

IMPACT OF AGRARIAN LEGISLATION ON AGRICULTURAL LABOURERS OF PUNJAB: A CRITICAL APPRAISAL

I Introduction

THE BRITISH were totally unmindful of ground realities in agriculture. They insisted on collection of maximum revenue in cash and went on increasing the same year after year. This system created great hardships for the people. The *zamindars* in their attempt retained their hold on the land and poor peasants became a tool of oppression. In due course, these *zamindars* were identified with the British rulers and became the target of hatred of the rural masses.

The Congress party during the course of the entire freedom struggle promised to abolish the *zamindari* system and make the tiller the owner of the land and held out this promise through the slogan "Land to the Tiller". This lent a great strength to the freedom movement as it involved the rural masses in large numbers. A number of land reform measures were adopted by the provincial government even before adoption of the Constitution.

Though the *zamindari* system, as it existed before Independence, has been abolished, yet the lot of small and marginal farmers has not improved much. Condition of the actual agricultural worker, the man behind the traditional plough, has become worse. Their number has increased and is increasing ever since Independence inspite of the so-called progressive agrarian legislation.

Some significant changes did take place in the agrarian structure and economy of Punjab after Independence. India has accepted land reforms as an integral instrument of its Five Year Development Plans with a view to bringing about radical changes in the agrarian structure. The purpose of such agrarian reforms is as follows:

[To] bring about changes in the existing ways of land ownership and operation that involves not only the diffusion of wealth, income and productive capacity in the economy, but also the creation of incentives and opportunities for increased productivity, income and employment. It includes reforms in the system of land tenure, such as abolition of intermediaries, fixation of ceilings on landholdings and redistribution of surplus land among landless or semi-landless peasants and abolition or regulation of tenancy. Besides, any special measure(s) (i) to consolidate fragmented holdings, and (ii) to improve the socio-economic conditions of agricultural labourers and small and marginal farmers fall within the scope of agrarian reforms.¹

1. T. Haque and A.S. Sirohi, *Agrarian Reforms and Institutional Changes in India* 3 (1986).

The Indian National Congress had declared its policy in favour of progressive land reforms much before Independence, and committed itself to two objectives of land policy, (i) abolition of intermediary tenures, and (ii) "land to the tiller". These objectives became the basis of the plan for agrarian reform which took a more or less complete form by the mid-fifties and was embodied in the Second Five Year Plan. The plan envisaged in the immediate future changes in the legal framework under which land is held and operated in four main directions viz., (i) abolition of intermediary tenures; (ii) security for tenants leading on to accrual of right of ownership; (iii) regulation of land rents; and (iv) ceiling on landholdings.

II Land tenure system before Independence

Before Independence the land tenure system was classified under three broad heads.

(1) Zamindari system

Under this system the land was held by one person or at the most by a few joint owners who were responsible for payment of land revenue. The revenue collectors were raised to the status of landowners; rather *zamindari* settlements made them owners of land, thereby creating a permanent interest in it, supposedly introduced to foster progressive agriculture, the system degenerated into absentee landlordism. Thus between the state and the actual tiller there grew an intermediary who was interested in land only to the extent of extraction of exorbitant rent.

(2) Mahalwari system

The whole village under this system was treated as a unit for land revenue. It was first introduced in Agra and Oudh and later in Punjab. Under it the village common or *shamlat* was the property of the village community as a whole. A certain sum was assessed as land revenue for the entire village for which the whole body of co-sharers was jointly and severally responsible. The village *lumberdar* (chief of the village) collected revenue for which he received *panchotra*, that is, five per cent as commission.²

(3) Ryotwari system

This system was initially introduced in Madras and later extended to Bombay, Bihar, East Punjab, Assam and Coorg. It gave individual *ryots* full rights regarding sale, transfer and leasing of land. The individual holders were directly responsible to the state for payment of land revenue.

However, due to infiltration of traders and moneylenders into agriculture and lease by them of their lands to tenants, intermediaries of the *zamindari* type could be seen even areas where the *ryotwari* and *mahalwari* systems prevailed. In fact there was no significant difference in the basic character of agrarian structure due to variations in the land revenue systems, although *zamindari* represented an

2. Raddar Dutt and K.P.M. Sundharam, *India Economy* 437 (1990).

exceedingly inefficient and unjust system based on parasitic rent receiving relationships and a high degree of subinfeudation which left actual cultivators without any incentive.³

Thus at the time of Independence, the main features of agrarian structure were: (a) absentee land ownership; (b) exploitation of tenants through high rent and insecurity of land; (c) unequal distribution of land; (d) tiny and fragmented holdings; and (e) lack of adequate institutional finance to agriculture.

