

7.1 LAND REFORMS—ASPECTS

Contemporary land reforms in India addressed aspects such as abolition of the 'Zamindari' system, land ceiling act, reforms in tenancy, rights of tenants, redistribution of surplus land and land consolidation. These have been a focus area right since Independence, largely within the state government domain. They continue to be a priority area with prevalence of a large number of small and marginal farmers and also a large number of landless farmers.

The objective of this chapter is to bring out a new perspective, which has become extremely relevant and also would require to be addressed on an equal important priority, in tandem with the requirements of the economy.

The total area covered under agriculture is around 60 per cent of the land area of India. Various articles mention a declining trend of area under agriculture, as a disturbing trend. The forest cover of India is around 20 per cent, unreported around 5 per cent and the remaining 13 per cent as mountains, rivers and also for non-agricultural purposes including industries. Thus, a total land area for industrial/service sector/infrastructure activities is only 11 per cent.

How much of GDP is accounted by various sectors of the economy in relation to the land use? Agriculture consumes up to 60 per cent of the land area whereas, contributes only 17 per cent of GDP, while industrial/service sector contribute over 80 per cent of GDP but has only 11 per cent of the land area. Growth in future will require large land area under non-agriculture for industries, service sector activities and also for building infrastructure.

This is not to undermine the importance of agricultural sector in India. The issue lies in improving the agricultural productivity, rather than the area under agriculture. This sector is important for food security and also for meeting the requirements of a growing population, however, at the same time it cannot become a driver of growth. This has to be driven around a widened and diversified manufacturing and industrial base, which will require freeing up of land under agriculture. At least there should be political acceptability of this fact.

7.2 LAND ACQUISITION BILL

At present, there is lot of resistance for conversion of agricultural land for non-agricultural use and a subject matter, of the respective state government. Further, the present policy of land acquisition is being done in terms of the Land Acquisition Act of 1894, now amended. Companies are restive over delay of their projects, mainly due to serious problems in land acquisition and environmental clearances. Eighteen major projects in sectors such as steel and power, equivalent to ₹ 244,815.50 crores, are stuck due to procedures relating to land acquisition and forest and environmental clearances.

In the absence of investment in critical areas, it will be difficult to increase levels of growth. Already India is experiencing a slow down in growth and investment, which needs to be scaled-up. This is not a question of resources (which is available), but their conversion into investment as an issue. It is in this context a new land acquisition law entitled the 'Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill 2012', has been enacted to replace the existing Land Acquisition Act of 1894.

The act will provide transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization, with least disturbance to the owners of the land and other affected families. The affected families, whose land has been acquired and also to the families whose livelihoods are affected by land acquisition, will now get just and fair compensation.

The proposed land acquisition law defines 'public purpose' so as to prevent arbitrary acquisition of land. Social impact assessment and establishment of public purpose has been made mandatory through the participatory processes. The affected families have been guaranteed certain rights for rehabilitation and resettlement.

Safeguards for protecting food security and limitations/prohibitions on acquisition of land in scheduled areas without the consent of the Gram Sabhas has been done to ensure special dispensation to SCs/STs with regard to compensation, resettlement and rehabilitation.

It is an appreciable move by the government of reviewing a policy framed over 100 years ago. This would be for the first time comprehensively covers acquisition, rehabilitation and resettlement under one Act. It is a land mark bill but at the same time it is also felt that it could increase cost of projects, for which land is being acquired, manifold.

At a broader level, this bill will lead to uniformity and transparency, remove ambiguities and more importantly facilitate the process of conversion of land from agriculture to non-agriculture and facilitate investment in the economy. While the act, will be a landmark in land reforms, post-independence, there are still unresolved issues which would need the attention of the government as a part of the land reforms.

7.3 NATIONAL LAND USE POLICY—EFFICIENCY IN THE USE OF LAND

Land is a scarce resource for the country and every effort should be made to have 'land efficiency' either in agriculture or in any other activity. It should be appropriate to have

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7.4 LEASING

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at central government level a 'National Land Use Policy', and within the broad umbrella, state government could have their respective land use policies. This would result in better utilization of land, depending on the priorities of government and a balance between competing usages of land based on efficiency and productivity. Their importance also lies in the fact that this policy should then become the base of land acquisition policy and not on the other way around, of first acquiring the land and then talk about land use policy.

