

CEILING LAWS IN INDIA

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CENTRE FOR RURAL STUDIES
Lal Bahadur Shastri National Academy of Administration
Mussoorie - 248 179 (Uttaranchal)

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Presented to Shri R. J. Mohan Pillai, IAS, Secretary to His Excellency, Governor, Bihar for his support and guidance to me in studying land reforms in the country.

FOREWORD

D. S. MATHUR
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Director
LBS National Academy of
Administration, Mussoorie

Officer Trainees in the Academy hail from diverse academic or professional backgrounds. An exposure to the rural development and land reforms scenario, not only in a classroom, but also in a field situation forms an important ingredient of the training input for them. In this context, the present volume, in which an introduction to the legal frame pertaining to various state laws with respect to ceiling on agricultural land holdings has been attempted, definitely fills a gap. While there is no dearth of state-specific studies, this presentation comes in one capsule, enabling the OTs allocated to various state cadres, to have an overview of the legal parameters and issues, before they could start functioning as independent field officers.

The major factors that have led to a wide gap between expectation and the achievement of the land ceiling programme in the country as a whole have been:

1. Provision for separate ceiling for major sons in the family.
2. Provision for treating every shareholder of a joint family under applicable personal law as a separate unit for ceiling limits.
3. Exemption of tea, coffee, rubber, cardamom and cocoa plantations and the lands held by the religious and charitable institutions beyond ceiling limits.
4. Benami and farzi transfers to defeat the ceiling law.
5. Delay in the disposal of cases before the administrative and judicial courts.
6. Lack of political will.

Evidently, the enforcement of ceilings has not led to any substantial redistribution of agricultural land. To add to it is the fact of abysmally low quality of lands declared as surplus and distributed and lack of substantial financial package to the poor allottees to make the assignment a profitable venture.

While a requisite will, dash and commitment are to be expected from the new generation of administrators, they have only to be reminded that a lot hinges on and around the legal framework which has to be understood and improved upon to meet the demands of a dynamic world outside.

Finally, a word of compliment for the author. Dr. C. Ashokvardhan an, IAS officer of the 1980 batch, who has been in continuous touch with the Academy over the last several years. His is a familiar name, through his personal interface, and through his books and papers, for successive batches of the Officer Trainees in the Academy. It is to be hoped that this study will provide to the Officer Trainees the necessary insight in the subject dealt therein.

D.S. MATHUR

INTRODUCTION

MANOJ AHUJA
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Fixation of ceiling on agricultural land holdings is part of the overall land reforms programme conceived of as an instrument for the improvement of agricultural production and productivity and reduction of socio-economic disparities in the rural areas. The notion of ceiling draws its logic from the need to reduce inequalities in the rural areas by endowing the rural poor with an income generating asset. It is a fact that the enforcement of ceiling on agricultural holdings has not led to any substantial re-distribution of the agricultural land. There has been a gap between the anticipated surplus and the surplus actually acquired. Several factors have led to this phenomenon, principal among which have been a lack of political and administrative will, protracted litigation, loopholes in laws, devices employed to defeat the purposes of law by the vested interests, poor quality of land acquired and assigned, and the like. The need of the hour is to rise to the occasion and take the concept and programme of ceilings to its logical conclusion.

The present work delineates the salient features, strengths and weaknesses of land ceiling legislations of altogether 13 states in country. While it is almost a pioneer endeavour to bring such a gist under one cover, it goes without saying that it will introduce the Officer Trainees in the Academy to the intricate world of their respective state laws prior to taking up assignments as judicial officers in courts or as practicing administrators. The author Dr. C.Ashokvardhan deserves compliments for this wholesome compilation and review.

In the Reading List Dr. Ashokvardhan has alluded to the concerning bare Acts and Rules, apart from relevant reference books, monographs, papers and proceedings of various workshops on the subject. While the Officer Trainees in the Academy will get preliminary insights in the laws of their cadre states, they will further appreciate the relative features of state legislations on a comparative spectrum.

MANOJ AHUJA

ACKNOWLEDGEMENT

The present volume endeavours to capture the broad outlines of state ceiling enactments pertaining to 13 states. I treat it as a modest move in empowering our trainees in the ceiling sector, which still remains the mainstay in the domain of land reforms and rural development.

My interactions with Shri D.S. Mathur, Director, LBSNAA, have given me fresh insights into the themes under discussion here. It is to be hoped that under his dynamic leadership, a fresh focus around land related issues will build up for sure and a great learning and practising chapter will open up in the services, as never before.

Shri Manoj Ahuja, Coordinator and Vice Chairman, Centre for Rural Studies, LBSNAA has taken a leaf from the erstwhile Land Reforms Unit and taken the CRS to envied heights of excellence. The village visits and studies by the Officer Trainees of all services have become all the more pointed and study data amenable to precise and useful retrieval. Such an incisive orientation at the very dawn of a fresher's career could also mean the beginning of new thrusts to meet current challenges, pushing to backseat, disappointments and cynicism.

The officers and staff of the CRS have been like an enlarged family to me. Shri Subhransu Tripathy, Assistant Professor and Dr. A. P. Singh, Research Associate have proved their calibre in handling the tasks at hand and have provided me with much of source material required for the study pursued here.

A word of special thanks to Shri Samar Singh Kashyap for carrying out computer settings in record unrelenting pace, goes much more than a routine formality.

C. ASHOKVARDHAN

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CEILING LAWS IN INDIA

BACKGROUND

Land ceiling is considered an important instrument for reducing disparities in the ownership of lands and as a means of increasing productivity by ensuring personal cultivation. The implementation of ceiling on land holdings was done in India in mainly two phases i.e. pre-revised ceiling laws during 1955-71 and post-revised ceiling laws during 1972.

The legislative measures in the first phase were full of loopholes which were taken advantage of by the big landowners to circumvent the law. Of the major loopholes that existed in the first phase of legislations, the following were quite serious:

1. The ceiling limits fixed were quite high.
2. The ceiling Acts did not provide for prohibiting transfers retrospectively. The big landowners, in anticipation of the ceiling law had resorted to partitions and fictitious transfers in benami names on a very large scale.
3. The number of exemptions was so large that it provided a scope for evasion on a big scale through the device of change in classification or otherwise, thereby making the ceiling legislation ineffective.
4. The ceiling limits were fixed on the basis of individual holders as the unit and not on a family basis.

The Chief Ministers' Conference on 23rd July, 1972 agreed to lay down revised guidelines for the implementation of the law relating to ceiling on agricultural land.

National Guidelines on Ceiling on Agricultural Holdings

I Level of Ceiling

- (i) The best category of land in a State with assured irrigation and capable of yielding at least two crops a year should have ceiling within the range of 10 to 18 acres taking into account the fertility of soil and water conditions.

Allowance may be made for land irrigated from private sources and capable of growing at least two crops in a year by equating 1.25 acres of such land with 1 acre of land irrigated from public sources and capable of growing at least two crops in a year. The ceiling for such land irrigated from private sources shall not, however, exceed 18 acres.

The term "irrigation from private sources" shall mean irrigation from tubewell or lift irrigation from a perennial water source operated by diesel and/or electric power.

There will be no reclassification of land falling within the categories referred to in clauses (ii) and (iii) below for the purpose of the ceiling law consequent upon the completion of a private irrigation scheme subsequent to the 15th August 1972.

- (ii) In the case of land having assured irrigation for only one crop in a year, the ceiling shall not exceed 27 acres.
- (iii) For all other types of land the ceiling shall not exceed 54 acres. In areas where there is potential for sinking tubewell, the ceiling for dry lands may be kept below 54 acres at the discretion of the State Government.

- (iv) In special cases like desert areas and hilly areas the ceiling for category (iii) may have to be relaxed. The State Governments may discuss specific cases with the Ministry of Agriculture before formulating their ceiling laws.
- (v) In the case of owners with holdings consisting of different types of land, the total holdings after converting the better categories of land into the lowest category shall not exceed 54 acres.

II. Unit of Application of Ceiling

- (i) The unit of application of ceiling shall be a family of five members, the term “family” being defined so as to include husband, wife and minor children. Where the number of members in the family exceeds five, additional land may be allowed for each member in excess of five in such a manner that the total area admissible to the family does not exceed twice the ceiling limit for a family of five members. The ceiling will apply to the aggregate area held by all the members of the family.
- (ii) Where both the husband and wife hold lands in their own names, the two will have rights in the properties within the ceiling in proportion to the value of the land held by each before the application of ceiling.
- (iii) Every major son will be treated as a separate unit for the purpose of application of ceiling.

It should be ensured that there is no discrimination between major children governed by different systems of personal laws.

III. Retrospective Effect

The amended ceiling laws should be given retrospective effect at a date not later than 24th January, 1971. A specific provision should be made in the ceiling law making it clear that the onus of proving the bonafide nature of any transfer of land made after that date will be on the transferor.

Exemptions

- (i) The exemptions in favour of plantations of tea, coffee, rubber, cardamom and cocoa should continue.
- (ii) Lands held by the Bhoodan Yajna Committee, cooperative banks, nationalised banks, Central or State Government and local bodies should continue to enjoy exemption. Similarly, land held by the industrial undertakings for non-agricultural purposes should be exempted from the ceiling law.
- (iii) In the case of registered cooperative farming societies, exemption may be granted with the stipulation that while computing the ceiling area for a member, his share in the cooperative society will be taken into account alongwith his other lands.
- (iv) Lands held by Agricultural Universities, Agricultural Colleges, Agricultural Schools and Research Institutions should be exempted from the ceiling law.
- (v) The State Governments may, in their discretion, grant exemption to the existing religious, charitable and educational trust of a public nature. The institutions or trusts

will not be exempted from the operation of tenancy laws and all the tillers of the land should be brought in direct relationship with the trusts or institutions to the exclusion of all intermediary interests.

No exemption should be allowed to private trusts, of any kind.

- (vi) In the case of existing Gowshalas of public nature, the State Governments may take a decision in consultation with the Ministry of Agriculture.
- (vii) No exemption should be allowed in the case of sugarcane farms. However, for the purpose of research and development, sugarcane factories may be permitted to retain an area not exceeding 100 acres.
- (viii) For the purpose of ceiling the existing orchards may be treated as dry land. No additional land should be allowed to be retained as recommended earlier. Coconut and arecanut gardens, banana orchards, guava gardens and vine yards will not be treated as orchards. When surplus orchard land vesting in the Government is distributed, the assignees should be required to maintain the orchard intact.
- (ix) All other existing exemptions including that in respect of lands given as gallantry award should be withdrawn.

V. Compensation

- (i) Compensation payable for the surplus land on the imposition of ceiling laws should be fixed well below the market value of the property so that it is within the paying capacity of the new allottees mainly comprising the landless agricultural

workers who belong to the Scheduled Castes and the Scheduled Tribes.

- (ii) The compensation may be fixed in grade slabs and preferably in multiples of land revenue payable for the land.
- (iii) The scheme for compensation should be worked out in such a manner that there will be no financial burden on the Central and State Governments.

VI. Distribution of Surplus Land

While distributing surplus land, priority should be given to the landless agricultural workers, particularly those belonging to the Scheduled Castes and the Scheduled Tribes.

Target for Enactment of New Laws

The amended ceiling laws should be enacted by 31st December, 1972.

Inclusion in the Ninth Schedule to the Constitution

All the amended laws should be included in the Ninth Schedule of the Constitution.

Implementation

Implementation will be the responsibility of the State Governments. They would set up non-official bodies at appropriate levels and place a competent official organisation in order to administer the ceiling legislation. The concurrence of the Central Government will be obtained in respect of any incidental departure from the

guidelines necessiated by the special conditions prevailing in any State or Union Territory.

PUNJAB

The ceiling laws were enacted in two phases in Punjab. In the first phase, the Punjab Security of Land Tenures (Amendment) Act, 1955 (Punjab Act No. XI of 1955) and the Punjab Security of Land Tenures (Amendment) Act, 1957 (Punjab Act No. 46 of 1957) were enacted; in the second phase there was the enactment of the Punjab Land Reforms Act, 1972.

The history of land reforms legislation in Punjab dates back to the passing of the Punjab Tenants' (Security of Tenure) Act, 1950 (Punjab Act XXII of 1950). This Act was passed to provide relief to the tenants-at-will. Its scope was, however, limited. This Act was subsequently amended by the Punjab Tenants' (Security of Tenure) Amendment Act, 1951 (Punjab Act No. V of 1951) which extended the scope of the earlier enactment and gave more concessions and privileges to the tenants.

In 1953, the Punjab Security of Land Tenures Act, 1953 (Punjab Act No. X of 1953) was passed which replaced both the Act of 1950 and the amending Act of 1951. The objects and reasons of this Act were stated in the Punjab Government Gazette (Extraordinary) dated the 2nd November, 1951 as under:

“The Bill seeks to consolidate and amend the law relating to land tenures in Punjab. It is a consolidating measure replacing the Punjab Tenants' (Security of Tenure) Act, 1950 and the President's Act V of 1950 in the light of administrative difficulties and experience gained as a result of the working of the two Acts. Such of the provisions as were considered inexpedient have been removed and others, for which provision was considered necessary, included. The

measure will also not apply to the land allotted under the Administration of Evacuee Property Act, 1950”.

The Punjab Security of Land Tenures Act, 1953 was amended by the Punjab Security of Land Tenures (Amendment) Act, 1953 (Punjab Act No. LVII of 1953), the Punjab Security of Land Tenures (Amendment) Act, 1955 (Punjab Act No. XI of 1955) and the Punjab Security of Land Tenures (Amendment) Act, 1957 (Punjab Act No. 46 of 1957). The objects and reasons of the 1957 amendment were to enable the Government to seize surplus area for the resettlement of tenants under section 10 A of the Punjab Security of Land Tenures Act, 1953. Landowners and tenants were required to furnish declarations in the prescribed forms. In the first instance, a period, which was subsequently extended to six months, expired on the 28th October, 1956, but response from them was extremely poor. It was later on restricted to such landowners and tenants who owned or held land in excess of the permissible area. They were required to file declarations within six months and to provide a penalty for those who defaulted or submitted false declarations. Further, a landowner owning land in excess of the permissible area, who may not have exercised the right of reservations under the said Act, was to be given the right to select his permissible area.

The Act was further amended by the Punjab Security of Land Tenures (Amendment) Act, 1959 (Punjab Act No. 4 of 1959). The object of this enactment was explained in the statement of objects and reasons published in the Punjab Gazette Extraordinary dated, September 10, 1958 as follows: “It has come to the notice of the Government that landowners, who are not competent to eject their tenants from lands comprising their tenancies under the Punjab Security of Land Tenures Act, 1953 are circumventing the provisions of that Act by executing malafide transactions of sales

and mortgages with possession in respect of such lands in favour of the tenants. Subsequently, such a sale is pre-empted under the Punjab Pre-emption Act, 1913 by an eligible pre-emptor with the connivance of the vendor (erstwhile landlord) and the pre-emptor takes possession of the land comprising the tenancy; likewise such a mortgage is redeemed by the mortgagor (erstwhile landlord) and in either case the tenant is duped and deprived of his tenancy. The Government have decided to safeguard the rights and interests of tenants against such malafide transactions; their tenancies will not be disturbed, and if these have been disturbed already, they will be restored to them by a summary procedure. The tenant (erstwhile vendee) will also have the option to claim by a summary procedure, the restoration of rights of ownership in respect of the pre-empted land on payment of the price paid to him by the pre-emptor. The Government have also decided; (a) To enable a transferee of land to claim possession from the transferor in respect of a transaction affecting that land which may not be recognised for the purpose of assessing the surplus area of the transferor; (a) To prohibit further acquisition of land in excess of the permissible area by inheritance, transfer, exchange, lease agreement or settlement; (b) To empower the Collector cause delivery of possession of the surplus area to the tenants, who may be resettled on it; (c) To exempt lands granted to the members of the Armed Forces of the Union for gallantry from the operation of the said Act, so as to preserve the character of such awards.”

The Act was also amended by the Punjab Security of Land Tenures (Second Amendment) Act 1959 (Punjab Act No. 32 of 1959). The statement of objects and reasons of this amending Act as published in the Punjab Gazette Extraordinary dated June 30, 1959 is as under:

“With the deletion of Section 7 of the principal Act by the Punjab Security of Land Tenures (Amendment) Act, 1955 (Act 11 of 1955),

the provisions of Section 15 have become redundant. Accordingly, it is proposed to omit this section as well.” Under Section 19 of the principal Act, a tenant holding tenancy on a land which was evacuee property on the 15th April, 1953, was not competent to pre-empt the sale of his tenancy or purchase its proprietary rights under section 17 and 18. As all evacuee property has since been acquired by the Government of India and allotted to displaced persons on a permanent basis, the said property has ceased to be evacuee property and allottees have become full proprietors thereof. In the changed circumstances, the continuance of the protection of such property does not appear justifiable and therefore it is proposed to amend Section 19, so as to enable tenants holding such lands to pre-empt sales of tenancy lands and purchase their proprietary rights.”

Far reaching amendments were made by the Punjab Security of Land Tenures (Amendment and Validation) Act, 1962 (Punjab Act No. 14 of 1962).

Other amendments were made by the Punjab Security of Land Tenures (Amendment) Act, 1968 (Punjab Act No. 12 of 1968) and the Punjab Security of Land Tenures (Amendment) Act, 1969 (Punjab Act No. 28 of 1969).

The object of the Punjab Security of Land Tenures Act, 1953 with its subsequent amendments as summarised by the Supreme Court in *Jaimal V. Financial Commissioner, Punjab*, 1969 PLJ- 165 was to provide security to the tenants, settle them on the land declared surplus and fix a ceiling on the total holding of landowners and tenants. It is also well known that it was a measure of agrarian reform.

The objects of the Punjab Security of Land Tenures Act, 1953 have been summarised as under by the Supreme Court in the State of Punjab (now Haryana) *V. Amar Singh*, 1974 -PLJ 74.

The triple objects of the agrarian reforms projected by the Act appear to be; (a) to impart security of tenure, (b) to make the tiller the owner; and (c) to trim large land holdings by setting sober ceilings. To convert these political slogans into legal realities, to combat the evil of mass evictions, to create peasant proprietorships and to ensure even distribution of land ownership, a statutory scheme was fashioned, the cornerstone of which was the building up of a reservoir of land carved out of the large land-holdings and made available for utilization by the state for resettling ejected tenants.

It is obvious that this blue-print for a peaceful transformation of agrarian relations assumes the availability of a large surplus area on which the state can settle tenants from the reserved areas and the small land-holder's holdings. Thus the key to the success of the scheme is the maximising of the surplus land reservoir and sealing off legal leakages through private alienations, collusive orders and decrees and the like and hence care was taken to stop alienations and ignore decrees and orders which diminish the surplus pool.

The success of the scheme, therefore, depends on the extent of the surplus pool. That is why, the legislature has jealously protected the surplus pool which plays a pivotal role in the whole programme.

As is clear from the very title of the Act, its object is to consolidate and amend the law relating to the ceiling of land holdings, acquisition of proprietary rights by tenants and other ancillary matters in the state of Punjab. The object of the Act as explained in the statement of Objects and Reasons is as follows:

“In the State of Punjab two enactments, that is, the Punjab Security of Land Tenures Act, 1953, and the Pepsu Tenancy and Agricultural Land Acts, 1955, are in force. The Punjab Security of Land Tenures Act, 1958, applies only to those parts of the State which were comprised in the State of Punjab before the 1st of November, 1956. The Pepsu Tenancy and Agricultural Lands Act, 1955, applies to those territories of the erstwhile state of Pepsu which now form part of the State of Punjab. It has become essential that the law relating to ceiling on agricultural land contained in the aforesaid two Acts and which applies to certain parts of the State of Punjab should be unified and there should be only one Act on the agricultural land for the whole of the State of Punjab.

“Secondly, the Central Committee on Land Reforms appointed by the Government of India evolved a policy which sought to make available additional land to be distributed among landless persons to guarantee equitable distribution of land. To achieve this object it has been decided that permissible area be reduced, that the surplus area should vest in the State Government and a family is to be treated as a unit for determining the permissible area. It has also been decided that certain exemptions which were allowed under the two existing enactments should be withdrawn. Thirdly, the surplus land is to be acquired by the State Government for allotment to the landless persons and further, proprietary rights are to be conferred on them.”

After giving careful consideration to the various aspects of land reforms measures, which are necessary in the interest of social justice as also agricultural production, it has been decided that the ceiling limits be suitably reduced; that the entire surplus area should vest in the State Government and that the criteria of eligibility for allotment of such areas should be made broad-based. It has been

considered necessary to withdraw certain exemptions which were allowed under the two existing measures.

Punjab: A Review In Punjab, landowners have by-passed the ceiling laws through manipulation of land records showing double – cropped irrigated land as dry land, procuring fake age certificates of minor children and showing them as independent and separate cultivators, and through benami transfers. Some of the landlords have retained land in several distant villages to avoid ceiling provisions. For this purpose, the landlords used their political clout to influence revenue officials and the police. Litigations were prolonged to exhaust the poor tenants. Pressure was exerted on the allottees for voluntary surrender or to ensure benami transfers. In some of the cases, violence has been resorted to, to get back the possession of the land and secure benami transfers. The research so far carried out points to a near failure of the ceiling laws, particularly the distribution of surplus lands. Only in a few cases where landlords were weak, not well connected or illiterate, the land could be allotted and physical cultivation could be given to the poor cultivators.

The impact of land reforms in Punjab is quite depressing. The number of the landless in the state has doubled and those of the marginal peasants has increased three times during the decade 1961-71. With the onset of the green revolution and the development of capital intensive agriculture, the landless workers in the total agricultural workforce rose from 17.3 per cent in 1961 to 32.1 per cent in 1971 and the figure is around 40 per cent today.

About 1.74 lakh standard acres were declared surplus after the enactment of the 1953 Punjab Security of Land Tenures Act and the 1955 PEPSU Tenancy Act, of which 51194 standard acres are lying

under litigation in different courts; only 59314 standard acres of surplus land were allotted to the landless persons.

Similarly, under the 1972 land reforms Act of Punjab, over one lakh acres were declared surplus in the state, but hardly 1440 acres of surplus were distributed among 2140 landless persons. Over 73 per cent land remained under dispute in different courts until 1994.

It will be pertinent to point out here that most of the large holdings are to be found in Bhatinda, Faridkot and Ferozpur districts of Punjab. However, as in the rest of the country, here too, the large farmers exploited all loopholes in the laws to circumvent the letter and spirit of the land reforms laws.

As in other states, in Punjab too, large scale Benami transactions took place at nominal consideration with or without the collusion of the government servants. Next, the true class of the land – Chahi, Nehri, Barani, Banjar-Jagid, Banar-Kadim, Sailabi, Gair-mumkin etc. – were not disclosed correctly as most of the inferior quality land has already been improved by the cultivators. Even in *Hambowal village* which falls in the Bet Area, the land is now very fertile whereas just fifteen-twenty years back it was all sandy waste land where tall elephant grass used to grow. Since different ceilings had been prescribed for different types of land, landlords made use of this provision to save their land by showing them as inferior quality land.

There were also large scale malafide transactions in the names of sons/ daughters or other near relatives of the landlord. False declarations were also made by several landlords to the effect that their land was under orchards and thereby they claimed exemption from ceiling laws U/S 2 (3) (i) of the Punjab Security of Land Tenures Act, 1953. Then, false declarations were filed by the

owners in respect of the date of birth of minor children and they were shown as major so that they could be treated as independent units. Furthermore, there was no way of knowing from the land records whether land held by a person in different villages, tehsils, districts and even states, had all been shown or not. Besides, land was wrongly shown as sold to fictitious tenants.

198000 hectares were estimated as surplus as per the 1976-77 estimates. But the actually declared surplus is only 28 per cent of the estimated surplus. This shows that there is a tremendous gap between the estimated surplus and the declared surplus which indicates the failure of the implementation of the land ceiling laws. The NSS data indicates that during 1953-54, large farmers with more than 10 hectares had 9.36 per cent of the total operational holdings and were controlling 38.04 per cent of the total land and by 1981-82 only 2.48 per cent of the large farmers (operating more than 10 hectares) were controlling 19.58 per cent of the total operated area. On the other hand, the Agricultural Census data shows that large farmers constituted 5.01 per cent of the total operational holdings and controlled 28.86 per cent of the operated area and by 1985-86, they formed 6.80 per cent of the total operational holdings and controlled 29.80 per cent of the total operated area. Apparently, the Agricultural Census indicates that there is more concentration of land in fewer hands. There is apparent disparity in the land holding distribution and to this extent the land ceiling measures have not been able to improve the agrarian situation.

HARYANA

The land reform measures were initiated in this State as far back as in 1952 when the intermediary tenure was abolished by the enactments of the Punjab Abolition of Ala Malikiyat Rights Act, 1954. As a result of this enactment the intermediary tenures of Ala Maliks were abolished and the Adna or inferior Maliks recognised under the Punjab Tenancy Act, 1887 were given proprietary rights. The occupancy tenants under the Punjab Tenancy Act, 1887 were given proprietary rights in respect of their holdings on the payment of nominal compensation by the enforcement of the Punjab Occupancy Tenants' (Vesting of Proprietary Rights) Act, 1953 and the Pepsu Occupancy Tenants' (Vesting of Proprietary Rights) Act, 1954.

Ceiling on land holdings and security to the tenants has been provided by enforcing two other enactments which have been inherited by Haryana from undivided Punjab, namely: the Punjab Security of Land Tenures Act, 1953 and the Pepsu Tenancy and Agricultural Lands Act, 1955. In order to bring uniformity in the ceiling laws and to scale down the ceiling in accordance with the guidelines of the Government of India, the Haryana Ceiling on Land Holdings Act, 1972, was enforced in the State with effect from 23rd December, 1972. This Act was amended a number of times in the year 1976 and thereafter, in order to remove the lacunae pointed out by the High Court and other bottlenecks experienced during the course of the implementation of the Act of 1972. Thereafter, the Haryana Utilization of Surplus and other Areas Scheme, 1976 was framed under the Haryana Ceiling on Land Holdings Act, 1972 and the work on the distribution of surplus land was taken up with effect from 1st June, 1976.

Under both the Punjab and Pepsu Acts, the local landowners were entitled to hold permissible area upto 30 standard acres or 60 ordinary acres. However, in the case of displaced persons, the ceiling was 50 standard acres or 100 ordinary acres in the erstwhile Punjab areas and 40 standard acres or 100 ordinary acres in the Pepsu areas. Under the Haryana Ceiling on Land Holdings Act, 1972, the ceiling on the agricultural holdings for a family consisting of husband, wife and upto three minor children is 18 acres if the land is having assured irrigation and capable of growing at least two crops in a year. The surplus area declared under the ceiling Act, 1972 and the un-utilized surplus area of the old Acts is allotted under the "Utilisation Scheme" to tenants and other persons belonging to the weaker sections of the rural society, i.e. the members of the scheduled castes and the backward castes, agricultural workers, landless persons, ex-servicemen and persons owning less than two hectares of barani land. According to this scheme, after the allotment of surplus land to certain categories of tenants entitled for its allotment under the above Act, the remaining land is divided into three parts. The first 40% of the surplus land in the numerical order of the field khasra number is earmarked for allotment to the members of the scheduled castes, the next 10% to the backward classes and the remaining 50% to other eligible persons.

Under the original scheme, the allottee was first required to pay the first instalment towards the price of the land to be allotted and thereafter, the possession of the allotted land was delivered. The allottee, thus became the owner of the land only after depositing the first instalment towards the price of the land. However, in order to assist the allottees belonging to the poorer sections of the society, the scheme was amended and it was provided that the possession of the land should be first delivered to the allottee and thereafter, they should deposit the first instalment within 30 days of the date of

taking possession of the allotted land. The allottees are required to pay the price of the land allotted in 10 annual equated instalments with interest @ 5% per annum. There are three different price slabs: (i) for the first 10 hectares, (ii) for the next 20 hectares and (iii) for the remaining land. The price charged also differs according to the quality of the soil. Thus, the price to be paid for the first 10 hectares ranges from Rs. 200/- to Rs. 2000/- per acre, whereas for the last slab, the price ranges from Rs. 150/- to Rs. 1600/- per acre.

Under the Punjab Security of Land Tenures Act, 1953, and the Pepsu Tenancy and Agricultural Lands Act, 1955, the tenants have been given security of tenures. Under these Acts, the area under the possession of the tenants on or before 15.4.1953, in Punjab area, was declared “tenant’s permissible area” and the tenants after a continuous tenancy of six years were entitled to purchase land under section 18 of the Punjab Act, whereas in the case of the Pepsu area, the tenants in possession of the land on 3.12.1953, were entitled to purchase the land under their tenancies under Section 22 of the Pepsu Act. Some tenants could not exercise their right to purchase before coming into force of the ceiling Act, 1972. In order to make such tenants as owners of their holdings, it was provided in the Act that such “tenants’ permissible area” would vest in the State Government with effect from 21.1.1971, the appointed day, under the 1972 Act. The tenant on the “tenant’s permissible area” is allotted the same land under the Utilization Scheme, 1976 subject to the permissible area under the 1972 Act, and after the payment of the first instalment, such tenant becomes owner of such land. Even the tenant of the small landowner (landowners owning less than the permissible area) is provided security under the Punjab and Pepsu Acts. Such a tenant is allowed to retain possession of his tenancy to the extent of five standard acres (including any other holding), unless he is accommodated on other surplus area by the Government.

It was experienced that some of the allottees were dispossessed from their allotted land forcibly by the landowners and could not retain possession because of pressures and threats, with the result that at times, the original landowners continued to cultivate their land. In order to check this menace, instructions were issued to all the Sub-Divisional Officers (Civil) in the State to exercise the power under section 22 of the Haryana Ceiling on Land Holdings Act, 1972. According to this section, the Collector, after summary inquiry, can eject any person who is in wrongful or unauthorised possession of the land, from the use or occupation of which he is not entitled under the provisions of the Act. In order to dispose off cases of forcible dispossession, the powers of the Collector under section 22 have been vested with the Sub-Divisional Officers (Civil) in the State. The allottee in case of forcible dispossession is simply required to file an application to the Collector in this regard.

