

# AGRICULTURE LAND AND CEILING LAWS IN INDIA: AN OVERVIEW

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## ABSTRACT

Land distribution is considered a State Policy to create economic equality within the agrarian structure. One of the means to reduce the disparity is to take away the excess lands from large holdings and redistribute them among the landless and small landholders. Ceiling legislation is a measure of land reforms. This is stated easily but its implementation is a very complicated and difficult affair. At the very start we are faced with several questions. First, what should be the ceiling limit and secondly should the idea of redistribution of lands be applied to all classes of lands? For example, a tea garden has a very big holding, but it is an economic unit and cannot be broken up if it is to function at all.

In India, State Governments made a lot of efforts and enacted so many land reforms laws including Land Ceiling Acts to reduce the inequality of agriculture land. But it is difficult to say that it could hardly attain the desired goal. There is no uniformity among the state for ceiling limit. The Ceiling laws have vast list of exceptions which nullify the object of the Act and a many time it seems that Land Ceiling Act itself is hindrance in proper implementation. For instance, these Acts provide that the land for industrial purposes, grove land, land utilized for special cultivation, land held a cooperative farming society and land vested in Gram Sabha are exempted from the application of Ceiling Act.

**Keywords:** Agriculture Land, Ceiling Act, Distribution of Land, Intermediaries

## INTRODUCTION

India occupies 2.4 percent of the total land area of the world, but supports 16.7 percent of the world population. As many as 570 million Indians, or 47.1 percent (including 6.7 per cent in urban areas), still depend on agriculture, which contributes 15.5 percent to Gross Domestic Product (GDP).<sup>1</sup> Agriculture continues to be the mainstay of the Indian economy. Agriculture described as the backbone of Indian economy. But there are great disparities among the holders of land. This disparity needs to be reduced to the minimum in the interest of establishing equality in the economic sphere. The importance of agriculture compels to look into the agriculture land reforms. Land reform entails a need for redistribution of agriculture land in India if there is unequal or is not proportionate distribution of the same. One of the means to reduce the disparity is to take away the excess lands from large holdings and redistribute them among the landless and small landholders. Ceiling legislation is a tool to achieve this goal. The object of this paper is to study effects of Ceiling Laws. Almost every state in India enacted the Ceiling Laws but the desired goal could not be achieved due to some in-built flaws in legislations.

## LAND REFORMS REMAIN AN UNFINISHED TASK

Land reform refers to an institutional measure directed towards altering the existing pattern of ownership, tenancy and management of land. India brought many fundamental changes specifically in land reforms. Evaluating the Indian land reforms, Dr K. Venkatasubramanian,<sup>2</sup> Former Member Planning Commission, in his article, quoted recent comment from G. S. Balla. He observes: *“The Indian Government was committed to land reforms and consequently laws were passed by all the states governments during the fifties with the avowed aim of abolishing landlordism, distributing land through imposition of ceilings, protection of tenants and consolidation of land holdings. One of the significant achievements of these acts was the abolition of absentee landlordism in several parts of India. However, land reforms were half*

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<sup>1</sup>National Sample Survey Office Report(2011-12), *available at:* <http://planningcommission.nic.in> (last visited on January 15,2019)

<sup>2</sup>“Land Reforms Remain an Unfinished Business”, *available at:* <http://planningcommission.nic.in> (last visited on January 15,2019)

*hearted with regard to the imposition of ceilings and security of tenure. Consequently, the skewness in land distribution was not reduced in any significant manner. Further, a very large number of tenants were actually evicted in the name of self-cultivation. In spite of it, land reforms brought about a significant change in land relations in so far as self-cultivation, rather than absentee landlordism, became a predominant mode of production”* The Government of India is aware that agricultural development in India could be achieved only with the reform of India’s rural institutional structure. The extent of the utilization of agricultural resources would be determined by the institutional framework under which the various inputs were put to use. M Dandekar observed: *“Among the actions intended to release the force which may initiate or accelerate the process of economic growth, agrarian reform usually receives high priority”*.<sup>3</sup>

The land reform legislations were passed by all the State Governments during the fifties touching upon the following measures:

1. Abolition of Zamindari system or abolition of intermediaries
2. Maintenance of cultivating Rights
3. Tenancy reforms
4. Simplification of Land-tenure System
5. Consolidation of holdings and prevention of their further fragmentation
6. Ceilings on holdings and distribution of surplus land among the tillers.
7. Uniform rule of succession

Land reforms therefore became one of the vital aspects of the agricultural development policy and incorporated in the various Five-Year Plans. So after Independence, attempts had been made to alter the pattern of distribution of land holdings on the basis of four types of experiments,<sup>4</sup>namely;

1. Land reforms “from above” through legislation on the lines broadly indicated by the Central Government, enacted by the State legislators, and finally implemented by the agencies of the State Government.
2. Land reforms “from above” as in the case of Telangana and the Naxalite movement also to some extent in the case of the “Land Grab” movement.

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<sup>3</sup>*Supra* note2.

<sup>4</sup> *Ibid.*

3. Land reforms through legislative enactments “from above” combined with peasant mobilization “from below” as in the case of controlled land seizure in West Bengal and protection of poor peasants in Kerala.
4. Land reforms “from below” through permission of landlords and peaceful procession by peasants as in the case of Bhoodan and Gramdan.

