

Project Title

“Determination of Ceiling Surplus Land and Distribution
among Landless Persons”

Submitted By

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Introduction:

Historically, it has been seen that India is inherited an exploitative and unequal agrarian system from the past. The Indian Agrarian structure was mainly characterized by continuation of intermediaries, no provision of security of tenure, unregulated rent and continuation of exceptionally unequal distribution of land holdings among the households of farmers. In the post independent era, at the state level, various policies particularly on agrarian condition and structures were constructed and implemented to ensure the agrarian arrangement more equitable. It is an undesirable fact that land constitutes by far the most valuable and desired asset of the people in rural India. If the distribution of this asset is skewed, it would naturally perpetuate inequality. This contradicts the aim and objective of a welfare state to eliminate inequality. It is a common conception that the burden of inequality falls heavier on poor than on rich. One of the sources of alleviating inequality and poverty from the rural India is to introduce reform measures in agriculture. One such measure consists of imposition of ceiling on land holdings and distribution of ceiling surplus land among the landless rural households. In this respect, the state has to play certain roles like implementation of ceiling laws. In Orissa, ceiling laws has been framed and implemented.

Objectives:

The OLR Act was enacted manifestly with a view to impose ceiling on agricultural holdings and acquisition and distribution of the surplus area among the landless and weaker sections of the society and is in substance an enactment relating to agrarian reforms.

The undisputed purpose of the Act is to make “Progressive legislation relating to agrarian reforms and land tenures” and with a view to implement the “Directive principles of State Policy in Article 39 of the Constitution” that the operation of the economic system does not result in the concentration of wealth and means of production of the common detriment”.

Indian Constitution and Ceiling on Land Holdings:

The following articles of Directive Principles of State Policy of Indian Constitution relating to the ceiling of land holding;

- Article 38 seeks to minimize the inequalities of income, status, facilities and opportunities. Land ceiling minimize inequalities in the land ownership and thus

reduces inequality of income.

- Article 39 wants to ensure that the operation of economic system does not result in the concentration of wealth. In a village Land = Wealth, hence the land ceiling is necessary to prevent concentration of wealth in the hands of few.

Further, article 39 wants to give right to adequate means of livelihood for all citizens. Land ceiling (and subsequent land redistribution) provides self employment opportunities to landless agricultural labourers.

- If there is no land ceiling, rich farmers will buy all the land of entire village and Tahasil. But since they cannot cultivate all the land by themselves, they will lease it to small farmers (tenants). Small farmers doesn't have any motivation to work harder because he doesn't own the land and he has to give major portion of the produce to the land owners as rent = exploitation.
- So, after abolishing Zamindari, If State Governments had not implemented Land Ceiling, and then rich farmer would have become the new de-facto/Virtual Zamindars of Modern India.

Ceiling Laws in Odisha:

The Orissa Land Reforms Act of 1960 was designed on the basis of the guidelines provided in the Second Five-Year Plan (1956-61). The "Ceiling and Disposal of Surplus Land" came into effect in Orissa on the 7th day of January 1972. According to this Act, the ceiling area is defined in respect of the persons and families. As per definition, a 'person' includes companies, families, associations or other body of individuals, whether incorporated or not, and any institution capable of earning or holding property. Similarly, the Act defines a 'family' in relation to an individual which does not include a major married son who as such had parted by partition or otherwise before the 26th day of September, 1970. The ceiling in respect of a person or a family has been fixed at 10 standard acres if the family of the person consists of five members or less. In case of family having more than five members, 2 standard acres for each additional member over and above five acres subject to a maximum limit of 18 acres.

Principles of determining the ceiling land:

In determining the ceiling area in respect of a person, the following principles shall be followed, as given below:

- The homestead land or tanks with their embankments, or both, to the extent of 3 acres in the aggregate shall not be taken into account.

- In 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 the commencement of the Odisha 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 the decree or order of any decree or order of any court notwithstanding.
 - The land 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.
- Where the person is a member of Co-operative Farming Society, the extent of land in which he would get his share, if the land hold of such society is divided shall be taken into account.
- Land in the possession of a tenant or a mortgage shall be deemed to be lands by the person.

