

# Policy and Legal Rights of Land Reforms in India: An Overview

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**Abstract:** Land policy in India has been a major topic of Government discussions since the time prior to independence from British rule. The peasants of the country strongly backed the independence movement and the “Land to the Tiller” policy of the Congress Party because of the prevailing agrarian conditions. At the time of independence, India faced a major challenge of setting right the agrarian structure as promised during the Independence struggle. The first task placed before the first Indian Parliament was to address land policy. Because India has a densely populated agrarian economy, almost all other developmental initiatives also involved land as a central and a complex issue, as it clearly represented social status and not just the means of production.

**Keywords:** Landlords, Reforms, Opportunity, Policies, Intermediaries, Farming.

**Introduction:** Land is the prime natural and most material, imperishable possession from which people derive their economic independence, social status and a modest and permanent means of livelihood. But in addition to that, land also assures them of identity and dignity and creates condition and opportunities for realizing social equality. Assured possession and equitable distribution of land is a lasting source for peace and prosperity and will pave way for economic and social justice in India. The Constitution of India provided under Article 39 that (1) the ownership and control of the material resources of the country should be so distributed as best to serve the common good; and (2) the operation of the economic system should not result in a concentration of wealth or a means of production to the common detriment. The Constitution of India also made land a State subject. So only State Legislatures have the power to enact and implement land reform-laws. However, the Central Government played a significant advisory and financial role in land policy based on its Constitutional role in social and economic planning. It was only after independence that serious efforts were made to introduce land reforms measures. They are as follows:

**Abolition of Intermediaries:** Intermediaries like Zamindars, Talukdars, Jagirs 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. *The first Act to abolish intermediaries was passed in Madras in 1948.* Since then, state after state passed legislation abolishing Zamindari rights. The *Orissa Estates Abolition Act* was passed in 1951. By 1955, the progress for the abolition of intermediaries had been completed in almost all the states. As a result of the abolition of intermediaries, about 2 crore tenants

are estimated to have come into direct contact with the State making them owners of land. More lands have been brought to government possession for distribution to landless farmers. But it also gives a large-scale eviction resulted rising several problems – social, economic, administrative and legal.

**Land Reforms Policy:** Land reform policy was spelt out in the First Five Year Plan (1951-56) that made concrete proposals to reform the then existing land reforms system and resulted in 1955 the first Panel on Land Reforms. The abolition of intermediary tenures and the protection given to the tenants were intended to give the tiller of the soil his rightful place in the agrarian system is onward in the 2<sup>nd</sup> Five Year Plan (1956-61) held that. Similarly in the 3<sup>rd</sup> Five Year Plan (1961-66) elimination of all forms of exploitation and social injustice was done. It declared that the first condition for securing equality of opportunity and achieving a national minimum is an assurance of gainful employment for everyone who seeks work. The Forth Five Year Plan (1969-74) made a searching analysis of the problem of land reforms. The Plan also emphasized the necessity of re-examining the ceiling legislation. In the Fifth Five Year Plan (1974-79) many gaps between legislation and its implementation were realized. For removal of legal impediments in the way of implementation of land reforms, the Plan emphasized the necessity of constituting Land Reforms Tribunals instead of Civil Courts so that justice could be made speedy and brought closer to the poor people. In the Sixth Five Year Plan (1980-85) very lucidly brought forth the main elements of land reforms policy. They are: abolition intermediary tenures; tenancy reforms comprising regulation of rent, security of tenures and conferment of ownership rights on tenants; ceiling on land holding and distribution of surplus land; consolidation of holdings and; compilation and updating of land records. In the Seventh Five Year Plan (1985-1990) the emphasis has been given on scientific survey of unsurveyed land, register the name of tenant and share-cropper in land records, strengthen the revenue system at the lowest level, and provide training facility to revenue officials to improve their efficiency. In Eighth Five Year Plan (1992-97), it was shown that there were tenancy laws in all the States except Nagaland, Meghalaya and Mizoram. The continued importance of land reforms was recognized in the Eighth Plan, with the abolition of intermediaries, redistribution of ceiling surplus land, tenancy reforms providing security of tenure to tenants and share-croppers, consolidation of holdings and updating of land records as the main objectives of the land reform policy. Hence, the Ninth Five year Plan (1997-2002) had laid strong emphasis on agrarian restructuring to make agriculture more efficient leading to increased 'output and employment'. In fact, it has been argued that the need for poverty alleviation programs has arisen because the land reforms have not been implemented in a systematic way. The Government of India have issued Guidelines based on the recommendations of the Chief Ministers' Conference held in 1972 for distribution of ceiling surplus land to the rural poor including SCs/STs. The State Governments/UT Administration is also distributing Government wastelands and bhoodan lands to the rural poor. The Tenth Five Year Plan (2002-2007) formally adopted in December 2003, indicates of a changing policy direction at the national level and does not reiterate the basic tenancy reform policies that had appeared in the previous nine Plans. This was sharp contrast to the policy

