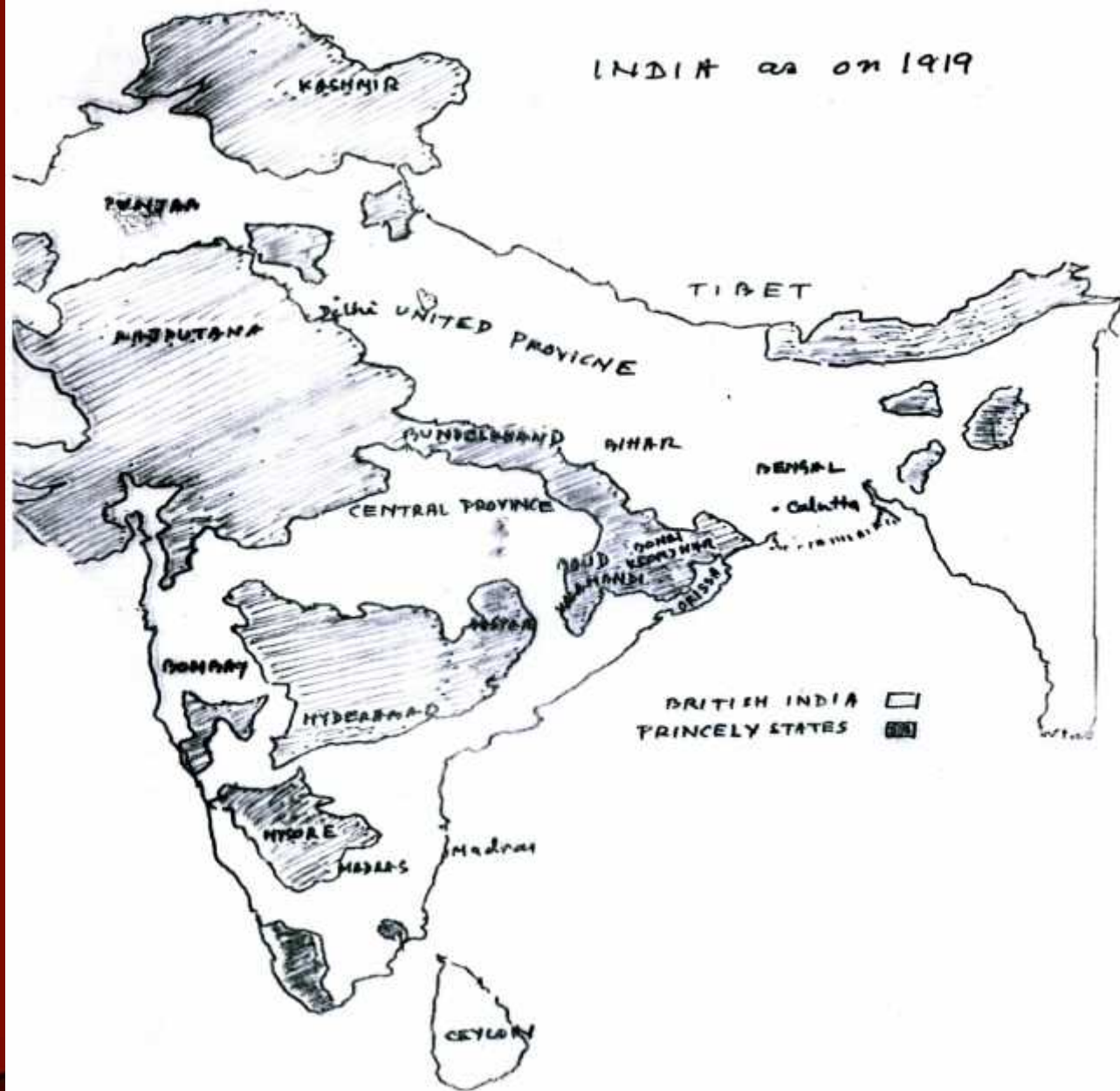


EVOLUTION
OF
TENANCY
LAWS
IN INDIA





HISTORY OF ORISSA

- Ashok invaded Kalinga in 261 BC
- Ashok belongs to Mayuryan dynasty.
- Maurya empire lasted upto 185 BC.
- Mahameghabahan dynasty's Kharabela ruled Kalinga in the 2nd half of 1st century BC.
- Satbahanas, Murundas Naga, Durjaya dynasties
- Bhaumas, Somvansi Bhanja, Sulkis, Tunga, Mayur (Bonai), Jajati Keshari (330 AD)
- Gangas started their rule in Kalinga at the end of 5th century AD till 1038 AD.
- Gangas shifted to Cuttack in 1112-13 AD ruled Utkal till 1435 AD.
- Kapilendra Deb of Solar Dynasty ascended the throne of Utkal thereafter, Purusottam Deb (1468-1497)
- Mukund Deva came to throne in 1559. He is from Chalukya family.

- Sultan Karrari of Bengal invaded Orissa in 1567 (Akbar was the Mogul Emperor). Mukund Deva was defeated.
- Orissa under Afghans of Bengal from 1568 till 1605 when Orissa was captured by Mughals.
- Orissa was almost two centuries ruled by Afghans & Mughals.
- Decline of Moghuls and Orissa was taken over by Marathas in 1751.
- After battle of Plassey in 1757 & Buxar in 1764 craving of British Empire reached its heights, by a treaty with Marathas on 17.12.1803, Maratha rule ended and Orissa came under British rule since 1803 to 1947. Then Orissa was Balasore, Cuttack, Puri.

HOW PRESENT ORISSA CAME INTO EXISTENCE ?

1st April 1936

- Cuttack, Puri, Balasore, Sambalpur, Angul called Orissa division of Bihar & Orissa province.
- Ganjam & Koraput (undivided), Balliguda subdivision of Madras Presidency.
- Present Nawapara district & Mahadevpalli P.S from central province.

1st January 1948

- 25 princely states

May 1948

- Two princely states Sareikela & Kharsuan retransferred to Bihar.

1st January 1949

- Mayurbhanj merged with Orissa state

4 Historical systems of land administration in Orissa

A. Bengal system-

