



Policy Brief for Parliamentarians

Land Reforms in India: Unfinished Task

"Without land, you are nobody...You don't have a regular home, your husband is roaming about somewhere for work, your children grow up anyhow, you cannot think of anything beyond tomorrow."

- Sita Devi, Ekta Parishad activist

- Landlessness is directly linked to rural poverty and causes a 'spiral of impoverishments'. Land is not just a commodity, but an essential component of human dignity and well-being.
- The most useful remedy lies in the drafting and implementation of effective land reform legislation, which seeks to redistribute land fairly and equitably among the rural masses.
- Unfortunately, political will to reform property rights in land has been weak.
- Land reform legislation in India, where it exists, is riddled with gaps, inconsistencies and loopholes and in dire need of review and reform.
- Additionally, a more holistic legal framework is required, which will emphasise upon a comprehensive package that includes support policies and protection of vulnerable groups.

Introduction

In India, over 70% of the population resides in rural areas with majority depending on land based activities for their livelihood. Studies have shown that owners of productive plots of land tend to be economically better off, and generally conform to at least a minimum standard of living. They also have greater bargaining power since they are in a position to control not only the direct benefits arising from their land, but also to share in the benefits derived by labourers who work on their land.

In this context, landlessness is the main cause of rural poverty. In addition to food insecurity and vulnerability to exploitation, landlessness brings various obstacles in routine functioning of the agrarian system. In the absence of a legal title, it is difficult for the landless to obtain insurance for their crops, loans from banks, avail of benefits from Government schemes such as Indira Awas Yojana, etc. A common problem for the rural landless is the inability to profit from their labour and investment.

As a parliamentarian, you are in a position to muster the political will necessary to overcome the inadequacies of the present legal framework, and ensure land to all. This policy brief has been written with the aim of familiarizing you with the problems of the landless and the controversies, gaps and inconsistencies plaguing land reform in India today, focusing particularly on the redistributive structure of land reform.

Jan Samvad Satyagraha Yatra 2011-2012

In order to bring the issue of land and livelihood rights to the forefront, Ekta Parishad, under the leadership of Shri P.V. Rajagopal, has organised a year-long *Yatra* from Kanyakumari to New Delhi covering 24 states. As part of this *Yatra*, about 100,000 people, representing different rural communities will walk the 350 km from Gwalior to Delhi, starting on October 2, 2012. The movement calls for the implementation of pro-poor legislations and stresses on the idea that ensuring land rights, and not merely welfare programmes, is the key to reducing poverty in the country.

Impact of landlessness on vulnerable groups

Vulnerable groups of society, like women and the scheduled castes and tribes, feel the adverse effects of landlessness more keenly.

Women and Land Rights

Protest movements for land rights have seen significant participation from women, demanding individual land rights. Bina Agarwal points out that the very concept of individual land rights for women is not considered in economic theory, since the household is assumed to be one, single unit. This is problematic because it ignores the gender dynamics within the household.

Women, if not given an explicit share in the family property, are vulnerable to abuse, and even

expulsion from the house because of their lack of bargaining power. Moreover, without land, women are unable to stimulate their labour and investment or harness their managerial talents. This is evident particularly in areas where male migration is high, and it is left to the woman to make adequate use of credit and manage farm resources.

Socially excluded groups

Scheduled castes and scheduled tribes are also particularly vulnerable due to landlessness. Across rural India, most people belonging to scheduled castes and scheduled tribes are denied equitable and fair access to land: either they do not possess land or it does not help them meet their basic needs. These people do not have assured sources of food

