

# SESSION 1: LAND REFORM POLICY AND PRACTICE IN INDIA

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# Session 1: Land Reform Policy and Practice in India

## Objectives

- 1.To understand the importance of land reform policy and practice in India.
- 2.To develop insights about the important components of land reforms.
- 3.To analyse pattern of land ownership in rural India.
- 4.To identify key bottlenecks to improving rural poor's access to secure and sustained land ownership.

## Outline

- Prospects and Problems of Land Reforms in India
- Abolition of Intermediaries
- Tenancy Regulations
- Ceiling on Landholdings
- Consolidation of Landholdings
- Landholdings Status of Scheduled Castes and Scheduled Tribes
- Land Rights of Women
- Land Reforms- The New Discourse
- Case Studies on Implementation of Some Innovative Land Redistribution Schemes
- Conclusion and Future Policy Direction

# Land Reforms in India



- ❑ Land reforms can be defined as the redistribution of rights and interests in land in favour of the landless and the poor cultivators.
- ❑ Land reforms constitute one of the major institutional reforms for promoting egalitarian growth.
- ❑ Land reform is basically a state-subject.
- ❑ Pandit Jawaharlal Nehru, the first Prime Minister of India was quite critical of the agrarian relations between two predominant social classes namely, the landlords and the peasants.
- ❑ He emphasized that 'Swaraj would be of little avail if it did not solve' the problems of the kisans.
- ❑ Under the leadership of Nehru, land reforms were introduced in the early 1950s.
- ❑ Also, land reforms got priority in the Constitution which begins with the Preamble that is based on the four cornerstones of justice, liberty, equality and fraternity and further strengthened by certain specific provisions, particularly the DPSP.

# Prospects and Problems of Land Reforms in India

Abolition of Intermediaries

Tenancy Regulation

Land Reforms

Ceiling on Landholdings

Consolidation of Disperate land Holdings

- ❑ In the 1950s and 1960s, the functionless intermediaries and zamindaries were abolished in several states.
- ❑ The interests of the growing middle peasantry were in conflict with the marginal landholders and the landless poor.
- ❑ The undue delays in legislative and legal procedures also diluted the spirit of land reforms and in the process the land reforms movement received a setback.
- ❑ However, states like Kerala and West Bengal had made remarkable progress in the field of land reforms and the number of large holdings had been reduced considerably.
- ❑ The implementation of ceiling laws was disappointing.



❑ Lack of political will, loopholes in the state acts, etc. were the major factors for delay in implementation of ceiling laws.

❑ As a result of the implementation of the land ceiling laws since 1950s, as on march 2002, a total of 7.35 million acres of land was declared surplus land and 5.39 million acres of land was distributed to 5.65 million beneficiaries (Radhakrishna & Rao, 2006).

❑ Under the 'Bhoodan' movement of Acharya Vinoba Bhave which could not be sustained, about 4.0 million acres were donated, of which 2.2 million acres were distributed (as on 7 September 1999), yet another indicators of ineffective implementation.

- ▶ The effective implementation of 'Operation barga' of West Bengal helped 1.4 million sharecroppers to establish their rights to tenancy, fixation of fair rent, and also provided access to institutional credit.
- ▶ However, the abolition of intermediaries and imposition of ceilings on landholdings had over time, contributed to the *growth of capitalist farming* and prevented the concentration of landownership.
- ▶ In 1976-7, 72 per cent of small and marginal holdings accounted for 28 percent of operated area.
- ▶ By 1995-6, these tiny holding constituted 78 percent of the total operational holdings commanding 32 per cent of the area.

- ▶ The performance on the tenancy front has been mixed.
- ▶ Concealed tenancy has been on the rise and tenancy reforms have benefited the middle peasantry more. The latest data indicate that about 124 lakh tenants were conferred ownership rights and nearly 156 lakh acres were accrued to them.
- ▶ However, the emergence of 'reverse tenancy' in States like Haryana is a matter of serious concern.
- ▶ The benefits of 'contract farming' also need to be assessed more carefully.