environment soon after independence when land reforms were meant to provide ownership rights to small and marginal farmers on equity consideration. The Eleventh Five Year Plan (2007-2012) recommended that tenancy should be legalized in a limited manner. The Eleventh Plan also recognized that agricultural productivity was increasingly getting dependent on the ability of women to function effectively as farmers and strongly, and had also recommended to ensure effective and independent land rights for women. The Plan also ensured the rights of poor, landless, and tribal women over forest land, commons and other resources. In the Eleventh Plan, a Commission on Land Reforms has been set up which will specifically look into issues of continued possession and effective uses of land distributed earlier to SCs under various programs/legislative interventions; and Availability of land for distribution to SCs/STs/landless families. In all these, care will be taken to ensure preferential/joint ownership by women. In 2011-12, Civil Society Organizations in India have been pressing for a national land reforms policy and a land use plan as expected from the National Land Reforms Council. The NLRC's decision on the policy and plan would be based on the report of the Government constituted Committee on State Agrarian Relations. Considering the greater urgency to expedite the decision on the land reforms policy and land use plan and to hasten the completion of the "unfinished task of land reforms", which has extended over several decades, Jansatyagraha, a people's march has been organized in October 2012 to press for expediting the process. The Twelfth Five Year Plan (2012-2017) Working Group on Disadvantaged Farmers, including Women has proposed several mechanisms for easing the land constraint faced by landless and land poor, there should be a comprehensive assessment of all land available with the Government, including ceiling surplus land, uncultivated wasteland, and so on. Unofficial estimates by organizations such as Ekta Parisad suggest much more land is available for distribution than reflected in official estimates. All such available land should be so distributed to group of D&W farmers rather than to individual families, the land so distributed could either be registered in the group's name, or it could be given to them under a very long-term lease agreement. An Approach to the Twelfth Five Year Plan raises the following issues without providing rational, just, fair and humane answers to them: (1) Which land should be used for which purpose? (2) How should land be acquired for new purposes (industrialization/urbanization/ infrastructure development)? (3) What form and quantum of compensation and rehabilitation should be provided to those whose lands are acquired?

Therefore, there is a pressing need for a national land reform policy and land use plan as well as enhancement of the access of the rural poor to land available from sources, such as ceiling surplus, Government estates and wasteland, industries, religious & educational institutions, forest. Ultimately, National Land Reform Policy 2013 has been drafted in July 2013. This Policy focuses on those aspects of land reforms which if implemented in true letter and spirit will have the potential to tilt the balance in favour of the landless and poor. These are the mechanisms of preparing a land use plan for every village getting aggregated at higher levels which will guide the best utilization of each and every parcel of land, putting in place policies and systems for ensuring effective distribution of land to landless poor, protecting

them from losing their lands, restoration of alienated lands, effective safeguard for lands of the schedule castes and schedule tribes, ensuring homestead rights, tenancy rights, land rights for the women and effective usage of common property resources. To sum up, land reform policy during the six decades of independence has undergone a radical change but the core issue continued to revolve around a just distribution of land resources and has acquired a new content and direction. The question is not merely that of meeting out social justice to the rural poor. The question is essentially an economic one having a bearing on our national life as a whole. Unless the agrarian society is re-generated and converted into a dynamic and rapidly growing system, both the base and super-structure of the national economy will remain weak and unstable.

**Execution of Land Reform Policies:** Since the rural society of India is a conglomeration of multiple and complex socio-economic relationship, there is a bewildering variety of legislation pertaining to agrarian reforms. In view of the above it is not possible to examine all these laws in detail in this chapter and certain limits will have to be self imposed. However, a brief resume of the various land reform studies sponsored by the Planning Commission since May 1953 show that while comprehensive legislations have been enacted in several States, their implementation has been far from satisfactory. In the following pages, the implementation of law relating to land reforms have been discussed such as tenancy reforms, land ceilings, consolidation of holdings, land records and titles and prevention of alienation, and restoration of alienated tribal land and security of home stead rights.

