety of tenurial and cultivating arrangements reflecting the customary laws and practices of the local people. There is often a lack of support from the people in conducting survey and settlement operations. There is an apprehension of individualisation of land tenure system and abolition of communal land tenure system as well as fear of imposition of land revenue and taxes. There is also a fear of usurping the land belonging to the community and interfering in the system of shifting cultivation. Further, there is penetration of 'outside' interests which would have the effect of weakening the homogeneity and strength of the village community and making them unprotected to various types of pressures and exploitative practices which they would not be able to withstand.

The unsurveyed areas in North-Eastern region are mostly tribal districts and pockets. These are hilly regions where the topography is represented by undulating terrain and, in places, by steep slopes. The customary laws and practices vary from place to place and tribe to tribe and there is no uniformity either in the social and political structure or in the manner in which resources within the area are controlled by tribe or a clan and enjoyed. Further, the possibility of traditional tribal institutions being weakened and replaced by revenue bureaucracy ignorant of and unresponsive to the customary laws and practices are also in the minds of the people. The basic threat perceived by the local people is that the State would encroach upon their rights.

The Revenue Minister's Conference of 1988 took note of all the factors and endorsed the view that while it was extremely necessary to establish a land records system in North-Eastern States not only to enable people to get credit and other inputs but also for protection of the existing individuals and group rights of the tribal communities, it was also necessary to allay the apprehensions of the tribal communities. For that purpose, the local land tenure systems, land management concepts peculiar to each State and even regions within each State, had to be done in consultation with people and effective safeguards to protect their interests had to be devised. Government of India should examine, the already existing organisation, infrastructure, manpower for carrying out survey and settlement operations, maintenance and updating of land records, training facilities etc. Keeping in view the long term projections of work required to be done, a proper system of land management should be established.

### **Centrally Sponsored Scheme on the Strengthening of Revenue Administration and Updating of Land Records**

The Sixth Five Year Plan (1980-85) had envisaged for completion and updation of land records within that plan period. But it could not be achieved due to the reasons that States have not been able to strengthen their revenue machinery and Survey and Settlement organisations because of paucity of resources, lack of adequate revenue machinery, proper infrastructural facilities, absence of training programmes and low priority given by the State Governments in allocation of funds for updating of land records. During the Seventh Five Year Plan (1985-90), a centrally sponsored scheme for Strengthening of Revenue Administration and Updating of Land Records was introduced in 1987-88 with the objective of enabling the States to strengthen their land revenue administration. The scheme is financed by the Centre Government and States on a 50:50 sharing basis.

The main objectives of the scheme are:

- i). Strengthening of Survey and Settlement Organisation for early completion and preparation of land record in areas where this work still remains to be done.
- ii). Setting up of Survey and Settlement Organisations especially in the North-Eastern Region, where no land records exist.
- iii). Pre-service and in-service training of revenue, Survey and Settlement staff and strengthening of training infrastructure for this purpose.
- iv). Facilities for modernisation of survey and settlement operations, printing of survey maps, reports/documents and for storage, copying and updating of land and crop records, using among other things, science and technology inputs.
- v). Strengthening of revenue machinery at village and immediate supervisory levels on a selective basis to make the workload of these functionaries manageable.

The scheme is being implemented by the State Governments through their Revenue/Land Reforms Departments. Under this Scheme, States have been given assistance for the purchase of modern survey equipments, carrying out aerial surveys, office equipments like photo-copiers, maintenance updating and storage of land records and strengthening of training infrastructure for the survey and other staff. The centrally sponsored scheme has also been approved by the Government for implementation during the Eighth Five Year Plan period.

### Computerisation of Land Records

Inexpensive technology is now available to facilitate easy access to information, expedite survey operations, facilitate quick updation of land records including maps and enable their storage and retrieval.

Significant structural and tenorial changes have taken place in our land relations since Independence. The intermediary interests stand abolished. Comprehensive ceiling legislations have been introduced taking cognizance of the fact that land is not a property like any other in a common sense of the term. It is a source of mass sustenance particularly for 75 per cent of our population inhabiting the rural areas. Tenorial reforms have been brought about to implement the age old policy of land to the tillers. The land reforms programme has since evolved into a National programme commonly accepted by all political parties, though their perspective may differ individually.