# Updating of Land Records

- ▶ Land records consist of textual records and spatial records.
- ▶ The textual record documents rights and interests of all persons, their additions, improvements, encumbrances (mortgages, etc.) in land, credits, and liabilities.
- ▶ This document provides the status of ownership, transfer of land and tenancy, and is expected to be updated every year.
- ▶ The spatial record contains village map prepared after ground surveys which depicts boundaries of individual plots as existed at the time of the last settlement, location of fields of different landholders, and important topographical features, additions & improvements.
- ▶ The spatial records are required to be updated through periodical resurveys every twenty-five to thirty years.



- ▶ These records are crucial not only for implementation of reforms but also for various developmental programmes.
- ▶ Besides, during the colonial, the preparation of land records focused on agricultural land on account of the primacy given to revenue collection.
- ▶ The marginal lands remained unsettled and, therefore were recorded as 'governmental land' although they were occupied and used by the local communities.
- ▶ In the survey and settlement operations carried out after independence, such lands in many cases were recorded as 'government land'.
- ▶ This rendered the status of occupants or users as encroachers.

- ▶ At present, both textual and spatial records are in a poor shape and, therefore in their present condition, have become unreliable as evidence in the court of law or for assertion of rights or even market transactions.
- ▶ There is also no uniformity in the format of land records across the states due to variety of land record practices in different areas.
- ▶ Appu Committee suggested a standardized format for this purpose but it was not accepted.
- ▶ A Digital India Land Records Modernization Programme is the latest initiative of central government to update land records and rationalize its management.

## Other Land Reform Measures

► Besides the key land reform strategies, some other reforms were also being pursued. But there was no intensity of thrust or specific policy direction and monitoring mechanism of these land reform measures. In the official documents and public policy literature, there is no significant information on these measures:

1. Protection against alienation of tribal land
2. Provision of homestead land and protection of homestead tenancies
3. Access to common property resources
4. Promoting women's access to land
5. Protection of rights in forest
6. Restriction on transfer of agricultural land to non-agriculturists

## **Protection against alienation of tribal land**

- ▶ The problem of alienation of tribal land is rooted in the changes introduced by the colonial government in agrarian structure and governance institutions.
- ▶ These changes appropriated forest which curtailed access of the tribals to its resources.
- ▶ The causes of alienation of tribal land by the non-tribal individuals include fraudulent sale or mortgage, transactions forcible eviction, indebtedness, manipulation of records, cheating etc.
- ▶ In recent years alienation of tribal land in large scale has taken place due to its acquisition by the Government for 'public purpose'.
- ▶ This includes development projects such as irrigation, power, mining, highways, urban development, housing and infrastructure as well as environmental conservation including wildlife sanctuaries, national parks.

- Against this alienation, there is no relief for the tribals, as this acquisition is of a compulsory nature.
- There is no replacement of land for land acquired resulting in the tribals becoming landless.
- Of apprx. 6 crore people affected by development induced displacement between 1947-2000, more than 40% are tribals which would indicate the magnitude of the tribal land alienation.
- The rehabilitation and resettlement policies have failed to provide land in replacement of the land lost to the tribals.
- The recent changes in the Rehabilitation and Resettlement Policy and the Land Acquisition Act 1894 and introduction of LARR Act 2013 makes no different to the situation.

## Provision of Homestead Land and Protection of Homestead Tenancies

- ▶ The problem of homestead tenancies arose from a situation where many tenants/sub-tenants/agricultural labourers were earlier permitted to settle on their land, both in Zamindari as well as ryotwari areas for helping in cultivation and providing other services.
- ▶ These persons had no secure rights to land on which their houses existed, thus lived at the mercy of the landowners, and were liable to be evicted at their will.
- ▶ With a view to ensure that such homestead tenants on private land are not evicted and are freed from coercive obligation to render service to the land owners, some state governments enacted a separate law.
- ▶ While others incorporated provisions in their existing land reform laws to confer ownership rights on such tenants.