The abolition of Zamindari system had favourable economic impact on the country. In 1950's, laws had been passed in all the states to abolish intermediaries. All of them had two principles in common: 1) abolition of intermediaries between the states and the cultivators and 2) the payment of compensation to the owners. But there was no clear mention about just and equitable compensation. Therefore, the Zamindari Abolition Acts were challenged in the High Courts and the Supreme Court. As a result, we find a long list of cases decided on land rights by High Courts and the Supreme Court. Generally, these cases are about rights of Zamindars and particularly about the compensation. Courts have not got much opportunity to decide the rights of landless persons or small land holders. But the Government accomplished the task of abolishing intermediary tenures bringing nearly 20 million cultivators into direct contact with the state. Nearly 142.57 lakh acres were distributed to landless agriculturists after the successful completion of the Zamindari Abolition Act. By conferring the ownership of land to the tiller, the Government provided an incentive to improve cultivation. This paved the way for increase in efficiency and yield. This was an important step towards the establishment of socialism and the Government revenue increased.<sup>5</sup> In fact, many efforts have been made by the Government in this direction but still a lot of is required to be done. As the efficacy of these Ceiling legislations was, however, considerably reduced for many reasons. For example, there are various exemption clauses in the Ceiling Acts and as a result, many land lords managed to retain considerable land areas under the various provisions of laws. The problems of transferring ownership rights from the actual cultivators of the land, the tenants, the sub-tenants, share croppers, therefore, remained far from resolved. As a result, land reforms remain incomplete and unfinished.

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<sup>5</sup> *Supra* note 2.

## CEILINGS LEGISLATIONS

By 1961-62, ceiling legislation had been passed in all the states and it became one of the controversial measures of land reforms in India. The levels vary from State to State, and are different for food and cash crops. The ceiling on existing holdings varies from 20 acres to 125 acres. The unit of application of ceiling also differs from State to State. In Andhra Pradesh, Assam, Bihar, Punjab, Haryana, Uttar Pradesh, West Bengal, Madhya Pradesh and Maharashtra, it is on the basis of a land holder, whereas in the other States it is one of the bases of a family.

In order to bring about uniformity, a new policy was evolved in 1971. The main features were:<sup>6</sup>

1. Lowering of ceiling to 28 acres of wet land and 54 acres of unirrigated land
2. A change over to family rather than the individual as the unit for determining land holdings lowered ceiling for a family of five.
3. Fewer exemptions from ceilings
4. Retrospective application of the law for declaring benami transactions null and void; and
5. No scope to move the court on ground of infringement of fundamental rights

Besides, national guidelines were issued in 1972, which specified the land ceiling limit as:<sup>7</sup>

- i) The best land 10 acres
- ii) For second class land 18-27 acres
- iii) For the rest, 27-54 acres with a slightly higher limit in the hill and desert areas

It is difficult to accept that the policies could be implemented properly. According to the figures available, 68.72 lakh acres of land have been declared surplus till June, 2005. The total area taken in possession as on 30<sup>th</sup> June 2005 was 59.74 lakh acres which comes to 86.92 % of the area declared surplus. The total area distributed till the end of the year has been 49.18, lakh acres. The area distributed constitutes 82.32% of the area taken possession of and 68.72 lakh acres of the area declared surplus. The total number of beneficiaries as on 30<sup>th</sup> June, 2005 was 53.17 lakh. SCs, STs and others account for 20.81,

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<sup>6</sup> *Supra* note 2.

<sup>7</sup> *Ibid.*

8.35 and 23.95, lakh respectively constituting 39.13%, 15.74% and 45.04% respectively.<sup>8</sup> A large farmer in India has 45 times more land than the “marginal” farmer. As many as 95.1% of Indian farmers are called “marginal, small and semi-medium”, meaning they own up to 2.47, 4.94 and 9.88 acres of land respectively. No more than 4.9% of farmers control 32% of India’s farmland.<sup>9</sup> The biggest hindrance in equal distribution of agriculture land is exemption clause in all Ceiling Acts.

## EXEMPTIONS UNDER THE ACTS

All the big States have Legislation on the subject. Let us examine legislations on ceiling on holdings in Indian States. I have included sixteen State laws in my study on the subject which are as follows:

1. The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973.
2. The Assam Fixation of Ceiling of Land Holding Act, 1956.
3. The Bihar Land Reforms (Fixation of Ceiling Areas of Acquisition of Surplus Land) Act, 1961.
4. Gujarat Agriculture Lands Ceiling Act, 1972.
5. The Haryana Ceiling on Land Holding Act, 1972.
6. The Himachal Pradesh Ceiling of Land Holding Act, 1972.
7. The Jammu and Kashmir Agrarian Reforms Act, 1972.
8. The Karnataka Land Reforms Act, 1961.
9. The Kerala Land Reforms Act, 1963.
10. The Madhya Pradesh Ceiling on Agriculture Holding Act, 1961.
11. The Orissa Land Reforms Act, 1960.
12. The Punjab Land Reforms Act, 1972.
13. The Rajasthan Imposition of Ceiling on Holding Act, 1973.
14. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961.
15. The Uttar Pradesh Imposition of Ceiling of Land Holding Act, 1960.

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<sup>8</sup>Twenty Point Programme Annual Review (2004-05), *available at*: <http://www.mospi.nic.in>, (last visited on February 8,2019)

<sup>9</sup> Sumit Chaturvedi, “Land Reforms Fail; 5% of India’s Farmers Control 32% Land”, *available at*, <http://thewire.in/agriculture/land-reforms-fail>, (last visited on February 11,2019)

## 16. The West Bengal Land Reforms Act, 1955.

### **ANDHRA PRADESH**

There are 11 classifications of land in Andhra Pradesh and a person can hold agriculture land ranging from 10 acres to 54 acres according to respective class of land. The second phase of the land distribution programme to the landless poor was launched on July 30, 2005 with an object that the distribution of surplus lands to the landless would go a long way in tackling unrest in the rural areas where influential persons kept vast acres of land. There are eight types of agriculture land which are exempted from the application of this Act. If land falls any one of categories mentioned in section 23 the ceiling limit will not apply. The range is so wide and a big land holder easily bring himself in any one of the categories mentioned in section 23 and is exempted from the ceiling limit. Apparently, some exemptions seem to be correct. But it is an easy way out to get exempted from the limit or in a way; it does not seem to solve the purpose of ceiling legislation.<sup>10</sup>