It is now commonly accepted that an inadequately maintained poor land record system has proved a severe constraint to our land reform drive. It has not only made the task of the Administration difficult in implementation of the progressive land reforms legislation, it has also proved advantageous to the vested interest groups enabling them to indulge in practices like concealed tenancies, benami and farzi transactions and encroachments over the common property resources.

A weak land record system has been viewed as a fundamental cause for commission of atrocities upon the weaker sections of the people.

The Conference of Revenue Ministers of States and Union Territories held at New Delhi during 1985 advocated that Computerisation of land and crop based data should be taken up on a Pilot Project basis as a 100 per cent centrally funded scheme.

### **Objectives of Computerisation of Land Records**

Considering the problems inherent in the current manual system and the requirements of diverse groups of user, the following are the broad objectives for a computerised land information system:

- i) To facilitate easy maintenance and updating of the changes which occur in the land database such as changes due to availability of irrigation, natural calamities, consolidation or on account of legal changes like transfer of ownership, partition, land acquisition, lease etc.
- ii) To provide for comprehensive scrutiny to make the land records temper proof which indirectly is expected to reduce the menace of litigation and social conflicts associated with land disputes.
- iii) To provide the required support for implementation of development programmes for which data about distribution of land holding is vital.
- iv) To facilitate detailed planning in the areas of infrastructural development as well as environment development.
- v) To facilitate preparation of annual set of records in the mechanised process and thereby producing accurate documents for recording details such as collection of land revenue, cropping pattern etc.
- vi) To facilitate variety of standard and *ad hoc* queries on land data.

In the year 1987-88, it was decided by the Department of Rural Development to start pilot project on computerisation of land records in 7 selected districts, one each in the States of Andhra Pradesh, Assam, Bihar, Gujarat, Madhya Pradesh, Orissa and Rajasthan. During the pilot project stage a one time grant of Rs. 25 lakhs per project was being made by the Central Government to State Governments. Subsequently, the programme was extended to cover 21 districts. The names of districts where pilot projects on computerisation of land records are in operation is given below:

Sl. No.	Name of the State	District Selected
1.	Andhra Pradesh	Ranga Reddy
2.	Assam	Sonitpur
3.	Bihar	Singhbhum
4.	Gujarat	Ahmedabad
5.	Haryana	Rewari
6.	Himachal Pradesh	Kangra
7.	Jammu & Kashmir	Srinagar & Jammu
8.	Karnataka	Gulbarga
9.	Kerala	Thiruvananthapuram
10.	Madhya Pradesh	Morena
11.	Maharashtra	Wardha
12.	Manipur	Imphal, Bishampur and Thoubal
13.	Orissa	Mayurbhanj
14.	Punjab	Ropar
15.	Rajasthan	Dungarpur
16.	Sikkim	Entire State
17.	Tamil Nadu	Salem
18.	Tripura	North District
19.	Uttar Pradesh	Deoria
20.	West Bengal	Burdwan
21.	Delhi	Entire Union Territory

### Evaluation of the pilot projects

A National Level Steering Committee on Computerisation of Land Records headed by the Secretary, Ministry of Rural Development with Special Secretary, Planning, National Informatics Centre (NIC) as Vice Chairman had been formed with the following terms of reference:

- To evaluate the projects and to provide expert guidance to the State Governments executing projects on computerisation of land records in particular and application of computer techniques to other areas of land administration in general.
- To advise the Department on all proposals relating to use of computer techniques in various fields of land administration.
- To advise the Department on matters connected with development of software for these programmes.
- To advise the Department on the future policy concerning computerisation in the field of land records/land reforms administration which should be adopted for the Eighth Five Year Plan.
- To advise the Department on designing suitable training programmes and setting up training facilities for enabling officers and staff of Revenue Departments of State Governments to operate this technology.

The National Level Steering Committee has been taking stock of the programme and sanctioning new projects. The Committee has observed that since sufficient experience has been gained in the Pilot Project Districts, it is time that the programme should be extended to cover the record system of the entire country.