For some time past, it has been observed that the allottees of surplus land, after depositing the 1st instalment towards the price of land, sold their land. This process was facilitated with the provision under the 1972 Act by which they became the full owners of the allotted land after making the payment of the 1st instalment. In order to plug this loophole, the Haryana Ceiling on Land Holdings Act, 1972 has been amended wherein it has been provided that an allottee shall not be competent to transfer/sell/lease or mortgage the land allotted to him for a period of 5 years from the date of his taking possession, even if he pays the full purchase price of the land in question. The allottee shall, however, be competent to mortgage or create a charge on the land allotted to him for raising loan from any Cooperative Society or Scheduled Bank for the purpose of making improvements on the land in question.

In order to check the work done under the above Acts in the field and to inspect the progress on the spot, a monitoring cell has been constituted at the State headquarters. This cell inspects the allotment work and the physical possession of the allottees. Besides this, the decided surplus area cases are also checked to see whether any material irregularity has been committed in the decision. If any irregularity comes to notice, such cases are re-opened by involving the suo moto powers of the Financial Commissioner so as to rectify the mistake or irregularity which might have been committed.

Haryana: A Review

The difficulties faced by the allottees in different parts of Haryana with respect to the allotted land can be summed up as follows.

1. In many places the allottees were implicated in various cases.
2. The allotted land was encircled from all sides with the landlord's land and as a result, the allottees did not have access to their allotted lands.
3. The allottees did not have the courage to complain to the Revenue authorities or to undertake litigations.
4. The organisation of agricultural labourers and poor peasants in Haryana is very weak and they cannot withstand the onslaught of the landlords.
5. The allottees did not have the idea of the land allotted to them.

6. Many of them were persuaded by the landlords to surrender their lands.
7. In many places the land allotted is of very poor quality. The allottees have fallen into debts and are unable to pay instalments due for the lands allotted to them.
8. The constraints faced by the allottees have forced some of them to sell off their lands.
9. There is no provision for a thoroughfare in the Act for the allotted land. This is a loophole in the Act which has been used by the landlords to intimidate and browbeat the poor allottees.
10. The allottees also faced the absence of access to fodder for their cattle and fuel for their everyday use.

Agricultural Census data of 1985-86 indicate that at the State level land owners operating more than 10 ha. control 24.3% of the total operated area. The reality at the ground level would reflect much larger area. It is through a vigorous drive that such concealed lands can be netted within the surplus ceiling provisions. This shows that there is still ample scope for the administrative will to operate in the State for initiating fresh efforts of implementation of land ceiling provisions.

The major surplus ceiling cases were identified under the old Act between 1951 and 1960 and subsequent to that it is a case of administrative apathy in the State in the implementation of land ceiling provisions. The new land ceiling Act, 1972 in spite of its being more radical, was not followed with vigorous effort for implementation as a result of which the extent of land declared

surplus under the new ceiling Act was only 8.13 per cent of the total land declared surplus in the State.

One-fifth of the total land ceiling cases in the State took more than two decades to be decided and such cases invariably pertained to the big landowners who availed of the full benefit of appeal, revision and writs. Some of the cases of big landowners are still under litigation in spite of the case dragging on for long years.

Most common technique adopted by the landowners for circumventing the ceiling provisions was through the wrong classification of lands under question. The irrigated land was shown as '*banjar*' and the landlords could retain larger areas through collusion with the lower echelons of the revenue functionaries. There were cases in which the landowners managed certificates from the revenue authorities, canal departments etc. and the irrigated land was declared as dry. By adopting this technique the landlords could extend the ceiling limit three times. Such manipulations were made particularly by the big landlords. The second method adopted by them was to get the suits filed through fake tenants in the court claiming that they were genuine tenants on their lands for more than 6 years before January 1971. Since all such suits are filed in connivance, there is no contest and the decision is given in favour of the tenants. By this technique the land is distributed among the tenants on paper but the landlords with their muscle power are able to retain their land. This method is popularly called as *Durusti* which means correction of past records. The new ceiling Act was retrogressive as it allowed separate ceiling units for every male adult in the family. This was obviously utilised by the landowners to declare even the minor as major by producing fake certificates from some private schools or oath commissioners. There are instances where even unborn kids were shown as adults. Legal procedure is so handy to the landlords that they are able to prolong

it ad infinitum. Even after the lands are allotted, the allottees have to undergo a very tough time as the landowners implicate them in false cases.

Large extent of land was thus released to the big landlords under various pretexts. For example, in the district of Faridabad alone 9264 acres were released to the landowners by various courts.

One of the weakest points in the implementation of the land reforms in the State is the various forms of incongruity in the allotment of land to the beneficiaries which includes non-physical possession of the allotted land with beneficiaries, allotment of greater proportion of surplus ceiling lands among other castes as compared to the Scheduled Caste beneficiaries, the inaccessibility of the allotted lands to the beneficiaries in view of such land being surrounded by the lands of the landlords.

The area declared as surplus in the State forms only 1.32% of the net shown area and the area distributed constitutes only 1.25% of the net sown area.

There is no tie-up of the rural development programmes with the beneficiaries of the allotted land as a result of which there has not been a significant impact of the allotted land on the socio-economic conditions of the beneficiaries.

The dominant land-owning peasantry dominates and inflicts atrocities on the Scheduled Caste allottees and there is lack of support from the voluntary and activist organisations. The administrative support is also lacking, leaving them to fend for themselves.

Suggestions

- Cases involving ceiling Act are pending in civil and revenue courts which should be disposed off expeditiously.
- Though the jurisdiction of civil courts is barred under Section 26 of the land ceiling Act, yet they have been interfering on the ground of following a proper legal procedure. As a result, the judgement is much delayed as compared to the Revenue Courts. In ceiling cases there should be limit on Civil Courts' interference.
- The Act has been vaguely worded at some places. For example, the word "permissible area" is defined in a very complicated way which needs a clear cut definition.
- After mutation in the name of the allottees, the physical possession of the land has not mostly been given to the allottees. This has been done with the connivance of the patwari. Meanwhile the landowner manages to obtain stay order from the court. In such cases patwaris should be proceeded against.
- The land ceiling limit in Haryana should be reduced as the productivity of land has increased after the green revolution. This would enable more land to be distributed to the landless. It is recommended that it should be reduced to 5 hectares with double crop assured irrigation and suitable reduction should be introduced for other classes of lands.
- The allottees should be linked with the IRDP and other rural development programmes and also with the institutional credit

agencies so that the holdings allotted to them are made economically viable.

- The orchard land has been treated as Barani even though it receives six times more water than the other crops. It is recommended that the orchard should be treated on par with double cropped land for the determination of surplus ceiling cases.
- Agricultural implements such as threshers, tractors etc. should be provided at least to a group of allottees under such package to be run on cooperative basis.
- There are cases where the landlords declared minor children as majors and such declarations were obtained on false certificates. Such cases should be reviewed.

GUJARAT

After the formation of the Gujarat State, the Gujarat Agricultural Lands Ceiling Act, 1960 was enforced with effect from 1st September 1961 as per the Government Notification No. ICH-1061/86561/J dated 18.8.1961. The statement of objects and reasons was published in the Gujarat Government Extra Ordinary Gazette 1960 (part V dated 10.8.1960 at pages 113-114) and the report of the select committee was published on 11.2.1961 (part V pages 3-6). The Act was further amended by the (i) Gujarat Act 15 of 1964, (ii) Gujarat Act 4 of 1968, (iii) Gujarat Act 16 of 1969, (iv) Gujarat Act 2 of 1974 and (v) Gujarat Act 43 of 1976. Important among these five amendment Acts was the Act 2 of 1974 because it lowered down the ceiling limit on agricultural land on the one hand and removed certain exemptions on the other. This Act was enforced from 1st April 1976 as per the Government Notification No. ICH 1074/17100/J dated 15.3.1976.

Fixation of Ceiling Limit

For determining the ceiling limit on the possession of the agricultural land holdings, the concept of economic holding was taken into consideration. A land-holding size that could provide income of Rs. 1200/- at the 1960 price level per annum per family was considered an economic unit and thrice of that was adopted for fixing a ceiling. Thus land yielding Rs. 3600/- per annum was considered for ceiling in Gujarat. As the local areas differ with respect to resource-endowments, all the villages (18509) of the State were divided into nine classes of local areas and the type of land into four groups, viz. (i) perennially irrigated land (ii) seasonally irrigated land (iii) paddy land and (iv) dry crop land. Different ceiling limits for different groups of local areas were then fixed. In

the revised land ceiling Act, the distribution of villages according to these classes of local areas remained the same. In land type, a new class of “superior dry land” was introduced and it covered ‘paddy land’ as well as ‘orchards’. The pre-revised ceiling limit, ranged from 19 acres (7.79 hectares) for ‘A’ class ‘perennially irrigated’ land to 132 acres (53.42 hectare) for ‘I’ class ‘dry crop’ land; while the revised ceiling limit was 12.50 acres (5.06 hectare) for ‘A’ class ‘perennially irrigated’ land through private source (constructed before 15th August 1972); 10 acres (4.05 hectare) for ‘A’ class ‘perennially irrigated’ land through other than private source; and 54 acres (21.85 hectare) for ‘dry crop’ land.

Unit of Classification

Under the pre-revised ceiling law, the unit of application was a family of five members. The family size of more than five members was not given any exemption in agricultural land in Gujarat as in some other states. Under the revised ceiling law, the ‘family’ was defined to include father, mother and three minor children. The major sons were counted as separate units and entitled for a separate ceiling area.

Exemptions

There were a large number of exemptions in the pre-revised Act such as on land held by the Government on leases, land belonging to local authority, land donated or assigned for services useful to the community, land leased out or held for growing fruit trees, compact blocks, land held by the co-operative farming societies, religious and charitable trusts, educational institutions or trusts, uses of land for dairy farming, poultry farming and breeding of livestock. Under the revised ceiling Act, a number of existing exemptions were withdrawn while some of them were altered. A provision was made

to apply for exemptions in the prescribed form and obtain certificate from the Collector. Exemptions for land held by the religious trusts were completely withdrawn. Only those religious trusts registered as such were permitted to get separate trusts registered for exemption of those lands which were being utilised by them for the purpose of 'Panjrapole' or 'Goushala'. There also, exemption was to be restricted to only those lands which were necessary for the number of cattle maintained by them. Besides, uses of land for dairy farming, poultry farming and breeding of livestock which were excluded so far were brought within the purview of the ceiling law.

Transfer or Partition

All transfers of land by sale, gift, mortgage with possession, exchange, lease, surrender or otherwise or partition of land made by the holders after 15th January 1959 but before 1st September 1961 in the case of Act 27 of 1961 was considered invalid. In the case of the revised Act, all transfers made by the holders after 24th January 1971 but before 1st April 1976 were deemed to have been made to defeat the purpose of this Act unless the Collector had on application declared it as bonafide. The declaration of the Collector that the transfer was bonafide was required to be obtained within 6 months from the date of the Act coming into force from 1st April 1976.

Compensation

Compensation payable was fixed at a level far below the market value so that it is within the paying capacity of the new allottees. The compensation for the surplus lands, according to the ceiling law of 1961, ranged from 200 times of land revenue for 'A' type land to 80 multiples of land revenue for 'I' type land. In the revised ceiling law a ceiling per acre for such compensation was imposed. The

maximum amount of compensation in terms of multiple assessment should not exceed Rs. 2000 per acre. The compensation for the uncultivated land and impartible and non-transferable tenure land has been reduced to 25 per cent and two thirds respectively of the normal compensation rate of 80-200 multiples of the land revenue.

Distribution of Surplus Land

In the matter of the distribution of surplus land acquired under the ceiling law amongst the agricultural labourers, landless persons and small and marginal landholders or their co-operatives, the highest priority was accorded to the members of the Scheduled Tribes and the Scheduled Castes. The Co-operatives of the Scheduled Tribes and Castes or of both were given the highest priority in the allotment of compact blocks of land or orchards under the revised ceiling law.

Financial Assistance

The centrally sponsored scheme of financial assistance to the allottees of ceiling surplus land was in operation in the state from 1975-76 onwards. It provided loans and assistance for various purposes like land development, provision of inputs as well as immediate consumption needs with the consideration that these allottees can make profitable cultivation on the assigned land which was generally poor in quality. As this scheme was introduced in the state after the amendment made in the ceiling law by the Act 2 of 1974 (Revised Act), those land allottees (who were assigned the land which was declared surplus under the revised Act) were covered under this scheme. The scheme when first introduced in 1975 provided Rs. 500/- per hectare. As the scale of assistance worked out on the basis of the conditions prevailing in 1975 appeared to be inadequate, it was raised to Rs. 1000/- per hectare

from 25th January 1980 and then again raised to Rs. 2500/- per hectare from 4th September, 1984. Expenditure incurred under the scheme was to be shared equally by the Central and the State Government. Where the allottee also received assistance under the rural development programme, the total amount of assistance was raised from Rs. 5111/- to Rs. 8000/- per allottee (in cash or in kind or both) exclusive of credit vide a May 1984 circular issued by the Ministry of Rural Development, Government of India. It was also stipulated that the compensation of the land assigned or the premium for the surplus land allotted should not be recovered from the assistance given under this instant scheme. It was intended that the financial assistance would enable the allottee to earn a recurring income from which he could pay off the compensation in easy instalments spread over several years.

Gujarat: A Review

1. The old land ceiling Act, 1961 was a major failure due to several reasons. There were a large number of exemptions such as land held by the Government on lease, lands belonging to local authorities, lands donated or assigned for services useful to the community, lands leased out or held for growing fruit trees, compact blocks, lands held by the cooperative farming societies, religious and charitable trusts, educational institutions, the use of land for dairy farm, poultry farm and breeding of cattle, etc. Apart from the exemptions provided in the old land ceiling Act, large extent of lands were transferred just before the cut off date. The new land ceiling Act, however, removed some of these exemptions and provided some teeth to the land ceiling legislation.
2. The surplus ceiling owners in Gujarat have lands spread out in a number of villages beyond their village of residence,

characterising absentee landlordism. This phenomenon is particularly noticed in the two districts of Bhavnagar in North Saurashtra Sub-Zone and Junagadh of the South Saurashtra Sub-Zone. The average extent of land owned by the surplus ceiling owners in Gujarat is only 106.72 acres which was much below the average area owned by the surplus ceiling owners in some of the States like Bihar, Assam etc. The phenomenon of the prevalence of absentee landlordism and neo-absentee landlordism in Gujarat needs to be curbed. This phenomenon persists despite Gujarat having a radical definition of personal cultivation prescribing residential qualification of land to be located within 8 kms. of the village of residence. This law has not been rigorously implemented.

3. The land located in distant villages and spread out in different districts could not be captured within the ceiling net. Hence, it is necessary that a drive is undertaken to identify the concealed lands with the Benami big landowners.
4. A very high percentage of the extent initially assumed surplus has been released to the landowners particularly in the sub-zones of South Gujarat, North Saurashtra. This shows that leniency was shown by the administrative agencies and different courts to the landowners. The extent released invariably belongs to relatively big landowners. Similarly, the extent in pending cases also relate to the landowners owning more than 100 acres. Both these are important administrative tasks to be given attention to by the Gujarat government in the implementation of the land ceiling programme.
5. A large extent of land amounting to nearly 47 per cent of the total lands taken possession of has been allotted to organisations, which is in a clear violation of the norms of

distribution. Most of the land declared surplus should be allotted only to weaker sections. Such incidence of the allotment of land to organisations is found primarily in the districts of Kutch in the North West Arid Zone, Rajkot in the North Sub-Zone, and Junagadh of the North Saurashtra sub-zone.

6. Litigation and legal delays have been a constraint in the implementation of land ceiling programme in the State. Various tactics were adopted by the big landowners to escape the ceiling provisions like Benami transfer of land among family members, divorcing their spouses on paper, wrong classification of lands and so on.
7. There have also been cases of the violation of the norms of allotment. In some of the areas, the land acquired could not be distributed even for Ek-Sali lease because of the land being of inferior quality.
8. One of the depressing features of the implementation in Gujarat is that considerable area declared surplus has been reserved for allotment to the displaced persons, i.e. the Narmada Project oustees and such lands continue to be distributed on one year lease for several years. Allottees who get such lands are not interested in investing for productive purposes as they would not reap any benefit. It is necessary that the lease on year-to-year basis should be abolished and regular allotment should be done to the deserving landless labourers of the weaker sections particularly belonging to those of the Scheduled Castes and the Scheduled Tribes.
9. It is necessary that quick legal and administrative action should be undertaken on a time-bound basis so that the land which is held up can be distributed among the weaker sections.

10. There are instances of non-physical possession of land by the allottees. It is necessary that strict administrative monitoring should be carried out to prevent the allottees from being dispossessed of lands.
11. This is also partly because of the fact that the allottees are not integrated with the rural development programmes and as a result of this some of them are either selling away their lands or leasing it out to the big landowners resulting in the phenomenon of reverse tenancy.
12. Economic impact on allottees has been very meagre as the quality of lands allotted throughout the State is very poor. It is, therefore, necessary that a viable package of developmental programmes should be linked up with the allottees to make the holdings even partly viable.
13. A lot of lands have been allotted to the cooperative farming societies in the State which are ineffective and many of them are defunct. Hence, it is necessary that sound monitoring and economic package should be linked up with the cooperative societies so that they are economically viable and have enduring economic impact on the allottees.

MAHARASHTRA

The Maharashtra Agricultural Land (Ceiling on Holdings) Act, 1981

The ceiling laws were enacted and enforced in two phases. The earlier phases covering the period 1960-72 before the national guidelines were laid down and the latter after the adoption of the guidelines. The land held in excess of the ceiling fixed was to be acquired under the provisions of the Act (noted above) and distributed amongst the persons specified in the priority list. The main provisions of this Act are as follows:

Any person or a family cannot hold land in excess of the ceiling area fixed after 26th September, 1961. The land held by an individual or the family in the Maharashtra State or in any part of India is to be taken into consideration while calculating the ceiling area and land found in excess of ceiling is to be considered as surplus land.

For fixing ceiling areas lands have been classified in five classes (vide Section 2 (5), Section 5 and the first schedule). The classes of land and ceiling area fixed are as under:

1. Land with (7 areas and 28-33 acres) and assured supply of water for irrigation and capable of yielding at least two crops in a year, that is to say:
 - (i) Land irrigated seasonally as well as perennially by flow irrigation from any source constructed or maintained by the state government or by any zilla parishad or from any other natural source of water.

- (ii) Land irrigated perennially by a government owned and managed lift from any source constructed or maintained by the state government or by any zilla parishad or from any natural source of water.
2. Land other than land falling in a class which has an assured perennial supply of water for irrigation, but has an assured supply of water for only one crop in a year that is to say land irrigated (10 areas and 65-92 acres):
 - (i) Seasonally by flow irrigation from (27 acres) any source constructed or maintained by the state government or by any zilla parishad or from any other natural source of water; or
 - (ii) Perennially by a lift
 - (a) from any source constructed or maintained by the state government or by any zilla parishad or from any other natural source of water, or land irrigated perennially by a lift.
 - (b) From any source constructed or maintained by the state government or by any zilla parishad or from any other natural source of water, or
 - (iii) Perennially from privately owned well, situated on land within the irrigable command of any irrigation project or in the bed of a river, stream or natural collection of water or drainage channel (being a river, stream, natural collection of water or drainage channel which is a perennial source of water).

3. Land irrigated seasonally by flow irrigation from any source constructed or (36 acres) maintained by the state government or by zilla parishad or from any other natural source of water with unassured water, that is where supply is given under water sanctions, which are temporary or where such sanctions are regulated on the basis of availability of water in the storage.
4. Dry crop land (14 areas and 56-86 acres) and other than land falling under sub clause a, b, or c, of this clause situated in the Bombay suburban district and in the Brahmपुरi, Gaddchiroli and Sironcha Taluks or Chandrapur district and which is under paddy cultivation for a continuous period of 3 years immediately preceding the commencement date.
5. Dry crop land (21 areas and 29-85 acres) other than land falling in clause 1, b, c or d.

The family unit consists of a person, his wife or wives, also that person's minor sons and daughters. The land held by each member of the family individually or jointly is to be considered for the ceiling area. If the number of persons in a family is in excess, the family is entitled to hold land equivalent to one-fifth of the ceiling area but in no case the land held will be in excess of double the ceiling area (Section 6).

After the commencement date that is 2nd October, 1975 no individual or a family unit can transfer the land held. If the land on this date is less than the ceiling area no person can acquire land by transfer in excess of the ceiling area (Section 8 and 9). Any division effected after 2nd October 1975 will not be considered for calculating the ceiling area (Section 11).

If any person before the commencement date 2nd October 1975 but after 26th September 1970, held land in excess of the ceiling area, he has to file a return in the specified manner within one month to the Collector. If the return is not filed or any defect is noticed therein, a penalty of Rs. 500 and Rs. 100 respectively can be levied. On receiving the return and after conducting an inquiry the Collector is to determine the surplus land (Sections 13, 14 and 15).

A right of choice is given to the concerned person as to which land he will retain and which land he will hand over to the Government (Section 16).

The compensation of the surplus land is to be determined by the Collector in the prescribed manner (Section 20).

Fifty per cent of the acquired surplus land is to be distributed amongst the persons belonging to the scheduled castes and the scheduled tribes, persons from nomadic tribes and landless persons and remaining 50 per cent is to be distributed to persons from the priority list (Section 27).

The Collector is competent to assign surplus land for public purpose. On the acquisition of agricultural land from the industries the state government can hand over the same to the State Farming Corporation (Section 28).

The lands distributed by the Collector and the lands granted by the Government cannot be transferred (Section 29).

Maharashtra: A Review

The major extent of land owned by the surplus ceiling owners was located in the hilly zone and the rest was distributed in other sub-

zones. The landowners holding lands above ceiling were overwhelmingly drawn from other castes. Most of the lands owned were unirrigated.

Nearly one-fourth of the land owned was located in the village of residence of the surplus ceiling owners and the rest was located in distant villages.

The districts with very low incidence of lands located in the village or residence were in the district of Pune in the hill zone, the district of Raigad in coastal hilly sub-zone and the district of Amaravati in the north plateau. In order to discourage absentee landlordism, it is necessary that the definition of personal cultivation be made rigorous on the lines of West Bengal.

The majority of the surplus ceiling owners owned lands above 50 acres in all the sub-zones and this was characteristic of landowners belonging to all castes and communities. Most of the landowners filed returns through the administrative (suo moto) initiative. The incidence of not filing returns through self-initiative was very high in the hill zone. Most of the land ceiling cases were decided and only 1 per cent of the total cases remained pending. Both the cases of not filing returns through self-initiative and the pending cases pertained to big landowners.

The land ceiling cases were mostly instituted between 1951-60 and 1971-80 indicating the period when administrative will and political will was exhibited partly. Only 12 percent of the cases took a longer time to decide. These cases also pertained to big landowners who took recourse to appeals, revisions and writs.

Nearly one-fourth of the lands initially assumed as surplus were released to the landowners mostly on the pretext of partition to the

near relatives like major sons, brothers and mothers. Most such partitions were undertaken just before the cut-off date in order to defeat the ceiling intent. The extent released invariably belonged to big landowners. The extent finally declared surplus mostly belonged to big landowners with more than 50 acres. The lands unallotted constituted one-fourth of the total declared surplus.

The norms of allotment were invariably adhered to. However, in certain cases the allottees were not in physical possession of the allotted land. The average extent of land allotted to the scheduled castes was slightly lower than that of the other castes.

The socio-economic impact of the allotted land was of a mixed kind. Quite a significant proportion of the allottees expressed marginal improvement in their socio-economic conditions. However, economic assistance from the rural development programmes were not forthcoming.

In fact, it can be stated that the implementation of the land ceiling programme in the state has been only a moderate success due to the following reasons:

- ◆ The large gap in the estimated surplus and declared surplus in the state.
- ◆ The substantial gap between the suo moto surplus and the actual declared surplus.
- ◆ The transfer of lands just before the cut-off date by the landowners who managed to circumvent the land ceiling provisions.

- ◆ The considerable extent of lands released to the landowners under various pretexts.
- ◆ Most of the allotted lands were unirrigated.
- ◆ Economic assistance to the allottees from the rural development programmes was not forthcoming.
- ◆ The continued concentration of land with big landowners owning more than 10 hectares. As per the Agricultural Census of 1985-86, the landowners with more than 10 hectares of land constituted 2.84 per cent of the total operational holdings and controlled 16.81 per cent of the total operated area.
- ◆ The extent of possession constituted 88.64 per cent of the area declared surplus while 11.36 per cent of the area declared surplus was still to be taken possession of by the government. The bulk of this area was held up under litigation.
- ◆ Undistributed land amounted to 85,000 acres till October 1992. Lands could not be distributed due to various reasons such as being unfit for cultivation and lands kept under various public reservations.
- ◆ There were still a lot of cases pending under litigation.
- ◆ The lands exempted for religious institutions. Such exemption should be abolished and ceiling limit should be fixed, as has been done in West Bengal and Karnataka.

In view of the said lacuna, the following appear to be the important tasks in ensuring effective implementation:

- ◆ Tribubals under Articles 323B should be set up to take up land ceiling cases.
- ◆ The unallotted lands should be distributed within a time frame of six months to one year.
- ◆ The lands exempted for religious and charitable institutions should be brought within the purview of ceiling.
- ◆ The allottees should be integrated with anti-poverty programmes and financial assistance from institutional agencies should be extended to the allottees.

A number of methods are adopted for evading the ceiling: The returns are not filed at all, the returns are filed but all land held in different villages, districts, states are not shown properly. False documents of transfer/ partition of land before the appointed date are filed. These include unregistered documents, antedated agreements or unregistered and old stamped papers. The wrong date of partition is filed with a view to showing minor sons as major on the relevant date and by showing that certain persons are in lawful possession of the land as tenants.

Such methods of evasion should be borne in mind by the revenue authorities and effective and adequate steps should be taken by them to detect such cases and apply the ceiling laws properly. A strategy should be evolved to combat such manipulative methods.

To avoid false information, a data-base of family units should be prepared in each taluka which have land above certain limit. The

information filed by the family unit in returns should be cross-checked with this database regarding holdings in villages other than the place of residence.

It is also observed that many a time surplus land is not finally acquired after litigation. Several times appeals are filed merely as stalling devices. It is suggested that in such cases where appeals are preferred, a penal provision should be made for payment to the government compensation equal to all the income earned by the landholder from the land in question during the period of litigation, if the original declaration of surplus land is not cancelled. Moreover, many pending cases lie under litigation. Quick disposal of the pending cases is necessary to further the objectives of the land ceiling laws. Appropriate ceiling needs to be applied for all lands which have been under litigation through public investment after the appointed date. All such cases should be reopened and the lands in excess of ceiling limit should be declared surplus and distributed among the eligible allottees. Further, physical verification of the quality of land declared surplus is necessary to identify the quality of land for the purpose of the determination of the ceiling limit.

In certain cases the allottees are not in the physical possession of the land given to them and are evicted by those who are in unauthorized possession of such lands. Such cases need to be monitored regularly and in all such cases strict administrative action has to be taken to give possession to the allottees.

The provision to hold the land beyond normal ceiling limits by religious and charitable institutions and public trusts and endowments should be removed altogether. Whenever surplus land is found in an uncultivable condition, there is no point in allotting the land. In such cases, the land should be converted into arable

area really and only thereafter distributed. The exemption for plantations and lands belonging to the religious and charitable institutions should be brought within the ceiling limit on the West Bengal pattern.

The surplus landowners have tried to evade the provisions of ceiling by showing the minor children as majors while filing the returns and obtain benefits of Section 6 of the Maharashtra Agricultural Land (Ceiling on Holdings) Act, 1961. Therefore, while determining the holding of the landholder adequate evidence should be obtained.

In most of the cases the landholders have shown partitions between the family members and brought it on record after the crucial date. Such cases should be reopened under Section 46 (C) of the ceiling Act.

The procedure provided for the distribution of surplus land was faulty and can be checked by due vigilance of the superior authority. Necessary action for faster disposal of surplus land is needed. Though the rules provide that while handing over possession to the allottees the boundaries should be fixed, this procedure has not been followed.

The prices for the land allotted has to be determined under Section 27 (10) of the land ceiling Act. Many of the allottees could not pay the occupancy price and they normally stand evicted. It is recommended that the payment of occupancy price should be waived in such cases where the allotment was done during or before 1985. All such allottees should be declared as landowners.

Though the government has provided for extending financial assistance of Rs. 2500 per hectare to the allottee in terms of agricultural implements, this amount is grossly insufficient. For

MADHYA PRADESH

instance, many widows of ex-servicemen had minor children and had no worthwhile asset to be given as guarantee. The uncultivable and uneven lands should be reclaimed at the government's cost and should be handed over to allottees in a good cultivable state. It is also necessary to have periodical follow-ups to ensure the viability of such holdings.

The allottees are illiterate and least aware of the various provisions of the law. Programmes for organising them and making them aware of the provisions of the land reforms legislations are necessary to enable them to utilise the benefits.

It is essential that without further loss of time the revenue machinery should update the record of rights with zeal.

It is also observed that many a time surplus land is not distributed due to litigation. Deliberate appeals are filed merely as a stalling device. It is suggested that in such cases a penal provision should be made against the landholder for payment to the government a compensation equal to the income earned from the land in question during the period of litigation.

The implementation of land ceiling should be regularly and progressively monitored to assess the number of pending cases lying with various courts and the amount of land held up in such cases. Special courts should be constituted for their quick disposal.

The objectives of the ceiling on land holdings were to reduce the disparities in land holdings, distribution of land to the landless and to usher in sustained agricultural development. Madhya Pradesh enacted two land ceiling legislations to ensure a more equitable distribution.

- i. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960.
- ii. The Madhya Pradesh Ceiling on Agricultural Holdings Act, 1974.

The Act of 1960 came into force on 15th November, 1961. As per this Act a person could not have more than 10.12 standard ha. of land. A standard ha. was defined in the Act as equivalent to 1 ha. of partially irrigated land or 2 ha. of seasonally irrigated land or 3 ha. of dry land. According to this Act, a person could hold 10.12 ha. of land in irrigated areas, 20.24 ha. in partially irrigated area and 30.35 ha. in irrigated area. There were certain categories of land holders who were exempted under this Act which included tea or coffee plantation, sugarcane farms, cattle breeding, dairy farming, wool raising, efficiently managed mechanized farms on which heavy investment or prominent structural improvement were made, orchard/ grove to the extent of 12.14 ha, industrial or commercial undertakings and other institutions such as those meant for educational purposes. Dependent persons could hold land upto 2.02 standard ha, and upto a maximum of 20.24 standard ha. in aggregate excluding 10.2 standard ha. land of the head of the family. There was also a provision to allot the surplus land to joint farming societies formed by the agricultural labourers and landless persons, displaced tenants and contiguous land holders.