### **ASSAM**

In Assam, 21 acres approximately was considered to be adequate for the purpose. It, therefore, follows that whoever has more lands than 21 acres has a surplus. This area of 21 acres is thus the ceiling up to which a person is allowed to hold lands. Section 2<sup>11</sup> of the Act will not apply

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<sup>10</sup> The Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Act 1 of 1973), s.23- nothing in this Act shall apply to the following lands, namely

- (a) lands held by the State or the Central Government or any local authority;
- (b) lands held by religious, charitable or educational institutions, including awakf of a public nature..
- (c) lands held by an undertaking owned, controlled or managed by
  - (i) a Government company as defined in Section 617 of the Companies Act, 1956;
  - (ii) a Corporation established by or under a Central, Provincial or State Act, which is controlled or managed by a State Government or the Central Government;
- (d) lands covered by tea, coffee, cocoa, cardamom or rubber plantations;
- (e) lands held by
  - (i) such cooperative farming societies of weaker sections.
  - (ii) other co-operative societies including land mortgage banks;
- (f) lands held by a bank;
- (g) lands vested in the Andhra Pradesh Bhoodan Yagna Board or in a Gram Sabha;
- (h) lands in any area notified by the Government in this behalf as required for acquisition in connection with any major irrigation, power, industrial or other project under construction as on the date of commencement of this Act;

<sup>11</sup> The Assam Fixation of Ceiling of Land Holding Act, 1956 (Act 1 of 1957), s.2- Act shall not apply to-  
(1) lands held by the State Government or by the Union Government or by any Local Authority, or by any Agricultural Farming Corporation constituted under the Assam Agricultural Farming Corporation Act, 1973 ;  
(2-a) lands held and utilised for special cultivation of tea and purposes ancillary thereto;

to five categories of agriculture land. In the states like Assam, the idea of redistribution of lands is practically complicated and difficult affair. For example, a tea garden has a very big holding, but it is an economic unit and cannot be broken up if it is to function at all. It may be noted here that land held by religious and charitable institutions or land settled with the ex-proprietors or ex-tenure holders have not been exempted under section 2 of the Act. Land held by a mill or a factory or a workshop or purposes ancillary thereto for its expansion are exempted. Purposes ancillary to it are specified as schools, dispensaries and roads only, this exemption is given so that industrial institutions and their expansion, which are so very important in backward state like Assam, may not be hampered. Moreover, in Assam land held by Gaushala, educational institutions fortunately have no place in exemptions. As a result, we only find four Gaushalas in Assam. In a sense Assam Ceiling Act comparatively seems to be better than Acts of other States.

## **BIHAR**

In Bihar, ceiling limit ranges from 15 acres to 45 acres depending on quality of land. The limit of Forty-five acres is itself not less in a State like Bihar. But this ceiling limit is not applicable in various categories according to Section 29<sup>12</sup> of the Act. If we see exemption clause in the

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(2-b) lands held by a mill, factory, workshop, as the case may be, for the purposes of the expansion of the mill, factory or workshop, or for ancillary purposes of the mill, factory, workshop, such as setting up of schools dispensaries and roads but not for any other purposes;

(2-c) lands held by a Co-operative Farming Society for cultivation of sugarcane, only for the purpose of feeding a Co-operative Sugar factory:

(3) land vesting in Gram Sabha under the Assam Gramdan Act, 1961. The Assam Fixation of Ceiling of Land Holding Act, 1956.

<sup>12</sup>The Bihar Land Reforms (Fixation of Ceiling Areas of Acquisition of Surplus Land) Act, 1961( Act 123 of 1962),s.29

(1)(a) The provisions of this Act shall not apply to-

(i) land in possession of the Central Government or the State Government;

(ii) land in possession of local authorities or of Gram Panchayats established under the Bihar Panchayat Raj Act, 1947 .

(iii) land vested in the Bhoodan Yagna Committee established under the Bihar Bhoodan Yagna Act, 1954 .

(b)The provisions of section 5 and section 28, it shall not apply to-

(i) lac-brood farms operated by the Indian Lac Cess Committee constituted under Section 4 of the Indian Lac Cess Act, 1930.

(iv) such extent of land held on the date of commencement of this Act, by educational institutions, Universities, Research Councils or Research Institutes recognised by the State hospitals, maternity homes and Orphanages,

(v) such extent of land held on the date of commencement of this Act by such public or charitable bodies or religious institutions of public nature, running educational Institutions, hospitals, maternity homes and Orphanages.

(vi) land required in connection with any other non-agricultural or industrial purpose, to the extent approved by Government,



aforesaid Act, we find that land for religious institutions, land required in connection with any other non- agriculture or industrial purpose, land held by different Banks are exempted from ceiling. State Government may also exempt the operation of this Act to sugarcane farms and that too, to the extent of 100 acres. Obviously, this is in the favour of big land holders. After independence, zamindari was abolished. Ceiling laws used to be enacted after a long gap in 1960s and mostly in 70s. Big landholders got an opportunity to adjust their considerable portion of land as they already had an idea that ceiling laws are going to be enacted soon. Interestingly, if we see clause (1) (iv), (v) and 2(i) of section 29, it provides that “land held or owned on the date of commencement of the Act”, whereby this enactment is not going to be helpful to change the exiting position. There are reports of large scale evasion of ceiling laws because of non-implementation of the laws. In Bihar, there are several landowners who own, and effectively control, at least 1000 acres each, a few of them owning as many 5000 acres. But land records show them to do own not more than 15 acres-the upper limit according to the ceiling laws-the rest of land being transferred to mostly fake owners. At last, it appears that the ceiling Act has no meaning at all.