The Act Stands for:

- The provisions are incorporated into the chapter IV of the Orissa Land Reforms Act, 1960 and this serves the main Act of Land Reforms in Orissa. The land holdings possessed by an individual in excess of 10 standard acres, is brought under the scope of ceiling laws.
- The authorized Revenue Officers are to declare the area of land holdings over and above 10 standard acres as ceiling surplus land. This land is to be taken over and vest in government.
- Then the lands is to be distributed among the households of scheduled tribes, scheduled castes and others who are normally identified as landless. Thus, there are two parties to the implementation of ceiling laws - one being the land losers and the others being land allottees. It is necessary to study the attitude of the households of land losers and land allottees and the economic impacts of the implementation of ceiling laws.
- Previously the Law fixed the ceiling area at 33 standard acres. (A standard acre is defined as 1 acre of class I land, 1.5 acres of class II land, 3 areas of class III land and 4.5 acres of class IV land.

- **Class I** land is round the year irrigation facilities land where two or more crops can be raised.
 - **Class II** land has limited irrigation facilities which can grow not more than a single crop.
 - **Class III** land is unirrigated on which only paddy can be grown.
 - **Class IV** land includes all other remaining varieties.)
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- The ceiling area of 33 standard acres was very high and it prompted the intermediaries to evict tenants. In order to save the tenants from eviction, the Government of Orissa brought an amendment through the Orissa Land Reforms (Amendment) Act, 1974 and the ceiling area was reduced to 10 standard acres, with the definition of a standard acre being held unchanged.

Various Important Sections of the Act:

| Sections | Subject | Description |
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| 37 | <i>Definition</i> | (a) Person: company, family, association or other body of individuals, any institution capable of owning or holding property; (b) Family: the individual, the husband or wife, their children, whether major or minor, but does not include a major married son who had separated before the 26th day of September, 1970 |
| 37 A | <i>Ceiling Area</i> | <ul style="list-style-type: none"> • 10 standard acres per person • Family consisting of more than five members, the ceiling shall be ten standard acres increased by 2 standard acres for each member in excess of 5, the total ceiling area shall not exceed 18 standard acres. |
| 37 B | <i>Entitlement</i> | No person shall be entitled to hold any land in excess of the ceiling area |
| 38 | <i>Exemption</i> | 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 undertakings or mills, factories or workshops (c) plantations (cultivation of coffee, cocoa or tea) (d) lands held by any agricultural university, agricultural school or college, or any institution conducting research in agriculture |
| 39 | <i>Principles for Determining the ceiling</i> | 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 |

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| | <i>area</i> | <p>both, to the extent of 3 acres shall not be taken into account ;</p> <p>(b) transfer of any land by sale, gift or partition by a person during the period beginning with the 26.09.1970 and ending with the commencement of the OLR (Amendment) Act, 1973, if such person was holding land on the said day in excess of the ceiling area, be deemed to be void;</p> <p>(c) the lands so transferred or partitioned shall be taken into account as if the transfer or partition had not taken effect;</p> <p>(d) the person is a member of a co-operative farming society, the extent of land which he would get as his share shall be taken into account;</p> <p>(e) lands in the possession of a tenant or a mortgage shall be deemed to be lands held by the person.</p> |
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| 40 | <i>Prohibition of transfer and partition of land</i> | No such ceiling lands can be transferred or partitioned without determining the surplus land and taken possession by the government. |
| 40 A | <i>Submission of returns</i> | Every person holding in excess of the ceiling area shall submit a return to the Revenue Officer within 90 days commencement of OLR (Amendment) Act, 1973 in form return indicating the parcels of land which he wishes to retain and the “surplus lands”. |
| 41 | <i>Responsibility for submitting returns</i> | The Return Shall be submitted (1) by the individual or guardian in case of minor; (2) by the head of the family or any member thereof or by all the members jointly. |
| 43 | <i>Publication of draft statement</i> | The Revenue Officer shall prepare a draft statement showing — |