Undevided districts of Cuttack, Puri & Balasore excluding ex-princely states.

B. Ex-Central Province

Areas – Sambalpur Bargarh subdivisions and Jharsuguda of undivided Sambalpur district (old CP area merged with Orissa division in 1905) 61 villages of Mahadevpalli Police station of Sambalpur subdivision, the Khariar Zamindary. (now Nawapara district) transferred to Orissa on 01.04.1936 (referred to as new C.P. area)

C. Ex-Madras Area -

Ganjam, undivided Koraput districts and Balliguda subdivision of Kandhamal district.

D. Ex-Princely states -

25 Oriya speaking states merged in Orissa on 01.01.1948. Chhatishgarh Agency consists of Patna & Kalahandi states under one Political Agent along with 14 Hindi speaking states. The Orissa Agency had 23 states, all Oriya speaking in its jurisdiction. In May 1948 two states were transferred to Bihar (Saeikela & Kharsuan). On 01.01.1949 Mayurbhanj state merged with Orissa. Thus remained 24 princely states in Orissa.

Salient features of land tenure practices prevailing in 4 historical systems of Orissa

BENGAL SYSTEM (undivided Cuttack, Puri & Balasore districts)

- Creation of Pargana, Taluk Accountant – Kanungo by Mughal rulers.
- Orissa came under British rule on 14.10.1803 to collect revenue from land conducted short-term settlements from time to time. Sunset law, entry of speculators to Orissa
- Regulation 111 of 1826, extended till 1896, helped in growth of Zamindari system. By 1866, there were 5000 estates and more than 10,000 proprietors.
- Incidents of Zamindari rights.
- Incidents of tenure holders with quasai proprietary rights.
- Bajyapati & Lakhraj tenures land relating to rent free.
- Orissa Tenancy Act, 1913.
- Evolution of occupancy right.
- A Raiyat under Orissa Tenancy Act 1913.
- Occupancy Raiyats
- Nijjote & Nijichas land of proprietor's land.

Tenancy systems & Tenancy laws in Ex-Central provinces areas.