This Act came into force on 15th November, 1961. Litigation and legal delays hindered the progress of getting surplus land. There were a lot of loopholes in the Act which also prevented the acquisition of sufficient extent of surplus land from the big land holders. Only 32375 ha. could be acquired under the old ceiling Act, leaving considerable gap between the estimated surplus and the land acquired. Absentee landlordism continued to prevail in the state even with the enactment of the old Act. One of the major flaws was the lack of a definition of family. There were several big land holders who were circumventing the ceiling provision in the name of mechanized farming while major part of their land was lying idle for long period. The ceiling limit set by the old Act was very high. Under the old Act a land holder along with his scheduled heirs was entitled to hold land to a maximum limit of 50 standard acres i.e. 150 acres of dry land .

In order to remove the loopholes under the old Act and to reduce the ceiling limit, the M.P. Ceiling on Agricultural Holdings Act, 1974 was enacted. The new Act made a strict definition of a family of five members consisting of husband, wife and their minor children. The appointed day for the calculation of the ceiling on holdings for a family is 7th March, 1974 the day when the new ceiling Act became effective. Any transfer or partition of land by way of sale, gift, exchange or otherwise after 1.1.1971 can be declared as void by the competent authority if it finds that such a transfer was made to defeat the provisions of the Act. The new Act specified the maximum extent of land to be held by a family upto the extent of 10 acres for two crops of irrigated land and upto 54 acres in respect of dry land. It provides for additional land for each member in excess of five subject to the maximum of double the ceiling limit.

The surplus land acquired and vested in the state is to be distributed to persons in the following orders of priority on the payment of a premium equivalent to the compensation in respect of such land:

Agricultural Labourers

- i. Belonging to the Scheduled Castes and the Scheduled Tribes;
- ii. Others
- iii. Joint farming society, the members of which are agricultural labourers or landless persons whose main occupation is cultivation or manual labour on land, or a combination of such persons;
- iv. Freedom fighters;
- v. Displaced tenants subject to the provision of section 202 of the MPLRC, 1959 (20 of 1959),
- vi. Holders holding contiguous land;
- vii. Joint Farming Society of Agriculturists;
- viii. Better Farming Society of Agriculturists;
- ix. Any other Cooperative Farming Society subject to the condition that land (including the land as owner or tenant) usually not exceeding the ceiling area;
- x. An agriculturist holding land less than the ceiling area.

The ceiling limit prescribed for different categories of land is shown below:

MAXIMUM LIMIT OF AGRICULTURAL HOLDINGS

- | | | |
|---|--|----------|
| a) Where the holder is not the member of a family | 1. Land capable of yielding two crops and receiving assured irrigation or private irrigation for both the crops. | 10 acres |
| | 2. Land capable of yielding one | 15 acres |

crop and receiving assured irrigation or assured private irrigation for the crop.

3. Dry Land 30 acres

b) Where the holder is the member of a family of five members or less.

1. Land capable of yielding two crops and receiving assured irrigation or assured private irrigation. 18 acres

2. Land capable of yielding one crop and receiving assured irrigation or assured private irrigation. 27 acres

3. Dry land 54 acres

c) Where the holder is the member of a family of more than five members

1. Land capable of yielding two crops and receiving assured irrigation or assured private irrigation for both the crops. 18 acres plus 3 acres for each member in excess of five subject to the maximum of 36 acres.

2. Land capable of yielding one crop and receiving assured irrigation or assured private irrigation. 27 acres plus 4.50 acres for each member in excess of five subject to the maximum of 54 acres.

3. Dry Land 54 acres plus 9 acres for each member in excess of five subject to the maximum of 108 acres

In order to reduce pending litigation and ensure quicker disposal of cases in the courts at different levels, an amendment in the M.P. Ceiling on Agricultural Holdings Act, 1960 was made which came in force on 1st November, 1988. As per the then amendment all competent authorities have been directed to dispose off all the pending cases before them within a period of six months. If more

time is required in any case, the competent authority concerned has to apply to the State Government for an extension of time giving valid reasons. Cases pending before the civil court can also be disposed off by the competent authority notwithstanding the pendency of proceedings or any stay granted therein. The amended Act also lays down that the surplus land vested in the State government shall not revert to the holder as a consequence of the remand of the case. The Appellate and Revision Authorities under the Act have been debarred from granting any stay in any case under this Act. Similarly, the Civil Courts will have no power to grant any stay in any case under the Act.

A special campaign called Adhikar Abhiyan was launched with effect from 14.11.1988 to ensure the delivery and possession of the land to the allottees. To operate this programme successfully an amendment was made in section 250 of the M.P. Land Revenue Code, 1959. According to this amendment, the Tehsildars are empowered to deal with such cases suo moto in which the allottees of land are not given possession on the spot or are dispossessed.

Madhya Pradesh: A Review

Upto the end of March 1991, out of the total land ceiling returns filed in the State 99.40 per cent of the cases have been decided and only 0.60 per cent remains pending.

Of the total extent finally declared surplus at the state level until October 1992, 85.67 per cent have been taken possession of by the government.

The norms of allotment have been adequately adhered to.

The Adhikar Abhiyan sought to restore possession of the dispossessed land to the Bhoomi Swami. Until 31st March, 1989 nearly 43920 persons were restored land covering 7409-08 hectare.

The period between 1971 to 1980 was the most important period for the vigorous implementation of the programme and was accompanied with the manifestation of political and administrative will.

Over 95.8 per cent of the land finally declared surplus belongs to the big landowners owning more than 50 acres. The land ceiling programme in the State has thus been able to net some of the big landowners within the ceiling net by fulfilling one of the basic objectives of the land ceiling programme to reduce agrarian disparity.

The area declared surplus constitutes 66.73 per cent of the net sown area in the State.

Further, the area declared surplus is only 8.24 per cent of the estimated surplus indicating enormous gap.

Still 33.46 per cent of the land taken possession of remains to be distributed.

Nearly 37.7 per cent of the lands initially assumed surplus were released to the landowners and many of them not on genuine grounds.

Still 1522 cases are held under litigation (involving 30431.65 acres) at the level of Revision, Appeal, High Court/Supreme Court, civil court, and in the court of competent authority.

Some of the reasons for the low declaration of ceiling surplus are:

- i. Separate ceiling unit for major sons
- ii. Benami transfers on large scale;
- iii. High ceiling limit;
- iv. By declaring fake occupancy tenants;
- v. Wrong classification of land; and
- vi. Legal delays.

Lands allotted were of poor quality which had only marginal impact on the socio-economic conditions of the beneficiaries. The allottees were not integrated with anti-poverty programmes.

There has been considerable delay in the distribution of land to the allottees.

The allottees are not in physical possession of the allotted land in many parts of the state. The following tasks in the implementation of the land ceiling programme in the state emerge:

1. The pending cases under litigation need speedy disposal.
2. Considerable extent of land remaining unallotted needs to be assigned within a fixed time frame.
3. The allottees not in physical possession of the allotted land need to be given possession.
4. Still 28.3 per cent of the operated area is controlled by the large farmers owning more than 10 hectares. A special drive needs to be launched to unearth such concealed land.
5. The land allotted should be first reclaimed and developed at the government cost and then allotted to the weaker sections. The allottees need to be integrated with anti-poverty programmes.

TAMIL NADU

LAND CEILING LEGISLATION

The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58 of 1961) fixes ceiling on agricultural land holdings as 30.00 standard acres for a family consisting of 5 members. In the case of a family consisting of more than five members, additional 5 standard acres for every member of the family in excess of five, subject to a maximum extent of 60.00 standard acres has been allowed (subsequently modified by Act 17/70, Act 17/70, Act 41/72, Act 10/7, Act 20/72, Act 37/72, Act 39/72). The Tamil Nadu Act 58 of 1961 also provides for the acquisition of agricultural land held in excess of the ceiling area and for the distribution of such land to the landless and other rural poor so that there may not be concentration of such estates and properties in the hands of a few. The Act is applicable to all holdings owned or held by persons, companies, families and societies, but not to plantations, orchards, grazing lands, dairies and lands held by sugar factories.

The Act was not to apply to the land held by the religious trusts of public nature and universities constituted under law. Section 73 granted exemption in respect of land held by the Central/ State governments and local authorities, land converted on or before 1.7.1959 into orchards, any land used exclusively for growing fuel trees on the date of the commencement of this Act and the 'gramdan' and 'bhoodan' lands donated under the bhoodan yajna.

This Act also defined a standard acre.

STANDARD ACRE

In order to maintain uniformity in calculating holding and ceiling, ordinary acres are converted into standard acres.

A standard acre means:

- I. In any area in the state, except the transferred territory.
 - a. 0.8 acre of wet land assessed to land revenue at any rate above Rs. 15 per acre or
 - b. 1 acre of wet land assessed to land revenue @ Rs. 10 and above but not exceeding Rs. 15 per acre or
 - c. 1.2 acres of wet land assessed to land revenue @ Rs. 8 and above but below Rs. 10 per acre or
 - d. 1.6 acres of wet land assessed to land revenue @ Rs. 6 and above but below Rs. 8 per acre or
 - e. 1.75 acres of wet land assessed to land revenue @ Rs. 4 and above but below Rs. 6 per acre or
 - f. 2 acres of wet land assessed to land revenue at any rate below Rs. 4 per acre or
 - g. 2.5 acres of dry land assessed to land revenue @ Rs. 2 and above per acre or
 - h. 3 acres of dry land assessed to land revenue @ Rs. 1.25 and above but below Rs. 2 per acre or
 - i. 4 acres of dry land assessed to land revenue at any rate below Rs. 1.25 per acre.
- II. In Kanyakumari District
 - a. 1 acre of wet land irrigated by any source forming part of, or benefited by, any project, or

- b. 1.2 acres of dry land irrigated by any source mentioned in item (a); or
- c. 1.6 acres of dry land irrigated by any government source other than a source mentioned in item (a); or
- d. 4 acres of dry land unirrigated by any source mentioned in item (a) or by any other government source of irrigation.

III. In Shencottah taluk of Tirunelveli District

- a. 1.2 acres of wet land irrigated by any river or stream or by tank fed by any river or stream; or
- b. 1.6 acres of wet land irrigated by any government source other than a source mentioned in item (a); or
- c. 2 acres of dry land irrigated by any government source; or
- d. 4 acres of dry land unirrigated by any source mentioned in item (a) or by any other government source of irrigation.

EXPLANATION

In any area in the state, except the transferred territory, one acre of dry land

- a. Irrigated by direct flow of water from any government source of irrigation supplying water,
 - i. For two crops and above, shall be deemed to be equivalent to one acre of wet land assessed to land revenue @ Rs. 8 and above but below Rs. 10 per acre.
 - ii. For only one crop, shall be deemed to be equivalent to one acre of wet land assessed to land revenue @ Rs. 4 and above but below Rs. 6 per acre.

- b. Irrigated by lifting water from any government source of irrigation shall be deemed to be equivalent to one acre of wet land assessed to land revenue @ Rs. 4 and above but below Rs. 6 per acre.

When the Act 58 of 1961 was passed many landholders concealed their actual holdings through benami transactions in the form of leasing of land in the names of their spouses and children. This led to the holding of lands in an indirect form.

To rectify the various shortfalls and to plug loopholes and lacunae and thereby making the Act really effective, the following legislations and amendments were passed. **The Tamil Nadu Public Trusts (Regulation) and Administration of Agricultural Land Act, 1961** was passed to limit holdings in the form of trusts to 20 standard acres for direct cultivation by such institutions and trusts.

The following further amendments to Act 58 of 1961 were passed to plug loopholes:

The Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 (Tamil Nadu Act 17 of 1970)

This Act reduced the ceiling on agricultural lands to 15.00 standard acres from 30.00 standard acres for a family consisting of five members or less as on 15.2.1970, and in the case of a family consisting of more than five members, additional five standard acres for every member of the family in excess of five was allowed. Streedhana was allowed to the maximum of 10 standard acres. This was allowed within the ceiling area of the family (Section 6).

Act 41/71

It withdrew the exemptions granted under the principal Act (Act 58/61) for lands grown with sugarcane and for grazing lands.

The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1972 (Tamil Nadu Act 20 of 1972)

This Act reduced the overall ceiling for a family consisting of more than five members from 60.00 standard acres to 40.00 standard acres. It also withdrew the exemptions granted under the principal Act (Act 58/61) in favour of lands in hill areas. It permitted industrial and commercial undertakings to hold excess lands.

The Tamil Nadu Land Reforms (Fixation on Ceiling on Land) Third Amendment Act, 1972 (Tamil Nadu Act 37 of 1972)

It withdrew the total exemption originally granted in favour of the public trusts. Exemption was to be granted only in respect of the lands held by the religious institutions and religious trusts of public nature as on 1.3.1972. The Act prohibited religious trusts of public nature, educational institutions and public trusts of charitable nature from acquiring any land after 1.3.1972.

This Act permitted educational and other specified institutions to hold lands ranging from 10.00 to 40.00 standard acres, as detailed below:

Institution	Ceiling
Any college affiliated to or recognised by any University under any law or rule relating to education.	40 standard acres
Any high school or equivalent school recognised by the government or University under any law or rule relating to education.	20 standard acres

Any elementary school or higher elementary school or other equivalent institution recognised by the government under any law or rule relating to education.	10 standard acres
Any students' hostel.	25 standard acres
Any polytechnic institution.	25 standard acres
Any agricultural school.	25 standard acres
Any orphanage.	25 standard acres

This Act also fixed the ceiling area of 5.00 standard acres in respect of public trusts of charitable nature.

The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fourth Amendment Act, 1972 (Tamil Nadu Act 39 of 1972) reduced the overall ceiling of a family of more than five members from 40.00 standard acres to 30.00 standard acres.

The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Sixth Amendment Act, 1974 (Tamil Nadu Act 7 of 1974) provided that where the transfer of any land has been declared to be void under section 22 and where the extent of land so transferred is in excess of the ceiling area of the transferor, the land so transferred shall be included within the ceiling area of the transferor.

Act 57/86 provided the administrative structure of the Special Appellate Tribunal.

Based on the aforesaid Acts various rules have been framed. These are:

- i. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962.
- ii. The Tamil Nadu Land Reforms (Payment for Surplus Land) Rules, 1966.

- iii. The Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965.

On February 13, 1991 the Madras High Court held that a child in the womb could not be included as a member of the family for determining the ceiling on land.

The land ceiling Act of 1972 also exempts the religious and charitable institutions from the provisions of land ceiling.

Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 and subsequent Amendments

Under these rules the applications for assignment are called for, notices for objections on applications are issued, detailed inspection and enquiries are held and orders are issued. The applications are verified and surplus lands are assigned with reference to the order of priority. The order of priority in the assignment of surplus lands is as follows:

- i. a person cultivating the land but now declared dispossessed by the land ceiling Act,
- ii. any other person declared dispossessed completely because of the operation of the land ceiling Act,
- iii. a person whose holdings have been reduced to less than 3 standard acres as a cultivating tenant,
- iv. landless agricultural labourers belonging to the scheduled castes and the scheduled tribes,
- v. armed forces or the Indian National Army personnel retired or disabled before 26.1.1960,
- vi. Burma and Sri Lanka repatriates,
- vii. a cooperative farming society.

The following are the broad guidelines regarding assigning surplus lands:

- a. Assignment once made cannot be modified or cancelled if it was made 5 (or more) years back,
- b. After assignment it cannot be alienated by sale or otherwise till 20 years or till the payment of the land value in full, whichever is later,
- c. The first instalment has to be paid before the execution of the deed and annual instalment before March 31 every year,
- d. Failure to pay two consecutive instalments can lead to forfeiture of the assignment,
- e. The assignee should engage in direct cultivation of the assigned lands,
- f. After the assignment of the lands, the total lands with cultivators should not exceed 3 acres of dry lands or 1.5 acres of wet lands.

The revenue department gives priority in the assignment of other lands (cultivable lands and house sites):

- i. The families of servicemen including the Border Security Force personnel and Territorial Army personnel who have been killed or disabled in action;
- ii. Landless poor scheduled castes and scheduled tribes;
- iii. Freed bonded labourers;
- iv. Persons in active military service including the Border Security Force personnel;
- v. Goldsmiths displaced on account of the Gold Control Act;
- vi. Ex toddy tappers; and
- vii. Other landless poor persons.

Land is assigned as per the provisions of the Board of Revenue Standing Orders. The person who wants a land to be assigned

should make an application through the Village Administrative Officer to the Tehsildar. The Revenue Inspector has to recommend the case. The Tehsildar scrutinizes the application and makes a public announcement in the village. If there are any objections they are enquired into. After 7 days the Tehsildar sends the proposal to the Revenue Divisional Officer. The authority to sanction is based on the market value of the land to be assigned.

The maximum limit of land to be assigned to the landless poor persons has been fixed at 3 acres of dry land or one and half acres of wet land. Individuals below poverty line with a total family income of Rs. 3500 per annum and less are eligible for the assignment of cultivable waste land free of land value. In other cases they have to pay the land value as follows:

Upto 3 Cents	Single Market Value
Above 3 Cents and upto 5 Cents	Double the Market Value
Above 5 Cents and upto 8 Cents	Thrice the Market Value
Above 8 Cents and upto 10 Cents	4 Times the Market Value
Above 10 Cents	5 Times the Market Value or more as decided by the Commissioner of Land Administration

Tamil Nadu: A Review

In their study entitled Land Reform in Tamil Nadu: an Empirical Study (1991-94), published by the Centre for Rural Studies, LBSNAA, Mussoorie, Dr. A. P. Singh and Dr. K.S. Rao have pointed out the achievements in the implementation of the land ceiling programme in the state, reached at certain conclusions and offered certain suggestions for some policy interventions.

Achievements

The achievements under the amended ceiling Act are as follows:

1. Upto the end of March 1994, the total extent of finally declared surplus is 1,83,349 acres out of which 1,58,635 acres have been taken into possession. (i.e. 86.52 per cent of the area finally declared surplus).
2. Out of the total land taken possession of only 1,48,625 acres of land have been distributed to the allottees (i.e. only 93.69 per cent of the land taken possession of)
3. Of the total beneficiaries to whom land is allotted, 45.48 per cent of them belonged to the Scheduled Castes, 0.14 per cent belonged to the Scheduled Tribes and the remaining 54.38 per cent belonged to other castes.
4. Upto March 1994, 148625 acres of land was allotted to the beneficiaries, out of which 59,339 acres was allotted to the SCs (39.93% of total land allotted) and 233 acres allotted to the STs (0.16 per cent of the total land allotted) and remaining 89,053 acres (59.91%) allotted to other casts.
5. For land reclamation a financial assistance at the rate of Rs. 1000/- per acre is given to each beneficiary in the State.

Conclusion

- Bulk of the cases have been instituted between 1971-75. Very few land ceiling cases were instituted before 1970 indicating the failure of the old land ceiling Act. The period after 1975 was

also a slack period for identifying fresh land ceiling cases. This indicates the following:

- (i) The implementation of the 1970 Act was taken more seriously.
 - (ii) The administrative and political will was shown during the 70's.
- A positive dimension of the implementation process reveals that 98.61 per cent of the land finally declared surplus had been taken possession of. Macro data show that 86.52 per cent of the declared surplus at the State level has been taken possession of by the government till March 31, 1994.
 - The area of land not distributed, as a percentage to the total land taken into possession by the government was 6.31 per cent as per macro data.
 - The study indicates that the allotment of land has made only marginal impact on the socio-economic conditions of the allottees.

Suggestions

With a view to sustaining the programme of the redistribution of land, some policy interventions are necessary. These interventions may be as follows:

- i. Major sons ought to be termed as members of the family unit for the accurate computation of the ceiling of the landholdings. Similarly, no additional unit of ceiling should be given to a family, which has more than five members.

- ii. Land having benefit of public irrigation should be brought within the ambit of the ceiling. During the last 30 years, large areas have been brought under irrigation at the expense of the public exchequer. Thus, irrigation affects the ceiling limit drastically. The extent of irrigated land, therefore, should be correctly recorded.
- iii. Religious institutions in the State have large holdings in their names and not all of them are utilised. They are being utilised by private persons with no benefits to the temples. Nearly, 6 lakh acres have been registered in the names of several religious institutions. Such land should be reassessed and the surplus land thus determined should be taken over and distributed among the landless persons. Thus, exemptions provided to the religious, educational, charitable and industrial institutions should be withdrawn. They are liable to be misused and may ultimately lead to the basic objective of the Act being frustrated. The advisability of such land to be brought within the purview of the Act should be seriously considered.
- iv. At present, the plantations have been completely exempted from ceiling laws. These should also be brought under the purview of the ceiling laws, though the laws could be suitably modified so that the total output is not affected.
- v. In many cases, the classification of land for ceiling purposes has been made in a manner that provides higher ceilings than are warranted for better categories of land. In some cases, there is also divergence between the classification found in land records. Some relationship needs to be established between these classifications.

- vi. The cases of landholders who did not file returns and the cases of landholders whose claims for not having any surplus land were accepted by the revenue authorities should be re-opened. Cases wherein fresh material has come to light and which warrant fresh scrutiny, should also be re-opened.
- vii. The proposal to introduce a bill on land ceiling was announced in the Assembly in March, 1958, but the Act itself was made effective only on April 6, 1960. This announcement led to large scale *benami* transfers of land and bogus sale deeds between March, 1958 and April 5, 1960. Several attempts have been made by the State Assembly to enact a law to declare such transfers as void, but the bills have not been assented to by the President of India. A comprehensive bill declaring such transfers and sale deeds null and void should be enacted immediately.
- viii. It is generally believed that in the wake of the abolition of intermediary tenures and the imposition of land ceiling, landowners took recourse to large scale *benami* and *farzi* transactions of land. This has made the search for surplus land considerably difficult. However, the following measures could be considered:
 - 1 A list of objective criteria could be laid down for the determination of *Benami and Farzi* transactions of land, that have been made for defeating the objectives of land reforms policy.
 - 2 With a view to identifying such *Benami* lands, organisations of rural poor, tenants and sharecroppers could be formed and encouraged to provide necessary evidence leading to the prevention of *Benami* transactions. Mobilising Gaon Sabha support

- for identifying such transactions should also be considered.
- 3 The *benami* transactions (Prohibition of the Right to Recover Property) Act, 1989, should be suitably amended so that the evasions of the provisions of the ceiling law through *benami* land transactions undertaken by the landowners are not legitimised. A survey should be carried out with the help of the organisations of rural poor and village communities besides setting up special squads of revenue functionaries for the identification of *benami* and *farzi* transactions. There is widespread talk of evading the ceiling laws by the big landholders and people in the villages are also aware of this. Unfortunately, revenue functionaries have not been able to identify such areas of land. This task, therefore, needs to be carried out with the help of people's organisations.
- ix. The concept of standard acre was brought in to maintain some sort of parity in the benefits accruing to the landowners from dry and wet lands. This was based on the basic assessment fixed more than 60 years ago in most cases. Though in most areas, wet land cultivation is still quite profitable, there have been significant changes in cropping pattern in favour of garden land in some areas. Hence, the concept of standard acre, which was based on only wet and dry land depending on their assessment, should be suitably modified.
- x. The ceiling limit was reduced once in 1970. Since then there have been tremendous changes in the method of cultivation due to the introduction of high yielding varieties of seeds;

use of fertilisers, pesticides etc. These techniques have raised the productivity of the land significantly. This calls for a change in the ceiling limit under the Act. Preferably, the overall ceiling limit should be brought down to 10.00 standard acres.

- xi. It was observed that there were a large number of absentee landowners in the State who had given their land on tenancy. There should be a provision in the Act whereby the landowners should be given an option to surrender their non-surplus lands also at a higher rate to the Government. These areas of land can be assigned to the beneficiaries.
- xii. No new cases of ceiling are being reported these days. This may be due to the omissions on the part of the revenue staff. Continuous effort should be made in this direction, as many more landowners will be coming under the ceiling limit, especially after the expansion of irrigation facilities.
- xiii. In many cases, the landowners declare a small part of a large landholding as surplus land due to the deficiency in the Act. This land is then allotted to a poor person who is never allowed to enter the land due to the muscle power of the landowner. This lacuna in the Act should be rectified and only those areas of land, which are conveniently located for allotment, should be declared as surplus land.
- xiv. There should be thorough verification, case by case, in respect of the possession of the allotted surplus ceiling land. Where it is found that the allottees were dispossessed from the land given to them or where possession over the land was not delivered at all, the district administration should restore possession immediately and issue a certificate to the

beneficiary to this effect and make necessary changes in the land records.

- xv. The District Magistrate/ Deputy Commissioner should be a party to any proceeding involving the land allotted, under the ceiling law, to a beneficiary. It should also be the duty of the government to defend the allottees of surplus land in all court cases, whether civil or criminal, which arise due to the allotment of land to them.
- xvi. Stringent provisions should be made in the ceiling law for summary action against those who harass the allottees of surplus land or dispossess them from their land, or prevent them from cultivating the land allotted to them. The legal provisions should also specify the actions that would be taken where repeated attempts have been made to harass the allottees or dispossess them even after legal action has been initiated on the basis of earlier complaints. The District Magistrates should be empowered under the law to summarily evict the dispossessors and use force as frequently as possible to achieve the objective.
- xvii. The uncultivable land should be developed at government costs and then allotted to beneficiaries.
- xviii. Although, surplus land is distributed to the landless persons for agricultural purposes it does not make any significant improvement in the condition of these persons. This is because most of the land is unirrigated and not very productive. The government should endeavour to undertake effective land development measures and should try to provide irrigation facilities.

The allottees should be given financial help by the government to enable him to cultivate the land and integrate it with IRDP as also with other rural development schemes. This would also help prevent their indebtedness to the moneylenders. Loans from financial institutions should also be extended to them.

ASSAM

The Assam State Fixation of Ceiling on Landholding Act, 1956 fixed a limit on agricultural holding of a person at 150 bighas (around 20 ha) and provided for acquiring the surplus land by the state for the distribution of the same among the landless and other actual cultivators. The ceiling Act was amended in 1970 with the limit on agricultural holdings retainable by a person being reduced from 150 bighas to 75 bighas (around 10 ha). The ceiling Act was further amended in 1975 with the limit being brought down to 75 bighas to 50 bighas (6.6 ha).

In 1959, the **Assam State Acquisition of Lands belonging to Religious or Charitable Institutions of Public Nature Act** was passed to acquire lands of such institutions, after permitting them to retain certain lands, in order to give a better status to the actual occupants, to ensure them fixity of tenure and also to settle the unoccupied lands with the landless.

Satra is something peculiar to Assam. It came into existence during the Ahom times, with the rulers donating large areas of land to idols (Debottor), to priests (Brahmottor) and for charitable purposes (Dharmottor). The Debottor lands were recognized as revenue free or Lakhiraj estates, while the Brahmottor and Dharmottor lands were made half revenue paying or nisfkhiraj estates. Their estates were left untouched by the State till 1959.

Nasatra is a nisfkhiraj estate, acquired not under the Assam State Acquisition of Lands belonging to Religious and Charitable Institutions of Public Nature Act, but under the Assam State Fixation of Ceiling of Land Holdings Act, 1956.

Whereas the ceiling Act places a limit of 50 bighas (6.63 hectares) on the land holding of an individual, the Act of 1959 places a variable quantitative limit defined as:

1. All such lands which on or before the last day of Chaitra, 1365 B. S. were in the ownership of the institution and were actually occupied by it for constructing buildings and raising orchards and flower gardens together with the compound appurtenant thereto and all lands reserved for the resident devotees for residential purposes (these lands are retainable free of revenue, but are not transferable)

The State Government may allow lands for ancillary purposes or for increase in the area under special cultivation, under prescribed rules. Such lands include lands used for the special cultivation of tea and purposes ancillary thereto on the commencement of the ceiling Act (amended), 1970.

Ancillary purposes mean:

1. Land used for factory buildings.
2. Land used for staff buildings, including labour.
3. Land used for roads, bridges, drains within the tea estates.
4. Land used for nurseries, including shade trees.
5. Land used for hospitals, dispensaries, creeches, recreation and playgrounds.
6. Land used for religious institutions, burial and cremation grounds.
7. Land used for any other building built by the management as a statutory requirement under any law for the time being in force.
8. Land used for seed bari.

9. Land used for rotational plantation to maintain the planted areas as on the commencement of this Act but not exceeding 7½ per cent of the planted area.
10. Lands lying within the boundaries of actual planted area excluding tenanted Khel lands.
11. Lands used for bamboo but not exceeding 50 bighas by Satra (acquired under the Religious etc. Act) or held by the individuals (acquired under the ceiling Act).

Land Ceiling and Land Distribution

In “Land Reforms in Five States of North East India” (based on Land Reforms Reports of Officer Trainees, published by the CRS, LBSNAA, Mussoorie: 2004), we come across some case studies which throw sufficient light on the themes under study.

Baihata: From the table given below, this can be inferred that most of the households (136) own less than 1 acre of land and in case of only 9 house holds the land size is more than 5 acres of land. The cases of ceiling are not very many.

**Table – Land Holdings
Distribution of Household Holdings by Size for Baihata Village**

Sl. No.	Size Class (in acres)	No. of Households
1.	< 1.0	136
2.	1.0 – 2.0	34
3.	2.0 – 3.0	27
4.	3.0 – 4.0	31
5.	4.0 – 5.0	19
6.	> 5.0	9

In the village Baihata there were four landowners, who held ceiling surplus land in this village. Three of these ceiling cases were

initiated in the year 1976. One ceiling case was started in 1969. Thus the area that was declared ceiling surplus as a result of the application of the ceiling law in the above four cases is 155.26 acres. Out of this CS area, 33.10 acres is under the village Baihata. Rest of the CS area lies in other nearby villages. Of this 33.10 acres CS land, 15.02 acres (45.34%) has been distributed among 56 beneficiaries. There are few beneficiaries, who got land from more than one landowner's CS land. All these beneficiaries were tenants under the four landholders. They paid 15 times of the land revenue to the pattadar (landholder) and became the landowner. Possession in case of only 4.27 acres is given to the beneficiaries. 10.77 acres of land is only allotted to the beneficiaries.