- It is estimated that around 4 million rural households received allotment of land or conferment of rights on land over which their houses existed.
- But the thrust on implementation of these provision in the initial years waned in later years and the momentum was lost.
- There are quite a substantial number of persons having a dwelling on privately owned land with no secure rights and live in constant fear of eviction.
- As per Census 2001, 32 lakhs households had no house.
- The Registrar General of India assessed the rural housing shortage at 148.33 lakhs houses in 2005 (MoRD, 2005).

- The HUDCO estimates placed it at 32.2 lakhs and National Housing Bank computed it to be around 40 lakhs.
- The Working Group on Rural Housing for the 11<sup>th</sup> Five Year Plan assessed it at around 36 lakhs.
- The number of households without a house estimated by NSSO is 78 lakhs (Planning Commission, 2007).
- It is evident from the different estimates that persons requiring a secure house is large.
- The number is increasing due to displacement resulting from acquisition of land, natural calamities, civil strife etc.



# Access to Common Property Resources(CPRs)

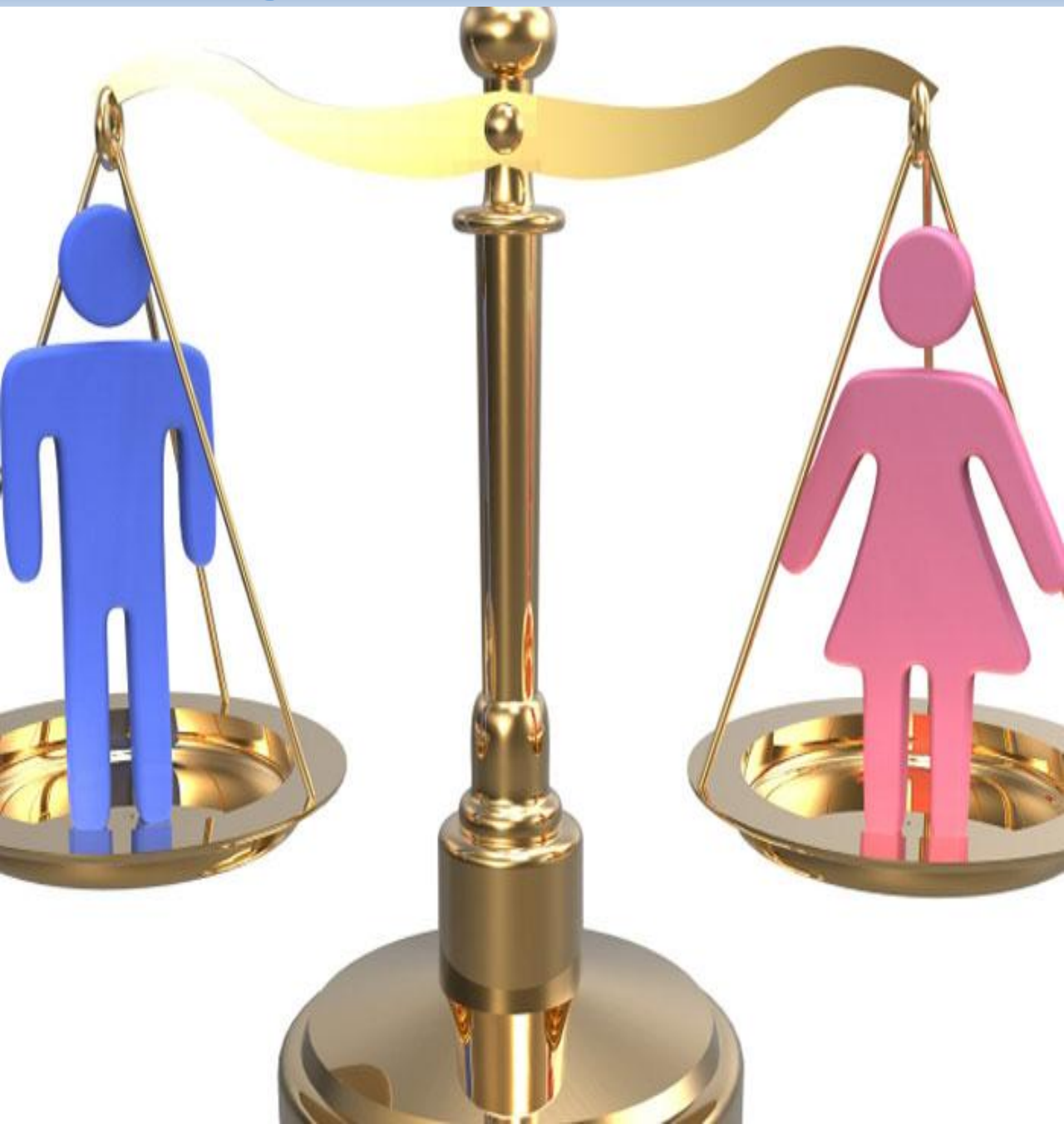
- CPRs mainly include waste and fallow land other than current fallow land, common pastures and grazing lands, protected and classified forests, and private land to which common access may exist.
- In the settlement pattern of villages, there is usually a sizeable area of common land within the boundary of the village which is not encumbered by any exclusive private use and control.
- The NSSO enquiry report no.452(54th round)brought out the first national and state level estimates of the size and utilization of CPRs and their contribution to the lives of the people in the villages.
- The available studies on CPRs have largely focused on the shrinking size, deregulation, poor maintenance, over-exploitation, privatization, diversion of CPRs, besides absence of legal and policy framework for their implementation.