Spotlight: National Council for Land Reforms

In 2007 for the first time the Central Government heard the voice of 25,000 landless poor in the country, who walked to Delhi in 'Janadesh Campaign' as a voice of the deprived and marginalized in the country. In response, **the National Council for Land Reforms** was formed in 2008 under the Chairmanship of the Prime Minister to look into the unfinished task in land reforms. The council also includes 6 Union Ministers - Minister for Rural Development, Agriculture, Panchayati Raj, Tribal Affairs, Environment and Forests, and Social Justice and Empowerment, the Dy. Chairman, Planning Commission, 10 Chief Ministers from the state of Andhra Pradesh, Bihar, Karnataka, Kerala, Maharashtra, Orissa, Rajasthan, Tripura, U.P., and West Bengal (**although the other state ministers are not being included in the committee**), and 8 Land Experts and members of social organizations - Dr. Bina Agarwal, Institute of Economic growth, DU, Prof. G.K. Chadha, Member, Economic Advisory Council to the Prime Minister, Prof. V.S. Vyas, Chairperson, Institute for Development Studies, and Ekta Parishad President P.V. Rajagopal and others. Land Reforms as a redistributive programme are in relevance as they were 50 years ago. Addressing historic inequities in land ownership is central to the redistributive responsibility of our democracy. In spite of the fact that the National Council had been formed back in 2008 there has been no proposition for meeting as of yet. Some agendas undertaken for the projected first meeting of the National Council are:

- Both the Central and State governments should come out with their respective Land Reforms and Use Policy.
- GOI should launch a Centrally Sponsored Scheme to allocate at least 10 to 15 cents of land to each homeless rural poor on priority basis.
- Review & Operationalization of PESA or The Panchayats (Extension to the Scheduled Areas) Act with the expansion of the areas under it.
- Empowering the 'Land Use Board' with enough resources undertaking the survey of Common Property Resources and Capacity building through training.
- Current Status of Land Management with the Computerization of Land Records.
- Communication from the Centre to States upon the issues like Reforms in Land Ceiling, and Government, Bhoodan, Forest and Tribal Lands.
- Certain significant issues concerning the Land Reforms, like the empowerment of the Gram Sabha, Ensuring Women Rights for Land, Governance issues and policies relating to Land, Tenancy-sub tenancy issues, Role of the Panchayats in Land Management and Administration including in the North Eastern States.

or even a legally secure place to build a house. Without an economic base, they cannot invest in new livelihood options, or plan or save for the future. As a consequence, they are forced to accept exploitative or humiliating terms of employment, or migrate. Inevitably, poor health and education levels follow. In this scenario, giving these groups land with clear and secure title is the first step towards their social, economic and political empowerment.

Compulsory land acquisition has exacerbated the already bleak situation of equitable land ownership in the country. Studies indicate that the number of tribals affected by acquisition is disproportionate to the number of non-tribals; certain tribal groups have faced multiple displacements, up to five times in a single generation. Compensation and rehabilitation have been virtually non-existent as those without legal titles are not considered eligible for rehabilitation. Compulsory acquisition creates a myriad of social, cultural and economic problems associated with loss of land including dismantling of production systems, disruption of trade and labour links, scattering of informal support systems, etc. leading to a 'spiral of impoverishments'.

Land Reform as a solution

The answer to the problems posed by landlessness lies in effective land reform legislation.

Land reform is the redistribution of land from those who have excess of land to those who have none, with the objective of increasing the income and bargaining power of the rural poor. Redistributive policies seek to secure land rights (e.g. formalisation of land records and legal protection of ownership rights) and ensure redistributive rights



(e.g. fixing a land ceiling and redistributing surplus land).

Other than equity, the economic argument for land reform centres on increasing agricultural productivity. Studies indicate that small, self-owned farms are more productive than large holdings. Total output per hectare is higher on small farms, chiefly because their intensity of land use is higher. If the farmer is also the owner of the land, he is likely to make greater investments as he will then be guaranteed the gains from the produce. Increased agricultural productivity improves food security in the country.

India's history of land reform legislation has been erratic and its success partial at best. According to the report of the rural development ministry in 2000-01, only 1.3% of India's arable land has been redistributed. Of this, West Bengal accounts for one-fifth of the total redistributed land.