**Table – Land Ceiling
Land Ceiling Cases in Village Baihata (Area in Acres)**

Sl. No.	Case No.	Name of the Landholder	Total land owned by the Landholder	Total land acquired	Acquired land in village	Date of the disposal of case
1.	470/76(A)	Shri Harendra Choudhary (G)	22.20	5.67	5.67	27.05.76
2.	721/76	Shri Amit Choudhary (G)	56.66	40.13	16.38	27.05.76
3.	470/76(B)	Shri Krishna Choudhary (G)	32.37	15.84	9.73	05.11.78
4.	RRT64/69 /29	Shri Dev Kanta (G)	182.20	93.62	1.32	04.02.70

A proposal for the allotment of 16.78 acres (50.69%) was submitted to the government on 28.03.95. 1.21 acres (3.65%) of land is unfit for cultivation and it cannot be settled with any one. Allotment to 56 beneficiaries of the CS land was made immediately in 1976 and 1977 after the disposal of the ceiling cases. But possession was given in 1983 to only some beneficiaries. These allottees were tenants under the landowners.

Observations

- The first point to be noted is the relative weightage that needs to be attached to ceiling reforms vis-à-vis the allotment of government land. It is seen that in village Baihata, in 1976, the government cultivable land at the time of the application of the ceiling law was 46.61 acres, i.e. about 41% more than the total land declared CS.
- The study of the evasion of land ceiling laws through Benami transactions, wrong classification and wrong entitlement, could not be possible as the ceiling cases are 20 to 25 years old now. The mouzadar did transfer/ sell some portion of his land to his brother and cousins.
- In Assam, the ceiling law does not recognise irrigated and unirrigated classification. However, the benefits of orchard landholder of 1.32 acres in excess of ceiling limit could be given to the landowners. The benefit of orchard landholding of 1.32 acres has been given to landowners mechanically only if the landholder lives in the village. As three landowners in the village Baihata, had never lived in the village, they were not given the benefit of orchard landholding of 1.32 acres in excess of ceiling limit.
- From the records, it was found that avoidance of ceiling took place because of non-specification of each co-pattadar's share in the holding at the time of settlement.

In **Sonitpur District** as per the land ceiling Act, ceiling limit is fixed at 50 bighas (22.65 acres) of agricultural land and four bighas (1.82 acres) of homestead land. Land acquisition and distribution in

the area dated back to the year 1951, when large areas of fallow lands were allotted to the scheduled tribes belonging to the Mishing community, residing in the nearby areas. Mishings by their inherent characteristics prefer to stay by the river side and hence they left the allotted land and went back to settle in their original dwelling places. These lands, over the years, were acquired by other indigenous and migrant communities residing in the region. Now when the Mishings have passed through years of acculturation and amalgamation into the greater Assamese society they are seeking the land they had left long back. The poor maintenance of land records and total mismanagement of work at the circle office level has further complicated the present situation.

Kalitakuchi Village: Since 1959, there had been four land ceiling cases. All cases have been decided and none are left pending. As per the ceiling Act, 50 bighas (22.65 acres) along with 4 bighas (1.82 acres) for orchard purposes are exempted from ceiling. Though, in general, land holdings are very small, there are a few cases where the original landholders were Zamindars having vast area of land under them. In one case, (LR/6/188/166/42 dated 13/6/66) the landholder Umodeswar Goswami (belonging to the brahmin caste) had 1001 acres of land under him (i.e.2204 bighas). The excess land of 979 acres i.e. 2154 bighas was acquired by the state and some land was distributed among the old tenants. The rest was declared as government land. However, this acquisition was not correctly done since the tenants still pay Chukti (i.e. payment in kind in terms of grain or produce from the land).

There are no other recorded big landowners in the village who have not been subjected to the application of the ceiling cases. All have come under the ambit of the limitation of 50 bighas and none of the landholdings exceed the limit.

Land distribution is of two kinds. One is for homestead purposes with a financial support of Rs. 2500 to the persons below poverty line and the other is Annual Patta for agricultural purposes. According to the records, 406 Bighas 2 Kathas 5 Lacha were declared as surplus. Out of this 9 bighas 2 Kathas 7 Lachas of land was distributed among the 16 recorded tenants and the remaining was acquired by the government for embankment development by the Flood Control Department.

Some of the land that has been taken from the big landowners still remains undistributed. There has been a lot of encroachment by the local people on such land, which have neither been regularised nor has there been any step to evict the encroachers by the concerned authority.

Since land reforms were initiated 956 landless poor in the whole circle and 16 numbers in the village have been benefited by the redistribution of surplus land. The villagers who were allotted land belong to the poor agricultural labour class and all of them have been tenants or labourers of the erstwhile landowner.

Siberchak (District – Karimganj): In Siberchak village, there are two land ceiling cases. Both the cases involved "Mirasdars" who were middlemen who collected rent on behalf of the Nawab of Bengal (Post Decennial Settlement of 1791-92). Since the village is a Permanent Settlement (PS) area these land ceiling cases involve a small area, which is Illam Land, scattered in the village. These lands are within the limits and boundaries of the PS estates and were brought under temporary settlement with actual occupants in 1836 after being surveyed in the years between 1829 and 1834. The terms for the settlement was ten years for cultivated land and fifteen years for jungle lands. Subsequently, from 1902, the Illam lands had been resettled on leases for 20 years.

In the first land ceiling case, one of the landholders was having 207 acres* and corresponding to this ownership, 151 acres was acquired.

The case was initiated in 1975-76 and the following classification was made:

Total Land Acquired	150.99 Acres
Tenanted Land	99.14 Acres
Untenanted Land	51.85 Acres

In the tenanted land about 14.8 acres is fallow land and the rest 84.3 acres is non-fallow. The landowner was paid a compensation of Rs 8321.60 as owner's share and Rs 7497.95 as the tenant's share. In another case the land that was acquired by the government in the village Siberchak corresponds to dag no 1425. The class of land is 'chara' corresponding to a total area of 4 Kathas (0.068 acres). The land has been acquired by the government from the landholder but it has not yet been distributed. In another case, the government in 1977-78 acquired about 150.9 acres of land corresponding to 4568-9K-9ch from a land holder, who was a 'mirasdar' during the Nawab rule.

Table- Ceiling Land in Siberchak

Total Land Acquired	150.99 Acres
Tenanted Land	99.14 Acres
Untenanted Land	51.85 Acres

Out of the total tenanted land 32.62 acres are fallow land and 78.31 acres are non-fallow. From the untenanted land 21.63 acres are

* 1 Bigha= 0.453 acre, 1 Katha= 0.017 Acre

fallow land and the rest 18.28 acres are non-fallow. As part of the owner's share a total of Rs 8077.00 was given as compensation and Rs 7796.00 was given in compensation as the tenant's share.

In the village of Siberchak the total land acquired amounts to only 8 Kathas, which is equal to 0.1322 acres. The class of land is Char and it corresponds to dag no 887. The acquired land has not been distributed so far as per the provisions of law.*

Pachim Matia (District – Goalpara): As per the ceiling Act, 50 bighas or 22.65 acres of agricultural land plus 4 bighas (1.812 acres) of orchard is exempted from the ceiling. In the studied village, the holdings are very small. Only two cases, which were detected in the village, one case (No. 91/GC/M/71) is discussed to see the magnitude of the ceiling case. The case against one landholder was initiated in 1971 and the land was declared as surplus in 1973. Total land taken as surplus was 21 bighas (9 acres).

Most of the villagers have small holdings, so there was no question of the application of the ceiling law. As a result of the implementation of the ceiling law total 12 acres (35 bighas) of land has been declared surplus and the government has taken the same in possession. The land distribution is done through SLAB (Sub-divisional Land Advisory Board) presided over by the District Collector, comprising of the Minister, MLA, SDO, (Sadar) and

* Note: In Karimganj, land measurement is made in terms of Bigha-Katch-Chatta-Ginda classification which is different from that in the Brahmaputra valley. Where,

20 Gondas=1 Chatta
16 Chattas=1 Katha
20 Kathas=1 Bigha

ADC (Development) as secretary. Through SLAB 13 people have been given 13 bighas of land so far. Most of the land is encroached upon by the people.

Land distribution is of two kinds, one type is land for homestead with financial support of Rs.2500 to the person below poverty line and the other by annual patta for agricultural purposes. According to official records there are 1657 acres of government land (Khas land) in the village out of which 979.3 acre land has been encroached upon by the local people. But such encroachment is neither regularized nor any steps for eviction have been taken by the concerned authority. The allotment of land is generally avoided. Generally, the allottees belong to the below poverty line class so they are hardly able to invest any money to upgrade fertility and productivity of the land.

Assam: A Review

- As per the macro data still 12.71 per cent of the land declared surplus remains to be taken possession of.
- As per the latest macro data (1994), out of the total 6.10 lakh acres declared surplus the extent distributed is 5.04 lakh acres i.e., still 87,000 acres of land remains to be distributed. Prompt administrative measures are needed to distribute the unallotted land within a specified time frame.
- In a large number of cases allottees' names have not yet been entered into the revenue records. In quite a significant number of cases the tenants are the affected lots as they are not able to pay the premium due to economic stringency. The payment of premium should be exempted and all such tenants should be recorded as landowners.

- The norms of the priority of allotment of land to the Scheduled Castes and the Scheduled Tribes has not been adhered to in the State. The macro data indicates that 83 per cent of the beneficiaries and 81 per cent of the surplus ceiling land have been assigned to 'other castes'. Such violations are not restricted to the ceiling surplus lands acquired from individual landowners but are also related to the surplus ceiling land acquired from tea gardens and religious institutions. This is a very serious anomaly which needs to be looked into on a priority basis.
- The grounds of release in many cases were in contravention of the provisions of section 4 of the Act. The specific points of contraventions are as follows:-
 - i. The Benami transfers after 12th November, 1955 were to be disregarded while calculating the ceiling area of the transferor but this was ignored in many cases.
 - ii. All transfers and partitions made after 1st April, 1970 were to be disregarded but in several cases this has not been given effect to.
 - iii. The landowners were given additional land for the maintenance of orchards but field studies have revealed that actually no orchards were maintained.
- The allotted lands have been mostly unirrigated due to which a large number of allottees have sold the lands. Further, the linkage of the allottees with institutional lending agencies and rural development programmes is very tenuous. This has been one of the weakest aspects of the implementation of the land ceiling programme.

ANDHRA PRADESH

- Absentee landlordism is still prevalent in the State and hence rigorous definition of the term personal cultivation is necessary by incorporating the residential qualification on the pattern of West Bengal. Thereby, more land can be declared surplus and distributed among the beneficiaries.
- After the 70's there has been complete slackness in the implementation of the land ceiling programme in the State. The land ceiling records are not maintained properly and their updation is also a casualty. The maintenance and updation of land records is thus one of the important administrative tasks to be taken on a priority basis.
- The 1985-86 agricultural census shows that the operational holdings above 10 hectares constitutes 0.25 per cent of the total operational holdings in the State and such landowners control 14.18 per cent of the total operated area in the state. Thus still a large extent of land is controlled by the big landowners. It is thus necessary to undertake an active drive to unearth concealed land and bring them within the land ceiling provisions.
- Considerable extent of surplus ceiling land has been allotted to various institutions in the State which is a violation of the allotment principle. The ceiling surplus lands have to be distributed among the beneficiaries. Such anomalies need to be removed.

The Andhra Pradesh (Ceiling on Agricultural Holdings) Act, 1961 imposed the ceiling which ranged from 27 acres to 324 acres depending upon the class of land and other related factors. It was a colossal failure due to lot of concessions, exemptions and loopholes under the Act. The consequence was the enactment of the ceiling Act of 1973 which plugged many of the loopholes in the 1961 Act but immediately after the enactment it attracted litigation and the consequential judicial pronouncements. The Constitutional validity of the Act was also questioned. Several terms needed to be judicially defined e.g. wet lands, dry lands, single crop lands, family unit, major and minor son, 'illatum' son-in-law and his status in the father-in-law's family. **The A. P. Land Reforms (COAH) Act, 1973** thus became item 67 in the 9th Schedule to the Constitution (34th Amendment). The effect of the inclusion is that the Constitutional validity of the Act can no longer be challenged. All the amendments made into the principal Act at the time of the inclusion in the 9th Schedule would also get the protection of Article 31 (13). Therefore, the A. P. Land Reforms (COAH) Amendment Act, 1974, enacted subsequently would also get this protection as the principal Act has been included in the 9th Schedule long after the passing of the State Amendment Act. The Supreme Court's decision in Keshavananda Bharati's case has created certain difficulties in the way of implementing the Act of 1973. The Act of 1973 became vulnerable for being challenged in the court of law. Hence, it became necessary to include the Act in the 9th Schedule of the Constitution so as to give to it the Constitutional protection.

The land ceiling Act of 1973 has the following major provisions:

The Act provides for a ceiling of one standard holding ranging from 4.86 hectares (about 12 acres) to 10.93 hectares (about 27 acres) in the case of wet lands and from 12.14 hectares (about 30 acres) to 21.85 hectares (about 55 acres) in the case of the dry lands.

It provides for the ceiling areas as one standard holding in the case of the family consisting of not more than 5 members; in the case of the larger families an additional extent of 1/5 of standard holding for every member is provided subject to a maximum of 2 standard holdings.

The Act defines 'family' to comprise of an individual, his or her spouse, their minor sons and their unmarried daughters.

It provides that the transactions by way of sale etc., effected on or after 24th January, 1971 are to be disregarded if made with a view to defeating the ceiling provisions.

The Act makes provisions for filing a declaration by persons holding lands in excess of the ceiling area and for the surrender and taking possession of the surplus land besides making it obligatory on the part of the landholders also in future to declare lands held in excess of the ceiling limit through acquisition or otherwise.

Provisions have been made for the distribution of surplus lands among the landless poor, one half of the lands being set apart for the Scheduled Castes and the Scheduled Tribes. In respect of the surrendered lands in the occupation of the protected tenants in the Telangana area, the right of the purchase of such lands by the protected tenants is provided subject to certain conditions.

The Act provides for the constitution of a Tribunal to determine the surplus lands.

The Act of 1973 differs from the 1961 Act. The definition of 'family', the process of surrender, the classification of lands etc. are all different from the 1961 Act. Besides, the number of exemptions that were available under the 1961 Act were removed to a large extent.

The Act came into force with effect from the 1st of January, 1975 and as per Section 8, the landholders holding lands of 10 acres wet or 25 acres of dry land were to file declarations before the Tribunals. A large number of Tribunals were constituted in the State, almost each for one Revenue Division by posting Deputy Collectors as Additional Revenue Divisional Officers to preside over the Tribunal.

At the State level, a post of Commissioner, Land Reforms was also created to periodically hold meetings of the Collectors and review the progress of work at various stages.

The Government also prescribed rules in 1974 as the A. P. Land Reforms (Ceiling on Agricultural holdings Rules), 1974. Every person whose holding exceeded the specified limit was supposed to have filed declaration within 30 days of the notified date (1.1.1975) vide Section 8 (1) of the Act before the Tribunal in Form-I. The Land Reforms Tribunal was not restricted to only voluntary declaration. It was empowered under Section 8 (2) of the Act to issue notice (in Form-8) requiring any person holding land within its jurisdiction to furnish a declaration of his holding. The Land Reforms Tribunal (LRT) was also empowered to obtain necessary information from other sources, if the person failed to do so within the specified time. The Verification Officers were to submit a full and complete report and the Tribunal could have obtained the necessary information from the Tehsildar as well.

For each major son, the ceiling area is increased by an extent equal to the ceiling area applicable to majors on the family unit of which he is the member.

The Land Reforms Tribunal holds an enquiry and passes order under Section 9 of the Act depending on whether a person held land in excess of ceiling area. The Land Reforms Appellate Tribunal (LRAT) usually decides matters of dispute like ownership, sale, lease, non-agricultural use etc. and asks the LRT to recalculate, based on the judgement vide Section 10 of the Act. If the LRT/LRAT determined the holding of a person in excess of the ceiling area, the person is liable to surrender the land held in excess of which the notice is to be served in Form-VI.

Under Section 22 (1) of the Act and rule 16, a Court or Tribunal can review its own order or judgement only where the party by way of misrepresentation played fraud upon the Court. It is incumbent on the Court or the Tribunal to review the order on the grounds of fraud, misrepresentation or over similar grounds (AIR, 1980 AP 149). The definition of holding has been provided in Section 3 (H) of the Act. The explanation for this clause reads as follows: "Where the same land is held by one person in one capacity by another person in any other capacity, such land shall be included in the holding of both such persons". Hence, if the land is under a tenant, it has to be included in the holdings of both the owner and the tenant.

There are special provisions with regard to transfers. The transfer of land by sale, gift, exchange etc. after 24th January, 1971 is to be disregarded for the purpose of the computation of holdings of such person unless he proves that such a transfer has not been effected for defeating the objectives of the Act. Once the land is surrendered

under Section 11 of the Act, the land vests in the Government. On receiving the order passed by the Tribunal, the Revenue Divisional Officer (RDO) issues an order in Form-IX authorizing any officer not lower in rank than Revenue Inspector to take possession of the land surrendered or deemed to have been surrendered. If the person does not surrender voluntarily, the authorized officer is competent to remove the obstruction or unauthorized occupation of lands vested in the Government which are registered in the Revenue account as assessed waste Government lands. Section 14 of the Act states that the lands vested in the Government would be assigned for house-sites to agricultural labourers, village artisans or other poor persons owning no houses or house sites. The procedure prescribed for the assignment of the Government assessed waste lands is to be followed for the disposal of the ceiling surplus land also.

Andhra Pradesh: A Review

At the time of introducing the 1973 land ceiling Act, the State Government had communicated to the Central government that the estimated surplus land is around 10 lakh acres. It is gratifying to note that the total extent covered by the statutory declarations is 9 lakh acres which is only 1 lakh acre less than the estimated surplus.

The latest figure of area declared surplus upto 8th October, 1992 was 8.01 lakh acres which constituted nearly 3 per cent of the net sown area. This places Andhra Pradesh amongst one of the successful states in the implementation of the land ceiling programme.

The area distributed (5.15 lakh acres) constitutes 91 per cent of the area taken possession of (5.72 lakh acres) which is remarkably a very high level of success.

As per the figures furnished by the Andhra Pradesh state government to the Rural Development Ministry, GOI, till 9th October, 1992, out of the total 4.42 lakh beneficiaries, 64 per cent from the Scheduled Castes and the Scheduled Tribes and 31 per cent are from the backward classes. This is much above the level of the norms of allotment to the weaker sections as envisaged in the Rules of allotment of Andhra Pradesh government, which stipulates that half of the beneficiaries should be from the Scheduled Castes and the Scheduled Tribes. In this respect Andhra Pradesh ranks very high amongst the states in the country in conforming to the norms of allotment.

The state government had taken up the implementation of the land ceiling programme as a continuous effort. This is evident from the following steps taken by the State Government:

- a) A special drive was launched by the State Government since October, 1981 for distributing the lands taken possession of by the Government. In this drive an extent of 72170 acres of land was distributed during 1991-92 against the Government of India's set target of 18,000 acres.
- b) During 1992-93 a clear cut action plan had been prepared by the State Government which included the disposal of cases pending in various courts and verifications of the possession of land assigned to eligible families.
- c) A special drive has been launched to verify over 9,000 large operational holdings of above 75 acres which has yielded very important information regarding defaulters. The programme of action included analysis of cases which were originally declared non surplus and which ought to have been declared surplus. Andhra Pradesh can be counted

amongst the few states in the country which have taken up the vigorous step of identifying the big landowners who are still at large and circumventing the land ceiling provisions.

- d) Another area in which the State Government had initiated action has been the reclassification of land on account of the provision of fresh irrigation facilities.
 - e) The State Government has also initiated action for amendments to existing laws and also for a separate legislation to establish Land Tribunal for quick disposal of cases pending under litigation.
- Though the implementation of the 1961 land ceiling Act in the state was perfunctory but the 1973 Act has been implemented with far more seriousness.
 - Further, the macro data indicates that of the total declarations filed so far only 0.02 per cent remains to be decided and the rest has been disposed of. In this respect the task of the implementation of the land ceiling programme in the state is almost coming to a final stage. Whatever remains to be done is being attempted by undertaking a special drive to identify the big landowners still lying at large.
 - Another major area of achievement is that over 98 per cent of the allottees are in continued physical possession of the allotted lands and their names have also been entered in the revenue records.

The implementation of the land ceiling Act of 1961 was a complete failure. It was estimated that over 30 lakh acres would be acquired from the surplus ceiling owners but a little less than 1 lakh acres of

land was acquired till 1971. A golden opportunity of implementation was, indeed, lost and the landowners got enough time to circumvent the ceiling legislation.

Even the 1973 Act has a long list of exemptions which includes plantation and the lands managed by the religious and charitable institutions. It is estimated that over 3.5 lakh acres of land is managed by the religious institutions in the state.

The agricultural census figure of 1981-82 shows that large landowners owning above 10 hectares still controlled 23.10 per cent of the total operated area in the state. On the other hand, 70.77 per cent of the total operational holdings operating below 2 hectares control only 25.62 per cent of the total operated area. This indicates the extent of agrarian inequality which still characterized the state.

There are still more than 4500 cases of land ceiling pending in various courts like the Land Reforms Tribunal, Land Reforms Appellate Tribunals, High Court and Supreme Court involving 2.05 lakh acres.

Out of the total declarations, large number of cases were declared as non-surplus. For example, in the district of Vishakhapatnam out of 7153 declarations filed, 6734 cases were declared as non-surplus. Similarly in the Karimnagar district out of 18260 declarations filed 15956 cases were declared non surplus. This is the position in some other districts as well.

An analysis of the land ceiling cases indicates that landholders took recourse to the following methods to thwart effective implementation of land ceiling programme.

- a) By filing false, incorrect and incomplete declarations.

- b) Fraudulent transfer of lands.
- c) Transfer of land without registered sale deed and excluding such land from the holding of the declarant.
- d) Benami transactions.
- e) By taking recourse to collusive transactions of transferring land in the names of servants, and near relations.
- f) Declaring minor son as major.
- g) Declaring land as non agricultural
- h) Nearly 60 thousand acres of lands declared surplus are unfit for cultivation and most of the remaining lands are unirrigated.

Another weakness in the implementation is that the allottees are not properly integrated with the anti-poverty programmes and as a result the allotted land had only limited impact in improving their socio-economic conditions.

A number of benami transactions have taken place among which the following two types of transactions were on a large scale:

- a) The protected tenants are entitled to get pattas under section 13 (1) and such extent is to be deleted from the total holdings of the owners for the purpose of computing the surplus land. In a number of cases back dated manipulations have taken place in 'pahanis' by recording land under benami names.
- b) A number of manipulations have taken place to change the date of birth and showing a minor son as major.

Suggestions

- Section 10 of the land ceiling Act as presently worded allows discretion in matters concerning acceptance or rejections of any

land surrendered by the landlord. In certain cases this provision has been made too complicated by the insertion of provisos and explanations. It should be simplified by introducing a discretionary clause allowing the Tribunal to accept or reject the surrender of any land by the landholder if such lands surrendered by the landlord cannot be used for the purpose of agriculture.

- It has been found that in certain cases the beneficiaries are not in physical possession of the lands assigned to them. It is recommended that a penal clause in the existing Section 24, clause 3 of the land ceiling Act be inserted and the officers responsible for such intentional lapses should be taken to task.
- Under Section 23 of the land ceiling Act, exemptions have been given to the lands held by the religious, charitable and educational institutions, plantations etc. Such exemptions need to be abolished and such institutions should be given annuity on the lines of Assam.
- Any land holding or portion thereof brought under irrigation subsequent to the prescribed cut-off-date by the irrigation projects constructed and/or renovated and/or financed by the state should be taken into account by way of reviews for determining the ceiling area. Such a review may be made by the competent authority either on his own motion or on application or on information.
- There were several cases in which landholders filed false declarations wilfully, thereby concealing/ suppressing some of the lands held by them. Surplus land was determined mostly in cases in which declarations were filed voluntarily and based mainly on the material furnished by the declarants. It is

necessary that *suo-moto* administrative initiative should be taken for identifying surplus ceiling cases circumventing the land ceiling provisions.

The Land Reforms Unit of the LBSNAA, Mussoorie has brought out a compilation of the recommendations on land reforms in Andhra Pradesh, worked out at a workshop on land reforms in Andhra Pradesh (held at Hyderabad from 15th to 17th May, 1992). The recommendations of the said workshop on ceiling laws are as follows:

1. The workshop strongly recommends that the existing ceiling laws must be implemented with full vigour within a period of two years, so as to get all the intended benefits. This must be coupled with the implementation of the minimum wages Act.
2. As more than 50% of the surplus land which was originally determined as surplus was lost in litigation, the workshop recommends that all the cases where land was lost should be scrutinized thoroughly and wherever the grounds of loss are not found to be genuine, action must be initiated to regain the land.
3. It is noted that an extent of two lakh acres is held up in litigation. Besides the creation of adequate number of primary tribunals and Appellate tribunals, the workshop recommends the setting up of a special court under Article 323B of the Constitution.
4. The workshop strongly recommends that the State Government should take immediate steps without any further delay to amend the A.P. Land Reforms (COAH) Act, 1973 to give effect to the judgement of the Supreme Court in the Ashrafuddin Case.
5. The workshop feels that the A.P. Government ought not to have given a share to the major sons. It recommends a two-fold action immediately:

- (i) to scrutinize all the cases involving the grant of land to major sons with a view to verifying the genuineness of the claim; and
 - (ii) to bring in an amendment to the Act withdrawing the facility to the major sons.
6. The workshop notes that the landowners are trying to retain possession of surplus lands under the cover of litigation. It recommends that wherever a landowner loses his case at the appeal stage, he should surrender the land to the Government before revision is taken up by the revision authority. This should equally be applicable to the existing litigation before the High Court and Supreme Court. The Government should bring in an amendment to the Act to this effect. In case the landowner wins the case, the Government have to pay him the option of compensation as if the land has been acquired under the Land Acquisition Act.
 7. Surplus land should not be assigned in small bits and that the minimum level of assignment to the beneficiaries should be 50 cents of double wet land and one acre of single wet land and three acres of dry land.
 8. The details of the declarations filed including the lands determined as surplus as well as lands vested in the Government should be publicized in the village. Established voluntary organizations must have access to the records to be perused before a responsible officer. The concerned gazette publications in respect of the surplus lands must be freely available to those wishing to have them. The details of the beneficiaries who have been assigned the surplus lands must be published in the village as well as the Mandal level office and anyone wanting to have copies of the same should be furnished with the copies.
 9. In Andhra Pradesh, there was a strong case for the reduction of ceiling limits of landowners who are not entirely dependent on

- land for their livelihood and who derive their income predominantly from non-agricultural occupations and vocations. Such landlords can be of the resident and non-resident variety.
10. The absence of viable land records is a serious bottleneck in the implementation of the land ceiling law. The workshop recommends the formation of village level committees to oversee the list of the landowners in the village as well as the list of landless agricultural labourers.
 11. All non-surplus cases particularly those in the border zone should be scrutinized once again.
 12. After the Act came into force, considerable extent of land was brought under public irrigation. The workshop recommends that recomputation of landholding should take place immediately so as to bring on record more surplus land.
 13. The workshop notes that civil courts tend to interfere in the land ceiling cases although the land ceiling Act is passed under the Directive Principles of the Constitution. The workshop recommends that the Government should take action to ensure that civil courts do not intervene.
 14. The workshop recommends that the provisions relating to the prosecution of defaulting landowners should be used effectively. It further recommends that these provisions should be made more and more stringent.
 15. The workshop noted that there is a vast extent of fallow land in the State. The Committee recommends that the State Government should take various measures, including legislative measures, to make the landowners bring the fallow lands under plough.
 16. A section of the participants expressed a strong view that quite often, the land is held for speculative purposes and that in order to prevent this, the sale process must be frozen at the current market level/ fair price level. These participants were in favour of prohibiting the private sales of land. They suggested that

when a landowner desires to sell the land, he shall do so to the Government which shall pay to him the price fixed as above. The Government would in turn allot the land to the weaker sections. The workshop noted that this view found strong favour with some of the participants while it also found a strong disfavour with some.

17. There is a growing phenomenon of industries purchasing vast extent of agricultural land such as in Mahbubnagar district. It is felt that a detailed study be carried out of this phenomenon with a view to taking appropriate measures to protect the interest of the agricultural community particularly the small and marginal farmers and those belonging to the weaker sections.

ORISSA

The State of Orissa enacted the Orissa Land Reforms Act, 1960 (Orissa Act 16 of 1960). This Act has been enacted to bring progressive legislation relating to agrarian reforms and other tenures consequent on gradual abolition of intermediary interest and to confer better rights on the agriculturists and to ensure increase in food production. Several provisions have been made in the Act with a view to giving effect to this declared intention of the legislature. The Act makes clear provision for conferring rights on the true cultivators. The foremost aim of the Act is the distribution of land in favour of the landless people by imposing ceiling on the landholder and distributing the surplus land among the deserving people.

The scheme of Chapter 4 of the O.L.R. Act is that the 26th day of September, 1970 shall be the basis for the determination of the ceiling area of a person. The transfer or partition of land made after that date is not recognized. For the determination of the ceiling area, whether after the return is filed U/S 40 (A) or 40 (B) or whether it is suo moto U/S 42, an investigation is contemplated. The ceiling is 10 standard acres for a person which includes a 'family'. In the case of a family having more than 5 members, the ceiling can go up by two standard acres for each member in excess of 5 persons to a maximum of 18 standard acres. Major and married sons who have separated by partition or otherwise from the family before 26.9.1970 will be treated as separate persons for the determination of ceiling. Exemption upto 3 acres in aggregate is given for homestead land or tank or for both while computing the area. The land transferred by sale, gift, partition or otherwise after 26th September, 1970 will not be taken into account for the determination of the ceiling surplus land.

As per Section 37 of the Act:

- a) “person” includes a company, family, association or other body of individuals, whether incorporated or not, and any institution capable of owning or holding property;
- b) “family” in relation to an individual, means the individual, the husband or wife, as the case may be, of such individual and their children, whether major or minor, but does not include a major married son who as such had separated by partition or otherwise before the 26th day of September, 1970.

Section – 37 A

Ceiling Area – The ceiling area in respect of a person shall be ten standard acres:

Provided that where the person is a family consisting of more than five members, the ceiling area in respect of such person shall be ten standard acres increased by two standard acres for each member in excess of five, so however, that the ceiling area shall not exceed eighteen standard acres.