## GUJARAT

In Gujrat, 54 acres land may be possessed by a person. Let us have a look on the provision which provides a long list of exemptions. Section 3<sup>13</sup> provides a long list of exemptions.

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- (vii) any land awarded for gallantry in the First World War or in the Second World War or subsequently:
  - (viii) Land held by
    - (a) Banking companies as defined in Section 5 of the Banking Regulation Act, 1949.
    - (b) The State Bank of India constituted under the State Bank of India Act, 1955.
    - (c) Subsidiary Banks as defined in the State Bank of India (Subsidiary Bank) Act, 1959.
    - (d) Corresponding new Banks constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970.
    - (e) The Co-operative Banks.
    - (f) Any other financial institution notified by the State Government as bank for the purposes of this Act.
  - (2) (a) The State Government may, by notification in the Official Gazette, exempt from the operation of Section 5-
    - (i) sugarcane farms owned and operated on the date of commencement of the Act, by sugar factories holding a licence under any law relating to sugar factories for the time being in force to such extent as may be determined in the prescribed manner to be necessary for the production of sugarcane seeds but in no case exceeding one hundred acres;

<sup>13</sup> Gujarat Agriculture Lands Ceiling Act, 1972 (Act 2 of 1974) s.3

(1) the following lands shall be exempted from the provisions of this Act, that is to say-

- (a) lands belonging to, or held on lease, by Government
- (aa) khar lands and tidal lands as defined in the Gujarat Khar Lands Act, 1963 .

Exemption clause of Gujrat Agriculture Land Ceiling Act,1972 may broadly be categorised in two spheres(1) land held by government, Universities, hospitals, educational institutions and Khar and tidal land(2) land held by industrial undertakings and land held by Panjrapole or Gaushalas. The first category seems reasonable to an extent as it may be essential for public service. But second category is nothing but give way to a certain class of land holders. As in the name of gaushala big landholders easily escape from the ceiling limit provided under the Act. There do roughly 231 gaushalas in Gujrat possess considerable portion of agriculture land including Bansi Gir gaushala one of the biggest one.

## HARYANA

The ceiling limit in Haryana varies from 18 acres to 53 acres. It is not a small sum of land in a fertile state like Haryana. Now, let us have a look on exemptions provided in the Act. Section 5<sup>14</sup> provides the exceptions in general and the section 5A<sup>15</sup> provides exemption of lands

(b) lands belonging to, or held on lease by, a local authority and lands belonging to, or held on lease by a University established by law in the State of Gujarat or by an institution in the State of Gujarat which is declared to be a University by the Central Government under section 3 of the University Grants Commission Act, 1956.

(c) lands situated in any area which has been specified as being reserved for non-agricultural or industrial development under the relevant tenancy law;

(cc) lands which are the property of a public trust for a hospital.

(d) lands which are the property of a public trust for an educational institution imparting education in agriculture, to such extent as may be prescribed.

(dd) lands held by a Panjrapole or a Gaushala for the purpose of grazing of cattle or storage of grass for cattle .

(f) lands leased to or held by an industrial undertaking which in the opinion of the State Government bona fide carries on any industrial operation ..

(h) lands held or leased by a Land Development Bank.

(i) lands held or leased by such co-operative societies as are approved in the prescribed manner by the State Government .

(j) lands held by a Bhoodan Samiti recognised by the State Government in this behalf;

<sup>14</sup> The Haryana Ceiling on Land Holding Act, 1972 (Act 26 of 1972),s.5

this Act shall not apply to--

(a) Land owned by, or vested in, the State Government otherwise than under the provisions of this Act, or the Central Government or the Faridabad Complex Administration or a Municipal Committee or a Cantonment Board or a Gram Panchayat or the National Dairy Research Institute, Karnal or such organisation under the administrative control of State or Central Government, as the State Government may, by notification, specify;

(b) land belonging to registered co-operative societies formed for the purposes of cooperative farming;

(c) land belonging to primary agricultural co-operative credit societies, land mortgage banks, the State and the Central Co- operative banks and other banks.

(d) land leased by the Haryana State Co-operative Land Mortgage Bank limited, established under the Punjab Co-operative Land Mortgage Bank Act, 1957;

(e) land owned by the Haryana Agricultural University, Hissar, the Kurukshetra University, Kurukshetra, or such other university as the State Government may, by notification, declare.

(f) land owned by the Haryana Bhudan Yagan Board established under the Punjab BhudanYagna Act, 1955.

<sup>15</sup> The Haryana Ceiling on Land Holding Act, 1972 (Act 26 of 1972),s.5A

belonging to religious or charitable institutions. Section 5 is general in nature as the land vested in government is present in almost all the states. However, section 5A provides complete exemption of land belonging to religious or charitable institutions. Gaushalas come within the definition of religious or charitable institutions. There are approximately 382 big Gaushalas in Haryana. As a result, Ashrams and Gaushalas occupy thousands of thousand acres land. Ashrams are found in acres of acres on a very fertile agriculture land or that land which is capable to provide high agriculture yield. It is possible because they get benefit of exemption clause available in the Act. Ceiling limit is not applicable to these Ashrams at all.

### **HIMACHAL PRADESH**

The Act on ceiling in Himachal Pradesh is an ideal Act to some extent. Other States should also have Acts like this. This Act provides minimum exemptions and religious or charitable institutions have no place in this Act. Under this Act the permissible area is 10-30 acres depending on irrigation facilities. Section 5<sup>16</sup> provides exemptions. Despite abolition of intermediary rights, poor peasantry continued to be exploited in various ways. It led to large-scale ejection of poor tenants from land. While landlordism has been abolished, absentee

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Exemption of lands belonging to religious or charitable institutions. - Notwithstanding any judgment, decree or order of any court or authority, the provisions of this Act shall not apply to lands belonging to any religious or charitable institution of a public nature in existence immediately before the day of commencement of this Act, but not belonging to the Mahant, Mohtamim or manager thereof:

Provided that the exemptions specified herein shall be admissible till such time only as the land or income therefrom is utilised for the specified purpose of such institution and shall not be admissible to the lessees of such lands:

Provided further that except in the case of land belonging to institutions, registered under the Indian Trusts Act, 1882, or regulated by any statute such as the Sikh Gurdwaras Act, 1925, the Waqf Act, 1954 or customarily recognized, the onus to prove that the land is exempt under this section, shall lie on the person claiming the exemption.