III Agrarian reforms policy after Independence

In order to do away with these feudalistic features, agrarian reforms policy took concrete shape as a result of important recommendations made by various committees and panels set up by the Government of India from time to time. The main features of this policy after Independence can be summarised as, (i) abolition of intermediaries; (ii) abolition of tenancy; (iii) ceiling on landholdings; (iv) consolidation of holdings; (v) distribution of surplus land among the rural poor; and (vi) vesting of proprietary rights in inferior owners, *etc.*

The Indian National Congress appointed the Congress Agrarian Reforms Committee under the chairmanship of J.C. Kumarappa, for making an indepth study of the agrarian relations prevailing in the country. The committee, in its Report submitted in 1947, recommended that all intermediaries between the state and the tiller should be eliminated and the land must belong to the actual tiller.⁴ The Congress Agrarian Reforms Committee also recommended abolition of tenancy and suggested that leasing of land should be prohibited except in case of widows, minors and disabled persons. These views were further strengthened in the Second Five Year Plan⁵ and Fourth Five Year Plan.⁶ Further, the Congress Agrarian Reforms Committee⁷ recommended that in view of the limited supply of land, there should be a ceiling on the size of landholdings which any peasant should own and cultivate. For the purpose of ceiling, a family rather than an individual should be the unit of application. A family should be deemed to consist of husband, wife, dependent sons, daughters and grandchildren. One additional family holding may be allowed for each additional, subject to a maximum of six family holdings. The committee also mentioned certain categories of land which would qualify for exemption from ceiling, *viz.*, (i) sugarcane farms; (ii) orchards; (iii) plantations; (iv) special farms such as cattle breeding and dairy farms; (v) farms in compact block; (vi) efficient farms; (vii) mechanised farms; and (viii) farms with heavy investment.

Following recommendations of the Kumarappa Committee, various state governments passed legislation for, (i) abolition of intermediaries and tenancy;

3. T. Haque and A.S. Sirohi, *supra* note 1 at 29-30.

4. All India Congress Committee, *Report of the Congress Agrarian Reforms Committee* 6-44. (1949).

5. Planning Commission, Government of India, *Second Five Year Plan (Summary)* 63 (1956).

6. Planning Commission, Government of India, *Fourth Five Year Plan 1969-70 to 1973-74*, p. 179.

7. *Supra* note 4 at 9.

(ii) ceiling on landholdings; (iii) consolidation of holdings; and (iv) distribution of surplus land among landless rural poor. The State Governments of Punjab and Pepsu (the State of Patiala and East Punjab State Union) also passed certain enactments in order to achieve the above mentioned objectives. The relevant enactments in chronological order are:

- (i) East Punjab Utilisation of Land Act 1949;
- (ii) The Punjab Abolition of Village Cess (Kuri Kamini) Act 1950;
- (iii) The Punjab Abolition of Ala-Malikiyat and Talukadari Rights Act 1952;
- (iv) Pepsu Abolition of Ala-Malikiyat Rights Act 1953;
- (v) The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act 1953;
- (vi) The Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act 1954;
- (vii) Punjab Security of Land Tenures Act 1953;
- (viii) Pepsu Tenancy and Agricultural Land Act 1955;
- (ix) Punjab Village Common Lands Act 1961;
- (x) The Punjab Land Reforms Act 1972.

In all these enactments after Independence, certain anti-feudal measures were taken by the government. To some extent these measures did benefit the tiller of the land and the rural poor. Abolition of *zamindari* system, village cess, superior ownership, vesting of proprietary rights in the occupancy tenants, vesting of *shamilat deh* or common land in the village *panchayat* for the benefit of the whole village, tenancy and land reforms, utilisation of surplus land and ceiling of land were some of such steps which apparently could be considered beneficial for the tiller of the land, tenants and other rural poor.

Soon after Independence, the Punjab Government abolished the Land Alienation Act 1901 which had debarred non-agriculturalists (agricultural workers, carpenters, masons, iron-smiths, leather workers, etc.) from purchasing land not only for cultivation but also for residential purposes because they were classified as non-agriculturalists. Its abolition lifted the ban on such unprivileged section of the society from purchasing land.