"The Prime Minister of India in his address to the Chief Ministers' Conference held at New Delhi on 9th October, 1992 once again reiterated his firm faith in the programme of computerisation of land records and assured that it would be extended to cover the entire country."

The preliminary results have been encouraging. The Ministry of Rural Development has proposed to extend the coverage substantially during the Eighth Plan period. During the Eighth Plan an amount of Rs. 48 crores has been provided by the Government of India for this scheme. The projects of computerisation of land records will be taken up in a phased manner in various States.

It is expected that the computerisation of Land Records will help in the evolution of a new system of land management under the dynamic concept of integrated land management. It will not only lead to greater effectiveness but will also provide the missing link in the anti-poverty and rural development programmes and will also result in rural regeneration. This programme will further eliminate the wasteful practices of the revenue administration and lead to economy of scale.



## CHAPTER V

### ALIENATION OF TRIBAL LAND AND NEED FOR POLICY INTERVENTION

#### Importance of Land for Tribals

The tribal economy has traditionally centred around land and other land based resources. Even today, land continues to be the mainstay of 90 per cent of the tribal population. Thus, land is the only tangible productive asset which members of scheduled tribes possess. But, land is much more than a source of livelihood for tribal people. They have very strong emotional attachment to their land. Some of the social practices and religious rituals of tribals are also connected with land which occupies a pivotal place in their psyche.

#### Genesis of the Problem

One of the important characteristics of a tribal community is its traditional association with a territory. Initially, the community subsisted on food gathering and hunting in the area under its command. As the pressure of population grew and the community acquired new skills of agriculture, they cleared the forests and brought land under cultivation. However pressure from advanced communities in a variety of forms forced them to leave their land and move on to other areas. This did not create a serious problem as long as forests were still plentiful and not fully administered. This process which continued for centuries, however, halted when growth of population and State Administration of forests made it difficult to get extra land for cultivation.

The tribal areas remained for a long time outside the land management systems of advanced areas because of their inaccessibility. The tribal communities therefore developed their own traditions of management of land. The land ownership pattern amongst the tribal communities broadly falls under three categories, i.e., community land, land belonging to a clan and individual holding. As the British Administration consolidated its position and introduced new systems of land management, some of the tribal areas also got integrated with it. Still, the policy of treating some of the tribal areas as excluded or partially excluded helped in the continuance of traditional tribal systems. However, efforts of British Administration to introduce a system of legal and enforceable rights in land and the new pattern of land settlement brought in a commercial orientation towards the land as a resource. Illiterate and economically backward tribals could not take advantage of the new system of law and courts and in the process lost large portions of their lands. The introduction of cadastral survey and settlement also deprived tribals of their rights in land as in many places the tribal was not legally recognised as the owner of land he cultivated. He could merely occupy it till such time as a superior claim got enforced. The new legal system also started superseding traditional customs gradually and the tribals could not withstand the pressure of outsiders. In various tribal regions opening of new channels of communication increased the volume of non-tribal immigration which was further intensified with the opening of mines for commercial exploitation. Under such a situation of economic, social and cultural threat a series of tribal revolts took place during 18th and 19th Centuries. In response to these tribal rebellions, the British Government, after an initial phase of repression, initiated a series of protective legislations and administrative devices to protect interests of tribals as distinct from Hindu and Muslim peasantry. In some cases, the community ownership of land was recognised in contrast to the general pattern of individual ownership for the rest of the Country. In this manner to some extent, management of land by the community was restored. Also, suitable laws and regulations, particularly for the agency or excluded areas, were enacted which prohibited transfer of land from tribals to non-tribals. In some areas, immigrants were prohibited from acquiring lands in the tribal areas.