It has come out in 78 (1994) CLT 842 (Rajshree Mishra vs. Revenue Officer) that registered deeds were executed after the appointed date i.e. 26.9.1970. The authorities were justified in not taking note of the agreement for sale and have rightly included land covered by it while computing the ceiling area of the petitioner. The petitioner having been extended several opportunities to retain the land of his choice, did not indicate any choice and as such the surplus lands were finally distributed among the landless persons.

It has further come out in 66 (1988) CLT 541 (Mahendra vs. State) that the land-holder filed return as provided under the provisions at the time when his family consisted of five members including himself. But by the time the draft statement was published U/S 43, the landlord had two more children. As such it was contended whether subsequent increase in the number of the family members could be taken into account for the allotment of the ceiling area and it was held that “the question of allotting the number of units or the extent of area to a person has got to be determined with reference to the date on which the 1973 Amending Act came into force, i.e. 2.10.73. Any subsequent change in the constitution of the ‘family’ thereafter is not to be of any consequence and the ceiling area would not fluctuate with the subsequent increase or decrease in the number of the family members (Further reference: 1981 (II) OLR 167).

Section – 37 B

Persons not entitled to hold land in excess of ceiling area – On and from the commencement of the Orissa Land Reforms (Amendment) Act, 1973 (President’s Act 17 of 1973), no person shall, either as landholder or raiyat or as both, be entitled to hold any land in excess of the ceiling area.

Explanation - For the purposes of this section all lands held individually by the members of a family or jointly by some or all the members of a family shall be deemed to be held by the family.

The family would be deemed to have held the entire lands held individually by the members of the family. Once an individual becomes a member of the family under the definition given in Sec. 37 (b) the land held by him individually or jointly with other members of the same family shall be deemed to be held by the

family and surplus lands are to be determined accordingly. Married daughters continued to be included in the family.

60 (1985)C.L.T. 55 (Maharani Bewa Vs. the State of Orissa). Also, 55 (1983)CLT 41 (Nityananda Guru vs. the State of Orissa)

The reference in this section is not to a Hindu joint family but to a “ceiling family” as defined in clause (b) of Sect. 37. There can be many “37 (b) families” in a Hindu joint family.

45 (1979) CLT 181 (BR) Land Reforms Commissioner vs. Additional District Magistrate.

Section – 38

Exemption from Ceiling - Save as otherwise provided in this section the provisions of this Chapter shall not apply to -

- a) land held by privileged raiyat.
Provided that nothing in this clause shall apply to a land held by a raiyat under a privileged raiyat:
- b) land held by industrial or commercial undertaking or comprised in mills, factories or workshops, where such lands are necessary for the use, for any non agricultural purpose, of such undertaking, mills, factories or workshops:

Provided that where the said lands are not actually used within a period of five years from the commencement of the Orissa Land Reforms (Amendment) Act, 1973 (President’s Act 17 of 1973), for the purpose for which they had been set apart, the Collector may, after giving notice to the persons concerned, by order, direct that the provisions of this Chapter shall apply to the said lands:

Provided further that the Collector may, on an application made to him in this behalf, on being satisfied that it is necessary or expedient so to do, extend the said period of five years by such further period or periods as he may deem fit, so however, that the total period of such extension shall not exceed in any case, eight years;

c) Plantations:

Explanation- “ Plantation” means any land used principally for cultivation of coffee, coca or tea (hereafter in this Explanation referred to as plantation crops) and includes land used for any purpose ancillary to the cultivation of the plantation crops or for the preservation of the same for their marketing;

- d) Lands held by any agricultural university, agricultural school or college, or any institution conducting research in agriculture.

The provisions of section 39 (b) exempt from ceiling the land held by industrial undertakings for any non-agricultural purpose of such undertaking. But such an exemption will apply for a period of five years and if the land is not used for the purpose within the period, the Collector after giving due notice to the parties can pass an order applying the provisions of chapter IV to that land. But the expression: “lands are not actually used” must be construed to mean “which are not deliberately put to use by the industrial concern for the purpose for which it has been set apart” But when the uses in question become impossible on account of certain statutory impediments or on account of non-availability of sanction of the appropriate authority, or on

account of some similar reason over which this industrial concern has got no control, it cannot be said that the land is not actually used. 70 (190) CLT (M/S Orient Paper and Industries Ltd. vs. the State of Orissa and Others).

Principles for determining the ceiling area have been explained in 75 (1993) CLT 548 (Dolaganjam Sahu vs. the State of Orissa).

Section –39

Principles for Determining the Ceiling Area – In determining the ceiling area in respect of a person, the following principles shall be followed, namely:-

- a) homestead lands, or tanks with their embankments, or both, to the extent of three acres in the aggregate shall not be taken into account;
- b) the transfer of any land by sale, gift or otherwise or the partition thereof by a person during the period beginning with the 26th day of September, 1970 and ending with the commencement of the Orissa Land Reforms (Amendment) Act, 1973 (President's Act 17 of 1973) shall, if such person was holding land on the said day in excess of the ceiling area, be deemed to be void, anything contained in any law or agreement or in any decree or order of any Court notwithstanding.
- bb) the lands so transferred or partitioned shall be taken into account as if the transfer or partition had not taken effect and the Revenue Officer may, at his discretion, ignore the selection made by the person of lands to be retained in his possession.
- c) Where the person is a member of a co-operative farming society, the extent of land which he would get as his share if

the land held by such society is divided shall be taken into account;

- d) Land in the possession of a tenant or a mortgagee shall be deemed to be lands held by the person.

Section- 45

Surplus lands to vest in Government – With effect from the date on which the statement becomes final under sub-sec. (3) of Sec. 44 the interests of the person to whom the surplus lands relate and of all land holders mediately or immediately under whom the surplus lands were being held shall stand extinguished and the said land shall vest absolutely in the government free from all encumbrances.

Orissa: A Review

The following review was made at a workshop on land reforms in Orissa, with regard to the land ceiling programme (the said workshop was held at the Gopabandhu Academy of Administration, Bhubaneswar from February 4 to 6, 1993):

- While the distribution of surplus ceiling land has been comparatively satisfactory, it was felt that the total lands declared surplus comes to hardly 1.9 per cent of the net sown area in Orissa as compared to 9 per cent in West Bengal, 20 per cent in Himachal Pradesh and 25 per cent in Jammu & Kashmir. So all the dropped cases under the provisions of Chapter 4 should be reopened and scrutinized to detect evasion of the ceiling provisions.
- In all those cases where the owner has failed to file returns despite having land more than the ceiling limit, there should be a provision for imposing penalty on the defaulting land owners.

- Over 3700 acres of surplus lands distributed among the landless persons got divested because of the court orders. These persons should be given priority during the fresh distribution of surplus ceiling/ government lands.
- Considering the sizable number of cases relating to the ceiling surplus lands pending in the High Court, a request should be made to the High Court for constituting a Division Bench to exclusively deal with these cases for early disposal.
- Allotment of land should be done properly by giving physical possession, entering the fact of this action into the record of rights and by periodic monitoring of the continuation of physical possession. Strong action will be taken wherever the allottees have been displaced from the allotted land.
- The list of deserving beneficiaries by way of ceiling surplus land should be prepared with the help of the villagers in an open meeting. In many cases the beneficiaries who have been allotted lands in a number of fragments is totally undesirable and every effort should be made to distribute consolidated plots to the beneficiaries.
- The distribution of ceiling surplus land should be linked to poverty alleviation programme such as the IRDP and JRY and the allottees be extended facilities of input and credit.
- In view of the uneconomic size of the land allotted, the beneficiaries should be encouraged to take up cooperative investment and production to make the cultivation a viable proposition. For the purpose of loans from Commercial Bank, the beneficiaries should be considered as a cooperative and the loan should not be given on an individual basis.
- The implementation of the provisions of the land ceiling Act should be time bound.

Achievements

1. Over half the land ceiling cases were filed suo-moto through the administrative initiative.
2. Most of the land ceiling cases were instituted during the 70's which is indicative of the intense administrative and political will shown during this period.
3. Fresh land ceiling cases were also initiated during the 80's. This points out that the implementation of land ceiling programme in the State is not merely taken as a one shot affair but a continuous activity.
4. The land ceiling cases have been decided quickly and disposed off.
5. Very few land ceiling cases are pending in the State.
6. Major extent of land finally declared surplus is from big landowners owning more than 50 acres. This has helped in the reduction of agrarian inequality which is one of the important objectives of the land ceiling programme.
7. The norms of allotment specifies the distribution of at least 70 per cent of surplus ceiling land to the weaker sections consisting of the scheduled castes and scheduled tribes. Both the macro as well as the field data testify to the fact that in practice also the norms of allotment have been adequately adhered to.

Limitations in Implementation

1. The land concentration of large farmers owning more than 10 hectares increased between 1970-71 and 1980-81 as indicated by the N.S.S. data. This trend is not in keeping with the objective of the land ceiling programme of reducing land concentration and inequality in the property structure in the rural area.

2. The extent of land declared surplus in the state constitutes only 1.14% of the net sown area; the land distributed forms only 0.95% of the net sown area.
3. Very large proportion of land ceiling cases instituted were ultimately dropped. The incidence in this respect is one of the highest in the country. The field studies have shown that the administration has adopted very lenient and liberal attitude towards the surplus ceiling owners.
4. The extent of land released to the landowners out of the initially assumed surplus is considerable. In many cases such releases were not on genuine grounds which has been amply substantiated by fields studies.
5. There is considerable gap in the lands declared surplus and taken possession of. Similarly, there is a wide gap between land taken possession of and distributed. These two still constitute important tasks of the implementation of the land ceiling programme.
6. Large extent of land is still involved in litigation in various courts. The pending cases invariably belong to big landowners. Providing such a long rope to the big landowners is counter productive to the basic objective of the land ceiling programme. It is necessary that all the pending cases should be taken up on a priority basis under a time bound programme.
7. The surplus ceiling owners took recourse to various devices to circumvent the provisions of the land ceiling legislation. Some of the devices adopted by them are mentioned below:
 - a. Partition of the land among the family members including married sisters by a registered partition deed.
 - b. Transfer of the land in the name of deity.
 - c. Change in the classification of the land by claiming that only one paddy crop is possible though as per records the land was producing more crops / year.
 - d. Litigation claiming that 'Padar' or sandy land is not agricultural land within the purview of the O.L.R. Act, 1960.
 - e. In the earlier stages writ petitions were filed by many the landholders asking the courts to declare the provision of that Act relating to ceiling surplus land ultra vires. Moreover with the 9th schedule added to the Constitution such litigation came to an end.
 - f. In many cases certain plots of lands were shown to be sold to other parties prior to the year / cut off date.
8. Most of the allotted land is of a very poor quality. It hardly made any difference in the economics status of the allottees.
9. The beneficiaries are hardly integrated with rural development programmes.

Further tasks in the land ceiling programme

1. The pending cases in litigation must be disposed off by adopting time-bound programme.
2. All the surplus ceiling land declared finally should be taken possession of by the Government without any further loss of time.

3. All the lands taken possession of need to be distributed within the shortest possible time.
4. A special drive should be undertaken to identify concealed lands with big landowners.
5. All the surplus ceiling allottees need to be inextricably integrated with the rural development programmes.
6. The allotted land should be developed at the Government cost immediately after the land vests with the state.
7. The lands allotted need to be simultaneously physically demarcated and the names of the allottees should be entered in the R.O.R.

Recommendations

1. Field Inspections should be done frequently to ensure physical possession and support to the allottees. The changes in the class of land should be done based on the progress of work and ayacut area map.
2. Updation of the R.O.R. should be regularly monitored at the higher levels by surprise field checks.
3. Family position of the landowner to be ascertained.
4. Re-open cases where there is an element of doubt and pursue the same to the logical conclusion.

5. To ensure physical possession the area should be identified, demarcated and shown to the allottees. Pattas should be given to them.
6. The quality of land allotted has left much to be desired. Hence, financial assistance for dug well land development etc. should be given to the allottees.
7. Benami transactions and gifts to minor or unborn children to be identified and cases re-opened.
8. Involvement of voluntary agencies in the identification allotment and physical possession of the land.
9. The anomaly in the period of limitation in OLR Act should be rectified so that the weaker sections benefit under the OLR Act.
10. A land Tribunal should be constituted to deal with the cases that go upto the High Court or Supreme Court and drag on.
11. An emphasis should be laid on the proper maintenance of revenue records. It is a precondition for any land reform measure.

RAJASTHAN

In order to make the ceiling laws more effective, the **Rajasthan Imposition of Ceiling on Agricultural Holdings Act, 1973**, was passed and it became effective from January 1, 1973. The provisions contained in Chapter III-B of the Rajasthan Tenancy Act, 1955, had imposed a ceiling of thirty standard acres on the holding of agricultural land in the state. It was felt that still a great disparity in the holding of agricultural land existed which led to the concentration of such land in the hands of a few persons. The agricultural land available for cultivation in the state is limited. It was, therefore, necessary to reduce such disparity and refix the ceiling limit on the agricultural holdings so that surplus agricultural land may be available for distribution among the landless. The principles for the determination of ceiling area under the new law are radically different from those provided under the old law. Section 15 of the new Act makes a provision for the reopening of the cases finally decided under the old law. There was a change in the definition of the family also. Under the new Act, 'family' means a family consisting of wife, husband and their minor children. In the new ceiling laws, very few members were included in the definition of 'family'. Under the new Act, land has been classified according to the regions and different ceiling limits have been fixed for the different regions in terms of ordinary acres. The main purpose behind the enactment of the Act of 1973 was to acquire maximum area and to distribute it among the landless.

The ceiling limits defined under this Act for various categories of land for a family consisting of five or less members are as follows:

1.	Land with assured irrigation and capable of growing at least two crops a year.	18 acres
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2.	Land with assured irrigation but capable of growing only one crop a year.	27 acres
3.	Land under orchard.	54 acres
4.	Land in the fertile zone but not falling in the above categories.	45 acres
5.	Land in the semi-fertile zone but not falling in the above four categories.	54 acres
6.	Land in the hilly zones but not falling in the above five categories.	75 acres
7.	Land in the semi-desert zone but not falling in the above six categories.	125 acres
8.	Land in the desert zone not falling in the above seven categories.	175 acres

If there are more than five persons in the family, one-sixth of the above prescribed ceiling area will be added to the holding of the family for every additional member but the total land cannot exceed double of the original ceiling. Any transfer of land made by such persons shall be held ab initio void and the land will be included in the total land of the landholder for ceiling purposes.

Rajasthan: A Review

Prof. K. Gopal Iyer in his paper "Implementation of the Land Ceiling Programme in Rajasthan" (in Land Reforms in India, Rajasthan - Feudalism and Change: ed. by B. N. Yugandhar and P.S. Datta, Sage Publications, New Delhi- 1995), summarises some studies carried out by the IAS Probationers in Rajasthan.

The study clearly brings out the lack of political will in the implementation of the land reforms in the state. This is evident from the manner in which ceiling on agricultural holdings was brought into force. Significantly, the lack of political will was not the monopoly of any particular political party, but had cut across party

lines. The study established the nexus between the legislature and the executive in thwarting the implementation of the laws.

Wherever political will and prompt administrative action was exhibited, the results contributed to achieving the objectives of the land ceiling programme, namely, reducing land concentration and agrarian inequality, and distribution of lands to the landless, but such administrative initiatives were few. The landowners have been successful, to a large extent, in utilizing the legal loopholes to their advantage and have frustrated the objectives of the land ceiling law. They have utilized the judicial process to retain their surplus lands for quite a long time and also to retrieve as much land as possible for themselves. Where it was not possible to retain the land, they were successful in diverting the lands to the Forest Department instead of its allotment to weaker sections.

There have been occasions, however, when in the implementation of the land ceiling laws, the administrative machinery has demonstrated a positive thrust. Some of these initiatives are:

1. More than half of the identified surplus ceiling cases relate to big landowners owning more than 100 acres.
2. The field study shows that 44 per cent of the land ceiling cases were instituted through administrative initiative as in all such cases the landowners did not file the returns voluntarily.
3. Only 1.69 per cent of the land ceiling cases are pending, indicating that the task of implementation of the land ceiling programme is nearing completion.

4. Most of the landowners not filing returns are invariably big landowners owning more than 50 acres. Efforts were made to identify such cases and bring them within the purview of the land ceiling provisions.
5. Over 90 per cent of the land ceiling cases were decided within a period of less than five years.
6. The extent finally declared surplus, constitutes 84 per cent of the land initially assumed surplus. This is a good indicator of the successful implementation of the land ceiling programme.
7. The macro data shows that till September 1989, 88.44 per cent of the total land declared surplus had been taken into possession. This is a good indicator.
8. Nearly 80 per cent of the allottees are in physical possession of the allotted lands and in 76 per cent of the cases the allottees' names have also been entered in the revenue records. This also indicates a moderate level of success.
9. Most of the allottees are using the lands for cultivation and there are very few instances of allottees selling away the lands.
10. The average extent of land allotted per beneficiary is 5.77 acres which is one of the highest in the country, though this has to be also seen vis-à-vis the quality of land allotted.
11. The average extent of land allotted to the Scheduled Castes and the Scheduled Tribes is higher as compared to other castes.

12. Over the decade, there has been some decline in the concentration of lands with the large farmers owning more than 10 hectares. This can be partly attributed to the effectiveness of the implementation of the land ceiling programme.

The following action needs to be initiated:

1. A time-bound programme be evolved for quick disposal of the land ceiling cases pending litigation in various courts.
2. The lands declared surplus but yet to be distributed, be distributed within the shortest possible time.
3. An effective administrative drive be undertaken to identify concealed lands with the old zamindars and intermediary families.
4. The points needing attention in the distribution of lands to the beneficiaries are like: (a) distribution of lands to other castes; (b) physical possession of the allotted lands; and, (c) entry of the names of all allottees into the revenue records.
5. Reclamation and development of the allotted lands at government cost and linking them effectively with the anti-poverty programmes.
6. Voluntary and activist organizations be associated with the implementation of the land ceiling programme.
7. The exemption given to the religious and charitable institutions be abolished.

8. The existing definition of 'family' be amended to include husband, wife and all their children irrespective of their age.
9. At least 30 per cent of the declared surplus land be distributed among the women of deprived categories.
10. A review is required for redetermining the ceiling area of the lands brought under irrigation subsequent to the prescribed date by irrigation projects constructed by the state particularly in the command area.
11. An intensive administrative drive is necessary to identify the faulty distribution of lands in the command area.

The Land Reforms Unit, LBSNAA, Mussoorie, has brought out a set of recommendations on land reforms in Rajasthan arrived at in a workshop held at Jaipur from 4th to 6th February, 1992. The following recommendations pertain to the land ceiling programme in Rajasthan:

(A) ACTS AND RULES

1. Proviso 2, sections 4 of the Rajasthan Imposition of Ceiling on Agriculture Holdings Act, 1973 (New Act) needs to be deleted to avoid multiplicity of proceedings and harassment to the assessee in the old ceiling cases.
- 2.a. Under Section 22 (i) (d) religious and charitable institutions have been exempted in the Rajasthan land ceiling Act. They should be brought within the purview of the land ceiling Act and a ceiling limit equivalent to double the ceiling limit on a person/ family should be imposed. Similarly, under Section

22 (i) (e) the same ceiling limit should be imposed on educational and institutions of public nature as well.

- 2.b. Under Section 22 of the new Act, covering exemptions, the onus of proof of seeking any exemption should lie on the assessee. Thus under Section 22 (d), the onus of proving any religious or charitable trust to be of public nature etc. would fall on the assessee.
- 2.c. At present, the State Government has very wide powers to exempt any land from the operation of this Act for a 'Public Purpose'. Specific guidelines must be incorporated in the Act to limit the unbridled discretion conferred on the administrator in this regard.
3. Under Section 15 (i) of the Act, the cases can be reopened at any time without any specific time limit. The power to reopen the cases should vest in the Collector and not in the Deputy Secretary, Revenue.
- 4.a. Under Section 27 of the new Act, the punishment for the contravention of any lawful order should be enhanced to imprisonment upto a period of two years and fine which may exceed upto Rs. 2000/-.
- 4.b. We also recommend the introduction of compulsory imprisonment U/S 24, 25 and 26 and enhancement of fine upto Rs. 2000/-.
5. In a number of cases, the allottees are forcefully ejected by the assessee or his family members or servants or transferors. There is the need to incorporate a provision in

the Act to evict such trespassers by the state and the restoration of the land to the allottee.

6. At present Section 23 of the Rajasthan land ceiling Act provides for a right of Appeal to the Collector and a second right of Appeal to the Board of Revenue except in case of orders passed U/S 15 of the Act where a party can go direct to the Board of Revenue in appeal against the orders passed by the Authorized Officer. It is proposed that the right of Appeal under this Section should be limited to only one appeal from any order passed by the Authorized Officer under any provision.
7. Although the Rajasthan land ceiling Act (RLCA) provides for the appointment of an Authorized Officer to deal with the ceiling cases, the State Government has conferred the powers of an Authorized Officer upon the SDOs. The Sub-Divisional Officers being already overburdened with other administrative matters are hardly expected to give adequate time and attention to the ceiling cases. It is proposed that an exclusive Tribunal on the lines of Karnataka be set-up. A time bound programme should be chalked out for the effective disposal the ceiling cases.
8. Section 6 of the land ceiling Act which deals with non-recognition of certain transfers needs to be amended so as to delete the exception created in favour of 'bonafide' transfers made between 27th September 1970 and 1st January 1973. This exception has virtually frustrated the very objective for which this provision was introduced in the Act. If this exception is deleted from sub-clause (1) of Section 6, there would be no need of sub-clause (2) and therefore it can be deleted as well.

9. The definition of 'family' needs to be reformulated. The past experience has shown that the existing definition is one of the stumbling blocks in the quick disposal of the land ceiling cases. The assesseees have exploited the loose definition either with a view to appropriating more land than what is due to them or simply with a view to dragging the litigation from one court to another. It is also our experience that the appellate courts have invariably remanded the case back to the lower courts on the flimsy grounds of not giving adequate opportunity to the assesseees on issues of the proof of age. Besides, we also feel very strongly that there is no rationale in treating an adult son as a separate unit. This became an easy ploy in the hands of the assesseees both to exploit as well as to retain land far in excess of what is due to them. We would, therefore, strongly recommend that 'family' should include husband, wife, and all their children irrespective of their age.

(B) ADMINISTRATIVE ACTION

1. The proceedings initiated under Section 16 must be completed within a fixed time frame, which in any case should not exceed a period of six months from the date of the order of the final publication of the draft.
2. Directions should be issued giving a time frame for the decision of cases, taking up possession of the surplus land, allotment of the surplus land and giving possession to the allottees.
3. In a number of cases, the land allotted is very difficult to till inspite of the provision for a subsidy of Rs. 2500/- per ha.

from the Central Government. Generally, the amount is not adequate for requisite land improvement. The inferior quality of land should be developed and reclaimed at the Government expense and allotted to the beneficiaries. The same guidelines should be applicable to the land in the command area as well.

4. There is a feeling that public at large does not know the various Acts, latest amendments, rules, provisions, directions, etc. pertaining to the land ceiling law. The same should be updated in simple Hindi and widely circulated among the public in a booklet form.
5. Appropriate steps should be taken for the distribution of passbooks to the actual cultivators and sub tenants evidencing their rights in the land.
6. The association of small and marginal farmers, landless labourers and village artisans should be formed so that they can help in identifying the cases of evasion or benami transactions.
7. The allottees' names should be given sufficient publicity just after the allotment. This will act as deterrence to those who can try to dislodge the allottees out of their allotted land. Also this will encourage landless persons whose applications were rejected to challenge the allotment decisions.
8. Encumbered land or land under dispute should not be allotted to the beneficiaries.

9. An intensive drive must be launched to examine the cases of ex-Jagirdars and fresh proceedings should be initiated against such escapee assesseees.
10. The voluntary agencies/ activist organizations should be actively associated in identifying benami holdings in the selection of the beneficiaries and in the allotment of land to them.
11. Desert areas should be first developed by the Government and then allotted to the beneficiaries.
12. A feeling is being created that a number of persons still hold land in excess of the ceiling limit, spread over various villages/ tehsils/ districts in their own names or in the names of the members of their family or as benami. It is recommended that a vigorous drive should be undertaken to unearth such concealed lands.
- 13.a. While allotting the ceiling surplus land, there is a provision to allot at least 75% of the land to the IRDP (and Antyodaya) beneficiaries, the SCs/ STs and released bonded labourers. At times, considerable land is allotted for public purposes. It should be ensured that more than 25% of the declared surplus land should not be allotted for public purposes.
- 13.b. The rules should be amended to incorporate the distribution of at least 30% of the land to the women of the deprived categories and major proportion of the remaining land should be allotted to the IRDP beneficiaries, SCs/ STs and released bonded labourers.

14. In a number of cases, it has come to the notice that the assessee had taken wrong benefit of incorrect and old entries in their record of rights pertaining to the soil classification as on 1.4.66 under the old Act and 1.1.73 under the new Act. A large number of such cases pertain to the Command Area. Thus the soil classification pertaining to those lands needs to be reconsidered where people became escapee assesseees.

KARNATAKA

The Government of Karnataka made a move to amend the Karnataka Land Reforms Act, 1961 in the early 1970s. A comprehensive Bill was drafted and referred to a Joint Select Committee (JSC) in 1971. The Committee held a workshop at Mysore and subsequently a seminar in the Mysore University with a view to eliciting inputs. Taking into consideration the recommendations of the Committee, the Government of Karnataka passed the Land Reforms (Amendment) Act in 1973 and this received the assent of the President in March 1974.

It may be of some interest here to point out that the JSC was composed of radicals among the legislators. Even the academic component of the university seminar consisted of radical academicians. It may not be wrong to say that the radical composition of the JSC and the seminar group paved the way for the inclusion and retention of more radical provisions in the proposed legislation. These provisions were: a low ceiling limit of 10 standard acres; practically no exemptions to special categories of institutions such as religious and educational institutions and plantations and orchards from the ceiling provisions. Even those with an annual income of Rs. 12000 from non-agricultural sources and living 16 kms. away from the site of the land cultivated were not to be allowed to own and cultivate land.

But even before the Bill went through the legislature, certain pressures had built up from landed interests such as the landowning bureaucrats, sugar factories, coffee planters, and religious and educational institutions. As a result, when the Bill came out of the legislature, provisions such as non-agricultural income and distance criteria were dropped. While the coffee planters secured

exemptions, the sugar factories and religious and educational institutions secured some concessions. Thus, the ceiling limit was retained at 10 standard acres for a family of five with a provision of 2 standard acres for every member in excess of five but in no case was the ceiling area to exceed 20 standard acres. In the case of religious and educational institutions, the ceiling fixed was 20 standard acres and 50 standard acres in the case of sugar factories, and that too only in the event of the land being held for purposes of research and for seed farms.

Various types of plantations were exempted from the provision of ceiling on landholding. This, indeed, helped the protection and proliferation of such plantations. However, as far as the issue of land reforms is concerned, this exemption helped the planters.

Every person who was deemed to have land in excess of the ceiling limit was expected under the law to file a declaration before the specifically constituted tribunal within a specified time limit, failing which he was liable to a penalty. The tribunal would determine the surplus land on the basis of an examination of the records and direct the landowner to surrender the surplus. Under the provisions of the Act, the surplus land vesting in the State Government was to be transferred to the dispossessed and displaced tenants, landless agricultural labourers, and released bonded labourers subject to the condition that 50 per cent of such land should be granted to persons belonging to the SCs and the STs.

Karnataka: A Review

Abdul Aziz (“Reflections on Land Ceilings Legislation in Karnataka” in Abdul Aziz and Sudhir Krishna – eds. Land Reforms in India, Karnataka: Promises Kept and Missed: Sage Publications, New Delhi: 1997), discusses the number of declarations filed,

disposed off and pending by January 1993. By then, over 1.4 lakh declarations involving about 74.3 lakh acres of land were received by the tribunals, of which 99.8 per cent of declarations involving nearly 99% of land were disposed off. Only 300 declarations covering about 37.3 thousand acres of land were pending with the tribunals. When the Act was passed, the expected surplus was of the order of 4 lakh acres. In reality it worked out to be about 2.76 acres, a shortfall of about 30% of the expected surplus.

Surplus Land Determined and Distributed

Sl. No.	Description	No. of Cases	Extent of land (in acres)
1.	Determined as surplus	10673	275945
2.	Extent distributed among:		
	(a) SCs	18361	69893
	(b) STs	862	2857
	(c) Others	11444	41653
	(d) By reservation under Section 77 (3)	N.A.	13895
	(e) Total distributed	30667	128299

Evidently, only a little over 1.28 lakh acres had been distributed by January, 1993 which worked out to only 46% of the surplus determined and distributed among over 30000 beneficiaries allotting an average 3.73 acres to each of them. It is gratifying to note that the landless and marginal farmers on an average obtained even this much of land. A major portion of this has gone to the SCs and the STs. Their share is as much as 67.5%, leaving 32.5% to others.

There has been a gradual decline in the number of large holdings and a rise in the number of small holdings. Also, there is a gradual decline in the proportion of land controlled by the large land-holders and a gradual rise in that controlled by the small holders. There is, therefore, a loosening in the concentration of land-holdings after the

ceiling legislation was passed. It could be due also to the natural change arising out of the division of the family land-holdings on account of inheritance, land sales, and so on. Even today 3.7% of the large holders continue to own 24.1% of the lands. The small holders, who account for 60.5% of the total number of land-holders, control just about 29% of the lands.

SUGGESTIONS

- There appears to be a case for reducing the ceiling limit.
- The concessions offered to plantations, orchards, etc. have to be reviewed and ceilings in their case should be fixed after calculating the optimum size of plantations and orchards.
- The land acquired and distributed under the ceiling provisions needs substantial inputs for land development. This could be done through the package of the Government sponsored schemes and secondly, through institutional finance.
- A special drive should be undertaken to clear off the pending declarations regarding surplus land-holdings.

UTTAR PRADESH

The Uttar Pradesh Imposition of Ceiling on Land Holdings Act, 1960 has been passed inter alia “to provide land for landless agricultural labourers” and for “a more equitable distribution of land”, as also in the interest of the community to ensure increased agricultural production “and for other public purposes as best to subserve common good.” The object of the Act, therefore, is to carve out land from large holdings so that the remaining holdings may be manageable and capable of more intensive cultivation as also to provide land to those who are landless. Under the provisions of Section 4 of the Act, the maximum area which a tenure-holder can hold, has been provided for. The maximum area, which he can hold has been called the “ceiling area”. Section 3 (a) defines the “ceiling area” as “the area of land not being exempted under this Act, determined as such in accordance with the provisions of Section 4”. Section 5 provides for the imposition of ceiling on the existing holdings.