The passage of the East Punjab Utilisation of Land Act 1949, brought more and more land under cultivation which helped in increase of food production. The Punjab Abolition of Village Cess (Kuri Kamini) Act 1950, and the Punjab Abolition Village Cess (Malba) Act 1961, gave some relief to the poor peasants who had to pay some sort of cess to the superior owners or landlords. The Punjab Abolition of Ala-Malikiyat and Talukadari Rights Act 1952 and Pepsu Abolition of Ala-Malikiyat Rights Act 1953, gave benefit to many families of poor peasants who were being exploited by the superior owners. All the rights, titles and interest of superior owners in land were abolished and inferior owners were given the status of full proprietors. Similarly the Punjab Occupancy Tenants (Vesting of Proprietary Right) Act 1953, and the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act 1954, helped the occupancy tenants who were declared full proprietors of the land they had been tilling. The Punjab Security of Land Tenures Act 1953, and the Pepsu Tenancy and Agricultural Land Act 1955, was passed with two objectives, viz., (a) to relieve a landlord from his surplus area;

and (b) to provide for the security of land tenure. These Acts fixed the permissible area both for the landlord and the tenant. Surplus area thus acquired was to be distributed to the ejected or likely to be ejected tenants and other landless workers. Ultimately the Punjab Land Reforms Act 1972, was passed which repealed the Punjab as well as Pepsu Tenancy Acts of 1953 and 1955 respectively. It further lowered the ceiling on permissible area; and ownership was made the basis of ceiling instead of self-cultivation. From all this it seems as if a lot of benefits accrued to the small peasants and tenants. The factual position is that all these enactments were full of such loopholes and flaws as were utilised by the big landlords to their own interest in collusion with the revenue officials to eject the tenants legally as well as illegally on a large scale.

Now if we examine one by one these enactments it will become clear why the fate of the poor peasant and the landless agricultural worker is what it was before Independence. For example, although the Land Alienation Act 1901, which lifted the bar on non-agriculturists from purchasing land, was abolished, land had already gone into the hands of rich landlords and to the moneylenders who had purchased thousands and *lakhs* of acres of land by sale or mortgage from indebted peasants. The poor agriculturalists, and specially the landless agricultural worker, had no money at all to purchase land. So the abolition of this Act provided no relief to the landless poor.

The East Punjab Utilisation of Land Act 1949, only helped in increasing the food production because its main purpose was to compel the owners to bring wasteland under cultivation under threat of such land being taken over by the government. Many landlords saved their land from thus being taken over by ploughing it up by tractors. Those landlords whose land was so taken over reclaimed them back after it was brought under cultivation by the hard labour of landless agricultural workers and the poor peasants. Moreover, compensation was given to the landlords for the acquired land by the government. Again, the landless poor got nothing under this Act; rather their hard labour was wasted when the land which was brought under cultivation was reclaimed back by the landlords.

The Punjab Abolition of Village Cess (Kuri Kamini) Act 1950, and the Punjab Abolition of Village Cess (Malba) 1961, did bring great relief to the landless workers who had to pay customary cess to the landlords just because they happened to belong to a particular section of the society which was poor and considered to be low caste. This was a great achievement towards abolishing the feudal system.

The Punjab Abolition of Ala-Malikiyat and Talukadari Rights Act 1952, and Pepsu Abolition of Ala-Malikiyat Rights Act 1953, abolished the superior ownership rights of the landlords and these rights were vested in inferior owners, that is, *adna-maliks*. But they were supposed to pay compensation to the superior owners.

The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act 1953, and the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act 1954, gave full proprietary rights to the occupancy tenants. But the tenants-at-will could not be protected. The tenancy Acts were full of loopholes which were used by landlords to evict tenants from their lands. *Girdawaris* in the names of tenants were

falsified. In courts the poor tenants almost invariably lost the legal battle against rich landlords who could engage best lawyers and also influence the courts in many ways. The landlords exercised great influence through their representatives in legislatures, in the government and administration.⁸

Similarly the Punjab Security of Land Tenures Act 1953, and the Pepsu Tenancy and Agricultural Land Act 1955, also had certain drawbacks. Framing of rules in the Punjab Act were much delayed and till then the implementation of ceiling was held up. In the meanwhile the landlords got enough time to make *benami* and *mala fide* transactions of land to evade the effect of ceiling. Moreover the Punjab Security of Land Tenures Act did not apply ceiling to ownership of law but the basis of ceiling was area under self-cultivation. Surplus area under this Act was to be used for resettlement of tenants ejected by landlords from the area which they brought under self-cultivation. The area declared surplus under this Act continued to be property of the landlords and they were entitled to receive rent from the tenants who were resettled on such surplus area. It was observed that in most cases the tenants were not resettled. They would not go for resettlement to distant places for fear of murderous assault by gunmen of the landlords. Thus, most of the surplus area remained unutilised.⁹