- Zamindari areas having 1668 villages.
- Non-Zamindari called Khalsa tracts having 1005 villages
- Khalsa villages, 3 types Malguzar-119, Gounti-870, Raiyatwari 16 = 1005
- The CP Tenancy Act 1889.
- Zamindari tentures
- Maufidars, Thikadars
- Proprietary tenure holders.
- Khalsa villages - the gountias.
- Malguzari Tenure
- Brahmottar land
- Housesite land
- Rayatwari villages - 16 in number in Khalsa area
- Village service land

Tenancy systems and tenancy laws of ex-Madras area

- Ganjam from Kalinga to Chicacole. 180 years under chicole circar ruled from Hyderabad.
- English took possession of Chicacole circar including Ganjam on 12.11.1766.
- Zamindars - no proprietary rights, only public servants, responsibility to collect revenue and deposit in time. Permanently settled in 1799.
- Lands held by Zamindars were conceded to them.
- Madras Estates Land Act 1908.
- Produce rent
- Inam Tenure
- Darmila Inam
- Ryotwari Areas - no intermediate interest in land between the raiyat and state.
- Agency tracts - Hill Zamindars both in Ganjam & Koraput.
- Rebellion of Raja of Ghumsur in 1836.
- Collector as Agent of British Govt. in Agency tracts
- Muthas and Muthaheads - head of smaller administrative units in Mala areas (Agency tracts) known as Muthas
- Agency tracts interests and land transfer Act 1917.

Tenancy systems and tenancy laws of ex-Princely states

- Institutionalisation of village headman in princely states like Padhan, Sarvarkar Gountia.
- Khamar & Bhandar – personal land of rulers and his relations.
- Service grants to paiks
- Jagirs to astrologers drummers, village servants barber, kumbhar, carpenters, Chowkidar, Jhankar.
- 80 to 90 percent land held by persons known as Raiyats
- Peasants uprising in 1938 killing of political agent of Orissa state agency in Ranpur.
- Zamindars like that of Sambalpur
- Revenue free grants like - Debottar, Brahmottar, Pirottar Khairat etc.
- Extra-provincial jurisdiction Act, 1947 - conferring rights on occupancy tenants as given in Orissa Tenancy Act 1913 in other areas of Orissa.
- Orissa Merged states (Laws) Act, 1950.

Proliferation of Intermediaries in Pre-reform era

1890 – 1900 Settlement Estates 6346

Proprietary bodies 42400

1922 – 1930 Settlement Estates 11446

Revenue free estates 100,000 & more

The permanent settlement was introduced not to advance the agriculturists but to facilitate easy and regular collection of land revenue.

Laws enacted after independence before comprehensive land reforms

Legislation

1. The Orissa Prevention of Private Forest Act, 1947.
2. The Orissa Communal, Forest & Private Land (Prohibition of Alienation) Act 1948.
3. The Orissa Tenants Protection Act, 1948.
4. The Orissa Tenants Relief Act, 1955.

Milestone in Tenancy Reform

1.	14.10.1803	East India Company in Orissa
2.	1826	Temporary settlement
	1830	P.Settlement of land revenue
3.	1859	Bental Rent Act
	1881	CPLR Act
4.	1885	Bengal Tenancy Act
5.	1889	C P Tenancy Act
6.	12.11.1766	English took over chicacole circar of which Ganjam a part
7.	1799 -1802	All Zamindar permanently settled in South Orissa
8.	1862	Madras Enfranchised inams Act
9.	1908	Madra Estate Land Act.
10.	1913	The Orissa Tenancy Act
11.	1917	Agency Tracts Interest & Land Transfer Act
12.	1947	Extra-Provincial Jurisdiction Act
13.	1950	Orissa Merged Statues (Laws) Act
14.	1951	Orissa Estate Abolition Act
15.	1960	Orissa Land Reforms Act
	1965	Amendment (ceiling)
	1976	Amended (definition of family)

OLR ACT-1960

“Whereas it is necessary to enact a progressive legislation relating to agrarian reforms and land tenures consequent on the gradual abolition of intermediary interest and whereas it is expedient to confer better rights on agriculturists to ensure increase in food production.....”
(Preamble to OLR 1960)