It is worth mentioning here that agricultural tenancy laws of most States in India are inconsistent with the land leasing policies stated in various Five Year Plans. According to the Plan information, intermediary tenures have by and large been abolished all over the country through the abolition of Zamindari, Jagirdari inams etc. as a result of which, about 20 million cultivators were estimated to have come into direct contact with the State. Legislative measures were taken for providing to the tenants security of tenure and for regulating rates of rent payable by them. The maximum rates of rent were fixed at levels not exceed  $\frac{1}{4}$ th to  $\frac{1}{5}$ th of the gross produce in all the States except in Andhra Pradesh (Andhra area), Haryana and Punjab. However, in regard to conferment of ownership rights on cultivating tenants, the existing legislation in the States of Andhra Pradesh, Bihar, Tamil Nadu, Haryana and Punjab still falls short of the accepted national policy. In West Bengal, while all under-ryots were brought to in direct contact with the State, this did not include sharecroppers, though they were protected against eviction at will. This is still an issue that has to be tackled. In the area of tenancy reforms very little progress has been made, after the initial abolition of 'zamindari' and the transfer of title to owner-cultivators in the immediate post-independence period. The successful implementation of tenancy laws has been confined to West Bengal, Karnataka and Kerala. In fact, in the Eighth Plan there was no progress in respect of conferment of rights on tenants and therefore the issue of tenancy reforms is still illusory, but requires tackling. In Eighth Five Year

Plan it was shown that there were tenancy laws in all the States except Nagaland, Meghalaya and Mizoram. They provided for conferment of ownership on the tenant by the State, acquisition of ownership by tenants on payment of reasonable compensation, security of tenure and fixation of fair rent. Certain categories such as widows, members of armed forces, minors, etc. were treated specially under these laws. In certain other cases, provision was also made for limited right of resumption. However, the implementation of these laws in States has been quite varied. West Bengal, Karnataka and Kerala have achieved more success than the other States. In West Bengal, 14 lakh share-croppers have been recorded under the 'Operation Barga'. However, on the whole, tenancy reforms have not achieved the desired results as the incidence of informal oral or concealed tenancies is very high. Although agricultural tenancies are banned in most States, the incidence of some type of tenancy, particularly in various forms of crop sharing, is still substantial in some regions. As tenancy is contracted orally, and in most cases in violation of law, the tiller's position is precarious and she/he has no incentive to cultivate land efficiently. The mid-term appraisal of the Ninth Five Year Plan provided the rationale for continuing the ban on leasing in backward regions, but recommended that tenancy in developed regions should be legalized, as it would increase poor people access to land and also occupational mobility of large landowners. Numerous States did amend their legislations. The problem of proving the existing tenancies, however, continued. The primary consequence of new policy and corresponding legislation was to push tenancies further underground. The Fifth to Ninth Five Year Plans largely reiterated the earlier policies, while noting the shortcomings in laws and their inadequate implementation. The Tenth Five Year Plan suggested that a different policy direction is needed. The Plan stated that the ban on tenancy has only ended up hurting the economic interests of the tenants as they are not even recognized as tenants and thus, denied the benefits of laws that provide the security of tenure and regulate rent. Further, the Plan stated that the prohibition on tenancy has not really ended the practice but instead has resulted in agricultural practices that are not conducive to increased production, which in turn depresses employment opportunities for the landless agricultural laborers. Correct and updated land records are crucial for the security of land rights and to encourage investment. These result in fewer disputes and conflicts, allow land to be used as collateral, lower transaction costs and corruption, ensure efficient land markets, and help in implementation of land reforms and planning for various development programs. The Eleventh Five Year Plan recommended that tenancy should be legalized in a limited manner. It should provide security to the tenant for the contractual period, which could be long enough to encourage long-term investment by the tenant. The Twelfth Five Year Plan points out that there is a strong case for legalizing tenancy and allowing leasing in and leasing out land with adequate safeguard to protect the interest of small and marginal farmers. Unfortunately, the State Governments have not been persuaded to amend their tenancy laws and fall in line with the thinking of the Planning Commission in this respect.