Moreover, land reform paradigm has in recent years, taken on a market-assisted form. Advocated by agencies such as the World Bank and IMF, it attempts to accomplish land allocation by 'voluntary' land market transactions where the government's role is restricted to establishing the necessary framework and making available a land purchase grant or loan to eligible beneficiaries. However, the fundamental assumption behind the

market-assisted form - that all parties will be able to effectively negotiate and barter their demands - is flawed. The model does not take into account the asymmetry of information and inequality of bargaining power that are major features of a rural economy. As a consequence, 'voluntary' land market transactions

cannot hope to strive towards equity without deliberate policy interventions in support of the poorer and marginalised sections of society.

It is important to remember that the chief aim of land reform is equity rather than productivity. Land is not a commodity, and cannot be treated as such in a welfare state like India. Treating land solely as an economic asset ignores its human dimension and the extreme vulnerability and uncertainty of the landless person, who does not have the ability or the resources to compete with a large corporation or with rich, influential farmers with large land holdings.

Legal Framework of land reform in India

Immediately after Independence, land reform occupied centre-stage in Indian policy as it was considered essential for the process of nation-building. In the current neo-liberal framework of economic development, land reform has unfortunately taken a back seat. However, with the recent trend across the continent, of increasing landlessness and protests, both violent and otherwise, against the government's attitude, it is necessary to bring land reform agenda back on the table.

The Constitution embodies the need for land reform in the Directive Principles of State Policy.

Article 39(b) explicitly highlights the need of the state to ensure "that the ownership and control of material resources of the community are so distributed as best to subserve the common good." Among other things, Part IV also emphasizes upon securing to all citizens an adequate means of livelihood and a decent standard of living. Land reforms legislations have been placed in the ninth schedule to guarantee their speedy implementation.

Issues and challenges of current framework

Entry 18 of List II of the Constitution brings land, and rights over land, under the domain of the State Legislatures. As a consequence, the statutory framework of land reform in the country is diverse. However, it seeks to serve the following objectives –

- a. Redistribution of ceiling surplus land to the landless
- b. Security of tenancy
- c. Abolition of intermediaries

While the last objective is no longer a pressing concern, success in achieving the first two goals varies among the states. There exist obstacles to identifying ceiling surplus land in the form of common subterfuges such as dividing the land between family members and *benami* transactions.

Excerpts from the interview with Shri D. Bandopadhyay, Hon'ble Member of Parliament, Rajya Sabha

The present number of the landlessness has definitely grown higher from the last four decades since 1981. Apropos, identification of the specific states coming under the concerned foray is essential. A cross sectional nutritional study and current employment of those identified areas will detail us the clear picture of their standard of livelihood. 'Are they still worthy of living a life that of humans?' ... identifying the sector where policy focus should be is crucial. Focusing on the IT sector will not suffice since the dispensation is only for the rich and the affluent group and the common mass will be out of its purview. Definitely it doesn't unravel the setback of the redundancy. Favoursing the industrial houses only aggravates the state of landlessness. So, even if in this nation there is a growth in financial segment and capital flow, still the big vice exists in the form of unemployment. The implication of the current literacy rate (74%) entails that the 26% of people living primarily in the rural areas face the risk of joblessness. So, the major issue thus lies in the form of unemployment arising out of landlessness. May be the example set by Gandhiji and then later Vinoba Bhave, and exemplars from various other countries like Mexico where we have seen the social action undertaken not only addressed the problem of landlessness as such but even had undeviating upshot upon the power structure back in 1911. Basing on that the strong recommendation would be the "land reforms and redistribution of land" ensuring the disadvantaged community to have their rights over land, which can be *the* solution to this existing predicament.

A related issue is the security of tenancy; along with ensuring protection from arbitrary eviction and overcharging of rent, land reform framework must also contend with the question of whether tenants are to be given ownership of the land.

Unfortunately, the implementation of land reform legislation has largely ignored the importance of providing special protection to women in granting them fair share of land. Nepal for example has a land reform law that pays special attention to the needs and issues of women. It is especially important that any programme of land reform provides for special protection of women, especially those who are managing small farms. Encouraging collective farming through self-help groups, credit schemes and agricultural extension programmes designed for women can help resolve this problem.

Deliberate policy interventions that see a shift in policy in favour of small farm holdings are needed. It has also been suggested by scholars that having a progressive land tax, based on the size of the ownership, could incentivise the sale of some of the larger land possessions. While such options cannot be discounted, they must be examined carefully before steps are taken.