Definition Section-2 of OLR Act

- 2 (1) Agriculture
- 2 (4) Basic holding
- 2 (30) Standard acre
- 2 (5-a) Classes of land
- 2 (13) Irrigated land
- 2 (9-b) Fair rent
- 2 (12) Homesfead
- 2 (14) Land
- 2 (21) Person under disability
- Section 2(24) 'Privileged raiyat'
- 2 (26) 'raiyat'
- 2 (31) 'tenant'
- 'Raiyat' as defined in Section 2 (n) of OEA Act - any person holding the land for the purposes of cultivation and who has acquired the rights of occupancy according to the tenancy law or rules for the time being in force in that area, or in the absence of such law or rules, the custom prevalent in that area.

Chapter II of OLR Act Raiyats & Tenants

Section 4(1) raiyats by paying premium

Section 4 (5) raiyat by paying compensation

Prohibition of lease

- Section 6 (1) raiyats' right
(2) lease void
(3) permissible for 'persons under disability and privileged raiyats
- Section 6-A 10 years ban on settled land with a raiyat
- Section 8 Eviction of raiyats
(1) Subject to other provisions of this Act..... A raiyat shall be liable to eviction only if he
(a) has used the land..... Which renders it unfit for the purpose of agriculture
(b) leased out land in contravention of section 6
(c) has used the land for any purpose other than agriculture
- Section 8-A Conversion of agricultural land for purposes other than agriculture
(1) Notwithstanding anything contained in Section-8.
(a) the authorised officer may where an application is made to him by raiyat allow such conversion, if he is satisfied that such conversion shall not violate.
(i) any master plan, improvement scheme, development plan or town planning scheme.

- (b) In every case where the authorised officer allows conversion, the raiyat is required to pay conversion fee for such land, calculated at the rate specified in sub-section (2) and the kisam of the land so converted shall be corrected accordingly.
- (c) where the conversion of the use of any agricultural land by a raiyat for the purpose other than agriculture has been made prior to commencement of the Orissa Land Reforms (Amendment) Act, 1993 or where the land has been transferred by the raiyat to any other person prior to such commencement, and the transferee uses the land for the purpose other than agriculture without paying the premium fixed transfer as per the provision existing prior to the commencement of the Orissa Land Reforms (Amendment) Act, 2006, such raiyat or such transferee is required to pay conversion fees. As calculated at the rate equivalent to fifty percent of the rate of conversion fees against the category of land in sub-section (2).

Section 8-A (contd)

- (2) The rate at which the conversion fees shall be payable PER ACRE of agricultural land as follows :-
- (i) Land situated within any municipal areas or areas within one-half kilometre on either side of National high way Rs. 3,00,000/-
 - (ii) Land situated within one-fourth kilometre on either side of state high ways Rs. 1,00,000/-
 - (iii) Land situated in a municipal area or a notified area, or in any area notified as urban area under OGLS Act (1962) Rules (1983), other than land mentioned in clause (i) and (ii) Rs. 75,000/-
 - (iv) Land situated in such developing areas on the state Govt. may notify from time to time other than any area covered in clauses (ii), (ii) & (iii). Rs. 30,000/-
 - (v) Land situated in any area not covered by clauses (i), (ii), (iii) & (iv). Five percent of the market value of much land or Rs. 1000/- whichever is more.

Section 8 – Eviction of raiyats

(1)

(a)

(b)

(c)

Explanation – the construction of a house for the residence of the raiyat and his family members together with all necessary outhouses shall be deemed to be for agricultural purposes.

Rights of a Tenant and grounds of Eviction

Section 7 (1) – Rights of Tenants

Section 13 – Rent one fourth of gross produce

Section 14 – Grounds for eviction of tenant

Rights of rayats, tenants, agricultural labourers, and village artisans on the site on which their dwelling houses or farm house stands.

Section 9 (1) – raiyat or tenent

Section 10 – for agricultural labourers and village artisans.

