

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 3 | Issue 6

2021

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Vivifying Global Attempts at Land Reforms: A Comprehensive Analysis of Different Jurisdictions

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ABSTRACT

Different issues, different demands, different set of histories!

I precisely summarize the entire deliberation on different jurisdictional study of land reforms forming the quintessence of my research article in the above phraseology. Since different countries have encountered different issues, therefore, they have had different demands and their historical experiences have been different from one another. Then, to presume each of the jurisdictions to have similar history and attempts at land reforms is, but an underestimation of the study of land reforms.

This research article analyses land reforms of different jurisdictions namely,

1) *The United States of America ('The USA'), as it attained enchanting victory after the Second World War and even today it continues to hold an important and powerful position when put in comparison with other nations of the globe.*

2) *China, as it is gaining its prominence and dominance in the present study of world history. This phenomenon is evident from a recent report by the research arm of consultants McKinsey & Co. post examination of national balance sheets of ten countries representing more than 60% of world income and China, in the said race, has overtook US and gained first spot.*

3) *The United Kingdom ('The UK') as also England, as it had been a powerful colonizer in the past influencing countries with its imperialistic policies before and during the two World Wars.*

4) *India, as its study of land reforms is familiarly acquainted to us and most importantly, it is one of the emerging superpowers across the globe, particularly the South Asian region.*

Keywords: *land reforms, India, US, UK, China*

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I. INTRODUCTION

Land Reforms refer to a comprehensive framework of reforms as a redistributive measure initiated and facilitated for the purpose of improvement of land, increasing access of land to the rural poor and for others, a security of tenure. They are often used interchangeably with and as “agrarian reforms”, either initiated by the government or backed by the government when initiated by the private sector individuals and organizations.

There are, in essence, two components² of land reforms:

1) Normative part³: This part is primarily concerned with the ideology of land reform and formulation of a policy based on that ideology. I consider it as pre-reform period where thorough debates and deliberations act as the trigger as well as the catalyst to the formulation of land reform policy. It is pre-reform in the sense that it comes with an idea, this idea is then put on paper as a policy draft and thereafter, deliberated upon to arrive at the final policy reform.

2) Empirical part⁴: This part is essentially concerned with the implementation, viz. to say, the observation as to working of the policy of land reform and the kind of re-organization that is required to fully integrate the land reforms into economy. I characterize this part as reform and post-reform period where once the land reform

policy is enacted & executed, the execution loopholes are discovered helping us in arriving at a conclusion on the effectiveness of such land policy.

II. LAND REFORMS IN US

The US witnessed its birth and the ever-expanding wings, as I say, ever since its independence in 1776. The force of US was such that it was called the “hegemon” at one point of time. But, its hegemonic history and study is not an isolated phenomenon; it has strong roots in its history of land reforms.

The US history of land reforms has been very much different from the history of land reforms in India. The objectives of the land reform policy in the US from the period of 1776 until the end of the 19th century has been inter alia, the production of revenue for government and construction of internal improvements by grants of land, as is evident from mid 1880s when the land grants were given to railroad companies and states in the US to stimulate industrialization.⁵ The focus then was more on the industrial sector and less on agrarian reform policies. The resultant was a significant decline in the percentage of workforce in agrarian sector from 70.5% in 1830 to 6.7% in 1960 while there was an exponential population growth in the same said period from about 39 lakhs to 6.8 crores, as per statistical data of the US Department of Commerce.⁶

² Rekha Bandyopadhyay, *Global Review of Land Reform: A Critical Perspective*, 31(11) ECONOMIC AND POLITICAL WEEKLY, 680 (1996), <http://www.jstor.org/stable/4403916>.

³ Ibid.

⁴ Ibid.

⁵ Paul W. Gates, *Public Land Issues in the United States*, 2(4) THE WESTERN HISTORICAL QUARTERLY, UTAH STATE UNIVERSITY, 363–76 (1971), <https://www.jstor.org/stable/967921>.

⁶ Floyd L. Carty, *Are We Headed for Land Reform in the United States?*, 38(3) LAND ECONOMICS

Another issue that received its due perusal in the US was- family farm ownership, which was to be encouraged, assisted and strengthened to use land more effectively for the purposes of irrigation and drainage.

