

Land Reform in the New Millennium: The Kerala Experience

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Abstract

This paper provides a critique of land reforms in Kerala. Some of the issues addressed by land reforms initiatives of the state government include redistribution of land, recuperation of land for farming, augmenting farm productivity and livelihood of landless peasants. Land reforms in Kerala have been a classical example overturning the malady of feudalism. It also captures the aspirations and struggles of certain tribes as well as landless peasants who fought for their right over land.

Keywords: Land Reforms, Kerala, India

The closing years of the twentieth century witnessed the rise of certain earthly public issues pertaining to the critical nature of Kerala's development trajectory. Those issues related to, among other things, the series of struggles put up by the tribals and scheduled castes for land, the unprecedented political struggle of the plantation workers at Munnar Tea Plantations, Government action against encroachers of public land of Munnar, Wagamon and other hill stations, the revelation that all the major plantations had amassed huge extent of government land at the western Ghats and continue to challenge the rule of law, the suicide of farmers in the state in the shadow of the national tragedy, the raising of demand from the part of intellectuals and activists for starting the second round of land reforms for the sake of food security, social justice and tranquillity of rural Kerala, and so on.

The call for the second round of land reforms arose in the context of the political options before the political forces of the state. At the outset, it was argued that the vast majority of land owners are not eking out a livelihood from land. The solution is a redistribution of land among the real tillers. Yet another argument emerges from the fallacy of maintaining the outmoded production system of plantations. The income from the cash crop economy is not enough to buy food crops nowadays. Again, more than sixty five percent of the arable land is occupied by the plantations. This suffocates the endeavours at augmenting food production. At the other end of the spectrum, the increasing clout of finance capital towards the safe investment options in the state. Naturally, land has become an investment option along with gold, bank investments, shares, etc. And at the same time the landed interests

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are fortifying their positions against attempts at redistribution of land. It is at this point that the burgeoning struggles of the tribals and the scheduled castes for land are to be evaluated. The battle lines are almost drawn. It is interesting to think about this agrarian problem of Kerala in a political economy perspective. But before that, the story of Kerala's tryst with land reforms is in order.

Springing from the ground realities around the world, demands for rights on land cropped up in this part of the country also, towards the beginning of the twentieth Century. As a historical process, the transitions sprang from the urgencies of the severe struggles among the agrarian classes. And when India became Independent, land reform was identified as an area of prime concern. Serious efforts were undertaken to address the agrarian question. As is told, Kerala's stint is "perhaps the most drastic of any (land reform legislation) passed by any state legislature in India"¹ Any attempt at evaluating the land reform experience of the state must start from the articulations of the Principal Act (The Kerala Land Reforms Act, 1963/KLRA, '63). As a matter of fact, excluding the Principal Act and its amendment of 1969, subsequent land reform legislations were minor ones, in their scope and impact. In view of this fact, it is impendent to begin this chronology right from the swearing in of the first elected Communist Government of 1957, which articulated the organised resolve to address the critical agrarian question of Kerala.

In the wake of the fast changing agrarian situation, the immediate resolve of the new government was to stabilize the sector. The action was warranted in the context of the vast scale of evictions taking place, sensing the mood of the new regime. Hence the enactment of the Kerala Stay of Eviction Proceedings Act, 1957. This was followed by the comprehensive Kerala Agrarian Relations Bill, 1957 (KARB), finally passed in 1959. Before long, the vested interests, in conjunction with the opposition, unleashed the liberation struggle that eventuated in the dismissal of the Ministry.

The eventuality could not be otherwise as the potential of land reform in rural transformation was pretty sensed by the vested and ambushed the scheme with all their machinations. Accordingly, the new Congress - PSP government did not waste time and legislated the Kerala Land Reforms Act, 1963, diluting almost all provisions of the KARB. Once the mission accomplished, the ministry fell and subsequently the state had undergone a long spell of central rule. Finally, the next swing of the pendulum brought the communists back to power.

On assuming power, the government brought in the Kerala Stay of Eviction Proceedings Act, 1967. Along with this, hectic homework was done to bring out a comprehensive amendment to the KLRA, 63. Not long the Kerala Land Reforms (Amendment) Act, 1969 was enacted and saw to it that it is implemented immediately (1970 onwards). These two legislations form the crux of the reforms in the state. In course of time, the left parties vigilantly watched the laws, while the vested interests tried their best to ambush the laws by bringing in alterations. Accordingly amendments came in 1979, 1989, 2008, 2013 and 2016. Most of these were focused on circumventing the ceiling laws and manipulating the regulations on estates and plantations. To explore the recent amendments, a review of the initial acts is attempted.