Restriction of alienation of land by ST & SC

Section 22 (1) – ST

Section 22 (5) – SC

Section 23-A – Unauthorised occupation of ST & SC / land

Section 23-B – Burden of proof.

Section-19. Partition among co-sharer raiyats how to be effected.

- (1) No. partition of a holding among co-sharers raiyats shall be valid unless made by
 - (a) A registered document or
 - (b) A decree of Court or
 - (c) An order of the revenue officer in the manner prescribed on mutual agreement
 - (d) When partition is effected in the manner provided in clause (c) of sub-section (1), the Revenue officer shall send to the authority competent to maintain the record-of-rights in the prescribed form (from No. 5A, OLR, Rules) a detailed list of lands, allotted to each share.
A copy of the order along with detailed list shall be sent by the Revenue Officer.

Section 19 (contd.)

A copy of the order along with the detailed list shall be sent by the Revenue Officer for registration under the Indian Registration Act (16 of 1908) to the Sub-Registrar having jurisdiction.

Provided that no charges for such registration shall be payable.

Rule 19 of Orissa Land Reforms (General) Rules, 1965

Manner in which a partition can be ordered by a Revenue Officer under Clause (C) of sub-section (1) of section 19.

- Rule 19 (7) the application can be allowed only when all the co-sharer raiyats give their consent to the partition applied for
- (8) If there is any difference of opinion among the co-sharer raiyats the application for partition shall be rejected.

Rule 19 (contd.)

(3) Any person applying for an order of the Revenue Officer under Clause (C) of sub-section (1) of section 19 shall file an application giving a full description of the land and other details necessary to effect the partition of a holding among co-sharer raiyats.

- The application shall be presented to the Revenue Officer personally by the applicant or by his authorised agent.
- As many copies of the application as there are opposite parties shall be filed along with application.
- For every village there shall be a separate application in respect of each holding.

(9) When a partition is allowed, the order of the Revenue Officer partitioning the holdings of co-sharer raiyats shall clearly mention the plots of land that are allotted to the share of every co-sharer raiyat and the amount of rent, cess and other legal dues payable by each co-sharer raiyat after partition.

Rule 19-A – whenever an order under Section 11, 18 or 36 of the Orissa Survey & Settlement Act, 1958 with regard to any area has been issued, Rule 19 shall not be applicable.

Chapter-III of OLR Act

Resumption of land for personal cultivation by landlord / land holder

- Section 24 (1) – right to determination of resumable and non-resumable lands.
- Section 34-A – where land lord fails to apply.
- Section 35 – when both landlord & tenant fail to apply.
- Section 36-A – Tenant to become raiyat in respect of the whole of land.
- Section 36-C – Tenants inducted in contravention of sub-section (2) of section 6, to be declared raiyat.
- Limitation not applicable in cases under 36-C.
- Tenant may make an application within two years from OLR (Amd) Act 1975 or the date on which the land was so let out, which ever is later.

Chapter-IV of OLR Act ceiling & disposal of surplus land

- Section 37 – Definition of 'Person's 'Family'.
- Section 37-A – ceiling 10 standard acres to 18 standard acres.
- Section 38 – Exemption from ceiling
- Section 39 – Principles for determining the ceiling area
- Section 40 – Prohibition of transfer and partition of land
- Section 51 – Settlement of surplus land
- Section 52 – Ceiling on future acquisition.

Chapter – V – Administrative Machinery

- Section 57 – Revenue Officer shall have the powers of a Court for making enquiries
- Section 57-B – Powers of Collector relating to Trust

Chapter-VI Miscellaneous

- Section 58 (1) – ‘Appeal’ time given in section 63 (2) (Rule 42)
- Section 59 – ‘Revision’ (Rule 42-B)

The Board of Revenues, may, at any time on being moved in that behalf by the Collector or by LRC revise any order.

- Section 60 – ‘Review’ - May be reviewed by the officer who made the order or his successor in office on the ground of any clerical mistake or error.

Section 61 – Order to be final shall not be called in question in any court of law.

Section 64 – Enquiries and proceedings be judicial proceedings (Section 193, 228, 196 of IPC).

Section 67 – Bar of jurisdiction of Civil Courts