Explanation. - For the purposes of this section, 'religious or charitable institution' means -

- (i) a temple;
- (ii) a Gurdwara;
- (iii) a Gowshala;
- (iv) a waqf as defined in clause (ii) of section 3 of the Waqf Act, 1954 .
- (v) any other religious place of public nature.

<sup>16</sup> The Himachal Pradesh Ceiling of Land Holding Act, 1972(Act 19 of 1973),s.5

Act shall not apply to-

- (a) lands owned by the State Government or the Central Government;
- (b) lands belonging to registered Co-operative Farming Societies;
- (c) lands belonging to Land Mortgage Banks, the State and Central Co-operative Banks and any other Banks.
- (d) lands belonging to or vested in local authorities;
- (e) lands belonging to Himachal Pradesh Agriculture University;
- (f) lands owned by the Bhudan Yagna Board established under the law in force in the State of Himachal Pradesh and
- (g) tea estates.

landlordism now continues to flourish. The legislation conferred ownership rights not upon the actual cultivator, but on the statutory tenant, who himself was an intermediary with a chain of sub-tenants under him.

### **JAMMU AND KASHMIR**

This state provides the ceiling limit upto 12.5 acres under the Act, which is a reasonable limit in a State like Jammu and Kashmir. But it is also not free from long list of exemptions which is provided in Section 3<sup>17</sup> of the Act. However, the Act in clause (n) retained exemption that if big landholder keeps land under his cultivation or even through tiller the said Act will not apply which ultimately nullifies the effect of the Act.

### **KARNATAKA**

In Karnataka, 10 – 54 acres of land is the ceiling limit. Karnataka is a State to have least exceptions or having only essential exemptions. But, here also land used for stud farms,

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<sup>17</sup> The Jammu and Kashmir Agrarian Reforms Act, 1976.(Act 17 of 1976),s. 3

Act shall not apply to the categories of land

- (a) Evacuees' land;
- (b) Land owned, held or acquired by the Government of Jammu and Kashmir or the Government of India
- (c) Land owned by the industrial or commercial undertaking.
- (d) Land owned, held or acquired by such educational and other public institutions as may be notified by the Government.
- (e) Land owned, held or acquired by the Universities of the State established by law and Municipalities, Town Area Committees, Notified Area Committees, Cantonment Boards and other local bodies and Panchayats of the State.
- (f) Land outside the district of Ladakh, which is uncultivable or in the form of arak, kap or kahi-krisham or which grows fuel or fodder.
- (g) such lands in the district of Ladakh as are used for raising fuel or fodder or timber e.g., olthang, bedzar, safedar.
- (h) Land:-
  - (i) requisitioned under any law for the time being in force; or
  - (ii) situate in depopulated villages of Poonchand Rajouri Districts and Notified as such by the Government; or
  - (iii) lying in such border areas as are declared by the Government to be insecure for cultivation:
- (i) Private springs, wells and village roads.
- (j) Residential buildings or structures along with sites thereunder and appurtenant thereto:
- (k) Such land as is reserved by the Government for grazing ground or for any public purpose.
- (l) Land reserved or acquired for residential purposes subject to the provisos to clause (j)
- (m) Cemeteries and burning or burial grounds and land under places of worship or appurtenant thereto according to the revenue records of Kharif, 1971.
- (n) Land vested in the State under the provisions of the Jammu and Kashmir Big Landed Estates Abolition Act, and retained under Sub-section (1) of section (2) of section 6 of the said Act:-
  - (i) under personal cultivation.
  - (ii) through tiller.
- (o) Land held by a co-operative farming society:

cultivation of linaloe and land held by Coffee Board widens the scope of exemptions from ceiling limit. The relevant Section 107<sup>18</sup> enumerates the exceptions. As usual Karnataka has also long list of exemptions except religious and charitable purposes. Undoubtedly, the zamindari abolition has paved the way for a remarkable shift in the balance of power but the goal of 'land to the tiller' is yet to be achieved.

## **KERALA**

In the case of an adult unmarried person or a family consisting of a sole surviving member the ceiling limit is five standard acres subject to a maximum of seven and a half acres. A family consisting of two or more but not more than five members can hold ten standard acres and up to a maximum of fifteen acres. A family consisting of more than ten members the limit is ten standard acres increased by one standard acre for each member in excess of five and the maximum limit is twenty acres. In the case of any other person including a Trust, Company, body of individuals etc the limit is ten standard acres subject to a maximum of fifteen acres.

The term 'standard acre' is determined based on the nature of the cultivation in a particular land and it slightly varies from District to District. In the case of garden land principally used for growing coconut trees one acre is treated one standard acre. On the other hand in the case of land used principally for growing pepper vines 3.50 acres is treated as one standard acre. In the case of dry land principally cultivated with cashew two acres is one standard acre. In the case of other dry land 2.50 acres is treated as one standard acre. In the case of palliyal land (land used to raise paddy seedlings) 3 acres is one standard acre. Section 81<sup>19</sup> provides that the

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<sup>18</sup> The Karnataka Land Reforms Act, 1961 (Act 10 of 1962) s.107.