| | | <p>(a) the total area of land held by the person;</p> <p>(b) the surplus area ;</p> <p>© the specific parcels of land to be retained by the person and the total area;</p> <p>(d) the specific parcels comprising the surplus lands;</p> <p>(e) lands if any exempted under section 39;</p> <p>(f) such other particulars as may be prescribed</p> | | | | | | | | | | |
|-----------------------------------|---|---|-------------------------------|-----------------------|----------------------------------|------------------------------|----------------------------------|------------------------------|-----------------------------------|------------------------------|-------------------|------------------------------|
| 44 | <i>Final statement of ceiling and surplus lands</i> | <ul style="list-style-type: none"> • The Revenue Officer shall by order confirms the draft Statement • Publication of draft statement after confirmation • The copy of final statement shall then be furnished to the person concerned free of cost | | | | | | | | | | |
| 45 | <i>vest in Government</i> | Surplus land shall vest absolutely in the Government free from all encumbrances with effect from the date on which the statement becomes final | | | | | | | | | | |
| 47 | <i>Principles to Determine 'amount'</i> | <p>The amount shall be the aggregate of the :</p> <p>(a) fifty per centum of the market value of tanks, wells and permanent structures</p> <p>(b) fifty per centum of the market value of trees</p> <p>(c) value of land</p> <table border="0"> <thead> <tr> <th style="text-align: left;">Extent of surplus land</th> <th style="text-align: left;">Rate of amount</th> </tr> </thead> <tbody> <tr> <td>(i) For the first ten std acres.</td> <td>Rs. 800/- per standard acre.</td> </tr> <tr> <td>(ii) For the next ten std acres.</td> <td>Rs. 600/- per standard acre.</td> </tr> <tr> <td>(iii) For the next ten std acres.</td> <td>Rs. 400/- per standard acre.</td> </tr> <tr> <td>(iv) For the rest</td> <td>Rs. 200/- per standard acre.</td> </tr> </tbody> </table> | Extent of surplus land | Rate of amount | (i) For the first ten std acres. | Rs. 800/- per standard acre. | (ii) For the next ten std acres. | Rs. 600/- per standard acre. | (iii) For the next ten std acres. | Rs. 400/- per standard acre. | (iv) For the rest | Rs. 200/- per standard acre. |
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| 50 | <i>Payment of amount</i> | <ul style="list-style-type: none"> • The amount shall be paid on and from the date of delivery of or taking over possession of the surplus land • Interest shall accrue on the unpaid the amount at the rate of two and half per centum per annum | | | | | | | | | | |

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| 51 | <i>Settlement of Surplus land</i> | <ul style="list-style-type: none"> • 70% of the surplus lands shall be settled with Scheduled Tribe or Scheduled Caste persons in proportion to their respective populations in the villages • 30% with other persons • The percentage of lands to be reserved shall be equal to the percentage of their population • If sufficient number of ST & SC persons are not available surplus land may be settled with other persons • Collector with the prior approval of the Government, set apart any surplus lands for public purpose <p>Order of priority in settlement of land</p> <p>(a) co-operative farming societies formed by landless agricultural labourers</p> <p>(b) any landless agricultural labourers of the village</p> <p>(c) ex-servicemen or members of the Armed Forces of the Union</p> <p>(d) raiyats who personally cultivate not more than one standard acre of contiguous land;</p> <p>(e) any other persons</p> |
| 52 | <i>Ceiling on future acquisitions</i> | <p><i>Where lands acquired</i> subsequent to OLR (Amendment) Act, 1973 by any person through inheritance, bequest, gift, family settlement, purchase, lease or otherwise, together with the lands held by him at the time of such acquisition exceed the ceiling area, shall submit the return required under section 40-A to the Revenue Officer within ninety days from the date of such Acquisition</p> <p>Explanation I - If, as a result of irrigation facilities provided by the Central Government, the State Government, any local authority, if the class of land is upgraded, then it shall be deemed to have been acquired</p> <p>Explanation II - Homestead lands which have been kept</p> |

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| | | out of account in determining the ceiling area shall, on ceasing to be used as homestead land be deemed to have been acquired |
| 73 | <i>Act not to apply</i> | Nothing contained in this Act, shall apply - (a) to the Government in respect of lands held by them and which is used or set apart for any public purpose; (b) to lands held by (i) the Government of India; (ii) any local authority; (iii) any University established by law in the State; (iv) the Bhoodan Yagna Samiti established under the Odisha Bhoodan and Gramdan Act, 1970. (v) any Government company as defined in the Companies Act, 1956; (vi) any Corporation established under any law in force |

Procedure for settlement of ceiling Surplus lands:

Under sub-section 2 of section 51 of the Act defines the details procedure for settlement of Ceiling Surplus Land and definitions:

- Revenue officer shall issue notice inviting applications for settlement from deserving persons to be filed within 15 days from date of issue of notice.
- The notice shall be affixed on the board in the office of the Revenue officer, at a conspicuous place of the village in which the land in question is situated.
- The notice shall contain the details of the proposed land like Khata No., Plot No., area, classification etc.
- The application received shall be entered in a register in form no. 22.
- The applications received shall be shorted out village wise in accordance with the priority.
- Then the revenue office shall make an enquiry in respect of each application.
- If after an enquiry, revenue officer found that settlement of land may not be granted

then the application shall be rejected after recording the reasons for rejection.