Astonishingly, unlike India, concentration of land holdings by non- cultivators and excessive tenancy were not the problems in the US land reform policy formulation.

Further, it was proposed to have a federal (central) law instead of separate state laws to further land reforms in US. But, the US has been termed as being a “coming- together federation” with a destructible union of indestructible states; the states in the US enjoy more power than the Centre itself. Thus, the efficacy of law enacted by the federal legislation in US, if not receiving its due consent from states, will tremble and ultimately collapse.

Another pitfall is the history of racial discrimination in the US between “Blacks” and “Whites”. Out of 2/3rd privately owned land in US, Black Americans have a meagre share of less than 1% farmland as contradistinguished from White Americans, owing a substantial 94% of the same.⁷ Further, the Blacks were denied access to loans, which they could possibly use for the purpose of land improvement, this made the related and consequent litigations initiated by the Black reach soaring heights in the US.

Recent enactments to the effect of land reforms in the US are: first, the Great American Outdoors

Act, 2020 that allotted \$360 million/year for federal land acquisition and secondly, vide American Rescue Plan Act, 2021 seeking allotment of \$4billion in debt relief for “socially disadvantaged” farmers. The important questions to discuss in light of these enactments are: the efficacy of a federal law in states and, who will constitute the “socially disadvantaged” group of farmers availing the said benefit!

III. LAND REFORMS IN CHINA

A historical analysis of China shows that agriculture had been a prime source of political, economic and social power. Etymologically, in absence of developed paraphernalia and technology increasing production, the period of 1100 B.C.E. was characterized as “the period of mercy of nature”, viz. to say, dependency of agriculture on nature. This dependency of production on nature was not peculiar to China but prior to technological advancements, it was the sole phenomena in all countries. It is rightly said, “Necessity is the mother of inventions.” To cater to the ever rising population demands, inventions in agriculture technology improved land’s productivity. In China, the need for land reforms was felt due to overpopulation, concentration of land holdings, class distinction between haves and have-nots.

Since agriculture in China had been a source of political power hence, land reforms in China are to be understood in light of a tripartite periodical analysis in terms of political set-up in China:

[BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM, UNIVERSITY OF WISCONSIN PRESS], 271 (1962), <https://www.jstor.org/stable/3144588>.

⁷ Hannah Kass, *Land Reform is America's Lost Regulatory Frontier*, THE REG. REVIEW, June 15, 2021, <https://www.theregreview.org/2021/06/15/kass-land-reform-americas-long-lost-regulatory-frontier>.

first, the Republic of China from 1911-1949⁸; secondly, the Communist China (1949-53)⁹ and; thirdly, the period from 1953 onwards until the present 21st century.

In the late 19th century, the Manchu Empire in China witnessed a decline and saw the sprouting of a revolutionary organization called the “Society for Restoration of China” under Dr. Sun Yat Sen (‘Dr. Sen’ hereinafter) in 1894. Around the end of 18th century and the beginning of 19th century, the transparently evident phenomenon was the growth of the “West”. The “East” was deeply influenced by the prosperity of the West; for instance, the land reforms in Germany influenced Dr. Sen, who adopted one of their policies in his Manifesto- land improvements to be made and, progress in the form of returns due to such land improvements to go to the State for common public enjoyment. The first official description of “land distribution”, that forms a crucial measure of land reforms, was made by a noted Communist called Tang Ping-shen, the head of the Ministry of Agriculture of the Wuhan Nationalist Government in 1927.¹⁰

All such measures were meant to become a source of political power and the ruling gentry composed of the already well- off people in China. Deeply perturbed were those who were still forming the lower strata of society with vast population but little to no access as the ruling gentry.

The 20th century China was thus surrounded by many problems- no proper organization of peasants and workers, ignorance of countryside at the behest of growth of large cities, no proper policy formulation and in cases of formulation (e.g., land-to-the-tiller policy), no proper implementation of the same. These set of problems were neither tacit nor dormant and, Communists in China tried to overthrow the ruling gentry by arming the poor peasants. This became an important platform for rise of Communism in China.