The Act itself provided certain grounds on the basis of which the landlord could eject the tenant from his surplus land, though there was a provision in the Act that no ejectment could be done till an alternative accommodation was provided on surplus area or otherwise. The tenants who were thus ejected had neither any money nor courage to fight a legal battle with the wealthy landlords. So this safeguard was of no use to the tenant. The Act provided certain tenants the right to purchase land held by them under tenancy. But again either they had no money to pay to the landlords or were not made eligible to purchase the tenancy land.

Under the Pepsu Tenancy and Agricultural Land Act 1955, the basis of ceiling was ownership of land and not mere self-cultivation. This was a positive point of the Pepsu Act. Pepsu Land Commission was constituted by the state government which would determine fair rent for the principles of compensation to be paid and would advise the state government with regard to exemption of land from ceiling. These duties were well performed by the agrarian collector, and the constitution of Land Commission rather delayed the implementation of land reforms. Certain lands like well-managed and mechanised farms and orchards were exempted from the ceiling. A mere promise to plant an orchard could earn exemption for ten standard acres. Such exemptions were given with incentives for capitalist farming on modern basis.

An ordinance was issued by the Government of Punjab in September 1958,¹⁰ whereby transfer of surplus land made in erstwhile Punjab after 5 April 1953, and in erstwhile Pepsu after 21 August 1956, were cancelled. Landlords who had made such transfers were asked to return the sale price to purchasers. Such lands were

8. Master Hari Singh, *Agricultural Workers' Struggle in Punjab* 89 (1980).

9. Master Hari Singh, *Changes in Agrarian Scene of Punjab Since Independence* (1990).

10. *Supra* note 8 at 91.

to be included in the surplus area for distribution to tenants and other landless rural poor. But when the Bill was presented to the Assembly it absolved landlords of the obligation to return the sale price to purchasers. The lands were to remain the property of the purchasers. This amendment gave protection to such landlords who had sold surplus land in violation of the law. In fact, co-operative farming was used by landlords to evade ceiling law, and they successfully secured loans and grants from the government to develop capitalist agriculture.

It seems that the government and legislative bodies simply lacked political will to provide ownership right to actual tillers for land cultivated by them, and instead protected large scale capitalistic farming. The big landlords were enriched by the amount they received as purchase price though paid in bonds. Had there been an uprising and farmers' movement, the tiller would have become owner without payment of any sort of compensation.

One cannot, therefore, escape the impression that contrary to the ostensible purpose of these Acts, legislative activity of the government has favoured the rich section of the agrarian society at the cost of actual tillers of the land. The law has increased the hold of rich landowners who ultimately became the *de jure* rulers from *de facto* rulers through election process.

Another outcome of this legislation was that the economic resources of the rural society were transferred to the urban sector. The landlords invested their funds in urban property in areas like industry, transport and cinema. Thus rural society was impoverished and the lot of the landless agricultural labour became worse.

The purpose for which these two Acts were passed by the Punjab and Pepsu Legislature totally failed because the surplus land remained with the landlords and no security of tenancy could be provided to the tenants.

The Punjab Land Reforms Act 1972, was passed to deal with two matters, that is, ceiling on land holdings and acquisition of proprietary rights by tenants. The ceiling was imposed by this Act on the basis of family holding in place of ceiling on individual holding imposed by the Punjab and Pepsu law. This Act only changed the basis of ceiling and did not reduce the permissible area of landlords. For example, section 4(2)(ii), of the Act provides:

When the number of members of a family exceeds five, the permissible area for each member in excess of five subject to the condition that additional land shall be allowed for not more than three such members.

Not only this, but under section 5(1) of the Act, it has been provided:

[If the landowner has an adult son, he shall also be entitled to select separate permissible area in respect of each such son, out of the land owned or held by him.