(Laxmi Lal vs. the State of U.P., 1965 ALJ 852: 1965 RC 233: 1965 AWR 49: 1965 RD 235).

Section 5 stipulates that no tenure-holder shall, except as otherwise provided by the Act, be entitled to hold an area in excess of the ceiling area applicable to him. Surplus land has been defined by Section 3 (k) as land held by a tenure-holder in excess of ceiling area applicable to him. A tenure-holder is one who has a holding as defined in Section 3 (b). According to Section 3 (c), a family consists of the holder of a holding and any or all of certain specified relations (Smt. Santosh Kumari vs. the State of U.P., 1970 RD 55).

Section 4

Determination of area for purposes of ceiling and exemptions for purposes of determining the ceiling are under Section 5 or any exemption under Section 6.

- i) subject to the provisions of clause (ii), one and one half hectares of un-irrigated land or two and a half hectares of grove land or two and a half hectares of user land shall count as one hectare of irrigated land;
- ii) one and one-half hectares of single crop land or two and a half hectares of any other un-irrigated land in the following areas, namely –
 - a) Bundelkhand;
 - b) Trans Jamuna portions of Allahabad, Etawah, Mathura and Agra districts;
 - c) Cis-Jamuna portions of Allahabad, Fatehpur, Kanpur, Etawah, Mathura and Agra district upto 16 kilometers from the deep stream of the Jamuna;
 - d) The portion of the Mirzapur district south of Kaimur Range;
 - e) Tappa Upraudh and Tappa Chaurasi (Bali Pahar) of Tehsil Sadar in Mirzapur district;
 - f) The portion of Tehsil Robertsganj, in Mirzapur district which lies north of Kaimur Range;
 - g) Paragana Sakteshgarh and the villages mentioned in lists ‘A’ and ‘B’ of Schedule VI to the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, in hilly parts of Parganas Ahraura and Bhagat of Tehsil Chunar in Mirzapur district;
 - h) The area comprised in the former Taluka of Naugarh of Tehsil Chakia in Varanasi district; and

- i) Hilly and Bhabar areas of Kumaun and Garhwal divisions and Jaunsar Bawar Paragana of Dehra Dun district;

Shall count as one hectare of irrigated land.

Explanation- For the purposes of Clause (ii), the expression ‘single crop land’ means any un-irrigated land capable of producing only one crop in an agricultural year in consequence of assured irrigation from any State irrigation work or private irrigation work.

Section 4-A

Determination of irrigated land - The prescribed authority shall examine the relevant khasras for the year 1378 Fasli, 1379 Fasli and 1980 Fasli, the latest village map and such other records as it may consider necessary, and may also make local inspection where it considers necessary, and thereupon if the Prescribed Authority is of opinion:

firstly, (a) that irrigation facility was available for any land in respect of any crop in any one of the aforesaid year; by –

- i. any canal included in Schedule no. 1 of irrigation rates notified in Notification No. 1579-W/XXII- 62 W- 1946, dated March 31, 1953, as amended from time to time; or
- ii. any lift irrigation canal; or
- iii. any State tube well or a private irrigation work; and

(b) that at least two crops were grown in such land in any one of the aforesaid years; or

secondly, that irrigation facility became available to any land by a State Irrigation work coming into operation subsequent to the

enforcement of **the Uttar Pradesh Imposition of Ceiling on Land Holding (Amendment) Act, 1972**, and at least two crops were grown in such land in any agricultural year between the date of such work coming into operation and the date of issue of notice under Section 10; or

thirdly, (a) that any land is situated within the effective command area of a lift irrigation canal or a State tube-well or private irrigation work; and

- b) that the class and composition of its soil is such that it is capable of growing at least two crops in an agricultural year;

then the prescribed authority shall determine such land to be irrigated land for the purposes of this Act.

Explanation I- For the purposes of this section the expression effective command area means an area, the farthest field whereof in any direction was irrigated-

- (a) in any of the years 1378 Fasli and 1379 Fasli; or
- (b) in any agricultural year referred to in the clause ‘secondly’

Explanation II- The ownership and location of a private irrigation work shall not be relevant for the purpose of this section.

Explanation III- Where sugarcane crop was grown on any land in any of the years 1978 Fasli, 1379 Fasli and 1380 Fasli, it shall be deemed that two crops were grown on it in any of these years, and that the land is capable of growing two crops in any agricultural year.

It is pertinent to note that Section 4 nowhere refers to the date of the commencement of the Act. Sub section (1) of Section 4 provides for calculating the surplus area. According to Clause (a) of sub-section (2) of Section 4 the ceiling area shall ordinarily be 40 acres of Fair Quality Land. Section 4 suggests that the strength of the family has to be considered at the stage of calculating the ceiling area. The date of the enforcement of the Act does not in any way forbid the consideration of the birth of the child. Babu Lal V. State of U.P., 1963 AWR 697: 1963 ALJ 960: 1963 RD 315.

Section 5

Imposition of Ceiling – (1) On and from the commencement of the U.P. Imposition of Ceiling on Land Holdings (Amendment) Act, 1972, no tenure holder shall be entitled to hold in the aggregate, throughout Uttar Pradesh, any land in excess of ceiling area applicable to him.

Explanation I- In determining the ceiling area applicable to a tenure holder, all land held by him in his own right, whether in his own name, or ostensibly in the name of any other person, shall be taken into account.

Explanation II- If on or before January 24, 1971, any land was held by a person who continues to be in its actual cultivatory possession and the name of any other person, is entered in the annual registers after the said date either in addition to or to the exclusion of the former and whether on the basis of a deed of transfer or licence or on the basis of a decree, it shall be presumed, unless the contrary is proved to the satisfaction of the prescribed authority, that the first mentioned person continues to hold the land and that it is so held by him ostensibly in the name of the second mentioned person.

- (2) Nothing in sub-section (1) shall apply to land held by following clauses of persons, namely-
 - (a) the Central Government, the State Government or any local authority or a Government Company or a corporation;
 - (b) a University;
 - (c) an intermediate or degree college imparting education in agriculture or a post graduate college;
 - (d) bank as defined in clause (c) of Section 2 of the Uttar Pradesh Agriculture Credit Act 1973, or a Co-operative Bank or a cooperative land development Bank;
 - (e) the Bhoodan Yajna Committee constituted under the U.P. Bhoodan Yajna Act, 1952.
- 3) Subject to the provisions of sub sections (4), (5), (6) and (7) the ceiling area for purposes of sub-section (1) shall be-
 - (a) in the case of a tenure-holder having a family of not more than five members, 7.30 hectares of irrigated land (including land held by other members of his family), plus two additional hectares of irrigated land or such additional land which together with the land held by him aggregates to two hectares, for each of his adult sons, who are either not themselves tenure-holders or who hold less than two hectares of irrigated land, subject to a maximum of six hectares of such additional land;
 - (b) in the case of tenure holder having a family of more than five members, 7.30 hectares of irrigated land (including land held by other members of his family), besides, each of the members exceeding 5 and for each of his adult sons, who are not themselves tenure holders or who hold less than two hectares of irrigated land, two additional hectares of irrigated land or such additional land which together with the land held by each adult son aggregates to two hectares, subject to a maximum of six hectares of such additional land.

Explanation - The expression 'adult son' in (a) and (b) includes an adult son who is dead and has left surviving behind him minor sons or minor daughters (other than married daughters) who are not themselves tenure-holders or who hold land less than two hectares of irrigated land;

(c) In the case of any other tenure-holder, 7.30 hectares of irrigated land:

Explanations – Any transfer or partition of land which is liable to be ignored under sub-sections (6) and (7) shall be ignored also-

a) for purpose of determining whether an adult son of a tenure holder is himself a tenure holder within the meaning of Clause (a) or Clause (b) of this section.

Section 6. Exemption of certain land from the imposition of ceiling – (1) Notwithstanding anything contained in this Act, land falling in any of the categories mentioned below shall not be taken into consideration for the purposes of determining the ceiling area applicable to, and the surplus land of tenure holder, namely-

- (a) Land used for industrial purposes (that is to say, for purposes of manufacture, preservation, storage or processing of goods);
- (b) Land occupied by a residential house;
- (c) Land used as cremation ground or as a grave-yard, but excluding cultivated land;
- (d) Land used for tea, coffee or rubber plantations, and to the extent prescribed land required for purposes ancillary thereto and for the development of such plantation;
- (e) Land held from before January 24, 1971, for purposes of a stud farm, to the extent prescribed;

- (f) Land held from before the first day of May, 1959, by or under a public, religious or charitable *waqf*, trust, endowment, or institution, the income for which is wholly utilized for religious or charitable purposes, and not being a *waqf*, trust or endowment of which the beneficiaries wholly or partly are settlor or members of his family or his descendants;
- (g) Land held from before June 8, 1973, by a Goshala of a public nature, registered under the Uttar Pradesh Goshala Adhiniyam, 1964, to the extent prescribed.

Explanation- Nothing in Clause (f) of sub-section (1) shall apply in relation to a Goshala referred to in Clause (g) of that sub section;

(2) No person shall transfer any land referred to in Clause (d) or Clause (e) or Clause (f) of sub-section (1) without prior permission of the State Government, and every transfer made without such permission shall, notwithstanding anything contained in any other law for the time being in force, be void:

Provided that this sub-section shall apply to any transfer by or in favour of any person specified in sub-section (2) of Section 5.

(3) Any land which is the subject of any transfer which by virtue of sub-section (2) is void, shall be deemed to be surplus land, and shall, with effect from October 10, 1957, or the date of such proposed transfer, whichever is later, stand transferred to and vest in the State Government, free from all encumbrances, and all rights, title and interests of all persons in such land shall stand extinguished:

Provided that the encumbrances, if any, shall be attached to the amount payable under section 17 in substitution for the surplus land.

- (4) Where any land is deemed to be surplus land under sub-section 3.
- (i) the provisions of section 14 shall *mutatis mutandis* apply in relation to such land with the substitution of references to the dates mentioned in sub-section (1) of that section by references to the date mentioned in sub-section (1) of this section ; and
- (ii) the amount payable therefor under section 17 shall be paid to the person in whose favour such transfer was purported to be made.

Section 27. Settlement of surplus land. (1) The State Government shall make settlement out of the surplus land in a village in which no land is available for community purposes or in which the land as available is less than 15 acres with the Gaon Sabha of that village so however that the total land in the village available for community purposes after such settlement does not exceed 15 acres. The land so settled with the Gaon Sabha shall be used for planting trees, growing fodder or for such other community purposes, as may be prescribed.

- (2) The State Government may either settle any surplus land in accordance with sub-section (1) or sub-section (3) or use or permit its use in accordance with section 25 or manage or otherwise deal with it in such manner as it thinks fit.
- (3) Any remaining surplus land shall be settled by the Collector in accordance with the order of preference and subject to the limits, specified respectively in sub-sections (1) and (3) of

Section 198 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950.

Uttar Pradesh: A Review

An attempt has been made by A. P. Singh and K.S. Rao in their report entitled **Land Reforms in Uttar Pradesh: An Empirical Study** (1991-94), published by the Centre for Rural Studies, LBSNAA, Mussoorie, to sum up the achievements under the land ceiling programme in the state upto February 1998 and offer certain recommendations.

In 1972, the original Act of 1960 was amended and the limit of ceiling land was reduced to 18 acres of irrigated land. The achievements under the amended ceiling Act were: (1) At the end of February 1998, the total extent of finally declared surplus stood at 569980 acres, out of which 537882 acres had been taken into possession (i.e., 94.37 percent of the area finally declared surplus); (2) Out of the total land taken into possession, only 401638 acres of land have been distributed to the allottees (i.e., only 74.67 percent of the land taken into possession); (3) Of the total number of beneficiaries to whom, land has been allotted, 66.97 percent belonged to the Scheduled Castes / Scheduled Tribes and the remaining 33.03 percent belonged to other castes; (4) Upto the month of February 1998, 401638 acres of land have been allotted to the beneficiaries, out of which 272460 acres were allotted to the SCs / STs (i.e. 67.84 percent of the total land allotted) and remaining 129178 acres were allotted to other castes. (5) The norms of allotment have been adequately adhered to, as a major proportion of land is allotted to the Scheduled Castes and the Scheduled Tribes. (6) As financial assistance, a sum of Rs. 1000/- per acre has been given to each beneficiary in the State for land reclamation.

Suggestions

1. Land held by the charitable, religious and educational institutions and as orchards, etc. are exempted from the provisions of the ceiling Act. This clause is liable to be misused and may ultimately lead to the undermining of the basic objectives of the Act. One acre of orchard land should be treated as equal to one acre of irrigated land.
2. The discretionary powers of the Land Management Committee should be reduced. It has been observed that the same individual continues to be the 'Pradhan' for a long time and by virtue of his status, he is the chairman of LMC. This post should alternate (every 2 years) between members of all the castes.
3. Although laws have been enacted to cover agricultural lands, sufficient safeguards have not been made in respect of the non-agricultural lands in the rural areas. There are numerous town dwellers, who have acquired agricultural lands in the rural areas but do not either reside in the area or practice agriculture. Such people, who are for all practical purposes non-agriculturists, should not be permitted to hold agricultural lands. The law should, therefore, take care of such "gentlemen farmers" and provide for the prevention of exploitation of the agricultural lands by them for purely the motive of profit.
4. Uncultivable land should be developed at government costs and then allotted to the beneficiaries.
5. The exemptions provided to the co-operatives managed by the big farmers should be abolished.
6. Non-agricultural land in the hands of erstwhile Zamindars should be identified. All such lands should be entrusted to the government with immediate effect. All land transactions undertaken by them subsequent to the Zamindari abolition should be detected and treated as an offence.
7. Under the ceiling Act, one acre of irrigated land is equal to two acres of unirrigated land. Thus, irrigation affects the ceiling limit drastically. The extent of irrigated land, therefore, should be correctly recorded.
8. Delays in ceiling cases should be minimized, by not allowing more than one appeal, since extended litigation defeats the purposes of land reforms.
9. There should be a minimum limit prescribed for the area to be allotted for agricultural purposes, to make the holding economically viable.
10. Although, surplus land is distributed among the landless persons for agricultural purposes, it does not make any significant improvement in the conditions of these people. Most of the land given to them is unirrigated and not very productive. The government should endeavour to undertake suitable land development measures and should try to provide proper irrigation facilities.
11. The allottee should be given financial help by the government so that he is able to cultivate the land and participate in the IRDP, as well as other rural development schemes. This would also help minimise their indebtedness

to the moneylenders. Loans from financial institutions should also be extended to him.

12. No new cases of ceiling are being reported as of late which may be due to the lethargy on the part of the revenue staff. Continuous efforts should be made in this direction as many more landowners will fall under the ceiling limit especially after the expansion of irrigation facilities.

BIHAR

THE BIHAR LAND REFORMS (FIXATION OF CEILING AREA AND ACQUISITION OF SURPLUS LAND) ACT, 1961

The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, hereinafter called the Act, mainly provides for the fixation of ceiling, restrictions on subletting, the acquisition of the status of raiyats by certain under raiyats and the acquisition of surplus land by the State.

A Short History of the Legislation

For reducing inequalities in the ownership of agricultural land as a measure of agrarian reform, the first step taken was the introduction of the Bihar Agricultural Lands (Ceiling and Management) Bill, 1955. The bill underwent changes in the following years. In 1959, the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Bill replaced the draft Bill of 1955. After having been passed by the State Legislature in 1961 it came as the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, which was assented to by the President of India on 8th March, 1962. The assent was first published in the extraordinary issue of the Bihar Gazette dated the 19th April, 1962.

The Act was amended at different points of time.

Salient Features of the Act

1. The Act fixes the 9th of September 1970 as the appointed day. The computation of the ceiling area is with reference to the position as availing on the appointed day.

2. The unit of ceiling is the family of a landholder. A family has been defined as a person, his or her spouse and minor children. A person in order to claim a unit has to be a major on the appointed day. Minor child means a person having not completed eighteen years of age on the appointed day. Personal law is not relevant in determining the composition of the family for the purposes of the Act.

For the fixation of the ceiling area of a family all lands owned or held individually by the members of a family or jointly by some or all of them, shall be deemed to be held by the family. Thus lands owned or held individually either by the husband or wife or any minor child shall be taken together for the purpose of the computation of the ceiling area. But the lands held by the major children cannot be brought within the fold of the family. All such major children or other major members, who own or hold land, are entitled to be treated as separate unit irrespective of the fact whether there has been a partition in the original family. A married daughter does not remain a member of her parental family. On marriage she constitutes a family with her husband.

3. Transfers of Lands by Landholders

- (i) Transfer of lands made prior to 22.10.1959 is beyond the scope of enquiry. The total area of land held by a landholder on 22nd day of October, 1959 should be found out first.
- (ii) The Act provides for enquiry with regard to the genuineness of transfers made by a landholder after 22nd day of October, 1959 till the appointed day of 9th September, 1970 and if any transfer on dates in between the 22nd day of October and the 9th September, 1970 is found not genuine or to have been

made for the purpose of defeating the provisions of the Act the same is required to be annulled.

- (iii) Transfers of lands made after the 9th September 1970 are to be ignored completely.

4. Transfers on dates in between 22.10.1959 and 9.9.1970 which are annulled and also the transfers on dates after 9.9.1970 which are ignored, play a very important role in the allotment of lands to a landholder within his entitlement.

In the case of post 9.9.1970 transfers the entire land covered by such transfers will be kept within the unit area admissible to the landholder.

In case if there are only transfers on dates in between 22.10.1959 and 9.9.1970 which are annulled and there is no transfer after 9.9.1970, then to the extent of fifty percent of the ceiling area admissible to the landholder, lands covered by the annulled transfers will be allotted and the landholder will be free to select the remaining fifty percent out of the left over other lands.

Where, however, the lands held by the landholder include lands covered by annulled transfers (on dates between 22.10.1959 and 9.9.1970) and also transfers after 9.9.1970, the lands covered by transfers after 9.9.1970 will be allotted within his select area, the remaining land to the extent of fifty percent out of the lands covered by annulled transfers on dates between 22.10.1959 and 9.9.1970 and the balance will be selected by him out of his remaining lands.

5. Transfers by Gifts

- (i) Initially a landholder was given concession for making transfer of lands till the commencement of the Act or within

one year thereafter by way of gift to his son, daughter, children of his son or daughter or to such other person or persons, who would have inherited such lands or would have been entitled to a share therein had the landholder died intestate in respect thereof at midnight between the date of the commencement of the Act and the day just preceding such date. A restriction on this concession was that by the transfer the total land held by the donee should not exceed the ceiling area he can hold.

- (ii) Subsequently, amendments were made in the Act by the Bihar Ordinance No. 113 of 1971 and 64 of 1972. By each of the aforementioned ordinances three months time each was allowed enabling landholders governed by any law other than the Mitakshara school of Hindu law to make transfers by way of gift any land to their sons/ daughters, any children of son and daughter and other person or persons who would have inherited such lands or would have been entitled to a share therein, had the landholder died intestate in respect thereof at midnight between the 26th and 27th December 1971.
- (iii) Transfers by gifts are also to be enquired into if they are genuine and have been acted upon.
- (iv) There may be cases in which it is found that a landholder has dedicated his lands in favour of God or temple or deities and has created a trust. A trust may be generally public or private. In the case of a trust, the purpose for which it is created assumes importance. Certain exemptions have been provided in the Act for a public trust running educational institutions, research councils, research institutions, hospitals, maternity homes, orphanages etc. so long as they continue as such. However, dedications for religious purposes to deities are looked at with different angles. In case of dedication to deities, the legal ownership vests in the

deities. A debutter, may be public or private. Public trusts are those, which are constituted for the benefit either of the public at large or of a considerable section of it answering a particular description. While private trusts concern only individuals or families or groups, public trusts are generally registered with the Bihar State Religious Trust Board. In the case of a public trust only one unit is to be allotted. In case of private endowment and private trust, in view of the legal position that legal ownership of the lands vests in the deities, each family of the individual deity is entitled to a separate unit. When dedication is to a temple, the lands are held by the idols. But a privately run monastery, irrespective of the number of deities, is to get one unit only. The dedication can be oral also but the same has to be proved in an enquiry.

There may be cases in which dedication is only partial and not absolute. Where it is found that after applying the income for the purpose specified, the residue is to be applied for the maintenance of the executor's family, the dedication is partial and properties will be deemed to continue in private ownership subject to a charge in favour of the charities mentioned. The determination of ceiling is required to be made accordingly treating the lands belonging to the landholder.

- 6. The Act further provides some quantum of land against minors beyond three. Such family may hold in addition to the ceiling area land not exceeding 1/10th of a unit for every such additional minor but in no case it may exceed ½ of a unit.
- 7. The classification and the age of the person claiming majority are with reference to the appointed day i.e. 9.9.1970. However, the Act provides that the ceiling area shall be re-determined where subsequently the classification of land improves as a

result of irrigation work constructed, maintained, improved or controlled by the Central or the State Government or by a body corporate constituted under any law in force, whether or not the landholder draws water from that source.

8. Persons holding lands beyond the ceiling area are to be proceeded against. There are provisions regarding issuance of notice to a landholder requiring him to file returns.
9. The returns filed are required to be verified. In case no return is filed the information received from various sources is verified.
10. Section 10 (1) and (2) of the Act provide for the preparation and publication of draft statement on the basis of the returns filed by the landholder or on the basis of the information collected by the Collector. Section 10 (3) provides for filing of objections by the landholder or any person having interest in the lands. Section 11 (1) provides for final publication of the draft statement. Appeal and Revision may be filed thereafter. Section 15 (1) of the Act provides for the acquisition of surplus land. The provisions mentioned in the foregoing are mandatory. In case a provision is skipped, the entire proceeding will be rendered illegal.
11. The Act, however, provides for certain exemptions under Section 29.
12. Ascertainment of proper classification of lands and the age of the persons concerned plays a very vital role in determining the entitlement of a family to hold lands. Umpteen number of court cases hinge around these issues.

- (i) **Ascertainment of proper classification** – Classification for the purpose of determining ceiling is distinct from the classification of lands in settlement records prepared under the tenancy laws or survey and settlement regulations. Under the tenancy laws and settlement regulations the basis for the classification of lands is productivity. Hence, the classification is under heads like Dhanhar – I, Dhanhar – II, Dhanhar – III, Bhith I, Bhith II, Bhith III, Tanr I, Tanr II and Tanr III, Jungle, Bari, Homestead etc. While the said basis has, indeed, been kept in view under the land ceiling law, the guiding principle of classification is the availability of irrigation facilities. Under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1976, six classes of lands have been provided. The basis of such provision is two-fold: irrigated land and unirrigated land. Under the category of irrigated lands, the Act classifies lands as Class I, II and III. Under the category of unirrigated lands, the classification has been made as Class IV, V and VI.

So far as the irrigated lands are concerned, the source of irrigation and the productivity form the basis for judging the extent of irrigation. Lands irrigated or capable of being irrigated for more than one season by flow irrigation work or tubewell or lift irrigation work which are constructed, maintained, improved or controlled by the Central or State Government or by a body corporate constituted under any law and which are capable of growing two crops in a year are Class I lands. Lands irrigated for more than one season by private irrigation work or private tubewell operated by electrical or diesel power are of Class II. Lands irrigated by works which provide or are capable of providing water for only one season fall under Class III. Even if a certain land yields more crop in a year

and yet irrigation facility is available for one season only, it will fall under Class III and not under Class I.

Diara lands or chaur lands fall under Class V even if irrigation works are available thereon. Similar is the position with regard to hilly, sandy and forest land, or land perennially submerged under water or other kind of land none of which yields paddy, rabi or cash crops. Such lands have been classified under the Act as Class VI lands.

Lands other than those referred to above or lands which are orchard or used for any other horticultural purpose are of Class IV. It is a residuary class. Lands which do not fall in any of the remaining five classes belong to this class. Any of the following types of land would fall in Class IV:

- (a) Orchard lands – whether irrigated or not;
- (b) Lands used for other horticultural purpose – whether irrigated or not; and
- (c) All unirrigated lands which do not come under the category of diara land or chaur land (Class V) or hilly or sandy lands (Class VI)

Horticultural purpose has not been defined either in the land ceiling law or in tenancy laws. However, the explanation to clause (K) of Section 2 of the Bihar Land Reforms Act, 1950 provides that it means lands used for the purpose of growing fruits, flowers or vegetables. It would be expedient to adopt this definition for the purpose of the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 cases also.

(ii) **Determination of the age of the persons concerned** – The appointed day for determining the majority or otherwise of a person

is 9.9.1970. Generally, the date of birth mentioned in the school registers and Matriculation Certificates should form the basis for the determination of age. However, there may be cases in which it may be found that the date of birth was mentioned on the basis of information given by some relative or persons other than the parents. In such cases the date of birth mentioned in the school records carries no evidentiary value unless the person who made the entry or who gave the date of birth is examined with regard to the special knowledge about the actual date of birth. In practice, a guardian, keeping in mind the future benefit of his wards in matters of employment, generally does not mention the actual date of birth in the school records. In case the entries in school records are challenged, recourse may be taken to the medical examination of the person concerned by specialists in orthopaedics and by dentists. Examination by a medical board will be all the more useful and expedient. Horoscopes are generally fudged in such cases and are unreliable. The age mentioned in the voters' list may be used as a corroborative piece of evidence only. In the case of uneducated persons, the determination of their age by a medical board is advisable.

13. Though the Bihar Land Reforms (Fixation of Ceiling area and Acquisition of Surplus Land Act), 1961 is secular in character and the personal law is not relevant in determining the composition of a family for the purposes of the Act, still there are certain exceptions and deviations which may be found in Section 18 of the Act. It puts restrictions on future acquisition by inheritance, bequest, gift or alluvial action. If any person, after the commencement of the Act, either by himself or through any other person acquires by inheritance i.e. bequest or gift or by alluvial action land, which together with the land, if any, already held by him anywhere in the State, exceeds in the aggregate the ceiling area, he shall within 90 days of such

acquisition by inheritance, bequest or gift and within six months of an alluvial action, submit a return to the Collector. The appointed day of 9.9.1970 is replaced in respect of such future acquisition. The appointed day in matters relating to future acquisition is the date on which such acquisition takes place. This is vide Section 2 (eee).

- 14.** A daughter's share emanates out of her expired father's share. If the father was alive on 9.9.1970, the daughter will have no share at all. Hence she is not a raiyat. An adult daughter (on 9.9.1970) can claim a share in her father's share of family property only when her father had expired prior to 9.9.1970. In case she is married, lands held by her in the in-law's family and lands coming to her from her father's family will be clubbed together for determining her ceiling area.
- 15.** The adult son of a land holder governed by the Mitakshara law is entitled to a separate unit. But the situation is not identical with regard to the landholder governed by the Mohammedan law as well as by the Dayabhag school of law. A major son of a Hindu can get an independent ceiling determined provided he is a raiyat within the meaning of Section 2 (K) of the Act and has become a landholder whose ceiling is being determined on the ground that he has a right in the property by virtue of his birth. What is material is the word 'landholder' and not the word 'family'. Since a Muslim son or daughter cannot become a landholder in the lifetime of his or her father, it is apparent that he cannot claim a separate unit like a major son of a Hindu family.
- 16.** There are cases in which a landholder, having transferred his land to a cooperative society presses an exclusion of such transferred land from his ceiling area. The provisions relating to

cooperative societies are to be found in Section 5 (3) of the Act. In such cases, the position as on the appointed day of 9.9.1970 is to be looked into and considered. If the purported transfers to the cooperative society are after 9.9.1970, the same will have to be treated as invalid under the Act.

- 17.** The Act makes elaborate provisions with regard to appeals and revisions. An appeal shall lie from any final order passed by any officer vested with the power of the Collector of the District to the Collector of the district or any other officer especially authorized in this behalf by the State Government within 30 days of such order. An appeal shall lie from any final order passed by the Collector of the district to the Commissioner of the Division within 30 days of such order. However, no appeal shall lie against orders passed under Section 5 and Section 29 before the final publication of the Draft Statement under Section 11 (1) of the Act. An appeal against an order passed under Section 5 and Section 29 shall be filed within 30 days from the date of final publication under Section 11 (1) of the Act.

A revision shall lie to the Board of Revenue from any appellate order passed by a Collector or a Commissioner within 30 days of such order.

The Board of Revenue may of its own motion or on an application made to it, call for from the Collector any document or record in connection with any enquiry conducted by the Collector or may direct the Collector to institute an enquiry and to submit his findings to the Board.

There is a special provision in the Act relating to the abatement of appeal, revision or reference pending before any authority on 9.4.1981. On such abatement, the Collector shall proceed with the

case afresh in accordance with the provisions of Section 10. Several proceedings in the lower courts have been questioned as after the abatement the authorities did not proceed afresh in accordance with the provisions of Section 10 of the Act. As has been explained in the foregoing, Section 10 deals with the preparation of the Draft Statement. It contains the area and description of the lands held by the landholder, his option lands, the area and description of the land which is in excess of the limit permissible under Section 5 and which the landholder is not entitled to hold (surplus land), the area and description of the land transferred by the landholder after 9.9.70 as well as the substance of the findings of the Collector with regard to transfers between 22.10.1959 and 9.9.70. Form L.C. 5 with reference to Rule 8 of the Bihar Land Ceiling Rules, 1963 presents the Form of Draft Statement under Section 10 of the Act. The said Form L.C. 5 contains columns with regard to the total area and description of the land held by the landholder, his option lands, lands transferred by him after 9.9.70, lands transferred by him between 22.10.1959 and 9.9.1970, lands allowed to be held by him, lands exempted, surplus land and the like. The implication of the post abatement revival of a given case afresh lies in the fact that the pre-abatement Draft cannot and must not be the basis for fresh proceedings. There has to be a new Draft Statement if at all the proceedings are to start afresh, meaning thereby that there would be besides other things, a fresh enquiry into the transfers made by the landholder.

Lower court's proceedings are quite often challenged on account of the fact that with regard to the enquiry into transfers between 22.10.1959 and 9.9.1970, no orders of annulment were passed by the lower court and yet the landholder had to incur disadvantage. The Act provides for enquiry and recording of findings in passing a speaking order on annulment. Reasons for considering a post 9.9.1970 transfer as malafide have also to be recorded in writing.