Act not to apply to certain lands.—(1) Subject to the provisions of section 110, nothing in this Act, except section 8, shall apply to lands,—

(i) belonging to Government;

(iii) belonging to or held on lease or from a local authority, an Agricultural Produce

Marketing Committee constituted under the Karnataka Agricultural Produce Marketing Regulation Act, 1966 (iv) given as a gallantry award;

(iva) granted by the State Government to a Research Institution affiliated to a university established by law in India.

(v) used for such stud farms as are in existence on the 24th day of January 1971 and approved by the State Government

(vi) used for the cultivation of linaloe;

(vii) held by the Coffee Board constituted under the Coffee Act, 1942

(viii) held by any corporation owned or controlled by the State Government or the Central Government

<sup>19</sup>The Kerala Land Reforms Act, 1963 (Act 1 of 1964), s.81 shall not apply to –

provisions of the chapter (Restriction on Ownership and Possession of Land in Excess of Ceiling Area and Disposal of Excess Lands) shall not apply to various kinds of lands. The principal exceptions are plantations, private forests, Government lands, house sites, and commercial sites, lands owned by Mosque, Churches, Temples, Universities, and Public Trusts etc. Rubber, Tea, and Cardamom are the principal plantations that are exempted from ceiling limits. If we see section 81 the range of exception is very wide and ultimately it makes the purpose of ceiling laws worthless.

## MADHYA PRADESH

Section 7 and 3<sup>20</sup> provide the range of ceiling limit from 10 -54 acres and exemptions respectively. The proportionate cultivable agriculture land is not as high as to the size of the

- 
- (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 any other authority
  - (b) Lands taken under the management of Court of Wards.
  - (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) Cashew estates
  - (g) Lands mortgaged to the Government
  - (h) Land purchased by the Kerala Cooperative Central Land Mortgage Bank or a Primary Mortgage Bank under section 18 of the Kerala State Cooperative Land Mortgage Banks Act, 1960
  - (i) Land purchased by the Kerala Financial Corporation
  - (j) Land 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
  - (k) Sites of temples, churches, mosques and cemeteries and burial and burning grounds
  - (l) Sites of buildings including warehouses
  - (m) Commercial sites
  - (n) Land occupied by educational institutions
  - (o) Lands vested in Bhoodan Yagna Committee
  - (p) Lands owned or held by (i) a university established by law (ii) a religious charitable or educational institutions of a public value (iii) a public trust which expression include a wakf.

<sup>20</sup> The Madhya Pradesh Ceiling on Agriculture Holding Act, 1961 (Act 17 of 1961) ss.3, 7.

The followings lands shall be exempted from the provisions of this Act, that is to say,--

- (a) land held by a local authority or a University established by law within the State;
- (b) land held by the Madhya Pradesh State Agro Industries Development Corporation Ltd., or any other Corporation, controlled or managed by the State Government or the Central Government, whether singly or jointly;
- (c) land which is the property of a public trust or awakf for a religious purpose :
- (d) land held by a Bhoodan Yagna Board under the Madhya Pradesh Bhoodan Yagna Adhinyam,
- (e) land held by a co-operative land development bank or, any other co -operative bank registered or deemed to be registered under the Madhya Pradesh Co-operative Societies Act, 1960 .
- (f) land held by a bank;
- (g) land held by Co-operative Societies .

State.30.7% area of MP is covered by forest and sown area in MP is only 49% of total area. Therefore, 54 acres agriculture land is a considerable portion of land. So, it is also not free from land held for industrial development and for public trust or for a wakf for religious purposes. However, it does not provide exemption of plantations etc. The State of MP has 11.3% barren land. Therefore policy should be like that an industry should be established on barren land instead of consuming fertile agriculture land.

## **ORISSA**

Section 37-A provides 10 acres to 18 acres as ceiling limit , which is a reasonable limit but at the same time, Section38<sup>21</sup> provides exemption from ceiling. If we examine exceptions, it seems that nothing remains from exemption. It covers privileged raiyat, commercial undertakings, mills, workshop, factories, plantations and land held by the educational institutions. "Privileged raiyat" means -

- (a) a Co-operative Society registered or deemed to be registered under the Orissa Co-operative Societies Act, 1962 and includes a Land Development Bank and the State Land Development Bank as defined in that Act;
- (b) "Lord Jagannath" at Puri and his Temple within the meaning of the Shri Jagannath Temple Act, 1955;
- (c) any trust or other institution declared under this Act to have been a privileged raiyat prior to the commencement of the Orissa Land Reforms (Amendment) Act, 1973;
- (d) any trust of other institution whose estate has been declared to be a trust estate by a competent authority under the Orissa Estate Abolition Act, 1951;
- (e) any other trust which is declared to be a religious or charitable trust of public nature by the Tribunal constituted under Section 57-A;and
- (f) any public financial institution;

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(h) any piece of land which the State Government may, for a public purpose, by notification, exempt from the provisions of this Act. .

<sup>21</sup> The Orissa Land Reforms Act, 1960. (16 of 1960) s.38.

Save as otherwise provided in this Section, the provisions of this Chapter shall not apply to -

- (a) lands held by a privileged raiyat ;
- (b) lands 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 undertakings, mills, factories or workshop;
- (c) plantations;
- (d) lands held by any agricultural university, agricultural school or college, or any institution conducting research in agriculture.

## PUNJAB

Punjab holds place of pride among the Indian States for its outstanding achievements in agricultural development. The Agriculture in Punjab state is highly intensive in terms of land, capital, energy, nutrients, agriculture inputs and water etc but the situation with regard to the distribution of agriculture land is not different to other States. Section 4 of the Act defines permissible area and Section 14<sup>22</sup> provides about the different exceptions.