So the Act itself gave enough opportunity to landlords to evade the ceiling. These two provisions reduced the surplus area to a great extent which could have been used to provide proprietary rights to tenants. So far as acquisition of such rights were concerned only those tenants were allowed to purchase under section 15 who had become entitled to do so under the Punjab or Pepsu law. This Act did

not permit creation of a new tenancy on the surplus area of a landowner after the appointed day, that is, 24 January 1971. Section 7(4)(ii) provides:

For the purpose of determining the surplus area of any person a tenancy created after the appointed day in any land which has been or could have been declared as surplus area of such a person under the Punjab law, the Pepsu law or this Act; shall be ignored.

IV Conclusion

The agrarian legislation, undertaken in the State of Punjab with a view to promoting economic growth and social equality particularly among the rural poor, has totally failed to provide any benefit to landless agricultural labour in villages. Abolition of *zamindari* system is an incomplete measure of agrarian reforms because it did not abolish once and for all either form of feudal exploitation or consequently the intermediary land owning class as a whole. The term 'personal cultivation' was not properly and adequately defined. As a result, absentee landlordism continues to exist. Moreover, where tenants were given the right to purchase lands from landlords, the price of land or compensation to be given was fixed so high and the instalments of payments were spaced within such a short and limited period of time, that the poor tenants could not manage to purchase the land. Their right of purchase, therefore, remained largely ineffective. At the same time the lengthy procedure followed by the state government with regard to legislation and its implementation, along with various legal flaws and loopholes and judicial delays, gave the landlords as well intermediaries enough time and opportunity to evade the law. This they did thorough paper partition of properties and *benami* transactions by influencing revenue and village officials to change land records and pressurising tenants to register themselves as farm servants or wage labourers. All these factors have contributed towards almost total failure of agrarian reforms in rural Punjab.

Thus the scheme of agrarian reforms has very little to offer to the vast body of landless agricultural labourers who are so far the weakest and socially, economically, politically, and educationally among the most backward section of rural society. There is hardly any improvement in their plight after Independence.

In Punjab, 6,47,7400 occupancy tenants obtained proprietary rights over an area of 1.85 million acres.¹¹ But, since the right of purchase was restricted to tenants who were in continuous possession of land for six years, the majority of them who were tenants-at-will did not benefit from the law.

An incisive survey and net impact of these land reforms legislation are enough to reveal that the main object "land to tiller", has been frustrated and the legislation itself facilitated "absentee landlordism". And whereas the reforms aimed at abolition of intermediaries, it only allowed them to become self-cultivators.

11. Govt. of India, *Report of the National Commission on Agricultural*, pt. XV, pp. 107-8 (1976).

The so-called progressive measures left no impact on the tiller of the land. The statute books of land reform legislation are definitely progressive, since in a short span of time a number of amendments, hundreds of rules and countless notifications were issued. But the plight of the poor rural cultivator remains unchanged; he is a landless tiller, but not a tenant.

This provision of self-cultivation is so vehemently exploited that even persons who are not even remotely connected to agriculture are holding land in their names and in disguise of ostensible personal supervision exploiting the sweated labour of the actual tiller. Reddy,¹² the President of the Bhartiya Khet Mazdoor Union rightly remarked:

The fact that landlords have tremendous economic and political clout and that they use all avenues at their disposal to sabotage the land ceiling laws is widely known. They manipulate records, refuse to declare certain land, give false declarations about the nature of land (dry or irrigated) and conduct benami transactions in order to evade ceiling laws.

Land reform has thus failed to eliminate or even to reduce substantially some of the basic inequalities in India's agrarian social structure. It has succeeded in abolishing the rights of 'superior' intermediaries and in somewhat reducing area operated under tenancy. But it has not done very much either to reduce the concentration in the ownership of the land or to improve the lot of the 'inferior' tenants who hold their land on oral leases.¹³

The foregoing discussion reveals that the number of landless has increased. The situation warrants a comprehensive labour code to guarantee the welfare and social security in a new semi-industrial society that has emerged as a result of the social change. The study does, however, reveal that traditional landlords have been abolished. But a new class has also emerged. The loopholes in legislation with specific exception clauses, particularly the self-cultivation, have helped the rich landlords to retain much of the land that would have gone to the landless poor. The intermediaries have become owners but the actual man behind the plough continues to be landless. The ceiling laws and fragmentation on account of increasing population has reduced many middle class farmers to marginal farmers; and marginal farmers of the previous generation have all been rendered landless. This ever increasing population of the landless agricultural labour needs to be provided more legal protection.

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12. G. Yallamanda Reddy "Land Ceilings Continuously Flouted", *Indian Express* 16 Dec. 1991.

13. Andre Beteille, *Studies in Agrarian Social Structure* 85 (1974).

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