- The skewed landowning structure and caste-based social order have adversely impacted the access of some groups to CPRs.
- For example, the SCs are denied access to drinking water sources on public land, access to village *chaupal*, washing at village streams, bathing in the village ponds, use of public passages and roads, etc., on account of the caste restrictions.
- The access of poor to grazing land is also affected due to restrictions imposed by the powerful landowners as well as the exclusion resulting from the larger size of their livestock.

## Promoting Women's Access to Land

- The land reforms laws followed the inheritance structure in personal laws of the communities.
- Following the laws of inheritance, the tenancy devolves on the male line descent.
- The widow inheritance only in the absence of male heirs, while daughters and sisters are excluded altogether.
- Patriarchy has prevailed in most parts of the country in the family with respect to inheritance of land within the family.

# Land Rights of Women



- ❑ Rural women in general continue to be deprived of secure land rights.
- ❑ About 35% rural households in India are de facto female headed, from widowhood, marital breakdown, or male migration (GoI 1998).
- ❑ As women generally own and control land, it has serious efficiency and equity implications.
- ❑ As per agricultural census(GoI 2003), women own only 7% of the total agricultural land.
- ❑ In the absence of land rights, women have limitations to cultivate land efficiently because they lack access to institutional credit facilities for lack of collateral.
- ❑ Hindu Succession(Amendment) Act, 2005, which gives equal rights to men and women in matters of inheritance of both self-acquired property and joint family property, however the law does not have any retrospective effect.

# Hindu Succession Amendment Act 2005

## ■ **Five Transformative Features**

▶ Five transformative Features:

▶ Daughters have equal rights in agricultural land

▶ All daughters have birth rights in coparcenary joint family property. Can not be willed away.

▶ All daughters(including married) can return and reside in parental home, ask for partition.

▶ Daughters can be Karta

▶ Amendments apply across states; override state level laws to the contrary.