The period from 1949 to 1953 witnessed a political shift from Republic to Communism in China and was an important testing ground for Communism therein. The Communists recognized 3 major problems and proposed solutions to those problems in China which they sought to rectify in a 3-year time frame. First, the problem of national solidarity; it was sought to be rectified by rebuilding national political, social and economic apparatuses. Secondly, the ramifications of internal (civil) wars and external (Sino- Japanese) war were felt on both industry and agriculture thus, a need was to usher reforms in the same. Thirdly, the present had to be looked at from future prism; thus, to lay track for future industrialization was important. In 1950, Agrarian Reform Law was enacted, which became an important measure to further these objectives. The 1950 law was aimed at abolishing the landlord ownership of land and introducing peasant land ownership. This policy

⁸ Chen-hung Keong, *Land Reform in China (1911-1953)*, MASTER'S THESIS [UNIVERSITY OF TENNESSEE], (1967), https://trace.tennessee.edu/utk_gradthes/3225.

⁹ Ibid.

¹⁰ Ibid.

had a major roadblock, which was, vast agricultural land was with the religious institutions- monasteries, churches, shrines, etc. The organization of peasants as associations paved a way for the political rise of the poor and middle class peasants. The success of these reforms was evident from the 1951 People's Daily News that reported- redistribution of 700 million of rural land and 300 million peasants obtaining their share of land.¹¹

From the 1958 policy of the “Great Leap Forward” to the 1978 “Reform Era Policies”, a shift from commune system to market system, respectively, took place in China.¹² In 1998, vide the Land Administration Law, the transfers of land-use rights in inter- state village households took place. Agricultural taxes were abolished, farming subsidies were been granted, rural- infrastructure projects were gaining the front- row as part of land reforms in “Build a new Socialist Countryside” Programme, shifting the focus from large cities to the peripheries’ development.¹³ One can equate this development as the development witnessed in the Delhi NCR region in India.

Thereafter, New Land Reform was formulated in 2013 seeking to transfer villagers’ land to large producers and investors and increasing their access to credit. This reform formulation is meant to “activate dormant rural assets” as reported in a statement released in March, 2016.

Thereafter, a “Rural Revitalization” strategy was formulated for modernization of agriculture.¹⁴

The readiness of villagers is a crucial aspect to be analyzed in this regard, as the land owned by villagers may be ancestral, making them hesitant to give away such land. Further, rural areas are an asset by themselves which, if tampered, may lose their cultural essence and become just like “another city”.

Thus, balancing the needs of development on one hand and preserving the rich cultural heritage of a nation on another, is a task that requires careful thought- process, proper policy formulation and effective implementation.

IV. LAND REFORMS IN ENGLAND

The UK had witnessed an altogether different history whereby absolute ownership was denied for a perpetually long period of time and, the concept that was prevalent was that of life tenancy. There were two juxtaposed situations evident; on one hand, in the year 1726, the Duke of Portland was allowed to lease his estate for 99 years and on the other hand, there was a strict family settlement system in the 18th-19th century England allowing only for life tenancy¹⁵ to persons in England therefore, the concept of absolute ownership of land was not allowed which subsequently denied the right to lease, sale or mortgage land.

¹¹ Ibid.

¹² S. Zhan, *The Land question in 21st century China: four camps and five scenarios*, 122 NEW LEFT REVIEW, 115-133 (2020), https://www.researchgate.net/publication/340730559_The_Land_Question_in_21st_Century_China_Four_Camps_and_Five_Scenarios.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Spring E., *Landowners, Lawyers, and Land Law Reform in Nineteenth-Century England*, 21 (1) THE AMERICAN JOURNAL OF LEGAL HISTORY, 40–59 (1977), <https://www.jstor.org/stable/844924>.

Thus, the improvement of the land took a back seat for a person could not lease, sale or mortgage his estate even when he is fraught with distressing circumstances.

The hearing of the trumpet of victory in the UK as far as land reforms are concerned was a sheer result of outcry and criticisms coming from myriad of fronts; gradually, sale and lease was allowed to individuals in the UK.