7.4 LEASING OF AGRICULTURAL LAND

At present, leasing out of land is only for non-agricultural land and agricultural land can only be used for self-cultivation or could be sold but present laws do not allow leasing of land and giving out agricultural land on rent. Farmers who cannot undertake farming on their entire land area, or those who are not interested can rent out their land to those who are interested or those who do not have land. This could help increasing both production as well as productivity and also lead a way to make agriculture, a commercial venture which presently is by and large a livelihood activity.

Widespread prohibition of land leasing, prevents healthy rural-urban migration, as villagers are unable to lease their land, and often have to leave land untill or leave a family member behind to work on land. Lifting these restrictions can help landless, acquire land from those who migrate, even while it will allow, landowners with education and skills to move to industry or services.

Compulsory registration of leaseholds and of the owner's title would provide tenants and landowners a protection. Of course, for such a leasing market to take off, owners should be confident that long-term tenancy would not lead to their losing ownership. With a vibrant leasing market, and a clear title, there should be a little reason for not strengthening their ownership rights.

This lease hold mechanism can also be considered for large projects and also infrastructure, which would obviate the need for 'land acquisition', and by pass many issues such as cost, compensation to be paid, resettlement and other such issues. It will also keep capital costs down of large projects and make land available quickly for projects.

7.5 MOVING FROM 'PRESUMPTIVE TO CONCLUSIVE' TITLE

Economic Survey 2012–2013, mentions 'The National Land Records Modernization Program' (NLRMP) which started during 2008 aimed at updating and digitizing land records by the end of the Twelfth Plan. Eventually, the intent is to move from 'presumptive title', where registration of a title does not imply the owner's title is legally valid, to 'conclusive title', where it does. Digitization will help in lowering the costs of land transactions, while conclusive title will eliminate legal uncertainty and the requirement to use the government as an intermediary for acquiring land so as to 'cleanse' the title.

This is a time-consuming activity requiring active engagement of the state governments and leveraging technology and would need to be completed in a time-bound manner.

Once completed, it would bring in transparency in land dealings, allow for fair pricing and development of an organized market.

7.6 COMPUTERIZATION OF LAND RECORDS

Majority of the issues encountered by the people in exercising control over land, is because of, complex land record system and its overwhelming control by 'lower' level bureaucracy. There is a need to make land records accessible and understood by the common man living in the villages.

It is unfortunate that the system of land administration and management, despite its long history in India, has remained neglected in most parts of the country particularly after development agenda became the major focus of the government and administration in the recent few decades. The regular survey and the settlement operations started after the independence were abandoned, under a mistaken notion, that this whole exercise aimed at periodical revision of the land revenue, which had no place in a democratic polity, particularly because there were other major sources of revenue.

It was little realized, that proper and scientifically updated land records, are not only critical for agricultural development, but also are the backbone of developmental effort. Manual updating and physical verification of land records before their computerization is a must. There should be a National Authority for Computerization of Land Records (NACLR) at the Government of India level. In most states, the work is being handled by the Directorate of Land Records and Surveys who are not able to cope up with the task on account of their multiple responsibilities and this acquires low priority. There is thus a need that at the state level, there should be a dedicated institution in the form of the State Authority for Computerization of Land Records (SACLR) similar to the NACLR to exclusively deal with the computerization of land records. Both should work in tandem and complete the process in a time-bound period.

Such digital land records would be useful in creating a national portal of land records and furthering land reforms being attempted since Independence.

7.7 BEYOND LAND AND LAND RIGHTS

There are few more contentious and complex issues in India today than those dealing with land and land rights. Rather than focusing on land as an issue in isolation, a continuum of rights has to be established regarding land, especially in the areas of access and reform, law and enforcement, use planning and management, administration and information and other cross-cutting issues.

The new and existing initiatives on land should be guided by the core values of pro-poor, conflict resolution, democratic governance, equity, justice, as well as gender sensitivity. Although land policy development is taking place, it generally lacks a human rights framework. Land is not simply a resource for one human right. While some rights have been recently established in the legal framework (such as work, education, food), they can all be adversely affected by access—or lack of access—to land, and the legal implications of it for a broad range of human rights is obvious.

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Resolving land issues and land reforms largely fall in domain of the state governments, as a result, progress and priority accorded to this sensitive issue has not been uniform across different states. It has not got the desired attention because of 'vested' interest group, nexus between 'land mafias' and political parties. There is a need to rise above them, impart a decisive thrust and a resolve, of implementing land reforms, in the national interests and also for the benefit of a large cross section of people, the land less and the poor.