The Kerala land reforms as amended by KLR(A)A, 69 contained three important programmes: 1) Abolition of landlordism conferring ownership rights to cultivating tenants of the lands leased -in by them. By involving sec 72 of the Act, the government vested the rights on them.² 2) Enfranchisement of the landless. Indulging into the segment of social justice, the government allotted small parcels of land to the landless to build their homesteads. It was decided that the government would purchase the land and give it to the homeless and landless.³ 3) Taxing rich and helping poor. Taking over the surplus land by imposing a ceiling and distributing the same among landless labourers and poor peasants. The ceiling was fixed at 5 standard acres for an individual and fifteen for a family.⁴

Ever since the implementation of land reforms, it became clear that its success depended on the speedy implementation and the vigilance and activism of the beneficiaries. After a decade of implementation, the process reached its completion. This was true with regard to the first two provisions of the land reform law. While the provision relating to the ceiling and redistribution, it is still going on. In fact, the subsequent amendments to the Principal Act became necessary on account of the manipulations of the landed to subvert the land laws and the resistance put up by the beneficiaries under the leadership of the left parties. In the process, land has transformed into commodity where the finance capital indulged in all cruel machinations.

When the first decade of land reforms implementation was completed by 1980, landlordism stood abolished and rights have been transferred to the cultivating tenants. Accordingly, about 70% of the applications have been settled involving nearly 20 lakh acres of land. The scheme had benefitted nearly 1.23 million tenant households. And the average area allotted per tenant household was 1.6 acres, roughly. During the period the allotment of land for constructing houses to the landless achieved 99 percent, basing on the number of applications filed for the same. The extent of land allotted under this scheme was estimated at 21522 acres, and the average area was worked out at 0.08 acre. Regarding the ceiling laws and the subsequent redistribution of land, excluding the disputed cases, 97 percent of the identified excess land has been taken over (77,144 acres). About 65% of this land have been distributed among 80,825 persons. That is, each beneficiary received an average of 0.62 acres. The details of government land illegally occupied by private estates and individuals are still unknown. Similarly the large scale manipulations of the ceiling laws by powerful landed interests are still to come public. During the bulldozing of illegal occupations at Munnar in 2007, it was found that Harrison Malayalam plantations have under its custody of 76769.80 acres of government land. Similarly, many private plantations continue to hold vast extent of land under lease agreements which have expired long ago. In many instances the rate of rent has been notoriously nominal, for example, Re.1 for 1 acre for one year.

The provision of ceiling on holdings and the redistribution of land to the landless continued to stir up political contests and judicial interventions in view of the commercial and financialising potential of land in the new century. Therefore, right from the day one of the implementation phase, powerful interests were at work to scuttle the laws and jump over the ceiling limit. The trend also illustrated the politics of the reforms, where the like-minded forces coalescing together to ambush the land laws. At the other end of the spectrum, the

potential beneficiaries were dissuaded by the long delays and loss of elan among them to put up serious protests to keep alive the land question.

Bringing in the Gift Deeds Act of 1979 was a major exercise towards jumping over the ceiling provisions. The act was the culmination of the efforts at protecting the landed forces of their assets and saving the government from falling apart. This Act was concerned with circumventing the ceiling limit by ceding the excess land to the relatives as gift. In fact, when the government thought in terms of easing the clauses of ceiling law pertaining to giving land as gift to near and dear ones, a classification was made by constricting its application. While the gifts made by the owner to his descendants since 1970 went on incessantly. But in 1974, the High Court intervened to protect the fast draining stock of excess land and set aside the alterations made.

Then came emergency. This phase saw the coalescing of vested interests and the side-lining of progressive forces. The permutations and combinations of political parties of the time produced one of the successful rightist combinations led by one of the communist parties, legislating the most retrogressive Gift Deeds Act to circumvent the legal fortifications imposed by the Judiciary and to smoothen the scuttling of the ceiling laws.

As mentioned elsewhere, by the time the government formally started implementing land reforms from the wee hours of the 1970's, almost all the three provisions have been done. Landlordism stood abolished and the tenants and subtenants were enfranchised. Homesteads had already been delivered to the landless plebians. Importantly, surplus land was found negligible at that time owing to the long interval between legislation and implementation. In fact the vast potential of the distribution have been ambushed by the manipulations of the landed interests in conjunction with the bureaucracy. One such instance was the infamous Gift Deeds Act. Apart from the huge erosion of surplus land through bogus gifts of land to dear and near ones, done under the shadow of the unclear provisions until 74, the government itself volunteered to protect the violators by issuing covert G.O.s. But when the High Court had undone such illegal land transfers, the government went in to frame a law that could jump over the ceiling provisions. As a matter of fact, the Gift Deeds Act was the culmination of the blackmail politics of the landed interests for bringing in the legislation as the price of political support that they extended to the regime. Accordingly, the KLR(A)A, 1979 (Gift Deeds Act) was enacted to invalidate the High Court rulings against the blatant violations of land reform Act.