The main instrument for realizing more equitable distribution of land is the land ceiling laws. These

laws were enacted by several States during the late 1950s and 1960s, and the early 1970s saw more stringent amendments in the laws to plug loopholes in the earlier laws. Ceilings legislations were enacted in all the States except Goa and the North East region in accordance with the National guidelines of 1972. However, success has been limited due to poor enforcement. At the end of the Eighth Plan, out of the total 74.94 lakh acres declared surplus, 52.13 lakh acres had been distributed among 5.5 million beneficiaries. In other words, during the Eighth Plan only 6-7 lakh acres were redistributed. Further, 12.4 lakh acres were under disputes pending in Courts and 19.59 lakh acres were not available for distribution because they were unfit for cultivation or reserved for public purposes or for other miscellaneous reasons. In fact, only 59,000 acres were available for redistribution. Of the Bhoodan land donated, 53 per cent was distributed, accounting for 24.52 lakh acres. In addition, 142.87 lakh acres of wastelands were distributed among 88.5 lakh beneficiaries. By the end of the Ninth Plan, the position was virtually the same. There has been no progress in the detection of concealed land and its distribution to the landless rural poor. But, there is still considerable scope for redistributing Government wastelands, common lands, ceiling surplus land and Bhoodan land. Even though ceiling laws have been enacted and enforced in majority of the States, there are wide inter-State variations in the legal frame work as well as effectiveness of ceiling laws. Also a significant portion of the area declared as ceiling surplus in many States is either unfit for cultivation or not available for distribution due to miscellaneous reasons. Thus, due to several factors, the result of implementation of ceiling laws was far from satisfactory. According to 12<sup>th</sup> Five Year Plan around 3 million hectares of land has been declared surplus so far, which is hardly 2 per cent of net sown area in India. About 30 per cent of this land has not yet been distributed as it is caught up in litigations.

The great emphasis on work of consolidation of holdings has been in the First and Second Five year Plans. In First Plan the work of consolidation of about 45 lakh hectares land and in Second Plan about 120 lakh hectares land have been completed respectively. The only 85% of total target has been achieved by the Third Five Year Plan. The consolidation of 296 lakh hectares land has been completed by 1968-69. In The Fourth Plan 94.5 lakh hectares land have been consolidated by spending the 28.4 million. During the Fifth Plan about 450 lakhs hectares land again consolidated by 1978-79. The progress of consolidation of holdings especially has been rapid in Punjab, Haryana, Uttar Pradesh, Madhya Pradesh and Rajasthan. Consolidation of holdings has made progress in some States while in others it is yet to make a beginning. Fifteen States have passed laws for consolidation of holdings. As on 31 March, 2002, consolidation of holdings has taken place only in an area of 66.10 million hectares against a total cultivable area of 142 million hectares. The work of consolidation of about 1875.33 lakh hectares land has been completed so far. The consolidation of holdings has been completed in Punjab and Haryana. But progress of consolidation is not satisfactory in other States.

It cannot be gainsaid that the essential prerequisite of any land reform measure is the recording of

land rights and their updating. The Seventh Five Year Plan, the emphasis has been given on scientific survey of un-surveyed land, register the name of tenant and share-cropper in land records, strengthen the revenue system at the lowest level, and provide training facility to revenue officials to improve their efficiency. In recognition of this, a Centrally Sponsored Scheme of Land Records for Strengthening of Revenue Administration and Updating of Land Records was introduced during the latter half of the Seventh Plan and against an outlay of Rs.20.8 crore, Rs.14 crore were spent. But, given that the funds are shared in the ratio of 50:50 between Centre and States, several States have not been able to provide their share and hence, the utilization has been low. Several other States have not availed of this scheme at all. The resources provided under SRA & ULR and CLR programs meet a small part of the total resources required for the modernization of revenue administration. The States have to undertake modernization of the land records management system on a much larger scale. A systematic program of compilation and correction of land records has been undertaken all over the country to reflect up to date position about ownership and rights of tenants, share-croppers and other holders. The primary goal of land management in the Eleventh Five Year Plan should be to achieve a fairly high level of credibility in land records. The aim should be to make land records closer to ground reality, so that it becomes a catalyst in the overall development of the Nation. Modernization of land records must be both time-bound and comprehensive. Full digitization of land records, including GIS maps, should be completed with required survey/settlement by end of the Twelfth Plan, during which pilots should also be initiated to enable movement towards a Torrens system in the 13th Plan. However, Land records are either messy or incomplete or not updated in many of the States, not only hindering land reforms but also causing numerous disputes. Accordingly, updating and computerization of land records as well as digitization of maps in every State are essential. The process has started and it has already been completed in Karnataka, Madhya Pradesh, Gujarat, Tamil Nadu, Uttar Pradesh and Goa. However, it needs to be expedited and ANGOC completed in the remaining States as well, with adequate training and facilitation, availing of the best practices of the States where the work has already been completed. Not the least, accuracy in computerization and digitization is extremely vital.