Future of land reform

Redistribution of public lands is an easy first step in land reform. In Andhra Pradesh, farmers have been allowed to encroach on government waste land, and supported with asset and food

subsidies. Land reform in Philippines is one of the best examples to learn from, having successfully redistributed 63% of the total land targeted, most of which have been either public land or have been obtained through voluntary sale.

Experiences from different states in India as well as from other countries in South Asia show that land reform must be accompanied by other support services to be really successful. In Philippines, after the collapse of the Marcos' administration, land reform was made a priority under the Constitution and the Comprehensive Agrarian Reform Law (CARL) was implemented with wide ranging implications. Along with distribution of all agrarian land to the tillers, support services like credit, market access, infrastructural facilities including irrigation, water, roads, etc. were ensured to the farmers. The government also used assistance of the civil society groups to create cooperatives for transfer of technology and promotion of entrepreneurship. Periodic assessments are carried out by research groups to determine the effectiveness of the CARL and the CARP (Comprehensive Agrarian Reform Programme).

Unfortunately, almost everywhere, land reform has met with strong resistance from the landed elite. During the Tebhaga movement in West Bengal, the resistance to amendments in the Bengal Tenancy Act was so great, that the government had to abandon the project. Enormous political will is the key to attaining fruition of the

Chart: Unique features of certain land reform legislations

Philippines	Comprehensive package, including credit, market access, infrastructure, etc.
Indonesia	Management of the redistribution by the peasants themselves.
Nepal	Women given individual land rights.
Andhra Pradesh	Allowing encroachment on government waste land and providing asset subsidies.
West Bengal	Determined recording of land and tenancy rights; setting up awareness camps for farmers.
Kerala	Field visits by the land record officials to ensure accurate documentation of land boundaries.
Madhya Pradesh	Constitution of district-level task forces for identification and regularisation of land.

land reform agenda. Andhra Pradesh, where land reform is being pursued with renewed vigour since 2005, with an unprecedented efficiency and transparency, is a brilliant example of what political will can achieve.

Experience further shows that simply redistributing land from the rich to the poor may not be enough to attain the objective of a more egalitarian rural society. First, an important problem that must be dealt with is the protection of the redistributed land against land-grab. Often, due to greater bargaining power and the use of muscle power, landowners have been able to regain the land allotted to the farmers, either through sale or through force. therefore, land reform law cannot stop only at redistribution of the land, but must also ensure their security.

Secondly, the land that is redistributed may not be sufficient to meet the basic needs of those who have newly acquired it. For instance, Ekta Parishad reports that in many cases where land was allotted to SC/ST families, the land was useless because either the plot belonged to somebody else or was on stony, infertile land. Thus, any land reform measure must aim to

procure 'secure and productive' land and redistribution rights.

A bottom up approach is necessary for success in land reform. Legislators must ensure participation of the farmers in deciding boundaries, noting claims and complaints and recording opinions and objectives of the village members. In Madhya Pradesh, the formation of district-level task forces to settle land related grievances greatly aided the reform process. In Kerala, the government officers went to the villages and spoke to the farmers to verify boundaries; in West Bengal the government conducted camps to spread awareness and familiarise them with official procedures.

Policy Recommendations

- **Awareness creation:** Making farmers aware of their rights and familiarising them with official procedures will go a long way in building confidence and removing their fear of big landowners. At the same time, large landowners should be sensitised to the vulnerability of the landless and the important role of the owners in ameliorating their situation. A simple step

Questions that remain Unanswered

- Why, after more than 60 years of independence, the land redistribution program of the Government remains incomplete; 240 million landless await justice and life with dignity?
- Why are 110 million tribal and forest dwellers still being exploited and forced to wage a struggle for their rights over land, forest and common property resources?
- Why 140 million dalits are still being denied of their long overdue rights over land and life with dignity?
- Why millions of nomads, herders, fisher-folk are, are being pushed to edge to surrender their rights and make way for the corporations and mega-development projects?
- Why are millions of hectares of agriculture and forest land being abstracted for mining, industry and urbanization leading to the loss of livelihoods for millions of people?
- Why women are still not recognised as 'farmers' and still being deprived of an equal share in land?
- Why millions of people are being divested of their right over common property resources for the sake of mines, dams and 'industrial zones'?
- Why are traditional fisher-folk being forced to abandon their livelihood as their coastal lands get 'acquired' for the mega port development ventures, destroying the eco-system?
- Why are millions of land rights cases pending in the courts whereas their generations are long denied of their right to livelihood and life with dignity?