In the year 1989, the LDF government brought out two amendments to the Principal Act, for the settlement of two important impediments in the process of land reform implementation. Of the two amendment acts, the first is the KLR (A) Act, 1989 extending the benefits of tenancy to one more class of hutment dwellers. It was estimated that about 40,000 tenants would benefit from the measure.⁷ The second amendment KLR(second amendment Act 1989) provided for the establishment of a state land Reforms Tribunal. This tribunal was designed to exercise the jurisdiction, power and authority exercisable by all courts except the Supreme Court.⁸ The extent of land taken over by the government as excess land and identified as excess land were involved in litigation and the new amendment will deal with these cases and expedite the process of implementation of land reforms.

The twilight years of the twentieth century saw the heavy downpour of neo liberalism. The huge changes that came in with it really ambushed the imaginations of even the common man. The fire power of finance capital subjugated all entities of public life and brought to its knees, the remaining vestiges of political power. The inevitable consequence had its repercussions in Kerala also. The unprecedented impact of the finance capital into the parallel economy produced grave consequences that could have created chaos, but the situation was saved by the privileges of gulf money leaving aside the deep transitions sedimented in other sectors of public life, the shadow economy nearly outstripped the mainstream economy. One instance is the annexation of common property resources by way of privatisation- developmental drive. This has denied the benefits of common property resources to the vast majority of the masses.⁹ When the large estates were exempted from ceiling laws as part of the conceptualisation, the new moves are intended as a ploy as tourism and industrial purposes. It is simple manipulation of land reform laws.

In the new century things have reached a stage where the very survival of Kerala became problematic, particularly in matters of indiscriminate construction boom, unscientific exploitation of water resources and ground water sources, the conversion of agricultural land into real estate property, etc. Therefore, owing to the "indiscriminate and uncontrolled reclamation and massive conversion of paddy land and wetland are taking place in the state" that the government thought it expedient to put a brake to the process by legislating an Act, the Kerala Conservation of Paddy land and Wetland Act, 2008. The government intended through the Act to "conserve the paddy land and wetland and to restrict the conversion or reclamation thereof, in order to promote growth in the agricultural sector and to sustain the ecological system in the state of Kerala" The new Act came into effect since 11 August 2008.

The Act consists of thirty clauses. The two critical clauses that determined the destiny of the Act are clause 5(3) and 10. According to Cl. 5(3), even when the Act prohibits all conversions and reclamations, the same is allowed "for public purpose or for construction of residential building for the owner of the paddy land".¹⁰ This clause proved to be very costly as far as the effectiveness of the law was concerned. This clause allows filling of paddy land not more than 10 cents in a Panchayat or five cents in a Municipality / Corporation... for the construction of residential building...".

Clause -10 allows the government to give exemptions to the rule for conversion/ reclamation of paddy land. These exemptions are operational when "no alternate land is available and such conversion or reclamation shall not adversely affect the cultivation of paddy in the adjoining paddy land and also the ecological conditions in that area."

The politics and economics of the Act became evident since the first day of its coming into force. The bureaucracy and the political elite collaborated to undermine the Act by exploiting the loose ends of the law. However, it is to be noted that the very conceiving of the Act contained certain flaws. Instead of issuing exemptions towards housing requirements of the homeless, separate schemes should have devised for the homeless and landless.¹¹ When a law is designed to ban conversions and reclamations, it should have omitted clauses that give exemptions to the law.

The Act conferred on the government the power to issue special orders for filling paddy lands on public purposes. In view of the potential of finance capital, and the blooming of mega structures impended the regime to go in for massive special orders, suffocating the Act. The huge inflow of black money which was frantically in search of investment spaces. As the "last bus to development," these mega projects included ICT, Tourism, real estate, gold business, water theme parks, super speciality Hospitals, unaided professional colleges, etc. All these projects necessitated land at any cost. Then, with the connivance of the bureaucracy, the Act was sabotaged. The judiciary was made a mere spectator. Ultimately, the inevitable happened.