- If after an enquiry, revenue officer found that the land can be settled, then he/she shall publish a proclamation which shall contain the details of application and the particulars of land applied for settlement, inviting objection if any fixing a date for hearing of objections.
- The proclamation shall be published by the beat of drum and affixing a copy of proclamation at a conspicuous place in the village in the presence of not less than two persons.
- On expiry of 15 days from the date of publication of proclamation in the village and after hearing the objections if any the revenue officer shall settle the land against the deserving applicant.
- The preference shall be given to those landless people who have no land and other means of livelihood over those who are comparatively better in accordance with the Section 51 of the Act.
- No more than 0.7 standard acre of land shall be settled with any person. Provided that when a person already owns some lands so much of land not exceeding in the aggregate of 0.7 standard acre may be settled with him.

Recent statistics on Distribution of Ceiling Surplus Land for Agriculture purpose in Odisha:

In order to improve the economic condition of the weaker sections of the society and to boost agriculture production in the state, ceiling surplus land up to 0.7 standard acre is being allotted free of salami to the landless persons for agricultural purpose since the year 1974-75. This item has also been **included under 25-Point Programme** being implemented by the Revenue and Disaster Management Department, Government of Odisha. Since inception, **surplus land measuring an area of Ac.160636.803** has been **distributed among 143485 numbers of beneficiaries**. Out of this **Ac.51317.562 of surplus land has been distributed among 49083 S.C. beneficiaries**, **Ac.66462.146 of surplus land distributed among 53208 nos. S.T. beneficiaries**.

Limitations of the Act:

- The major setback is the lack of actual physical possession by the beneficiary. The beneficiary families, who have pattas for ceiling surplus land allotted to them, do not physically possess them as the land is still under the possession of the previous

owners. The previous owners still reap the benefits from such land. Although about three decades have passed since allotment, efforts to ensure physical possession of the land to the allottees have been limited. Interestingly, even though most do not have physical possession, they have to pay tax as they are owners as per Government records

- Another drawback is no recorded (patta - ownership) with the beneficiary i.e. no updation in the Recorded Tenants
- Further, Poor land quality making it almost impossible to cultivate by the tenant.
- Physical land demarcation is also a major issue and a majority of beneficiaries are unable to identify their plot. As a result, they cultivate land that does not belong to them and are called encroachers. There are many such examples, especially in districts like Gajapati, Kondhamal and undivided Koraput.

Therefore, it is necessary to set up a monitoring cell for keen observation on disposal of ceiling surplus land cases and its distribution among landless people. The process of evaluation need to follow up with time bound instructions.

Conclusion:

Compared to the rest of India, Orissa has set a comparatively good record in distribution of ceiling surplus land to the landless. This process and system of land distribution has also been used as a source of inspiration, for national distribution of ceiling surplus land, by the Government of India. It was regarded a revolutionary step as land distribution in Odisha was extremely skewed at the time of Independence with 53% of plots were held by just 7% landowners. According to the sources: The state has 96% achievement in distributing land to scheduled caste and scheduled tribes, which is among the best in the country.” To make this law active in true spirit, pragmatic approach is needed to overcome all its shortcoming and lacunas.

Revenue system and procedures must adhere to the cultural paradigm and land needs to be defined from cultural and customary perspective. Common property resources and common land need to be understood and the land use of commons should be respected in the “way people use it”.

Concept of green belt, capping and freezing of land for agricultural and allied activities needs to be popularized and incorporated in the policy document. Urbanization process needs to be properly monitored to ensure that no vulnerable communities are being further marginalized in the process. Issues and challenges of tenancy, contract farming, and wasteland development need to be further deliberated and a framework needs to be devised.

References:

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5. Action report on activities of Revenue and Disaster Management Department for the Financial Year 2017-18.
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