The period from 1800 to 1850 in England witnessed about 700 legislations extending such powers of lease and sale and, astoundingly, the power to mortgage also received its due. The ironical aspect was that, even vide an 1840 British Parliamentary enactment, the right to mortgage land for agricultural drainage was available to people as life tenants. Another legislation to be discussed in this regard is the Improvement of Land Act, 1864 that consolidated copious legislations and extended life tenant's power by allowing him to borrow the farthest imaginable agricultural improvement, for investment in local railways projected to cross his estate.¹⁶

In the 20th century England, the Agriculture Act of 1947 and the Town Planning and Country Act of 1947 were the legislations that aimed at: achieving and securing low cost food supplies whilst maintaining price stability and farm

incomes and, keeping agricultural land intact for the purpose of agricultural use solely unless compelling reasons for development so warrant, respectively.¹⁷

In 2016, the UK made a decision to leave the European Union (EU) however, as per the deal agreed upon between the UK and the EU, the effect of which in entirety was due for December, 2020.¹⁸ This entire issue of Britain leaving or exiting from the EU is termed as “Brexit”. In 2018, an article in the Guardian discussed the prospects of registry of land records, as previously mandated by the 1925 Law of Property Act but not implemented, seeking to usher in transparency in the land reforms and a better taxation regime in Britain post Brexit.¹⁹ However, the consequences of Brexit on all fronts including land reforms are too soon to be predicted given the fact that most countries had been in lockdown since 2020 and the ramifications have been largely felt due to the outbreak of COVID-19 pandemic. Once the lockdown restrictions are lifted in entirety and the situation is brought to normalcy only then one may analyze the repercussions of Brexit on land reforms.

V. LAND REFORMS IN INDIA

India, once called a golden bird is now a diamond that went through a rigorous process of polishing

¹⁶ Ibid.

¹⁷ Jeremy Burchardt, Joe Doak & Gavin Parker, *Review of Key Trends and Issues in UK Rural Land Use*, LIVING LANDSCAPES PROJECT, FINAL REPORT TO THE ROYAL SOCIETY [UNIVERSITY OF READING], (2020), <https://royalsociety.org/-/media/policy/Publications/2020/2020-09-18-commissioned-report-history-uk-land-use-decision-making.pdf>.

¹⁸ *Brexit: What you need to know about the UK leaving the EU*, BBC NEWS, 30 Dec., 2020, <https://www.bbc.com/news/uk-politics-32810887>.

¹⁹ *Brexit finally brings a chance for land reform*, THE GUARDIAN, Oct. 11, 2018, <https://www.theguardian.com/environment/2018/oct/11/brexit-finally-brings-a-chance-for-land-reform>.

and shining, as I say. The study of modern Indian history can be divided into two parts: pre-colonization and post-colonization.

During the British rule in India, there was a pyramidal structure with landlords or zamindars at the top, rented sharecroppers & agricultural labourers in the middle and, low-income farmers at the bottom of the tier. Essentially speaking, there were three major land revenue systems in the colonial India: the ryotwari/raiyatwari system, mahalwari system and the zamindari system. In the ryotwari system, there was direct payment of land revenue to the British government by an individual farmer. In Mahalwari system, the village as one unit had collective responsibility to pay tax to the government; the pooling of resources in the mahalwari system ensured that the poor farmers were not put in a state of penury. In the zamindari system, the zamindars/ inamdars/ taluqdars, as called so by different names across different regions, acted as a bridge between the peasants and the government for the payment of land revenue. What are the intermediaries responsible for collection of rent, however, system pushed majority of the poor peasants at the fringes of the system. The parallel lines now began to deviate from one another; the disparities between the landlords and the peasants were widening and it became a serious cause of concern hindering the development of the nation. Thus, when India gained independence in the year 1947, the land reforms were warranted because there were ever widening disparities between landlords and peasants, increasing parasitism, insecurity of tenure impinging on tenure arrangements,

fragmented landholdings, etc. Nehru's account of the zamindari system in his "An Autobiography"/"Toward- Freedom" is such that he called zamindars as "the spoilt children of the British Government", this implies the loopholes of the system and exploitation of the poor at the hands of the rich.