A number of important policy initiatives were taken after Independence having far-reaching implications on tribal land economy. Some areas under princely States with concentration of tribal population were merged with new States resulting in non-enforcement of many protective measures of the erstwhile Governments. The Constitution envisaged delimitation of scheduled areas inhabited predominantly by the scheduled tribes and the enactment of special regulation and laws affecting land rights of tribals. The reorganisation of States also led to many changes in administrative boundaries. This resulted sometimes in different regulations being applicable in different regions of the same State without much coordination. Further, the efforts in the direction of planned development also had the effect of opening of the area and consequent migration of population from advanced areas into tribal regions. The new industrial and mining complexes were established which resulted in acquisition of land for non-agricultural purposes. The reservoirs and irrigation projects were also located in tribal areas thereby leading to large scale acquisition of lands held by tribal people. Besides, the projects also attracted huge inflow of non-tribals for carrying out trading and other activities. As a result of these factors, tribals were not only uprooted from their land and traditional habitat but they also began to lose a lot of their traditionally occupied and cultivated lands to incoming non-tribals.

### **Tribal Land Alienation and Indebtedness**

The magnitude of the problem of land alienation among the tribal communities differs from State to State, region to region and tribe to tribe. But indebtedness has been a common feature and the intensity of which varies in different areas. Indebtedness is both a cause and an effect of land alienation. Legal measures to curb the activities of moneylenders and traders exist but have failed to have much effect on the severity of the problem or else the implementation progress has been so weak as to render these provisions ineffective. Besides, tribals due to their social customs, traditions and poor economic base are prone to borrow from moneylenders at extremely exploitative terms. This results in non-payment of loans, mortgaging of lands and eventual alienation of such lands to non-tribals. The process has continued even when loans were taken from public financial institutions. It has been found that while financial institutions have been advancing loans for agriculture and other productive purposes, the moneylenders and traders are known to advance loans more generally to meet domestic consumption needs, medical expenses, religious, cultural and social obligations etc. Lack of a sound national policy to extend consumption credit to poor tribals has made them completely dependent on rapacious moneylenders. Numerous studies on problems of tribal land alienation show that land alienation has occurred as a result of forcible eviction, indebtedness, sale, mortgage, lease of lands by tribals to non-tribals, encroachment, and fraudulent methods adopted by non-tribals to usurp tribal land, benami transfers, collusive court decrees and large scale acquisition for public purposes. It has also been established that the bulk of the alienated land has been in possession of non-tribals who are ever looking for opportunities to take away good quality tribal land after tribals have made investment and efforts in making it fit for cultivation. Poor quality land has been reported to be relatively less prone to alienation. The awareness among tribals about dynamics of land alienation as well as remedial provisions is very low. Even where some awareness exists, there are structural obstacles in converting this awareness into action for restoration of land such as lack of knowledge regarding modalities of seeking relief, reluctance to get entangled in litigation against the powerful adversary, harassment of having to go to court too often, fear of reprisals from encroachers, lack of faith in the administrative machinery etc.

### **Measures taken by the Government**

Since land is a State subject, the responsibility for enacting necessary legislation as well as ensuring its implementation rests with the State Governments. Most States with substantial tribal population have framed laws for preventing alienation of tribal land and for ensuring restoration of alienated land to the tribals. Most State laws on the subject have the objective that tribal land should not pass on to non-tribals through illegal and fraudulent transactions. There are, however, many loopholes

in these laws which have resulted in diluting their impact, particularly in view of some rulings of High Courts. Further, the protective provisions in many States do not apply to all tribals outside the scheduled areas. The process of legitimising massive alienation has also resulted from some court decisions which have held that trespass into tribal land does not constitute transfer of these lands. In some areas, unscrupulous elements have acquired control over tribal lands through illegal or fraudulent marriages with tribal girls in whose names they get the lands transferred and whom they just keep as concubines with clear intention of grabbing their land. Benami transactions in favour of tribal farm servants or giving non-tribal children in adoption to tribal parents for grabbing their land are also common instances. The transfer of tribal land to non-tribal is also effected on the basis of wrong declaration or suppression of information about the identity of the individual transferring land. Prolonged litigation in which the tribal becomes a party is generally resorted to by the non-tribal adversary with a view to neutralise the effect of the laws. Even when a tribal wins the final legal battle, the delivery of possession is often delayed for a longtime in collusion with the other party. Even when the possession has been formally delivered to the tribal it is not uncommon that the tribal may have been prevented from cultivating his land under threat from the same opponent. At times, false criminal cases are instituted to demoralise him. In such circumstances, most tribals accept defeat and keep quiet rather than to fight it out. The position is further compounded by lack of motivation, illiteracy and lack of knowledge of laws and procedures.