- The amendment to Hindu Succession Act, 2005, has however, ended many inequalities of inheritance.
- But the share of women in family property in terms of personal law is still not incorporated in land records.
- In the areas where women are prime users of land, protection of their rights never figures in the public policy frame.
- These include the CPRs, community managed shifting cultivation of land, and traditional rights in tribal land.
- Limited rights conferred by legislations on women regarding use and disposal of land are not enforced due to intimidation by male kin.

- In the context of displacement caused by land acquisition, the rehabilitation and resettlement policies also discriminate against women members.
- While major sons are treated as a separate unit for this purpose, major unmarried daughters are treated as dependents of the male head of the family.
- Due to the concerted pressure exerted by women activists and organisations, the Eighth Five Year Plan(1992-97) recommended changes in the inheritance laws to ensure that women get equal share in parental property, inherited or self-acquired.
- It also provided that the state governments be asked to allot 40% of surplus ceiling land to women alone and to allot the rest jointly in the names of husband and wife.

- The National Commission of Farmers recommended that the community-supported women's collectives should be helped to promote women's prosperity rights and women farmers should be provided training and infrastructure support, credit access, and assistance in marketing of produce.
- The progress made in pursuance of these recommendations has been dismal, both in the allotment of surplus/government land to women exclusively and in recording women's share in family property.
- Some state governments, notably, Andhra Pradesh, however, made provision for allotment/purchase of land to SHGs of women for cultivation along with other supportive measures.



# Protection of Rights in Forest

- The tribal economy and social life are interlinked with forest which are a source of sustenance, providing minor forest produce, water, grazing grounds and habitat and land for shifting and settled cultivation.
- The tribal communities had traditionally enjoyed unrestricted access to forest in the vicinity of the village as a common property until the colonial government made a major assault on this resource.
- The colonial government appropriated the forest land and restricted/denied rights in forest which severely jeopardized their access to its resources.
- This is what is termed as '*historical injustice*' to the tribes as 60% of lands declared 'forest' under the Indian Forest Act, 1927 lie in the region of tribal concentration.

- The post-colonial government continued with this policies and added to the restrictions in people's access to the forest resources.
- The forests are governed by threefold classification, i.e., (a) reserve;(b) protected; and (c) unclassified.
- The access to reserve forest is highly restricted.
- With the change in forest policy from production-oriented forestry to conservation-oriented forestry since 1970s, two legislations-the Wildlife Protection Act, 1972 and the Forest Conservation Act, 1980 were enacted.
- The Wildlife Protection Act,1972 was used to incorporate large forest areas under National Parks and Wildlife Sanctuaries in which human access and activity was not permitted.
- The tribals are denied access to these areas and resources therein.

- The Forest Conservation Act, 1980 prohibited any use of forest land for purposes other than forest, thereby making any occupation of and non-forest activity in the forest land illegal.
- Due to these laws, the tribals lost their traditional rights in the forest and their occupation, and use of the forest tribal land began to be viewed as encroachment.
- They were accordingly prosecuted for this offence and in many cases evicted from their land and habitat.
- This action was intensified after the Supreme Court judgment in Godavarman's case as a result of which 1,68,000 families were evicted from over 1,50,000 ha of land(NCAS 2005).

# Implementation of FRA Act, 2006

- The Scheduled Tribes and Other Traditional Forest Dwellers(Recognition of Forest Rights), 2006 was enacted to correct the 'historical injustice' done to the forest dwellers including tribals by and large.
- This act provides for ownership to be conferred on the tribals over the land constituting their habitats and farms and recognition of rights in respect of minor forest produce, grazing areas, pastoral routes etc.
- However, the implementation of FRA has been subverted by the forest bureaucracy.

# Conversion of Agricultural Land for Non-Agricultural Purposes

- The philosophy of land reforms rests on the view that agricultural land should be preserved for cultivation and its diversion for non-agricultural purposes and transfer to persons who are not cultivators should be prevented.
- Most state governments have framed regulations to this effect, and incorporated them in their revenue code.
- Despite these restrictions, substantial conversion of agricultural land for non-agricultural purposes has taken place, primarily through acquisition of land for 'public purpose' and partly , through utilisation of agricultural land temporarily or permanently for industry and urban development with the permission from competent authority.