These questions demand answers and Ekta Parishad has been at the fore of a long drawn people's struggle raising these questions before the States Governments and the Government of India.

towards this would be making available all rules and guidelines in the local language.

- **Collective action:** Government should facilitate organization of farmers' groups and cooperatives so that they can lobby together for the fulfilment of their demands and also act as protection against abuse and exploitation. Collective action, especially for women, through self-help groups can greatly aid their empowerment.
- **Preventing loss of farmland:** Farmers also lose land by a high degree of distress sales done due to lack of access to institutional credit, unfavourable pricing, contract farming, etc. Implementation of a Debt Relief Act to help with debt management as well as amendment to property law will help prevent loss of farmland.
- **Plugging loopholes in existing land reform framework:** Often, landowners evade land ceiling laws by taking advantage of the loopholes in the existing system, by selling or transferring land to family members or through other subterfuges.
- **Introducing a comprehensive reform package:** A land reform legislation is not complete without support policies and hence it is necessary to ensure that a comprehensive package is introduced, including easy credit facilities to farmers, asset and food subsidies, infrastructural facilities, establishment of cooperatives, etc.
- **Drafting model central legislation:** A central legislation could be drafted that acts as a model for the states to use as a guide for framing their own law. Such legislation could suggest a common ceiling limit and include provisions for support facilities, etc. mentioned earlier.
- **Inclusion of special protection for women in legislation:** It is important to make special provisions for the protection of women, by ensuring them individual land rights and granting equal status in credit and subsidy schemes.
- **Periodic assessment of implementation:** Periodic assessment by independent research groups will help determine the effectiveness of the reform and make necessary changes.
- **Updated recording of land title:** In many cases, existing land records are false or obsolete, and these need to be updated and verified to reflect the actual situation. Moreover, documentation must be modernized and computerised.



- **Fast track courts on land disputes:** Setting up of fast track courts for the adjudication of land disputes and dealing with grievances related to land, can reduce the delays in acquiring title and reduce harassment and expense. Cases that involve scheduled castes and scheduled tribes should be given special cognizance.
- **Strengthening National Land Reform Council:** The National Land Reform Council lacks mandatory powers as Land Reform related issues essentially fall under the domain of state governments. This can be remedied by amending the Constitution to include the National Land Reform Council and giving it powers to, among other things, ensure proper implementation of legislation. This is an important step in the struggle for emancipating the estimated forty percent of our population that forms the rural landless.
- **Role of panchayats and gram sabhas:** Consultation with local bodies such as the gram sabha before framing rules on land distribution will ensure a more participatory process and will also hold greater chances of success, provided the landed gentry is not given a greater say.

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Authors:

Rimi jain* & Stella James*

Editorial Inputs:

Sohini Karmakar (CLRA)

Aneesh Thillenkery (Ekta Parishad[†])

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For more information, contact: Centre for Legislative Research and Advocacy (CLRA), F-29, B.K. Dutt Colony, Jorbagh, New Delhi-110003, Tel: 91-11-24640756, E-mail: info@clraindia.org, website: www.clraindia.org

* Ms. Rimi Jain and Ms. Stella James (4th Year Students of National University of Juridical Science, Kolkata) are Research Interns with CLRA, New Delhi.

[†] **EKTA PARISHAD** is a mass based people's organisation with a firm belief in the ideology of non-violence, which came into existence during the 1970s while engaged in the organisation of disadvantaged people living in the Chambal valley region of Madhya Pradesh.

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