The post-independent India introduced reforms like: abolition of zamindari system, which was aimed at land improvements and to put an end to the parasitic class. In furtherance of this reform, legislations were enacted in the states of Bihar, Madhya Pradesh, Uttar Pradesh, Orissa, Madras, etc.; to put ceilings or a maximum limit on land holdings as a redistributive measure whereby the surplus land was allotted to the landless farmers to make the "diverging lines parallel yet again"; since the fragmented land was small and uneconomical for the purposes of its improvement, therefore, a reform to the effect of consolidation of land was aimed at enhancing land productivity and making it suitable for the purpose of investments; tenancy and tenure arrangements also required urgent redressal, therefore, tenancy reforms were introduced to ensure security of tenure and the high rents were subsequently curbed by means of introduction of legislations to that effect; another important reform was recognized in the form of co-operative farming meant to improve agriculture. All these reform measures were essentially socialism-oriented. Even though the term "socialism" does not find its place in the Indian Constitution at its commencement but the commitment to socialism was present right from

the beginning, as evident from the introduction of these land reforms.

Now, a myriad of legislations for introduction and effectual implementation of land reforms brought light on the inalienable and Fundamental right to property, as envisaged under Article 19(1)(f) read with Article 19(6) along with Article 31 at the commencement of Constitution. Incorporation of Ninth Schedule by 1st Constitutional Amendment to the Indian Constitution gave immunity from judicial scrutiny to land- related legislative enactments which were put in the same. Thus, the introduction of Land Reforms came at direct loggerheads with the Fundamental right to property. A "hit at the root if you can't cut the tree" measure was adopted whereby Ninth Schedule was itself challenged before the courts of laws for, if Ninth Schedule was declared unconstitutional, the legislations put under it would also be losing their constitutionality subsequent thereto. A flood- gate of litigations was opened and the position with respect to Right to property was finally settled by 44th Amendment Act, 1976 that abolished right to property as a Fundamental Right and inserted it as a legal and Constitutional right under Article 300A. In the past, right to property was an inalienable and basic right of every individual but we cannot ignore the fact that back then, there was less population and the concept of sovereignty was not fully developed. In the present world, the population is growing at a rapid pace owing to increasing birth rate and declining death rates due to advancements in science technology. Further, though the concept

of sovereignty is dynamic however, an important doctrine of eminent domain is vital to its study. The doctrine of eminent domain has the essence that the sovereign can take away a private right for the common public good. If one looks at the present 'Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' ('The Land Acquisition Act, 2013') that replaced the erstwhile colonial 1894 Land Acquisition Act, the doctrine of eminent domain is triumphant.

Thus, the prism of private rights is to be looked from the prism of public rights and vice- versa. In situations warranting development of a nation and advancement of common public good, public welfare is given an upper hand but it does not have the necessary implication of ignoring the private rights of individuals; it is the individuals that form the society and for the advancement of society, its stakeholders must be content.

VI. CONCLUSION

While US attempts at land reforms had and still continue to be very different from rest of the jurisdictions; the problems in the US are centered on its family farm ownership system, it is also different because of its political history of independence in 1776 and as a country with more power lying with the states than the Centre.

The UK had witnessed a tussle between its monarch and the Parliament, which resulted in Parliamentary Supremacy becoming a norm in the country. The experience in the UK shares its commonalities with India because of: first, the East India Company rule between 1600s-1776

and then, the direct British Government rule from 1776- 1947. Indian experience of land reforms, particularly in the pre-independence period, has been molded by British colonial rule. The problems of pre- independent India acted as the foundational basis for initiation of land reforms, meant to rectify the pre-independent land revenue systems, the repercussions of which were felt at all the three organs namely: the legislature, the executive and the judiciary in India.

The Chinese march from a Republican government to a Communist rule ushered in the land reforms in China, reforms being largely a source of gaining political power for the poor peasantry. But again, it was the prosperity of the West that became a prime factor for reforms in Communist-ruled China. The progress of land reforms brought Communist rule in China which has continued ever since. Further, one cannot ignore its economic growth, which very recently surpassed that of the former world's largest economy, the US.

A different history of attempts at land reforms in different jurisdictions brought a hope at the fringe for the agrarian sector (particularly) which suffered significantly due to growing needs of industrialization and urbanization.

One must remember that agriculture is a cultural heritage for all the civilizations across globe and, to preserve it and balance it against the growing demands of development is the collective responsibility of nation-states, individuals & organizations.