Even the administrative efforts so far made by States to restore alienated land have been quite inadequate and, in some cases, negligible compared to the complexity and size of this problem. Many State laws do not provide for initiating *suo moto* action by the administrative machinery to prevent land alienation. Action can be initiated only after the tribal makes a representation and institutes a case. Even when petitions are filed, cases are not initiated and when cases are initiated these are not expeditiously disposed of. Though the legal framework itself is unsatisfactory, the inherent resistance of the revenue bureaucracy to implementation of law is also evident.

The thrust in favour of the enforcement of the law is missing in most cases while the situation of indifference towards alienation of tribal land is widespread. This has produced acute discontent among the tribal people. The gravity of the problem of tribal land alienation has underlined the need for renewed and vigorous efforts to intervene on various fronts in order that tribals are not alienated from the mainstream of the nation and fruits of development accrue to them.

While the States are competent to existing laws and/or enact new laws as per specificity of the situation obtained in their area besides taking administrative and socio-economic measures; in respect of the central laws such as the Indian Registration Act, action can be initiated by the Central Government after a broad consensus emerges on the specific points of action.

### **Policy Intervention**

Some of the measures which have been suggested from time to time by the Central Government to States have been enumerated below:

#### **a. Legal Measures**

- i) The States which have not yet enacted legislation to prevent alienation of tribal land may do so at the earliest. Where these legislations already exist these may be implemented effectively.
- ii) The legal provisions for prevention of alienation and restoration of tribal land should be extended to the entire State and should not be restricted to the scheduled and notified areas alone.
- iii) The transfer of tribal land to non-tribals should be totally banned. The provisions permitting alienation with the approval of authority should be removed from the existing legislation.

- iv) Where the tribal is compelled to dispose of his land, Government may think for purchasing the same at the prevailing market value and in turn it should allot this land to landless tribals of the area as per guidelines evolved in consultation with the State Tribes Advisory Council wherever such a council exists.
- v) Tribal land mortgaged to financial institutions or departments of the State governments should be made non-transferable to non-tribals.
- vi) Acquisition of tribal lands for public purpose should be minimised as far as possible.
- vii) The term 'alienation' and 'transfer' should include all categories of transfers including benami transfer, transfer to husband, wife, sons and daughters taken in adoption, declaratory suits, transfer through marriage with tribal women, surrenders made to the State and to the ex-intermediary as well as encroachment or forcible dispossession of the tribal land.
- viii) It should be mandatory for the registering authority not to register transactions of land unless it is established that no provision of law relating to alienation/transfer of tribal land is being violated thereby.
- ix) The different periods of limitation prescribed for restoration of alienated land belonging to scheduled tribes in some States laws for different areas need to be replaced by uniform legal provisions so as to remove discrimination among members of scheduled tribes in different areas. This provision should have retrospective effect.
- x) Recognising that persons belonging to scheduled tribes are poorly placed educationally and economically for fighting court cases for their rights, State Governments shall invariably be impleaded in all proceedings involving land of persons belonging to scheduled tribes and shall defend interests of persons of scheduled tribes in such proceedings.
- xi) The Collector/Deputy Commissioner should be empowered under the law to take action *suo moto* for restoration of alienated tribal land.
- xii) The Collector/Deputy Commissioner shall have the powers to reopen a case involving alienation of land belonging to a member of the scheduled tribe even if the period prescribed for appeal/revision has expired if he is satisfied that it is in the interest of the member of the scheduled tribe to do so.

