

In search of a Land Policy

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After independence India's land-reforms efforts started with the aim of helping landless farm toilers to become small peasants owning small plots of farmland. Sixty years later one can see that this effort did not succeed—the achievements are so small as to be negligible. On the reverse side, there is a much more massive drive to turn small peasants into landless workers. This is perhaps the biggest tragedy of India's agricultural experience that the noble aim of helping the landless to become farmers got reversed into the harsh reality of turning farmers into landless workers.

Therefore any comprehensive land-reforms effort should include both these essential components - providing land to landless peasants and protecting land rights of existing farmers.

The Report of the Working Group on Land Relations for Formulation of the 11th Five Year Plan-2006 (hereafter referred to as the WGLREP Report) makes a strong plea for bringing back land reforms as a national priority and makes important recommendations for strengthening land reforms.

To strengthen land-ceiling laws and their implementation the WGLREP Report has made the following key recommendations :

- i) "In view of increased land productivity under the impact of new technology and improved agronomic practices, the ceiling limits should be re-fixed and implemented with retrospective effect. The new limit should be 5 to 10 acres in the case of irrigated land and 10 to 15 acres in the case of non-irrigated land, to be decided by the concerned state governments.
- ii) Reclassification of newly irrigated areas should be undertaken with joint effort for bringing these lands within the ambit of ceiling laws. Besides, land covered under private irrigation and supply of water from a perennial source should be included in ceiling laws.
- iii) The Benami Transactions (Prohibition of the Right to Recover Property) Act, 1989 should be suitably amended so that evasion of provisions of the ceiling law through benami land transactions can be detected, checked and nullified.
- iv) Introduce Card Indexing System for prohibiting fictitious transfers in benami names. Recent developments in IT should be properly used to have accurate Card Indices in a speedy manner.
- v) Set up a special squad of revenue functionaries and gram sabha members for identification of benami and fictitious transaction in a time bound manner.
- vi) Remove exemption granted to religious, educational, charitable and industrial units under ceiling laws of various states. Each entity should have the same ceiling as a family, even though state may exempt any particular category on valid grounds.
- vii) Impose criminal sanction on the failure to furnish declaration of ceiling surplus land by land holders.
- viii) Insert a penal clause in the existing Land Ceiling Laws, making the officers responsible for intentional lapses if any.

- ix) Set up Land Tribunals or Fast Track Courts under Article 323-B of the constitution for expeditious disposal of appeal cases.
- x) States to empower the concerned authorities to expedite allotment of ceiling surplus land. Bar the jurisdiction of civil court in respect of ceiling on agricultural land.
- xi) Investigate all cases of illegal or improper allotments of ceiling surplus land and cancel such allotments. All such transactions after commencement of ceiling law should be declared null and void.
- xii) Absentee landlords or non-resident land owners should have lower level of ceiling.
- xiii) For addressing problems relating to land a single window approach to be provided by administration."

This report has also recommended in clear terms, "Incursion of corporate bodies for agriculture, horticulture, tree farming should be discouraged to protect the livelihood of peasant farmers and others whose occupation are directly related to farming, otherwise, it will increase the army of rural proletariat, leading to rural unrest and militancy. Government wasteland should not be settled or let out to corporate bodies. It should be reserved for distribution among the landless poor and public purpose. However, a view was expressed that contract farming mitigates against the concept of autonomous peasant farming and therefore, it should be discouraged if not banned."

The WGLREP report has also made some recommendations for all people facing displacement, and some only for tribal people. To take up its general recommendations first, this report says, "Indiscriminate, large-scale, ecologically damaging, socially harmful transfers of agricultural land to non-agricultural use should be checked."

"All medium to large-scale transfer of land from agricultural to non-agricultural use should be subject to an environmental protection clause and its strict implementation.