- As per the NSSO rounds, between 1991-92(48<sup>th</sup> round) and 2003(59<sup>th</sup> round), the area operated by rural households has reduced from 125.10 million ha to 107.65 million ha and in fact, come down from 133.48 million ha in 1960-61(17<sup>th</sup> round) (MoF, 2007).
- Large areas of land has been acquired for and by national and international companies in connection with development projects.

## Land reforms- The New Discourse

- ▶ The 1990s witnessed a major shift in economic policy towards neo-liberal economy with market as the determinant of decision making.
- ▶ This has led to a directional change in the land reforms policy without a formal announcement or declaration.
- ▶ While earlier, the agrarian structure was considered as a major constraint in realizing the productive potential of land and in liberating the cultivator from the oppressive agrarian relations.
- ▶ The new discourse regards the land reforms policy followed since independence as the most stifling factor in modernizing agriculture and improving its productivity.
- ▶ The new discourse was triggered in a planned way by the World Bank and its associated organizations, and dutifully echoed by the economists, journalists, and people in the establishment.

- The striking feature of the new land reforms discourse is that it shifts focus from land redistribution to land management.
- The implication is that land(asset) becomes the focus of reform and not the user of land(the cultivator and his interest in it).
- The most efficient and productive use of land is vital for accelerated agricultural growth irrespective of who the user is, rather than its equitable distribution for improvement in the economic conditions of tenants and landless persons.



- The new discourse stress on access to land rather than its ownership.
- It implies that the existing structures of ownership and control need not change, only access to land of those who need land and can make productive and efficient use of it should be facilitated.
- The new land reforms policy is derived around parameters of production, efficiency, and manageability.

The new land reforms agenda include:

1. liberalization of tenancy by removing all restrictions and regulations from its operations, including those of rent and share
2. abrogation of ceiling limits on agricultural holdings
3. unrestricted freedom to companies, individuals to lease in or purchase land from peasants
4. elimination of prohibition on conversion of agricultural land for non-agricultural purposes, as also on transfer of land from agriculturists to non-agriculturists

5. expeditious process of acquisition of land

6. allotment of government or public uncultivable barren lands, desert lands, saline lands etc to private entrepreneurs on lease from its pool of land earmarked for distribution to rural poor

7. privatization of land records management for transparency, reliability and user friendly transactions.

## Landholdings Status of SCs & STs

- The persisting phenomenon of skewed land ownership is evident from the fact that the gini-co-efficient of ownership holdings which remained at 0.71 during 1971-92 increased to 0.74 in 2003.
- The proportion of rural landless households increased from 9.6 in 1971-72 to 11.3 in 1982 and 1992 which then marginally dropped to 10.0 in 2003.
- Among the tenants a bulk of them are either landless labourers (35.8%) or marginal farmers(55.7%) and a few are small farmers(4.7%).

- SCs and STs in India are considered to be the most marginalized and vulnerable groups.
- The NSS data(NSSO 2006, 59<sup>th</sup> round) reveals that: vast majority of SC households(80%) are marginal farmers and over 11% are landless.
- In case of the STs, the marginal farmer households constitute 63.1%.
- Tribal land alienation remains a continuing problem and only in about 50% of the cases the tribals get a favourable verdict.