Scheduled castes and tribes are the historically deprived and backward sections of Indian society who languish at the lower portions of the social and economic pyramid. Article 46 of the Constitution enjoins upon the States the obligation to promote the interests of Scheduled Castes and Scheduled Tribes and to protect them from social injustice and all forms of exploitation. The State Governments have accepted the policy of prohibiting the transfer of land from tribals to non-tribals and for restoration of alienated tribal land to them. As of 30 September 2011, a total 1,219,922 titles for 1,601,524 ha of forest land have been distributed under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules, 2007 in India as a whole. The process continues and the titles for considerable additional forest land would be distributed in due time, notwithstanding

insurmountable hurdles in it. In addition, the landless can access land as feasible from sources such as ceiling surplus, Bhoodan, village commons, government estates, industries, religious and educational institutions, forest, and homestead. Land issues in tribal areas require urgent and special attention. It is, however, pertinent to underline that the recent legislations and bills (i.e., Forest Rights, Rural Employment Guarantee, Land Acquisition, Rehabilitation And Resettlement, Food Security), though vital and helpful, do not constitute a part of the original land reforms package. In the 11<sup>th</sup> Plan, a Commission on Land Reforms has been set up which will specifically look into issues of: (i) continued possession and effective uses of land distributed earlier to SCs under various programs/legislative interventions; and (ii) availability of land for distribution to SCs/STs/landless families. In all these, care will be taken to ensure preferential/joint ownership by women.

Thus, the land reforms program is by no means complete and has to be pursued further if we are to tackle effectively the problem of poverty and inequality. The task of implementing land reforms ultimately devolves upon the subordinate bureaucracy, the officials who are present on the spot they are not merely inefficient as has been alleged but it has been seen in actual practice that the behavior of these men is most unsympathetic, obstructive and even hostile to those whom the legislation is intended to help. The pace of implementation of these measures has been slow and full of loopholes so that their impact on the structure of land holdings has been minimal. P.V.Rajgopal, during a year long trip through 350 district, 24 states and included meetings with tens of thousands of people, many of these were public hearing with affected communities as well as meetings with intellectuals and middle-class citizens, found and was told that more than 29,000 Dalit villages did not even have access to burial or cremation grounds. In many villages, poor people had neither toilets nor open space for defecation. Large numbers of people are in daily struggle for survival and they have no access to livelihood resources (water, forest and land). Thus, the land reforms program is by no means complete and has to be persued further if we are to tackle effectively the problem of poverty and inequality.

**Conclusion:** India, being a predominantly agricultural society, has a strong linkage between land and social status of an individual. The fact that close to 70% of the population is dependent on land, either as farmers or farm labours, means that it is imperative to address the issue of land in such manner that it provides livelihood, dignity and food security to the millions of Indians. Landless is a strong indicator of rural poverty in the country. So, it is important to remember that the chief aim of land reform is equity rather than productivity. Land is not commodity, and cannot be treated as such in a welfare State like India. The basic objective of the land reform program in India is to secure social and economic justice to the mass of peasant producers and to create sanctions for the development of a healthy and dynamic agrarian society.



**References:**

- A.V. Banerjee: “Prospects and Strategies for Land Reforms”, In B. Pleskovic and J. Stiglitz (eds), Annual World Bank Conference on Development Economics. Washington, DC, 1999.
- D. Mookherjee & P. Bardhan. and: “Political Economy of Land Reforms in West Bengal 1978-98”, Working Paper, University of California, Berkeley and Boston University, 2005.
- Evidence from India”, Quarterly Journal of Economics, Vol. 115, No. 2, 2003.
- J. A. Robinsonm, & J. Conning: “Property Rights and the Political Organization of Agriculture”, Forthcoming, Journal of Development Economics, 2005.
- M. Ghatak & P. J. Gertler: “Empowerment and Efficiency: Tenancy Reform in West Bengal”, Journal, 2002.
- R. Burgess & T. Besley, : “Land Reform, Poverty Reduction, and Growth, 2000
- R. Shaban,: “Testing Between Alternative Models of Sharecropping”, Journal of Political Economy, Vol. 95, 1987.