## RAJASTHAN

Section 4 provides ceiling limit from 18 acres-175 acres. There is vast desert area in Rajasthan therefore, 175 acres is not excess in that context but minimum is 18 acres. Now let us have a look on exemptions according to Section 22<sup>23</sup> of the Act. Land for gaushalas and for other religious purposes is exempted. Big land holders are misusing these exemptions. There are 678 big and small gaushalas in Rajasthan possessing considerable portion of agriculture land. The idea of cooperative farming society was evolved to encourage a socialist economy. However, this provision is being misused as people form a society just to surpass exemption limit in the Act.

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<sup>22</sup>exemption of lands belonging to religious or charitable institutions

For the purpose of this section, 'religious or charitable institution' means –

- (i) a temple;
- (ii) a gurudwara;
- (iii) a gaushala;
- (iv) awakf as defined in clause (ii) of section 3 of the Wakf Act, 1954
- (v) any other religious place of the public nature.

<sup>23</sup>Rajasthan Imposition of Ceiling on Holding Act, 1973 Act 11 of 1974) s.22

(1) nothing contained in this Act shall apply to-

- (a) land owned by the Central Government or by a corporation established under a Central or State Act;
- (b) land held by a co-operative agricultural society registered on or before 26th Sept., 1970; provided that the total land held by an individual member including his share in such society does not exceed the ceiling area applicable to him;
- (c) land held by a bank or a co-operative land development bank or any other co-operative bank provided the land has been acquired by it in pursuance of the recovery of its dues;
- (d) land held by religious or charitable trust (including a wakf as defined in the Wakf Act, 1954) of a public nature or by a gaushala existing on or before 26th September, 1970; and
- (e) land held by an educational or research institution of a public nature if the entire income of such land is appropriated for such institution provided that the exemption under clause (d) and clause (e) shall apply only as long as such land continues to be required and used for its purposes by such trust or such gaushala or such educational or the research institution, as the case may be.

(2) The State Government may, by notification in the Official Gazette, exempt from the operation of this Act, any land, if it considers such exemption to be necessary for a public purpose.



## TAMIL NADU

Thirty standard acres of land is the maximum extent of land that a family can hold in the State. However, Section 13<sup>24</sup> of this Act was enacted with a view to reduce the disparity in the ownership of the agricultural land and concentration of such land with certain persons and to distribute such land among the landless poor.

This Act came into effect on the 6th day of April, 1960, wherein the ceiling area for a family consisting of five members had been fixed as 30 standard acres. For every additional member of the family consisting of more than five members, an additional extent of 5 standard acres was allowed in addition to the ceiling area of 30 standard acres, subject to the overall ceiling of 60 standard acres.

With a view to increase the number of beneficiaries by acquisition of the agricultural lands held by the big landowners in excess of the ceiling area and for the distribution of such lands to the landless and other rural poor, reduction of ceiling on land was introduced in the year 1970 to the effect that the ceiling area fixed earlier at 30 standard acres has been reduced to 15 standard acres.

It may be seen from the Parent Act, that exemptions were granted under the Principal Act for the lands grown with sugarcane and the lands used exclusively for grazing purposes. With a view to achieve the object of distribution of ceiling surplus lands to the landless and rural poor, the exemption granted under the Principal Act for lands grown with sugarcane and grazing lands were ordered to be withdrawn by amended Act, with effect from 15.01.1972.

The overall ceiling area of 60 standard acres, as fixed under the Parent Act, has been refixed at 40 standard acres through Second Amendment Act, 1971. This Act also came into effect from 01.03.1972.

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<sup>24</sup> The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961( Act 58 of 1961) s.13

Notwithstanding anything contained in sections 11 and 12, the authorised officer shall, in calculating the extent of land held by any person, exclude-

(i) the land in respect of which any question of title is pending before a competent court, or the Land Tribunal or the other authority; and

(iii) the land in respect of which the question whether such land could be permitted to be used for the extension or for ancillary purposes, of the plantation in existence in any area is pending before the Land Board and where after such exclusion the land held by such person is in excess of the ceiling area, he shall declare the land in excess to be surplus land. The land so declared as surplus land shall be incorporated in the final statement published under section 12.

Subsequently, by the Fourth Amendment Act, 1972 the overall ceiling limit was further reduced from 40 standard acres to 30 standard acres. This Act also came into effect on the 1st day of March 1972. Even though the Trusts were not attracted by the provisions of the Parent Act, ceiling limit has been fixed for the Trusts through Third Amendment Act, 1971 according to the character of the Trusts.

### UTTAR PRADESH

Ordinarily, land more than 20 acres is surplus land. However, Section 6<sup>25</sup> specifies the land from imposition of ceiling and grant conditions for exemptions. Section 5 of the Act prescribes procedure for the determination of ceiling area. 3.70 acres land of unirrigated land or 3.70 acres land of single crops or 6.17 acres land of “grove” or 6.17 acres land of *usar* shall be treated as 2.47 acres of irrigated land. According to section 5 of the Act a tenure holder can keep 7.30 hectares (19 acres appx) but this section itself and section 6 provide so many exceptions like land for industrial purpose, gaushala and grove land that are exempted from this limit.

### WEST BENGAL

According to Section 14M<sup>26</sup> the ceiling area shall be-

- (a) in the case of a raiyat, who is an adult unmarried person, 6.17 standard acres;
- (b) in the case of a raiyat, who is the sole surviving member of a family, 6.17 standard acres;

<sup>25</sup> The Uttar Pradesh Imposition of Ceiling of Land Holding Act, 1960 (Act 1 of 1961) s.6  
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 a tenure-holder, namely -

- (a) land used for an industrial purpose .
- (b) land occupied by a residential house;
- (c) land used as cremation ground or as a graveyard, 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 development of such plantations;
- (e) land held from before January 24, 1971, for purposes of a stud farm,
- (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 from which is wholly utilized for religious or charitable purposes, .
- (g) land held from before June 8, 1973, by a Goshala of a public nature, registered under the Uttar Pradesh Goshala Adhinyam 1964, to the extent prescribed;

<sup>26</sup> West Bengal Land Reforms Act, 1955 (Act 10 of 1956) s. 14M

The provisions of section shall not apply to-

- (a) to any land owned as a raiyat by a local authority or an authority constituted or established by 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, any Land in such hilly portion of the district of Darjeeling as may be specified in the said notification.