# Implementation of Some Innovative Land Redistribution Schemes: Case Study

| Category of States | New Initiatives   |
|--------------------|---|
| 1. Karnataka       | <ul style="list-style-type: none"><li>• Govt. of Karnataka initiated the scheme called 'Namma Bhoomi-Namma Thota'(My land-My Garden) in 2005-6, with the objective to improving the livelihoods of landless poor agricultural labourers through the allocation of small plots.</li><li>• The scheme provides for purchase of land allocation of 4,500 square feet (0.10 acre) of dry land or 2,250 sq. feet of wet land for a family that is landless for two generation.</li><li>• Title to the land is granted jointly in the name of husband and wife or jointly in the names of the members of an eligible SHGs.</li><li>• About 17,000 families have obtained plots.</li><li>• The state government needs to revive the scheme with necessary financial and administrative support.</li></ul>  |
| 2. West Bengal     | <ul style="list-style-type: none"><li>• In 2006, Govt. of West Bengal launched 'Chash-o-Basebaser Bhumidan Prakalpa(Cultivation and Dwelling Plot Allocation scheme).</li><li>• The objective of the scheme was to provide rural landless and houseless families small plots of land through purchase from open market.</li><li>• Rural BPL households without houses are each entitled to 0.04 acre of homestead land and all landless poor households that rely on daily wage labour or food gathering from CPRs are entitled to 0.16 acre of cultivable land.</li><li>• More than 1,300 landless families have benefitted from the scheme.</li><li>• The scheme has been reorganized, involving PRIs, government officials and representative of potential beneficiaries in the whole process of implementation.</li><li>• The scheme holds tremendous potential for being successful in improving the socio-economic conditions of landless poor as well as peace and stability in the village.</li></ul> |

## Cont'd

### 3. Andhra Pradesh

- Govt. of Andhra Pradesh launched Indira Kranthi Patham Project (IKP) in 2002.
- It had a land purchase and land allocation component, ranging from 0.50 to 1.0 acre per beneficiary household.
- During 2004-09, the IKP subsidized the purchase of about 4,539.24 acres of land by 5,303 women, with a total amount of Rs. 2,937.45 for the land.
- It is a beneficiary driven programme

### 4. Orissa

- Govt. of Orissa launched Vasundhara scheme in 2004, which aimed at providing homestead plot of at least 4 cents in size per beneficiary to all the homestead-less rural families in Orissa in about 3 years.
- More than 2,50,000 landless families in the state benefitted from allocation of micro plots till March 2007.
- The scheme has been modified for allocating 10 cents instead of 4 cents of land per family, where feasible.
- Till recently, allocation of government land was emphasized in all places.
- But the revised government circular mentions about land purchase where govt. land is not adequately available.
- Beneficiary households not only use the plots for housing, but some of them are using the plot for socio-economic activities such as plantation of high value trees and raising livestock.
- Effective implementation of the scheme could reduce the incidence of rural poverty.
- In some places, the beneficiaries have been issued patta on the allocated land, but no effective possession.

## Conclusion and Future Policy Direction

- ▶ Despite various measures of land reforms undertaken since independence, high incidence of landlessness, growing marginalization of landholdings, and informal, albeit insecure tenancies and consequently poverty and indebtedness continue to plague India's rural economy.
- ▶ In view of various limitations, it is suggested that both ceiling and non-ceiling approaches to land redistribution should be attempted.
- ▶ There should be a special land tribunal to expeditiously dispose off all ceiling surplus land-related cases and distribute about 2 million acres of land which have been declared surplus in various states, but not yet distributed because of litigation.
- ▶ Government should launch a special scheme for allocating at least homestead plot of 10 cents in size to all landless families in a time-bound manner.
- ▶ Leasing in and leasing out of agricultural land should be legalized and permitted within ceiling limits of various states.



# Quiz Question

**Q. 1 Who among following started Bhoodan Movement?**

- A. Vinoba Bhave**
- B. Mahatma Gandhi**
- C. Jayprakash Narayan**
- D. Acharya Kripalani**

**Q. 2. Operation Barga was introduced in**

- (a) Karnataka**
- (b) West Bengal**
- (c) Kerala**
- (d) Bihar**

**Q.3 Land as a subject of legislation figures in the**

- A. Union List**
- B. State List**
- C. Concurrent List**
- D. Residuary List**

# Readings

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**Thank you**