**b. Administrative Measures**

- i) Highest priority should be accorded to the preparation and updating of land records in the tribal areas with active participation of tribal communities. In preparation and updating land records in tribal areas, the tribal community organisation, and in its absence, trusted representatives of tribal community should be actively and formally associated so that correct entries can be made in the record of rights.
- ii) The Collector/Deputy Commissioner of the district must be empowered to take up correction of land records even after the period of limitation has passed if it is found that the record of rights does not reflect the correct reality in respect of land belonging to persons of scheduled tribes.
- iii) An indepth scrutiny of methods of preparation of land records their maintenance and updating in the tribal areas must be carried out at the earliest possible.
- iv) Updating of land records with active association of the voluntary organisations, tribal intelligentsia and eminent tribals, public representatives etc. should be carried out.
- v) A tribal litigant should be exempted from payment of court fees in respect of restoration petitions.
- vi) There should be a separate Additional Collector for restoration work in all the districts falling within the scheduled areas. Physical restoration of the land should be carried out within three days of the order.
- vii) In the procedure for advancement of loans, execution of agreements must be so prescribed as to require completion of formalities and payment to be made in the presence of village community.
- viii) There should be a dovetailing of all developmental/poverty alleviation schemes to the benefit of the tribal restored to his lands as full cognizance is taken of the fact that alienation is a consequence of economic and social unviability.

**c. Socio-Economic Measures**

- i) Alienation normally takes place on account of severe rural indebtedness. Hence, provision of Debt Redemption Act, Moneylenders Act, Bonded Labour Abolition Act and such other progressive legislations should be rigorously implemented.
- ii) Creating awareness among the members of the scheduled tribes about the legal provisions concerning alienation of tribal land and manner in which relief against such alienation can be obtained.
- iii) Specific role should be assigned to traditional tribal community organisation in detection of cases of alienation of tribal land and their restoration. This role may include entertaining complaints of alienation of tribal land, making an enquiry into such cases and also reporting the matter to appropriate revenue court/authority.
- iv) Traditional tribal community organisations should be revitalised as an agency to help disbursement of petty cash or consumption loan and for meeting other social needs of the community. These organisations should be assigned specific role in detection of cases of alienation of tribal land and their restoration.
- v) A well integrated programme should be launched in concert with the press, social groups, voluntary organisations and other bodies interested in the matter to spread a general awareness about the legal rights, relief and the various welfare programmes and measures of the Government.

**d Acquisition of tribal land to be avoided**

- i) Projects/project sites should be so chosen that they do not result in large scale of displacement of the tribals.
- ii) If acquisition becomes necessary there should be a committee for reviewing projects which involve substantial acquisition of tribal land in all the scheduled areas with strong representation of the tribals. This committee should accord administrative approval for all such projects.
- iii) A project involving large scale acquisition of land should be subjected to a close scrutiny as to whether it has relevance to the immediate surroundings and results in tangible gains to the tribal community should be approved.
- iv) Wherever displacement of tribals is unavoidable, the States should own full responsibility for their comprehensive rehabilitation. Rehabilitation and employment to the displaced persons should form an integral part of the project.
- v) Rehabilitation should cover not only economic rehabilitation but also housing; monetary compensation; rehabilitation of religious institutions; livelihood and in fact replicate and improve upon the existing situation.
- vi) Every medium/major project should have a supervisory body comprising the officials/non-officials for ensuring the implementation of the rehabilitation programme.

## CHAPTER VI

### CONCLUSION

Generally in a revolutionary situation, land reform is accomplished as a result of a shift of political, economic and administrative power to a class which would benefit directly by the reforms. The reforms can, therefore, be carried out relatively easily. Land reforms can also be introduced by an authoritarian regime already in power, as a means of broadening its political base, and of accomplishing certain desired economic and social changes. The political will, as well as the means of enforcement are usually available to translate policy decisions for land reform into concrete acts of enforcement. Opposition either from vested landlord interests, or from within the administration itself can thus be easily overcome.

In his study on land reform, Flores (1970) came to the conclusion that:

"From the specialized viewpoint of economics, land reform can be defined as a redistributive measure: a capital levy on a few landlords that is distributed among many peasants and the State. This transfer changes resource allocation in agriculture through the redistribution of land and water rights; and it also changes the distribution of income and wealth in the economy as a whole, and change the propensities to consume, to import and to save. It reduces the private demand of landlords and release resources which can then be applied in varying degrees to raise the level of consumption of the peasants or to increase the rate of capital formation. Granting land to peasants encourages them to produce a cumulative surplus of food and fibres above their own consumption, which must then be channeled to investment activity in the non-farm sector without an equivalent transfer to the farm sector".