18. Acquisition of the Status of Raiyats by the Under Raiyats

If there is an under raiyat on the surplus land on the date it vests in the state, such under raiyat shall, if he makes an application, be allowed to remain as occupancy raiyat, subject to payment to the State Government annually for a period of thirty years, the amount specified in this behalf in part IV of the schedule to the Act. If an under raiyat does not make an application within three months of the vesting or within the time extended, his right may be lost.

19. The remaining surplus lands acquired by the State Government are required to be settled to eligible landless persons. The lands settled shall be heritable but shall not be transferable except that the settlee may enter into a simple mortgage with a society or a bank or a company or corporation as specified for raising loan for agricultural purposes.

20. Ban on Subletting

After the commencement of the Act, no person, whether he holds lands in excess of the ceiling or not, is allowed to sublet for a maximum period of seven years if the raiyat is a minor or a widow or an unmarried, divorced or separated woman or is suffering from mental and physical disability or serving in the Army, Navy or Air Force or a public servant with a substantive salary upto rupees two hundred and fifty per month and the period of subletting may extend till the raiyat remains so incapacitated. But there cannot be any subletting without prior information to the Collector or the Executive Committee of the Gram Panchayat. The sublease should also be registered.

Recommendations on Land Ceiling arrived at in the workshop on Land Reforms in Bihar held at the A. N. Sinha Institute of Social Studies, Patna from 8th to 11th February, 1991

Legal Measures:

The classification of land in Bihar should be reduced to three- (against the existing six)

- (a) irrigated
- (b) unirrigated, and
- (c) inferior quality of land e.g. unproductive, hilly, mountainous, sandy etc.

To provide incentive to farmers to improve productivity, classification of land may not be changed when private irrigation introduced. The ceiling for these three categories of land can be 15, 22 ½ and 30 acres respectively.

Provisions in any case exist for the refixation of ceiling if public irrigation is introduced. The West Bengal Land Reforms Act, 1955 as amended upto 1972 besides providing ceiling for a 'Family' unit puts a limit for a sole surviving adult unmarried person to half of a family unit. An amendment on West Bengal lines would facilitate effective implementation in Bihar.

The national policy provides that the State Government shall have the discretion in granting exemptions to public trust but not in favour of private trust. In order to avoid delay in disposal of ceiling cases the power to grant exemption which is vested in the State Government be transferred to the District Collector.

Public Trust should include those cases where the usufruct is being used for the original purpose and where the trusteeship is not hereditary. All other trusts be treated as private trusts entitled to hold land within the ceiling for an ordinary raiyat only.

The exemption granted in favour of the sugar mills should be withdrawn.

Provisions of Section 12 to 14 of Bihar land ceiling Act relating to resumption should be applicable only to land holders having less than 2.5 acres or irrigated/ 3.75 of unirrigated /5 acres of inferior land.

Legal provisions may be made to allow the social activist groups to be associated at different stages of the ceiling Act before various courts.

The provisions of land ceiling Act be made effective right from the date of the promulgation of the Bihar Zamindari Abolition Act in order to capture transactions manipulated before 22-10-1959 to evade land ceiling provisions.

It was noted that Bihar Act 21 of 1987 provided for the setting up of the Bihar Land Reforms Tribunal. The said amendment has been struck down by the Patna High Court. An appeal has been preferred in the Supreme Court. Steps be taken to obtain decision from the Supreme Court at the earliest.

There was a need to adopt a restrictive definition of 'personal cultivation'. This aspect has been dealt with in the paper on tenancy reforms.

A new provision should be inserted to bar the entry of lawyers before the trial of the courts trying the land ceiling cases.

Under Section 44 of the present Bihar land ceiling Act it should be obligatory on the state government to prepare and publish a record of rights. Therefore, instead of the word 'may' the word 'shall' be substituted under the above section.

Administrative measures:

- (i) The implementation of the Maintenance of Land Records Act, 1973 should be taken up in right earnest in blocks affected by the ceiling legislation.
- (ii) There should be a system of continuous updating of land records and computerisation of land records should follow.
- (iii) A system of close monitoring of ceiling cases of the landholders holding more than 200 areas of surplus land should be evolved. If necessary, additional officers should be posted at the State level/ concerned districts exclusively for monitoring the disposal of these cases.
- (iv) The provisions to section 15 (i) providing for acquisition of undisputed surplus land during pendency of appeal/revision should be liberally used.
- (v) The list of bataidars/ landless people should be prepared well in advance in every village to enable the distribution of surplus land immediately after notification under section 15.
- (vi) The power to decide the dates for gazette notification be delegated to the district level.

- (vii) There should be a system of maintaining guard file of notifications both at the district and anchal level to ensure that no acquired land escapes distribution.
- (viii) The process of the distribution of surplus land should be further strengthened by simultaneously mutating it in the name of the settler/ issuing rent receipt to create evidence in his favor.
- (ix) Instructions issued earlier should be reiterated so that the police officers comply with the orders passed by the revenue courts in the matters of settlement of ceiling land. Instructions may also be issued that action under the preventive sections of the Cr. P.C. should be taken against persons trying to dispossess the allottees of their lands.
- (x) The settlers, who had come in the possession of land, are being ejected on the basis of stay orders passed by superior courts. A general instruction may also be issued in consultation with the law department that '*status quo*' means status on the date of order.
- (xi) Special efforts should be made to get the cases in the Supreme Courts/ High Court disposed off expeditiously.
- (xii) Exemplary action should be taken against landholders transferring land in contravention of the provisions of the ceiling Act, or for trying to eject a settler.
- (xiii) There should be regular training of officers in order to equip them with requisite knowledge of the Laws, Rules, Regulations and various instructions issued by the

Government from time to time relating to Land Reforms. They should also be properly and adequately equipped with the necessary skills and attitudes in this regard.

- (xiv) The important judgements particularly those in favour of the State/ weaker sections of society should be given wide circulation.
- (xv) A proper system of communication should be set-up between district and state level authorities so that orders, instructions, amendments and court judgement can be immediately communicated to the district level authorities. At present such a system just does not exist as a result of which the district level functionaries remain ignorant of the latest development in this area.
- (xvi) The allottees of surplus land should be accorded the highest priority in matters of receiving assistance under the IRDP or other Government programmes.
- (xvii) A separate machinery for implementing land reforms should be set up and selected officers may be put on the job.
- (xviii) The organization of beneficiaries should be members of the advisory committee at the block/ district level.
- (xix) Cases instituted against social activists in connection with the implementation of land reforms measures should be withdrawn. In case of a false case lodged by the landlords they (landlords) should be prosecuted.
- (xx) As far as possible, all the land ceiling cases should be entrusted to only one court at the district level.

KERALA

Chapter III of the Kerala Land Reforms Act, 1963 deals with the restrictions on ownership and possession of land in excess of ceiling area and disposal of excess lands.

EXEMPTIONS: Section 81 of the Act dwells at large on the exemptions from the operation of ceiling lands. Ceiling law does not apply to-

- (a) lands owned or held by the Government of Kerala or the Government of any other State in India or the Government of India or a local authority or the Cochin Port Trust or any other authority which the Government may, in public interest, exempt, by notification in the Gazette, from the provisions of Chapter III. Provided that the exemptions under this clause shall not apply to lands owned by the Government of Kerala and held by any person under lease whether current or time expired or otherwise.
- (b) lands taken under the management of the Court of Wards:

provided that the exemption under this clause shall cease to apply at the end of three years from the commencement of this Act;
- (c) lands comprised in mills, factories or workshops and which are necessary for the use of such mills, factories or workshops;
- (d) private forests;

- (e) plantations;
- (f) omitted
- (g) omitted
- (h) lands mortgaged to the Government or to a co-operative society (including a co-operative land mortgage bank) registered or deemed to be registered under the Co-operative Societies Act for the time being in force or to the Kerala Financial Corporation, or to the Kerala Industrial Development Corporation, or to the State Small Industries Corporation as security for any loan advanced by the Government or by such Society or Corporation, so long as the mortgage subsists.

Provided that the exemption under this Clause shall cease to apply at the end of three years from the commencement of this Act:

- (i) lands purchased by the Kerala Co-operative Central Land Mortgage Bank or a Primary Mortgage Bank under section 18 of the Kerala Co-operative Land Mortgage Banks Act, 1960, (or by the Kerala State Co-operative Bank Ltd. or by a primary agricultural credit co-operative society or by a scheduled bank as defined in the Reserve Bank of India Act, 1934), so long as such lands continue in the possession of the bank;
- (j) lands purchased by the Kerala Financial Corporation or lands the management of which has been taken over by that Corporation under section 32 of the State Financial Corporation Act, 1951, so long as such lands, remain in the

ownership or continue under the management, as the case may be, of the said Corporation;

Provided that the exemption under this clause shall not apply in the case of lands the management of which has been taken over by the corporation on or after the 1st. day of April, 1964.

- (k) lands belonging to or held by an industrial or commercial undertaking at the commencement of this Act, and set apart for use for the industrial or commercial purpose of the undertaking.

Provided that the exemption under this clause shall cease to apply if such land is not actually used for the purpose for which it has been set apart, within such time as the District Collector may by notice to the undertaking, specify in that behalf;

- (l) omitted.
- (m) house sites, that is to say, sites occupied by dwelling houses and lands, wells, tanks and other structures necessary for the convenient enjoyment of the dwelling houses.
- (n) deleted
- (o) sites of temples, churches, mosques and burial and burning grounds.
- (p) sites of buildings including warehouses;
- (q) commercial sites;

- (r) lands occupied by educational institutions including land necessary for the convenient use of the institutions and playgrounds attached to such institutions;
- (s) lands vested in the Bhoodan Yagna Committee
- (t) lands owned or held by -
 - (i) a university established by law, or
 - (ii) a religious, charitable or educational institution of a public nature; or
 - (iii) a public trust (which expression shall include a wakf):

Provided that:-

- (i) the entire income of such lands is appropriated for the University, institution or trust concerned; and
 - (ii) where the University, institution or trust comes to hold the said lands after the commencement of this Act, the Government have certified previously that such lands are bonafide required for the purposes of the University, institution or trust, as the case may be; and
- (u) lands granted to defence personnel for gallantry.

The Government may, if they are satisfied that it is necessary to do so in the public interest:-

- (a) on account of any special use to which any land is put; or
- (b) on account of any land being bonafide for the purpose of conversion into plantation or for the extension or

preservation of an existing plantation or for any commercial, industrial, educational or charitable purpose, by notification in the Gazette, exempt such land from the provisions of this Chapter subject to such restrictions and conditions as they may deem fit to impose;

Provided that the land referred to in clause (b) shall be used for the purpose for which it is intended within such time as the Government may specify in that behalf; and where the land is not so used within the time specified, the exemption shall cease to be in force.

Section 82: Ceiling Area (1) The ceiling area of land shall be:-

- (a) in the case of an adult unmarried person or a family consisting of a sole surviving member, five standard acres, so however that the ceiling area shall not be less than six and more than seven and a half acres in extent;
- (b) in the case of a family consisting of two or more, but not more than five members, ten standard acres, so however that the ceiling area shall not be less than twelve and more than fifteen acres in extent;
- (c) in the case of a family consisting of more than five members, ten standard acres increased by one standard acre for each member in excess of five, so however that the ceiling area shall not be less than twelve and more than twenty acres in extent; and
- (d) in the case of any other person, other than a joint family, ten standard acres, so however that the ceiling area shall not be less than twelve and more than fifteen acres in extent.

2. For the purposes of this Chapter, all the lands owned or held individually by the members of a family or jointly by some or all of the members of such family shall be deemed to be owned or held by the family.
3. In calculating the extent of land owned or held by a family or an adult unmarried person, the share of the members of the family or the adult unmarried person, as the case may be, in the lands owned or held:-
 - (a) by one or more of such members jointly with any person or persons other than a member or members of such family with any other person or persons; or
 - (b) by a co-operative society or a joint family shall be taken into account.

Explanation:- for the purposes of this subsection, the share of a member of a family or an adult unmarried person in the land owned or held jointly or by a co-operative society or a joint family shall be deemed to be the extent of land which would be allotted to such member or person had such lands been divided or partitioned, as the case may be, on the date notified under section 83.

4. Where, after the commencement of this Act, any class of land specified in Schedule II has been converted into another class of land specified in that Schedule or into a plantation, the extent of land liable to be surrendered by a person owning or holding such land shall be determined without taking into consideration such conversion.

5. The lands owned or held by a private trust or a private institution shall be deemed to be lands owned or held by the person creating the trust or establishing the institution, or, if he is not alive, by his successors-in-interest.
6. In computing the ceiling area, lands exempted under section 81 shall be excluded.

Explanation I:- For the purposes of this section where a person has two or more legally wedded wives living with the husband, one of the wives named by him for the purpose and their unmarried minor children shall be deemed to be one family, and the other wife or each of the other wives and her unmarried minor children shall be deemed to be a separate family.

Explanation II:- For the purpose of this section an adult unmarried person shall include a divorced husband or divorced wife who has not remarried:-

Provided that if such divorced husband or divorced wife is the guardian of any unmarried minor child, he or she together with such unmarried child shall be deemed to be a family.

Section 83. No person to hold land in excess of the ceiling area:-

With effect from such dates as may be notified by the Government in the Gazette, no person shall be entitled to own or hold or to possess under a mortgage lands in the aggregate in excess of the ceiling area.

Section 84 Certain voluntary transfers to be null and void - (1) Notwithstanding anything contained in any law for the time being in

force, all voluntary transfers effected after the date of publication of the Kerala Land Reforms Bill, 1963, in the Gazette, otherwise than:-

- (i) by way of partition; or
- (ii) omitted
- (iii) in favour of a person who was a tenant of the holding before the 27th July, 1960 and continued to be so till the date of transfer;
- (iv) omitted.

by a family or any member thereof or by an adult unmarried person owning or holding land in excess of the ceiling area, or otherwise than by way of gift in favour of his son or daughter or the son or daughter of his predeceased son or daughter, by any person owning or holding land in excess of the ceiling area shall he deemed to be transfers calculated to defeat the provisions of this Act and shall be invalid.

(2) Notwithstanding anything contained in any law for the time being in force, all voluntary transfers effected by any person other than a family or any member thereof or by an adult unmarried person owning or holding land in excess of the ceiling area after the 1st July, 1969, otherwise than:-

- (i) by way of partition; or
- (ii) in favour of a person who was a tenant of the holding before the 27th July, 1960 and continued to be so till the date of transfer;

Provided that without prejudice to any other right of the parties to any such transfer, when any purchase price is payable under section 56 or any compensation is payable for any land covered by the said transfer, it shall be competent for the Land Tribunal to award to the

transfer, out of the purchase price or compensation amount in respect of such land, such sum as the Land Tribunal may consider just and proper.

(3) For the removal of doubts, it is hereby clarified that the expression "ceiling area" in sub-section (1) and (2) means the ceiling area specified in sub-section (1) of section 82 as amended by the Kerala Land Reforms (Amendment) Act, 1969 (35 of 1969).

Section 85:- Surrender of excess land - (1) Where a person owns or holds land in excess of the ceiling area on the date notified under section 83, such excess land shall be surrendered as hereinafter provided.

Provided that where any person bonafide believes that the ownership or possession of any land owned or held by such person is a member of a family, by the members of such family, is liable to be purchased by the cultivating tenant or kudikidappukaran or to be resumed by the land owner or the intermediary under the provisions of this Act, the extent of the land so liable to be purchased or to be resumed shall not be taken into account in calculating the extent of the land to be surrendered under this sub-section.

Explanation:- Where any land owned or held by a family or adult unmarried person owning or holding land in excess of the ceiling area was transferred by such family or any member thereof or by such adult unmarried person, as the case may be, after the 18th December, 1957, and on or before the date of publication of the Kerala Land Reforms Bill, 1963, in the Gazette, otherwise than-

- (i) by way of partition; or
- (ii) on account of natural love and affection; or

- (iii) in favour of a person who was a tenant of the holding before the 18th December, 1957, and continued to be so till the date of transfer; or
 - (iv) in favour of a religious, charitable or educational institution of a public nature solely for the purposes of the institution, the extent of land owned or held by such family or adult unmarried person shall be calculated for purposes of fixing the extent of land to be surrendered under this section as if such transfer had not taken place, and such family or adult unmarried person shall be bound to surrender an extent of land which would be in excess of the ceiling area on such calculation, or, where such family or person does not own or hold such extent of land the entire land owned or held by the family or person; but nothing in this Explanation:-
 - (a) shall affect the rights of the transferee under the transfer; or
 - (b) shall apply in the case of any transfer of land by a family or any member thereof or an adult unmarried person if the extent of land owned or held by such family or adult unmarried person, as the case may be immediately before the transfer was not in excess of the ceiling area specified in the Kerala Agrarian Relations Act, 1960, and applicable to such family or adult unmarried person.
- (2) Where a person owns or holds land in excess of the ceiling area, such person shall, within a period of three months from the date notified under section 83, file a statement before the Land Board intimating the location, extent and such other particulars as may be prescribed, of all the lands including lands exempted under section 81 owned or held by such person and indicating the lands proposed to be surrendered.

On receipt of the statement the Land Board shall transfer the statement to such Taluk Land Board as may be decided by the Land Board in accordance with such principles as may be prescribed and such Taluk Land Board shall:-

- (a) cause the particulars mentioned in the statement to be verified
- (b) ascertain whether the person to whom the statement relates, owns or holds any other lands, and
- (c) by order, determine the extent and identity of the land to be surrendered.

In determining the identity of the land the Taluk Land Board shall accept the choice of the landholders.

Provided that the Taluk Land Board shall not be bound to accept such choice if:-

- (A) it has reason to believe that the person whose land is indicated to be surrendered has no good title to that land; or
- (B) the land indicated to be surrendered is not accessible; or
- (C) it considers for any other reason to be recorded in writing that it is not practicable to accept the choice or to take possession of the land.

Provided further that where in such determination the interests of other persons are also likely to be affected, the Taluk Land Board shall except in cases where all the persons interested have agreed to the choice indicated, afford an opportunity to such other persons to be heard and pass suitable orders regarding the land to be surrendered.

(7) Where any person fails to file the statement the Land Board shall, intimate that fact to the Taluk Land Board, and thereupon the Taluk Land Board shall after necessary inquiries, by order, determine the extent and other particulars of the land, the ownership or possession or both of which is or are to be surrendered:

Provided that before such determination the Taluk Land Board shall give an opportunity to the person interested in the land, to be heard.

Section 86. Vesting of excess lands in Government.

(1) On the determination of the extent and other particulars of the lands, the ownership or possession or both of which is or are to be surrendered under section 85, the ownership or possession or both, as the case may be of the land shall, subject to the provisions of this Act, vest in the Government free from all encumbrances and the Taluk Land Board shall issue an order accordingly.

87. Excess land obtained by gift etc. to be surrendered - Where any person acquires any land after the date notified under section 83 by gift, purchase, mortgage with possession, lease, surrender or any other kind of transfer inter vivos or by bequest or inheritance or otherwise and in consequence thereof, the total extent of land owned or held by such person exceeds the ceiling area, such excess shall be surrendered to such authority as may be prescribed.

Explanation:- Where any land is exempted by or under section 81 and such exemption is in force on the date notified under section 83, such land shall, with effect from the date on which it ceases to be exempted, be deemed to be land acquired after the date notified under section 83.

Section 88. Persons surrendering land entitled to compensation:- Where ownership or possession or both of any land is vested in the Government under section 86 or section 87, such person shall be entitled to compensation. Where the rights of an intermediary are extinguished, such intermediary shall also be entitled to compensation.

Section 96. Assignment of lands by Land Board- The Land Board shall assign on registry, subject to such conditions and restrictions as may be prescribed, the lands vested in the Government under section 86 or section 87, as specified below.

- i) the lands in which there are kudikidappukars shall be assigned to such kudikidappukars;
- ii) the remaining lands shall be assigned to
 - (a) landless agricultural labourers; and
 - (b) small-holders and other landlords who are not entitled to resume any land;

Provided that eighty- seven and a half percent of the area of the lands referred to in clause (ii) available for assignment in a Taluk shall be assigned to landless agricultural labourers of which one-half shall be assigned to landless agricultural labourers belonging to the Scheduled Castes, the Scheduled Tribes, and such other socially and economically backward classes of citizens as may be specified in this behalf by the Government by notification in the Gazette.

WEST BENGAL

Chapter II-B of the West Bengal Land Reforms Act, 1955 deals with ceiling on land held by a raiyat. The provisions of this Chapter are to have an over-riding effect. The said provisions shall have effect notwithstanding anything to the contrary contained elsewhere in this Act or in any other law for the time being in force or in any custom, usage or contract (express or implied) or in any agreement, decree, order, decision of award of any court, tribunal or other authority.

In Chapter II-B, the expression 'ceiling area' means the extent of land which a raiyat shall be entitled to own. The term "family" in relation to a raiyat shall be deemed to consist of:-

- (i) himself and his wife, minor sons, unmarried daughters, if any,
- (ii) his unmarried adult son, if any, who does not hold any land as raiyat,
- (iii) his married adult son, if any, where neither such adult son nor the wife nor any minor son or unmarried daughter of such adult son holds any land as raiyat,
- (iv) widow of his predeceased son, if any, where neither such widow nor any minor son or unmarried daughter of such widow holds any land as a raiyat,
- (v) minor son or unmarried daughter, if any, of his predeceased son, where the widow of such predeceased son is dead and any minor son or unmarried daughter of such predeceased son does not hold any land as a raiyat.

but shall not include any other person.

“Irrigated area” means an area specified as such by the State Government, by notification in the Official Gazette, being an area which is, or is in the opinion of the State Government capable of being irrigated, at any time during the agricultural year commencing on the 1st day of Baisakh, 1377 B.S., or thereafter, from any State canal irrigation project or State power-driven deep tubewell or shallow tubewell or any other State irrigation project or State riverlift irrigation project; “orchard” means a compact area of land having fruit bearing trees grown thereon in such number that they preclude; or when fully grown would preclude, a substantial part of such land from being used for any other purpose;

“Standard hectare” means, -

- (i) in relation to an agricultural land, an extent of land equivalent to-
- (ii) in relation to any land comprised in an orchard, an extent of land equivalent to 1.40 hectares,
- (iii) in relation to any other land, an extent of land equivalent to 1.40 hectares.

Subject to the provisions of sub-section (3) of section 14 Q, section 14 Y and sub-section (2) of section 14 Z, on and from the commencement of the provisions of this Chapter, no raiyat shall be entitled to own, in the aggregate, any land in excess of the ceiling area applicable to him under section 14 M.

14 M. Ceiling area- (1) The ceiling area shall be, -

- (a) in the case of a raiyat, who is an adult unmarried person, 2.50 standard hectares;
- (b) in the case of a raiyat, who is the sole surviving member of a family, 2.50 standard hectares;

- (c) in the case of a raiyat having a family consisting of two or more, but not more than five members, 5.00 standard hectares;
 - (d) in the case of a raiyat having a family consisting of more than five members, 5.00 standard hectares, plus 0.50 standard hectare for each member in excess of five, so, however, that the aggregate of the ceiling area for such raiyat shall not, in any case, exceed 7.00 standard hectares;
 - (e) in the case of any other raiyat, 7.00 standard hectares.
- (2) Notwithstanding anything contained in sub-section (1), where, in the family of a raiyat, there are more raiyats than one, the ceiling area for the raiyat, together with the ceiling area of all the other raiyats in the family shall not, in any case, exceed,-
- (a) where the number of members of such family does not exceed five, 5.00 standard hectares;
 - (b) where such number exceeds five, 5.00 standard hectares, plus 0.50 standard hectare for each number in excess of five, so, however, that the aggregate of the ceiling area shall not, in any case, exceed 7.00 standard hectares.
- (3) For the purposes of sub-section (2), all the lands owned individually by the members of a family or jointly by some or all the members of such family shall be deemed to be owned by the raiyats in the family.
- (4) In determining the extent of land owned by the raiyats in a family or the sole surviving member of a family or an adult unmarried person, the share of such raiyat or raiyats, or such sole surviving member, or such adult unmarried person, as

the case may be, in the lands owned by a co-operative society, company, co-operative farming society, Hindu undivided family or a firm shall be taken into account.

Explanation- For the purposes of this sub-section the share of a raiyat in a family or the sole surviving member of a family or an adult unmarried person in the lands owned by a co-operative society or a joint family shall be deemed to be the extent of land which would be allotted to such raiyat or person had such lands been divided or partitioned, as the case may be.

- (5) The lands owned by a trust or endowment other than that of a public nature, shall be deemed to be lands owned by the author of the trust or endowment and such author shall be deemed to be a raiyat under this Act to the extent of his share in the said lands, and the share of such author in the said lands shall be taken into account for calculating the area of lands owned and retainable by such author of the trust or endowment, and for determining his ceiling area for the purpose of this Chapter.

Explanation- The expression “author of trust or endowment” shall include the successor-in-interest of the author of such trust or endowment.

- (6) Notwithstanding anything contained in sub-section (1), a trust or an institution of public nature exclusively for a charitable or religious purpose or both shall be deemed to be a raiyat under this Act and shall be entitled to retain lands not exceeding 7.00 standard hectares, notwithstanding the number of its centres or branches in the state.

Section 14N. Determination of irrigated area- (1) if any question arises as to whether any land is or is not within an irrigated area, such question shall be determined by the prescribed authority in such manner as may be prescribed.

- (2) The State Government shall prescribe such authority as it may think fit for the determination of the question referred to in sub-section (1).

According to Section 14P of the Act,

- (1) In determining the ceiling area, any land transferred by sale, gift or otherwise or partitioned, by a raiyat after the 7th day of August, 1969 but before the date of publication of the West Bengal Land Reforms (Amendment) Act, 1971 in the Official Gazette, shall be taken into account as if such land had not been transferred or partitioned, as the case may be:

Provided that provisions of sub-section (1) shall not apply to transfer or partition of land to which provisions of section 3A apply.

(1a) In determining the ceiling area, any land to which the provisions of section 3A of this Act apply and which was transferred or partitioned after the 7th day of August, 1969, but before the 9th of September, 1980, shall be taken into account as if such land had not been transferred or partitioned, as the case may be.

- (2) The provisions of sub-section (1a) shall not apply to a bona fide transfer or partition of any land as aforesaid, and the partition shall lie on the transferor or the person in whose name the land stood recorded before the partition, as the case may be.

- (3) For the purposes of sub-section (2), the transfer of any land in favour of one or more of the following relatives of the transferor shall be presumed to be not bonafide:-

- (a) wife, or
- (b) husband, or
- (c) child, or
- (d) grandchild, or
- (e) parent, or
- (f) grandparent, or
- (g) brother, or
- (h) sister, or
- (i) brother's son or daughter, or
- (j) sister's son or daughter, or
- (k) daughter's husband, or
- (l) son's wife, or
- (m) wife's brother or sister, or
- (n) brother's wife.

Section 14Q. Ceiling area in special cases:- Subject to the provisions of sub-section (2), the ceiling area for a co-operative society, company, co-operative farming society, Hindu undivided family or a firm, as the case may be, shall not exceed the sum total of the ceiling area of each member of such-co-operative society, company, co-operative farming society, Hindu undivided family or each partner of such firm;

Provided that for the purpose of determining the ceiling area referred to in this sub-section, any land held separately by a person, who is member of a co-operative society, company, co-operative farming society or Hindu undivided family or a partner of a firm, shall be deducted from the ceiling area referred to in section 14M, so that the sum total of the area of land held by such person,

whether as such member or partner or individually or as a member of a family, may, not, in any case, exceed the ceiling area applicable to him under section 14M.

If the State Government, after having regard to all the circumstances of the case, is satisfied that a corporation or institution established exclusively for a charitable or religious purpose, or both, or a person holding any land in trust, or in pursuance of any other endowment, creating a legal obligation exclusively for a purpose which is charitable or religious, or both, requires land, as distinct from the income or usufructs derived from such land, for the due performance of its obligation, it may, by notification in the official Gazette, increase the ceiling area for such corporation or institution or person to such extent as it may think fit:

Provided that the State Government may, at any time on its own motion or on an application, revise an order under this sub-section and may resume the whole or any part of the land in excess of the ceiling area and take possession of such resumed land after giving the parties concerned an opportunity of being heard.

Section 14 R. Exemption - The provisions of section 14 M shall not apply.

- (a) to any land owned as raiyat by a local authority or an authority constituted or established by or under any law for the time being in force;
- (b) for such period as may be specified by the State Government, by notification in the Official Gazette, to any land in such hilly portion of the district of Darjeeling as may be specified in the said notification.

Section 14 A. Vesting of land in excess of ceiling area.- On the commencement of the provisions of this Chapter, or on any subsequent date any land owned by a raiyat in excess of the ceiling area applicable to him shall vest in the State free from all encumbrances.

- (2) Where any land vested in the state under sub-section (1) is being cultivated by a bargadar, the right of cultivation of such bargadar in relation to any such vested land which, including any other land owned or cultivated by him is in excess of 0.4047 hectare of land used for agriculture shall, on the commencement of the provisions of this Chapter or any subsequent date, stand terminated.
- (3) Every bargadar shall, in relation to the land which he is authorised by sub-section (2) to retain under his cultivation, become, on and from the date of commencement of the provisions of this Chapter, or on any subsequent date, a raiyat.

Section 14 SS. Power to enter upon and take possession of vested land- (1) Upon vesting of any land in the State under any of the provisions of this Act, the Revenue Officer or the prescribed authority or any other officer or authority who makes the order of vesting shall enter upon and take possession of such vested land by using such force as may be necessary for this purpose.

- (2) Any Revenue Officer, prescribed authority or any other officer or authority empowered in this behalf, may enter upon and take possession of any other vested land by using such force as may be necessary for this purpose.

- (3) For the purpose of entering upon such land and taking possession thereof, any such officer or authority may send a written requisition in such form and in such manner as may be prescribed to the officer-in-charge of the local police station, or to any police officer superior in rank to such officer-in-charge, and on receipt of such written requisition, the police officer concerned shall render all necessary and lawful assistance for taking possession of such land.

Section 14T. Duty of raiyat to furnish return. (1) Every raiyat owning land in excess of the ceiling area shall furnish to the Revenue Officer, in such form and within such time as may be prescribed, a return containing the full description of the land which he proposes to retain within the ceiling area applicable to him under section 14M and a full description of the land which is in excess of the ceiling area and such other particulars as may be prescribed.

- (2) Where there are more raiyats than one in a family, the return referred to in sub-section (1) shall be furnished by the head of the family or any other raiyat in accordance with the provisions of that sub-section.
- (3) The Revenue Officer may, on receipt of a return submitted under sub-section (1) sub-section (2) or on his own motion, determine the extent of land which is to vest in the State under section 14S and take possession of such lands.