- (c) in the case of a raiyat having a family consisting of two or more, but not more than five members, 12.35 standard acres;
- (d) in the case of a raiyat having a family consisting of more than five members 12.35 standard acres, plus 1.23 standard acres 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 17.29 standard acres;
- (c) in the case of any other raiyat, 17.29 standard acres.

Let us see the exemption clause which is as follows:

West Bengal has outperformed other states. It has taken possession of 1.32 million acres, 93.6% of land declared surplus state-wide and distributed 1.05 million acres, and 79.8% of the land in the state's possession. West Bengal also accounts for more than half (54.2%) of India's land reform beneficiaries. As many as 3.14 million of the rural, landless got free land over 60 years.<sup>27</sup>

We find that Bengal has minimum exemptions clauses. To conclude, we can say that West Bengal has better position with regard to distribution of land after independence. And perhaps the Ceiling Law has definitely played its role to minimise the problem of land redistribution.

The Union Government in consultation with state governments prepared national guidelines for more or less uniform ceiling laws. According to these guidelines all the state governments lowered the ceiling limits and inter-state variations in the levels of ceilings as well as exemptions granted to various categories of land were reduced but not up to the desirable extent. Although, ceiling laws enacted in the 1970s were an improvement over the ones adopted in the 1950s and 1960s. But certain categories of land continued to be exempted from ceiling which left scope for law evasion through the device of shifting lands to the exempted categories. If we analyse abovementioned Acts, it is found that all the Acts have provisions with regard to exemption from ceiling limit and are almost similar to each other.

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<sup>27</sup> *Supra* note 9.

## SUGGESTIONS AND CONCLUSION

The enforcement of the ceiling law was preceded by a public debate spread over several years. This enabled landowners to manipulate land records leading to fictitious and fraudulent partitions of lands among their relations, friends, fictitious trusts and societies. The extent of area declared surplus is much less than the estimated surplus, mainly due to a wide range of exemptions provided in ceiling laws. The operations of the ceiling law made virtually no impact on the agrarian structure. Exemptions for orchards, grazing land, stud farms, gaushalas, religious, charitable, educational trusts, sugarcane plantations, tank, and fisheries have made the ceiling laws virtually redundant. Even if the land was taken from them, it could not be distributed among the landless peasants. These Acts should properly be amended and implemented to bring equal distribution of agriculture land in India. Under the above Acts there are many exceptions in which land can be kept in possession in excess to the ceiling area and the provisions of the Acts do not apply. Despite the statutory provisions of the Acts if any land is held by any tenure holder in excess to the limit of ceiling area for the purpose of residential accommodation, industrial purposes, gardening of tea or coffee or rubber plantation, land held for the purpose of stud farm, land held by public religious or charitable trust, land held by Gaushala in some states, grove land are exempted from the Acts.

The objectives are stated easily but their implementation is a very complicated and difficult affair. One of the major negative features of agrarian transition in India is the continued concentration of land in the hand of the upper strata of the rural society. This has not undergone any change in the last seventy years, despite the reforms. At the very start, we are faced with the question whether the idea of redistribution of lands should be applied to all classes of lands. For instance, a tea-garden has a very big holding, but it is an economic unit and cannot be broken up if it is to function at all. Similarly, a factory or an industrial unit also requires a minimum for its operation, educational institution, dispensaries, roads etc. Considering these and many other factors, Acts have provided that provisions shall not apply to different classes of lands.

The steps taken by the Government have not made any significant impact on the agrarian structure to reduce, let alone eliminate the inequality in the distribution of land or income or to afford to lend the poor the access to the land. It is also true that the land reforms did not seriously jeopardise the interest of the land holders. The extent of area declared surplus is

much less than the estimated surplus, mainly due to a wide range of exemptions provided in the ceiling laws. Land reform programmes implemented since 1948 have not led to any radical distribution of land or removal of some of the obstacles to raising agriculture productivity. All the measures have left untouched the bottom layer of the agrarian structure consisting of agricultural labours, landless labourers, small tenure holders' sharecroppers, except a few states like west Bengal and Kerala. The structural impediments to production and equitable distribution of rural resources are very much in existence. There are many factors responsible for the tardy progress but important among them are the lack of adequate direction and determination, lack of political will, absence of pressure from below, inadequate policy instrument, legal hurdles absence of correct-updated land records and the lack of financial support.

In this backdrop, the suggestion may be considered for improvement as effective implementation of ceiling legislation and distribution of surplus land and the potential beneficiaries 'should be made aware of the programmes. There should be central uniform legislation. Exception clause should be brought to its minimum and most essential.

Presently, it is difficult to say that Land reforms laws could achieve the desired goals. Most of the land laws focused how to divest the rights of intermediaries like zamindars but the basic structure was not changed. In zamindari system too land was with tenure holders with different names, it was not with the zamindaars except some khudkasht or sir land (land cultivated by zamindar himself). Basic structure was not changed. The only change was brought that there would not be intermediary now and government would directly collect revenue. There were number of categories of tenure holders, it was minimised. Like in UP there were almost 20 classes of tenure holders and were minimised into three as bhumidhar with transferable right, bhumidhar with non-transferable rights and asami according to their status in zamindari system.

It appears that the Land Ceiling Acts are by themselves hindrance in equitable distribution of land due to the presence of a vast list of exceptions in various State Acts.