Since the coming of the Act, applications for housing on converted or reclaimed land were rejected by the government. Then the applicants moved the court. Generally, it was argued that the land in question has not been agricultural land for quite some time and could not be treated under conversion or reclamation. The courts then ruled that the authorities shall verify the nature of the land and take suitable action.¹² In such a context, as the land was converted much earlier to the Act, it was piously decided to allow the owners to build their homes and other dwelling places. The number of cases to enjoy this liberal stand of the bureaucracy was huge. The collusion of the government officers with the political elite under the intense pressure of the parallel economy was very evident. Land has already become a lucrative investment option, similar to gold, bank investments, shares, etc. In Kerala, land had transformed into an attractive asset for the safe investing of savings.

Closely on the heels of the tremendous changes taking place in the economy and polity of the country, since liberalisation, plantations have long been seen an obsolete mode of production. Hence the owners of plantations were toying with alternate plans with which maximum returns could be made. It was in this context that the government proposed, in responses to the demands of the plantation owners, the scheme of utilising five percent of the area for other uses including tourism. Naturally the proposal raised a huge protest in public life, as it pertained to the estates of Tatas, Kannan Devan, AVT, Harrison Malayalam, etc. It is to be remembered here that the plantations were exempted from ceiling through the land reforms are being listed for further amendment to benefit the corporates. Let us conveniently forget the longstanding demands of the tribals for land, but the requests of the corporate planters could not be rejected.

The present LDF governments move to amend the 2008 Act stems from the loopholes that surfaced in course of time, by way of bureaucratic discretionary attitudes and interpretations from the judiciary. The government has already nullified the previous Congress governments' resolve to allow reclamations and conversions of paddy land after imposing a fine of 25 percent of the fair value of the property. The indications are that the amendment would be introduced and passed in the coming Assembly session. The endeavour of the government towards preparing the data bank of the land assets, which has been in the cold storage for quite some time, has also got rejuvenated. All these point to the continuing commitment of the left parties in addressing the agrarian question of the state. It also underlines the negative attitude of the Congress and other parties towards the agrarian problem.

Notes and References

1. Mencher, Joan P (1976), "Land Reform and Socialism: The case of Kerala", in Devdas Pillai (ed.) *Aspects of Changing India*, Bombay.
2. As per the law (sec 72) the tenants were to pay purchase price. This is a nominal amount, equal to 16 times of the fair rent of the land. Ownership rights were settled so that the courts shall not question the rights of tenants. See Radhakrishnan (1981) " Land Reform in Theory and Practice: The Kerala Experience", *EPW*, 16(52), December.
3. Under the homestead-tenants scheme, the occupants (Kudikidappukars) were allowed to purchase small plots that located their homes, by paying 25 per cent of the market value of the land. Of this, fifty per cent will be subsidised by the government. The rest can be paid in instalments. See: Radhakrishnan, op.cit.
4. The ceiling provision prescribed a maximum of fifteen standard acres for families. The excess would be taken over and distribute among landless and poor peasants. Estates and plantations were exempted from ceiling. For details, see: Radhakrishnan, op.cit., Herring(1980) " Abolition of Landlordism: A Redistribution of Privilege, *EPW*, 15 (26). June; Issac, T.M. Thomas (2008) *Bhooparishkaranam*"(Malayalam), Trivandrum.
5. It is alleged that the redistribution of surplus land from ceiling measures has done very little in aggregate terms. But this has been refuted by some others. Accordingly, about 1 lakh acres of surplus land have been taken over and nearly 70 percent has been distributed. Another 44000 acres are identified as surplus land. In fact, the potential of excess land redistribution has been adversely affected by the Gift Deeds legislation. See Government of Kerala, Land Board," Notes on Progress of land Reforms Act" (Trivandrum). Also, Issacc, TM Thomas (2008) op.cit.
6. The Gift Deeds Act or Kerala Land Reforms (Amendment) Act 1979 was enacted with the avowed purpose of jumping over the ceiling provisions. This amendment validated all gift deeds executed between 1970 (since the start of the land reform implementation) and the High Court ruling in 1974(setting aside all gift deeds). It was argued that about ten percent of the surplus land was ambushed by this Act. The extent of land thus unmade would have helped about 25000 beneficiaries, with tiny parcels of land. A brief political and economic analysis of Gift Deeds Act is available in Ronald J Herring (1983) *Land to the Tiller*, New Haven; P. Radhakrishnan (1981), " Land Reforms in Theory and Practice: The Kerala Experience", *Economic and Political Weekly*, Vol. 16, No.52. December, Ronald J Herring (1980) "Abolition of Land Lordism in Kerala_ A Redistribution of Privilege", *Economic and Political Weekly*, Vol.5, NO. 26, June.
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9. Harilal, K.N., *PAG Bulletin*, 66, Sept. 2008.
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11. Haridas, V.N., " How to kill a law"(in Malayalam) *Madhyamam Weekly*, 17 August, 2015.
12. *Ibid.*