Provided that where a raiyat has exercised his choice of retention of land within the ceiling area in such a way that portions of more than one plot are to vest in the State, the Revenue Officer may disregard the choice exercised by the raiyat and may, after giving the raiyat an opportunity of being heard, determine the plot or, where necessary, plots of land proposed to be retained by the raiyat from which an

area equal to the area of the portions of the plots shown in the return to be in excess of the ceiling area, is to vest in the State and take possession of such land:

Provided further that in the case of mortgage by a raiyat by deposit of title deeds under clause (c) of sub-section (1) of section 7, such raiyat shall first retain the land comprised in his plot of land and mortgaged by him within the ceiling area and where the total area of any land comprised in the plot of land and mortgaged by him exceeds the ceiling area, such portion of the land so mortgaged as is in excess of the ceiling area, together with any other land owned by him but not so mortgaged, shall vest in the State free from all encumbrances.

The Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity of being heard, enquire and decide any question of benami in relation to any land and any question of title incidental thereto or any interest therein or any matter of transaction made, on being satisfied that such enquiry and decision are necessary for the purpose of preparation, correction or revision of record-of-rights and all matters incidental or consequential thereto or detection and vesting of surplus land over the ceiling area.

The Revenue Officer, on his own motion or upon any information, may, after giving the persons interested an opportunity of being heard, enquire and decide any question as to whether any trust, endowment or institution is of public or private nature or of exclusively religious or charitable in character, or both, and any question of title incidental thereto as may be necessary to determine the extent of land which is to vest in the State under section 14S, by examining the documents, if any, or by taking into account the following, among others-

- (i) actual user of income or usufructs of the land,
- (ii) mode of cultivation,
- (iii) pattern of utilisation of the land, and
- (iv) share of income or usufructs of the land appropriated or enjoyed, or the area of such land occupied or enjoyed, by or on behalf of the manager, sebit, mutwalli, or any other person managing the trust, endowment or institution.

The aforementioned provisions with regard to benami (Section 14T-5) and trust, endowment or institution (Section 14T-6) have a retrospective effect. As per sub-section 8 of Section 14 T:

Notwithstanding anything contained in this Act or in the West Bengal Estates Acquisition Act, 1953 (West Bengal Act 1 of 1954) or in any other law for the time being in force or in any agreement, custom or usage or in any decree, judgment, decision or award of any court, tribunal or authority, the provisions of sub-sections (5), (6) and (7) shall operate with retrospective effect from the 5th day of May, 1953.

Sub-sections (5), (6), (7) and (8) of this section shall be deemed to have always been inserted in the West Bengal Estates Acquisition Act, 1953 (West Bengal Act 1 of 1954). Any officer specially empowered in this behalf under the provisions of the West Bengal Estates Acquisition Act, 1953 or under the provisions of this Act, may, in exercise of the powers conferred by sub-sections (5) to (8), reopen and decide afresh any proceeding, case or dispute in relation to determination of total land held by an intermediary or a raiyat or an under-raiyat at any point of time or may determine the quantum of land such intermediary, raiyat or under-raiyat was or is entitled to retain and also may determine the extent of land which is to vest in

the State or which shall remain vested in the State and shall take possession of such land in accordance with the provisions of section 14 SS. Notwithstanding any judgment, decision or award of any court, tribunal or authority to the contrary, the rule of res judicata shall not apply to such cases of reopening and fresh determination.

Section 14 U. Restriction on transfer of land by a raiyat – (1) Except where he is permitted, in writing, by the Revenue Officer so to do, a raiyat owning land in excess of the ceiling area applicable to him under section 14 M, shall not, after the publication, in the Official Gazette, of the West Bengal Land Reforms (Amendment) Act, 1971 transfer by sale, gift or otherwise or make any partition of any land owned by him or any part thereof until the excess land, which is to vest in the State under section 14S, has been determined and taken possession of by or on behalf of the State.

Provided that nothing in this sub-section shall apply to any land to which the provisions of section 3 A apply:

Provided further that if a raiyat has transferred any land which he retained in pursuance of any order of the Revenue Officer under sub-section (3) or sub-section (3A) of section 14T, such land shall be taken into account in determining, on any subsequent occasion, the ceiling area of the said raiyat in pursuance of the provisions of this Act, as if such land had not been transferred.

- (2) Except where he is permitted, in writing, by the Revenue Officer so to do, a raiyat owning land to which the provisions of section 3A apply, whether or not such land together with other land, if any, is in excess of the ceiling area under section 14M, shall not on and from the date of coming into force of section 3A of the Act, transfer by sale, gift or otherwise, or make any partition of, any such land or

any part thereof until the excess land, if any, which is to vest in the State under section 14S has been determined or re-determined and taken possession of by or on behalf of the State.

- (3) If a raiyat makes any transfer, whether by sale, gift or otherwise, of any land in contravention of the provisions of sub-section (1) or sub-section (2), the State Government may, in the first instance, take possession of land, equal in area to the land which is to vest in the State, from out of the land owned by such raiyat and where such recovery from the raiyat is not possible, from the transferee:

Provided that where the transferee is a person who is eligible for allotment of surplus land in accordance with the provisions of this Act, the State Government may, instead of enforcing its right to recover the land or equal amount of land, recover from the transferor the amount which he had received as consideration for the transfer of such land.

The State Government shall pay, in the prescribed manner, for the vesting of any land in the State under the provisions of this Act, after possession of such land is taken under sub-section (3) of section 14T, to the person or persons having any interest therein an amount equal to fifteen times the land revenue or its equivalent has not been assessed or is not required to be assessed, an amount calculated at the rate of Rs. 135 for an area of 0.4047 hectare.

Section 14X. Bar of jurisdiction of Civil Courts- No Civil Court shall have jurisdiction to decide or deal with any question or to determine any matter which is by or under this Chapter required to be decided or dealt with or to be determined by the Revenue Officer or other authority specified therein and no orders passed or

proceedings commenced under the provisions of this Chapter shall be called in question in any Civil Court.

Section 14Y. Limitation on future acquisition of land by a raiyat.- If at any time, after the commencement of the provisions of this Chapter, the total area of land owned by a raiyat exceeds the ceiling area applicable to him under section 14M on account of transfer, inheritance or otherwise, the area of land which is in excess of the ceiling area shall vest in the State and all the provisions of this Chapter relating to ceiling area shall apply to such land.

Provided that a person intending to establish a tea garden, mill, factory or workshop, livestock breeding farm, poultry farm, or dairy, or Township in a Planning Area as may be permitted to be developed under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Bengal Act 13 of 1979), may, with the previous permission, in writing, of the State Government and on such terms and conditions and in such manner as the State Government may by rules prescribe, acquire and hold land in excess of the ceiling area applicable to him under section 14M:

Provided further that if such person, having been permitted by the State Government, does not utilise within three years of the date of such permission such land for the purpose for which he has been so permitted by the State Government to acquire and hold it, then, all the provisions of this Chapter relating to ceiling area shall apply to the area of land which is held in excess of the ceiling area applicable to him under section 14 M.

Explanation. I- For the purposes of this section, “person” includes an individual, a firm, a company, an institution, or an association or body of individuals, whether incorporated or not.

Explanation II.- “Township” shall mean a centre of urban population with defined boundaries within a Planning Area having, or proposing to have, usual urban facilities and approved as such by the appropriate Department of the State Government .

With regard to the application of Chapter II-B, it has been clarified in Section 14Z that:

- (1) notwithstanding anything contained in this Act or any other law for the time being in force or in any agreement, custom or usage or in any decree, judgement, decision or award of any court, tribunal or authority, the provisions of this Chapter shall apply to all lands of all classes and descriptions defined in clause (7) of section 2;
- (2) in the case of land comprised in a tea garden, mill, factory or workshop or land used for the purpose of livestock breeding, poultry farming or dairy, or township in a Planning Area as may be permitted to be developed under the West Bengal Town and Country (Planning and Development) Act, 1979 the raiyat, or where the land is held under a lease, the lessee, may be allowed to retain (in excess of the prescribed ceiling) only so much of such land as, in the opinion of the State Government, is required for the purpose of the tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, as the case may be:

Provided that the State Government may, if it thinks fit so to do, after reviewing the circumstances of a case and after giving the raiyat or the lessee, as the case may be, an opportunity of being heard, revise any order made by it under this clause specifying the land which the raiyat or the lessee shall be entitled to retain for tea garden, mill, factory, workshop, livestock breeding, poultry farming or dairy, or township in a planning area as may be permitted to be

developed under the West Bengal Town and Country (Planning and Development) Act, 1979, as the case may be:

Provided further that in determining the land required for the purpose of tea cultivation, there shall not be any diminution of the area of a tea garden.

Explanation:- The expression “land under a lease” includes any lands held directly under the State Government under a lease.

CONCLUSION

Since inception till September 2001, the total quantum of land declared surplus in the entire country was 73.67 lakh acres, out of which about 64.95 lakh acres had been taken possession of and 53.79 lakh acres had been distributed among 55.84 lakh beneficiaries of whom 36 per cent belonged to the Scheduled Castes and 15 per cent to the Scheduled Tribes.

State-wise details of the implementation of the ceiling laws (upto September 2001) are reflected in Table-1.

Table – 1

(In Acres)

Sl. No.	States/ UTs	Declared surplus	Taken possession of	Distributed to individual beneficiaries	Total No. of beneficiaries	Total area in litigation
1.	Andhra Pradesh	799663	641655	582319	540344	147631
2.	Assam	613400	575337	545870	445848	38461
3.	Bihar	415447	390752	306964	379528	NA
4.	Gujarat	227404	160768	139822	32209	69764
5.	Haryana	107487	103017	102123	29228	4599
6.	Himachal Pradesh	316556	304895	6167	6259	8072
7.	Jammu & Kashmir	455575	450000	450000	450000	NA
8.	Karnataka	268478	161834	122709	33410	129244
9.	Kerala	139548	96253	66669	156568	30353
10.	Madhya Pradesh	298763	260323	186942	74705	79475
11.	Maharashtra	739533	670247	642359	140621	31605
12.	Manipur	1830	1685	1682	1258	NA
13.	Orissa	179248	167201	156747	139186	12993
14.	Punjab	223115	105834	104232	28574	24591
15.	Rajasthan	610965	569173	461300	81574	79698
16.	Tamil Nadu	200243	190751	179683	142347	9492
17.	Tripura	1995	1944	1598	1424	59
18.	Uttar Pradesh	374125	341464	258698	294062	50118
19.	West Bengal	1380525	1291407	1055191	2601432	192079
20.	D&N Haveli	9406	9305	6851	3353	NA

21.	Delhi	1132	394	394	654	183
22.	Pondicherry	2326	1185	1046	1427	1050
Total		7366764	6495424	5379366	5584011	909467

A total of 9.09 lakh acres of land have been shown as being involved in various courts including the Revenue Courts, the High Courts and the Supreme Court. During Revenue Ministers' Conference held on 17th September, 1998 at New Delhi, it was resolved that large cases involved in litigation in the revenue courts may be disposed off on a priority basis and such lands should be distributed among the SC, the ST and the landless poor.

It has also been resolved during the previous Conferences of Revenue Ministers that the States, where the incidence of pending litigation is high, should constitute Land Tribunals under Article 323-B of the Constitution or set up Special Benches for hearing to expedite the disposal of such cases. The actions were to be completed expeditiously.

Under the 20-Point Programme of the Government of India, the Land Reforms Division, MoRD, GoI fixes the annual target for the actual distribution of the ceiling surplus land on the basis of its availability and non-encumbrance with the States/ UTs every year. But most of the States are not furnishing the actual land figures available for distribution, free from all encumbrances, to the GoI, in time.

ISSUES FOR CONSIDERATION UNDER THE LAND CEILING LAWS

- i. During the last 30 years, large areas have been brought under irrigation at the expense of the public exchequer. Hence, the nature of such lands has drastically been changed. Therefore, a re-classification of such lands should

- be undertaken on an immediate basis to bring it within the ambit of ceiling.
- ii. There may be certain cases where an individual might be having land-holdings at different places/ taluks/ districts and avoiding ceiling norms. It is, therefore, essential to introduce Card Indexing System while doing the computerization of land records to locate such anomalies.
 - iii. Vigorous steps have to be taken to identify the benami and clandestine transactions aimed at evading the provisions of the ceiling laws. For this, active cooperation of the organizations of rural workers, panchayati raj institutions and voluntary organizations can be assigned the task which may provide concrete evidence as regards the violation of the provisions of ceiling laws.
 - iv. Whether there is a need to discontinue the exemptions granted to the religious/ educational/ charitable and industrial institutions be brought in the ambit of land reforms laws, must be examined urgently.
 - v. States where incidence of pending litigation is higher, should constitute the Land Tribunals under Article 323-B of the Constitution or set up Special Benches for hearing to expedite disposal of such cases.
 - vi. In the States where large number of cases involved in litigation are pending with the revenue courts, such cases may be disposed off expeditiously.
 - vii. Whether ceiling laws can be relaxed in favour of industrial houses for developing degraded and wastelands, should be examined.
 - viii. The available ceiling surplus land should be distributed among the SC and the ST beneficiaries and other rural landless people. The States/ UTs may prepare Action Plans for the purpose.

READING LIST

A. STATE ACTS

1. The U.P. Zamindari Abolition & Land Reforms Act, 1950
2. The U.P. Consolidation of Holdings Act, 1953
3. The U.P. Imposition of Ceiling on Land Holdings Act, 1960.
4. Land Revenue Law in Rajasthan
5. The Gujarat Agricultural Lands Ceiling Act, 1960
6. The West Bengal Land Reforms Act, 1955
7. The M.P. Land Revenue Code, 1959
8. The M.P. (Ceiling on Agricultural Holdings) Act, 1960/ 1974
9. The Maharashtra Land Revenue Code, 1966
10. The Maharashtra Land (Ceiling on Holdings) Act, 1981
11. The Bombay Tenancy and Agricultural Lands Act, 1948
12. The Rajasthan Tenancy Act, 1955
13. The Rajasthan (Imposition of Ceiling on Agricultural Holdings) Act, 1973
14. The Orissa Land Reforms Act, 1960
15. The Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961
16. The Assam Land and Revenue Regulation, 1886
17. The Assam Fixation of Ceiling on Land Holding Act, 1956
18. The Andhra Pradesh (Ceiling on Agricultural Holdings) Act, 1961/ 1973
19. The Punjab Tenants' (Security of Tenure) Act, 1950
20. The Punjab Security of Land Tenures (Amendment) Act, 1955
21. The Punjab Security of Land Tenures (Amendment) Act, 1957
22. The Punjab Land Reforms Act, 1972
23. The Haryana Ceiling on Land Holdings Act, 1972
24. The Gujarat Agricultural Lands Ceiling Act, 1960
25. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961
26. The Karnataka Land Reforms Act, 1961
27. The Karnataka Land Reforms Act, 1974

B. BOOKS

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2. Yugandhar, B.N. & K. Gopal Iyer (eds.) Land Reforms in India (Vol. 1) Bihar – Institutional Constraints, Sage Publications, New Delhi, California, London: 1993.
3. Yugandhar, B.N. & P. S. Datta (eds.) Land Reforms in India (Vol. 2) Rajasthan-Feudalism and Change, Sage Publications, New Delhi, California, London: 1995.
4. Yugandhar, B.N. (ed.) Land Reforms in India (Vol. 3) Andhra Pradesh-People's Pressure and Administrative Innovations, Sage Publications, New Delhi, California, London: 1996.
5. Aziz, Abdul & Sudhir Krishna (eds.) Land Reforms in India (Vol. 4) Karnataka: Promises Kept and Missed, Sage Publications, New Delhi, California, London: 1997.
6. Sinha, B. K. & Pushpendra (eds.) Land Reforms in India-An Unfinished Agenda (Vol. 5), Sage Publications, New Delhi, California, London: 2000.
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8. Shah, Ghanshyam & D. C. Sah Land Reforms in India (Vol. 8) Performance and Challenges in Gujarat and Maharashtra, Sage Publications, New Delhi, California, London: 2002.
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14. Agnihotri, Dr. V. K. (ed.) Socio-Economic Profile of Rural India (Vol. 1) South India, Concept Publishing Company, New Delhi: 2002.

15. Ashokvardhan, Dr. C. (ed.) Socio-Economic Profile of Rural India (Vol. 2) North-East India, Concept Publishing Company, New Delhi: 2002.
16. Rao, Nitya, Munni Hembrom, Nirmala Hansdak, Santoshini Hembrom and Kumar Rana Owning their Land: Rights of Santhali Women, Friedrich Ebert Stiftung, New Delhi: 1999.
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18. - Proceedings and Papers of the Seminar on Land Reforms-A Retrospect and Prospect, Planning Commission, Government of India: 1989.

C. MONOGRAPHS/ PAPERS

1. Land Reforms Strategy in India since Independence (Ministry of Rural Development, Government of India, New Delhi)
2. Land Reforms – What Next? Some Tasks for the Public Services (A. R. Bandyopadhyay)
3. Some Suggestions for Revising the Land Policy (P. S. Appu)
4. Conference of Revenue Ministers (19-20 August 2002), Notes on Agenda Items (Ministry of Rural Development, Government of India, New Delhi)
5. Legal Provisions relating to Leasing of Land under various Land Reforms Acts in India (Ministry of Rural Development, Department of Land Resources, Government of India, New Delhi)
6. Land Leasing and Sharecropping in Madhya Pradesh and Andhra Pradesh: Results of a Survey of 12 villages in 2002 (John Farrington, Edward Anderson, Priya Deshingkar, Laxman Rao, Sreenivasa Rao and Sushil Kumar). Paper prepared for the Conference on Land Administration and Policy for Growth and Development: Facing the Challenges of the Future, New Delhi: May 27-28, 2004.
7. Good Practice Guidelines to Agricultural Leasing Arrangements (FAO)
8. Land Tenure & Rural Development (FAO)
9. Liberalisation and Land Reforms (Y. V. Krishna Rao), National Seminar on Responsive Administration to Effective Land Reforms –

- organized by the CSED-National Institute of Rural Development, Hyderabad on August 20-22, 1996.
10. Land Tenure Reforms in China and India (Roy Prosterman & Jennifer Brown) Rural Development Institute, Seattle, USA
 11. Papers contributed for the workshop held at Bhubaneswar (February 4-6, 1993) including paper on Land Reforms in Orissa by S. C. Mallick and A Note on Orissa Land Reforms Act, 1960 by C. J. Venugopal
 12. Group Leasing of Agricultural Land by Women-Two Case Studies on Livelihoods, Income and Employment Generation in Andhra Pradesh by K. S. Gopal
 13. Land Reforms in West Bengal by D. Bandhyopadhyay (Government of West Bengal)
 14. Recommendations and Rapporteurs' Report of the Workshop on Land Reforms in Bihar held at the A. N. Sinha Institute, Patna (February 8-11, 1991) Land Reforms Unit, LBSNAA, Mussoorie
 15. Papers on Land Reforms in Orissa including A Study of Tenancy Reforms in Orissa by Dr. J. K. Samal and Problems and Prospects of Land Distribution in Orissa by B. Sahoo and Dharmalingam
 16. Recommendations of the Workshop on Land Reforms in Andhra Pradesh (Hyderabad: May 15-17, 1992), LBSNAA, Mussoorie
 17. Papers presented in the Workshop on Land Reforms in Rajasthan (LBSNAA, Mussoorie)
 18. Action Research Projects: Reports from the Fields (Land Reforms Unit, LBSNAA, Mussoorie)
 19. Implementation of Land Reforms in India by S. K. Narula (Land Reforms Unit: LBSNAA, Mussoorie), 1995
 20. Recommendations of the Workshop on Land Reforms in Rajasthan (held at HCM, RIPA, Jaipur, between 4th to 6th February 1992 (LRU, LBSNAA, Mussoorie)
 21. Contributions on Land Reforms in Andhra Pradesh (Workshop from 15th to 17th May 1992) LRU, LBSNAA, Mussoorie
 22. Implementation of Land Ceiling Programme in Orissa: Workshop on Land Reforms in Orissa, held at the Gopabandhu Academy of Administration, Bhubaneswar (February 4-6, 1993)
 23. A Short Note on Comparative Study of Land Reforms in India by N. C. Behuria, Workshop on 'Comparative Land Reforms Legislations in Different States' held at LBSNAA, Mussoorie from 24-26 August, 1993 (LRU, LBSNAA, Mussoorie)
 24. Land Reforms in India: Tasks Ahead (Summary findings of a concurrent evaluation of Land Reforms in India, 1988-91)
 25. Land Reforms in Tamil Nadu: An Empirical Study (1988-1991) LRU, LBSNAA, Mussoorie, 1994
 26. Land Reforms in Gujarat: An Empirical Study (1988-1991) LRU, LBSNAA, Mussoorie, 1994
 27. Land Reforms in Haryana: An Empirical Study (1988-1991) LRU, LBSNAA, Mussoorie, 1994
 28. Land Reforms in Punjab: An Empirical Study (1988-1991) LRU, LBSNAA, Mussoorie, 1994
 29. Land Reforms in Assam: An Empirical Study (1988-1991) LRU, LBSNAA, Mussoorie, 1994
 30. Land Reforms in Madhya Pradesh: An Empirical Study (1988-1991) LRU, LBSNAA, Mussoorie, 1994
 31. Land Reforms in Andhra Pradesh: An Empirical Study (1988-1991) LRU, LBSNAA, Mussoorie, 1994
 32. Land Reforms in Uttar Pradesh: An Empirical Study (1991-1994), ed. by Dr. A. P. Singh and Dr. K. S. Rao, Centre for Rural Studies, LBSNAA, Mussoorie, 1998
 33. Land Reforms in Five States of North-East India, ed. by Assistant Professor Subhansu Tripathy, CRS, LBSNAA, Mussoorie, 2004



BIO DATA

DR. C. ASHOKVARDHAN, IAS

Educational Qualifications

M.A. (Political Science)
Patna University: Gold Medalist

Ph.D. Patna University
Subject: Personnel Management and Financial Administration in the Bokaro Steel Plant.

Sahitya Shastri (Sanskrit): Kameshwar Singh Sanskrit University, Darbhanga.

First Class with distinction (fifth position in India) in the **Russian Language Certificate Examination** conducted by the All India Russian Language Institute, New Delhi.

D. Litt. Patna University

Subject: The Concept and Practice of Training and Management Development: A Study of the Bokaro Steel Plant.

Postings: Lecturer, Deptt. of Political Science, Ranchi College, Ranchi: 6.1.1975-26.4.1975; Lecturer, Deptt. of Political Science, Patna College, Patna: 28.4.1975: 13.9.1980: Joined the Indian Administrative Service on 15.9.1980 (Bihar Cadre).

Postings in the IAS

- i. S.D.O., Godda – 7.11.82 - 14.6.84
- ii. Dy. Development Commissioner, Saharsa – 19.6.84 - 21.12.85
- iii. Vice Chairman, Ranchi Regional Development Authority, Ranchi – 9.12.85 - 12.3.86
- iv. Settlement Officer, Dhanbad – 21.2.86 - 20.11.90
- v. District Magistrate & Collector, Sitamarhi – 23.9.90 - 3.11.92
- vi. Additional Secretary, Deptt. of Revenue & Land Reforms, Govt. of Bihar, Patna – 27.11.92 - 2.1.94
- vii. Special Secretary, Deptt. of Revenue & Land Reforms, Govt. of Bihar, Patna – 3.1.94 - 24.9.97
- viii. Director, Land Records & Survey, Bihar (Additional Charge) – 22.3.94 - 7.7.94
- ix. Director, Consolidation, Bihar (Additional Charge) – 23.2.96 - 9.7.96
- x. Additional Member, Board of Revenue, Bihar, Patna – 23.8.97 - 12.6.98
- xi. Secretary, Deptt. of Parliamentary Affairs, Govt. of Bihar, Patna – 12.6.98 - 30.11.2000.
- xii. Administrator, Bihar State Scheduled Castes Cooperative Development Corporation, Patna (Additional Charge) – 21.5.99 - 19.6.2000.
- xiii. Managing Director, Bihar State Backward Classes Finance & Development Corporation, Patna (Additional Charge) – 26.5.99 - 19.6.2000.
- xiv. Secretary, Department of Secondary Education, Govt. of Bihar, Patna – 28.11.2000 - 1.12.2001.
- xv. Additional Member, Board of Revenue, Bihar, Patna – 1.12.2001 – 18.8.2004
- xvi. Secretary, Department of Rajbhasha, Govt. of Bihar, Patna – 29.1.2002 - 7.1.2003
- xvii. Secretary, Department of Rajbhasha, Govt. of Bihar, Patna – 12.4.2003 - 7.11.2003
- xviii. Secretary, Dept. of Minority Welfare, Govt. of Bihar, Patna – 1.3.2004 - 9.8.2004
- xix. Secretary, Dept. of Relief & Rehabilitation (Disaster Management), Govt. of Bihar, Patna – 24.2.2004 - 29.3.2005.
- xx. Additional Member, Board of Revenue, Bihar, Patna – 28.3.2005 to date.

				"New Policy Options for Tenancy Reforms in Bihar".
Foreign Tours	1.	Visited Thailand, China and Hongkong in 1992 on a study tour sponsored by the MHRD Govt. of India and the UNICEF	v.	Appointed Member of a National Level Committee on Consolidation of Land Holdings, formed by the Ministry of Rural Development, Govt. of India, in 1999.
	2.	Underwent training with International Training Service, London (organised by the British Council) in London and other places in the UK on the Management of Change in Government (28.9.1996-10.10.1996)	vi.	Appointed Member of a National Level Committee on Tribal Land Alienation and its Restoration, formed by the Ministry of Rural Development, Govt. of India, in April, 2000, under the Chairmanship of Shri B.N. Yugandhar, IAS (Retd.).
Govt. of India Assignments	i.	Appointed Member of a Committee on the Revitalisation of Land Revenue & Land Records Administration in India (Ministry of Rural Development, Govt. of India) in 1994 and covered 14 States in the country. Submitted State Papers - the Committee was headed by Shri P.S. Appu, IAS (Retd.).		
	ii.	Prepared State Papers on Manipur-Tripura on an assignment given by the LBS National Academy of Administration, Mussoorie in 1994-95.		
	iii.	Appointed Member of an Expert Group, formed by the Dept. of Rural Development (Ministry of Rural Areas & Employment), Govt. of India in 1997. Assigned with the task of studying tribal land alienation and formulating a model law on the subject. Contributed paper entitled " Continuity & Change in Tribal Tenancy Laws in Bihar: A Review of Transfer Provisions ".		
	iv.	Served as a member of an Expert Group set up by the National Commission for SCs and STs (GOI) to study issues pertaining to Land Rights (1999). Contributed paper entitled		

PUBLICATIONS

Sl. No.	Title of the Book	Publishers	Year
<u>A. BOOKS IN ENGLISH</u>			
1.	Arrah Goes to Polls	Shri Jagdish Niketan, New Sheoganj, Arrah	1972
2.	The Conversion (Poetry)	Bharati Prakashan, Varanasi	1985
3.	Active Ingredients of Rural Development	District Rural Development Agency, Saharsa	1985
4.	Human Resources Development in Bokaro Steel Plant	Steel Authority of India Ltd. Bokaro Steel Plant	1987
5.	Beyond Survey	Survey & Settlement Office, Dhanbad	1987
6.	Political Legacy of the Rigveda	Bharati Prakashan, Varanasi	1987
7.	Land Reforms in Kerala: the Myth and	National Institute of Rural Development, Hyderabad	1992

the Reality

8. Land Records Management in 14 States of India - do - 1998

9. Tenancy Reforms Re-visited LBS National Academy of Administration, Mussoorie 2000

10. Reach out to me, yourself (A Collection of 101 Poems) Chandravindu Prakashan, Shri Jagdish Niketan, New Sheoganj, Arrah 2000

11. Fallen Leaves (A Collection of 178 Poems) - do - 2001

12. Socio-Economic Profile of Rural India (Vol. 2) North-East India (ed.) Concept Publishing Company, New Delhi 2002

13. Readings in Land Reforms Centre for Rural Studies, LBS NAA, Mussoorie 2003

14. Studies on Ceiling Laws LBS National Academy of Administration, Mussoorie 2004

15. Ceiling Laws in India -do- 2005

B. BOOKS IN HINDI

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ARTICLES/PAPERS

Nearly 50 articles/research papers published in standard journals.

AWARDS/HONORARIA

Sl. No.	Book/Paper	Amount of Award/Honorarium	Received from	Year
1.	Human Resources Development in Bokaro Steel Plant (Book)	Rs. 10,000/-	Steel Authority of India Ltd. Bokaro Steel Plant	1987
2.	People's Participation in Planning (Article)	Rs. 2,000/-	Indian Institute of Public Administration, New Delhi. First Prize in IIPA Essay Competition, received from Dr. Shankar Dayal	1989

3.	cksdkjks la;a= esa lalk/ku ¼iqLrd½	bLikr ekuo fodkl	Rs. 10,000/-	Sharma, the then Hon'ble Vice President of India LVhy vkWfKksfjVh vkWQ bafM;k fy- cksdkjks bLikr la;a=	1990
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7.	State Papers on Manipur and Tripura		Rs. 15,000/-	iqfyl vuqla/kku ,oa fodkl C;wjks ¼x`g ea=ky;½ Hkkjr ldkj ¼ia- xksfoUn cYyHk iar iqjLdkj ;kstuk ds vUrxZr½	1996
8.	iqfyl iz'kklu esa xq.kkRed lq/kkj		Rs. 5,000/-	LBS National Academy of Administration, Mussoorie (Govt. of India)	1996
9.	Continuity and		Rs. 10,000/-	iz'kklfud lq/kkj vkSj yksd f'kdk;r foHkkx] Hkkjr ljdkj dh ldkj cYyHk HkkbZ iVsy iqjLdkj ;kstuk ds vUrxZr ¼1994 ds fy,½	1997

Change in Tribal
Tenancy Laws in
Bihar: A Review of
Transfer Provisions

Rural
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(Ministry of
Rural Areas &
Employment)
Govt. of India,
Nirman Bhawan,
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| 11. | Socio-Economic
Profile of Rural
India (Vol. 2)
North-East India
(ed.) | Rs.5,000/- | LBS National
Academy of
Administration,
Mussoorie (Govt.
of India) | 2004 |