[Edmundo Flores (1970) - The Concept of Land Reform p. 32]

The views expressed by Shri L.C. Arulpragasam in the FAO seminar on the *Implementation of Land Reforms in Asia and the Far East*, held in Manila during July 1969 that:

"Land Reforms may be as an integrated set of measures designed to eliminate obstacles to economic and social development arising out of defects in the agrarian structure. The agrarian structure itself is seen as comprising the tenurial structure, the production structure and the structure of supporting services. These are enmeshed in a web of social, economic and political relationship and institutions which are mutually reinforcing."

(FAO, Rome, 1969, Rural Institutions Division p. 45-46)

The successful implementation of land reform requires determined political action by the Government and strong support from the rural people. In the absence of these, no purely administrative action will suffice. This implies, firstly, the organisation of the peasantry in groups to articulate their demands and act as channels for mediation and interaction between the Government and themselves. It implies, secondly, their organisation into purposive systems such as cooperatives or farmer's associations to provide the necessary services and supplies to support the programme of tenurial reform.

On the otherhand, purely political, social and economic action is not enough. The administrative organisation and procedures for implementation (especially where land reform is not a result of revolutionary change) will have to be adapted to meet the needs of structural change. This requires on

the one hand an assessment of the programme from the point of view of the feasibility of its implementation. On the otherhand, it calls for a rethinking of existing administrative structure and concepts, and a redesigning of existing administrative organisation and procedures in order to render them capable of bringing about the structural changes desired.

The institutional factors of land reforms measures are basically the human factors, and the ultimate power of making a choice is left only with the human beings of a country. When we see so much of disparity in the matter of land holding in the wider perspective of inequality in the economic and political power of the privileged and the underdogs of the society.

A nation cannot benefit from its development efforts if a sizable section of the society is deprived access to the productive assets. In rural areas the poor and the landless are often oppressed in the matter of interest in land. If this situation is to be changed then empowerment of the poor through effective implementation of land reforms is a prerequisite.

It is difficult to concede the often expressed view that land reform measures had been effective in India. It would be safer to conclude that lots of work on land reforms implementation have been done but none of the land reform measures in the country was sufficiently effective to bring about a structural change in the agrarian sector. Land reform measures still remain the only means by which redistributive justice can be afforded to the landless and the poor in the rural areas. Only a radical land distribution would generate and sustain the income in a large number of poor families. Their demand for consumption goods would promote production of goods calling for more investment and leading to higher absorption in sectors that produce these goods. The importance of organisation and better participation of the poor is also the more prominent in the process of land reforms implementation.

### General Suggestions

- i) The Government should take adequate steps for dissemination of relevant information among the poor peasants, agricultural labourers by distribution of leaflets and by explaining their contents by arranging meeting in parts of villages where poor people live.
- ii) There should be a reduction and simplification in the laws and procedures and these should be put in as simple language as possible.
- iii) All laws concerning land reforms and allied subjects like agricultural labour, ceiling provisions, rationalised land revenue should be placed in a manual or compendium with cross reference so that people can have easy access of information.
- iv) Rural poor should be given statutory support to organise themselves to be able to put up a collective front to claim their due as guaranteed in the Constitution.
- v) In the programme for distribution of land, title deeds are usually issued in the name of the male, this restricts women's access to land because decision making in respect of the land rests with men. States should take care that the joint ownership by man and woman should be extended to all types of protective assets including land.
- vi) Records of rights should always be kept up-to-date to reflect the actual position regarding incidence of possession, ownership, classification of land, mode of cultivation, type of crop grown, irrigation facilities etc.
- vii) State Government should organise workshops and awareness camps on how the rural poor should be organised for land reforms work and to fight for their rights.

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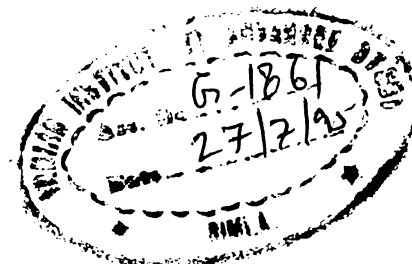
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