In a section 'key recommendation on company and Government land acquisitions' the WGLREP report says—

- a) "For land acquisition by a company there should be clearly laid-out procedures and transparency. The company should provide facts and figures to those losing land on how the project will help them and community in terms of full package of rehabilitation and resettlement.
- b) In case the company purchases land directly in the market, the Government should fix a floor price below which farmers would not sell the land to any company.
- c) In case the company is unable to use all the land it has acquired, the unutilized part should be returned to the government for distribution to the landless.
- d) Government land acquisition in the name of "public purpose" should be properly defined to include mainly the public utilities.
- e) As far as possible, fertile agricultural land should not be acquired for or by any company. The industrial units should be located in areas where wasteland is available.
- f) The Land Acquisition Act should be amended to incorporate compensation not only for the landed individuals but also for those who are landless and dependent on the land for livelihoods, for homes and items obtained from local common property resources. In other words, landless labourers,

artisans, tenants, etc. should also be compensated with housing and livelihood security.

- g) All compensation should follow the principle of gender equity.
- h) Where possible resettlement should be such that an entire community or family network is not split up but settled in the same site so that support networks continue to exist.
- i) While determining compensation, the basic principle must be replacement value at market rates of the land cost. This must be at the market rates that actually operate at the time of purchase and not those that are officially recorded. A suitable and credible mechanism must be evolved to arrive at operative market rates."

This report has expressed special concern at the alienation of tribal land. To quote -"In the past few years, rural unrest has increased in most tribal areas. While displacement caused due to development projects have resulted in confrontation between authorities and local tribals, there are other factors such as growing indebtedness, forcible eviction of tribals from their land by non-tribals, conversion of land from community ownership to individual ownership, increasing urbanisation, treating tribals as encroachers in traditionally occupied forest land and lack of substantive possession by tribals of government land allotted to them and so on. In order to prevent further deterioration in the situation, there is an urgent need to look into the ownership of resources by tribals, especially the resources on which they depend for livelihood, such as land, forest and water".

In the special context of land acquisition for development projects this report makes the following recommendations for tribal land :

- i) At present PESA is applicable only to the scheduled areas but a large part of the tribal population lives outside scheduled areas. Therefore, the provisions of PESA should be applicable mutatis mutandis to villages/areas where there is a sizable tribal population/where majority of the population consists of scheduled tribes.
- ii) It is necessary that, whenever land is acquired for industrial or mining projects, the exact extent of land required for the projects assessed by the concerned project authorities should be reassessed by a neutral agency/expert body consisting of experts, with the representatives of tribal community.
- iii) The Central Land Acquisition Act of 1894 and the Central Coal Bearing Areas (Acquisition & Development) Act 1957 should be amended in the line of the provisions of PESA.
- iv) The Land Acquisition Act should be amended to incorporate R & R policy for all projects. Rehabilitation should be undertaken in such a manner that the displaced tribals have a clearly improved standard of living after resettlement. Their ecology, culture and ethos will have to be given due consideration in the Resettlement Plan.
- v) The tribals who are displaced, should preferably be resettled in a zone adjacent to the affected area in consonance with their social, ecological, linguistic and economic affinity.
- vi) Resettlement and rehabilitation should be completed prior to the commencement of the project. The package should be approved by gram sabha in the PESA Area and by such other representative institutions in non-PESA tribal areas.

- vii) Unmarried daughters/sisters, physically challenged persons, orphans, widows and women divorcees should be treated as separate families in the R & R policy.
 - viii) All tribal communities must be rehabilitated strictly in compliance with ILO convention No. 107.
 - ix) Efforts should be made to ensure that all tribal families are resettled together to the extent possible. The minimum unit for relocation must be a hamlet or clan.
 - x) Compensation should be calculated and given on the basis of calculation of a 20 year prospective income stream to the tribal families for loss of customary rights over forests.
 - xi) Pending amendments to the Central Act on land acquisition and incorporating the provisions of PESA, the State Governments with scheduled areas should utilize the flexibility provided for in the Vth Schedule of the Constitution and modify the Land Acquisition Act to provide for consent of the gram sabha prior to the acquisition of land.
- One hopes that specific, time-based commitments for providing land to the landless and protecting land rights of small peasants (such as those mentioned in the planning commission's WGLERP Report) will be made by the government in the near future. □□□