Reversal of Land Reforms
New Revenue Code of Uttar Pradesh

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The recently notified Uttar Pradesh Revenue Code 2006 dilutes the pro-poor provisions of the UP Zamindari Abolition and Land Reforms Act, 1950. It is a serious blow to attempts towards equidistribution of land resources especially in the light of the fact that the Ceiling Law has failed to make any dent in the land structure of the state.

The Government of Uttar Pradesh (UP) notified the Uttar Pradesh Revenue Code 2006 (hereafter referred to as the Code) which received presidential assent in November 2012. It simultaneously achieves several goals – it consolidates and amends the law relating to land tenures (the UP Zamindari Abolition and Land Reforms Act, 1950) (ZA and LR Act) and land revenue (the UP Land Revenue Act, 1901) while also ostensibly simplifying the accompanying legal procedures. However, the most critical aspect of this legislative activity that has escaped scrutiny is that it reneges on a number of time-tested, pro-poor provisions of the previous law.

The process of amending the law was set in motion by the previous Samajwadi Party (SP) government and the bill was passed by the UP assembly in September 2006. But at the time, it could not get presidential assent and remained pending with the central government. In 2007, the Bahujan Samaj Party (BSP) assumed power and the bill was consigned to the back-burner. But while it halted the amendments, the BSP missed the opportunity to resuscitate the pro-poor, pro-dalit provisions of the old law. When the SP was voted back to power in 2012, the amended bill was once again pursued and this time, it received presidential assent. The new Act was notified in November 2012 and the new rules were released early this year.

Definition of 'Land'

Despite the potentially far-reaching consequences of the amended Act for land tenure system in general, and landless peasants belonging mostly to marginalised communities in particular, there is hardly any discussion on these issues. This article analyses the specific amendments that, it is argued here, constrain the poor peasantry's access to land without attempting to present a comprehensive review of the Code.

The ZA and LR Act defines land as "land held or occupied for purpose of agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming". But the new Code defines land as "land held or occupied for purpose connected with agriculture". This ambiguity in definition will exclude large tracts of land from the purview of land reforms.

This is a serious blow to attempts towards equidistribution of land resources, especially in the light of the fact that the Ceiling Law has failed to make any dent in the land structure of the state. Till 2006, only 3,69,362 acres (1,47,744 hectares) of land were declared surplus and around 1,05,290 hectares were distributed among the landless. As per the Agricultural Census (2005-06), the total operated area in UP stands at around 180 million hectares. The statistics confirm that the ceiling surplus programme has been a spectacular failure as merely 0.58% of total operated area was distributed. To top it, the change in the definition of "land" will douse any remaining hopes of distribution of the ceiling surplus land.

Successive governments have claimed that there is no further scope for ceiling surplus land distribution but even a cursory calculation would prove that a lot can still be achieved towards implementing land ceiling. For the purpose of comprehension, let us assume that uniform ceiling has been implemented all over the state. The government itself claims that more than 80% of the land is irrigated. Let us also assume that the operational holding pattern reflects ownership structure as the Agricultural Census (2005-06) data show almost negligible incidence of tenancy in the state. A closer look at the landholding pattern in the state reveals that there are 78,000 landholdings in the more than 7.5 hectare category covering an area of 8,50,000 hectares. The average size of these holdings is around 11 hectares. Applying a ceiling of 7.5 hectares would amount to more than 2.63 lakh hectares of surplus land. And if the ceiling limit is brought down to 4.0 hectares as suggested by the agrarian reforms committee,[1] it would amount to as many as 4,55,752

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holdings covering an area of 27,97,866 hectares. In other words, the area qualifying as ceiling surplus land would be more than 9.7 lakh hectares. This is as much as nine times higher than the total ceiling surplus land distributed so far!

Homestead Land

Sections 123(1) and 123(2) of ZA and LR Act had provided for regularisation of possession by house-site-less scheduled caste/scheduled tribe (SC/ST) and village artisan households on government and private land, respectively, held for housing purpose. Besides, provisions were also there to give house-site pattas on *gram samaj* land. Sections 63 and 64 of UP Revenue Code, 2006 provide for allotment of *abadi* sites. But the new Code has done away with regularisation of possession, the most popular provision of the old Act. This is substantiated by the fact that while the BSP had no considered policy with regard to land reforms in spite of the landless forming a majority of the party's core vote, successive BSP governments kept updating cut-off date for regularisation of possession. It became almost a tradition that each time Mayawati was to be sworn in as chief minister of the state, the oath-taking ceremony coincided with a fresh cut-off date for regularisation of possession. The latest cut-off date for regularisation of possession was 13 May 2007, the day the last BSP government took over reins of the state. However, the BSP did absolutely nothing to amend the draft bill in favour of the landless despite a full majority in the UP assembly during 2007 to 2012.

Even for cases of abadi site allotment under Sections 63 and 64 of the Code, the priority list is amended. The Code keeps agriculture labour and artisan on par in the priority list. People belonging to SCs, STs, Other Backward Classes (OBCs) and below poverty line (BPL) categories are given the same priority. This means that the sections at the bottom of the rung – agricultural labour and dalits – do not get the priority they desperately deserve.

The UP Revenue Code 2006 Section 98 restricts a SC landowner from selling his land located outside the area of urban development authorities to a non-SC person without the district collector's approval. Additionally, the seller must have more than 1.265 hectares of land. Section 99 of the Code completely prohibits tribal land being sold to a non-tribal.

But Sections 80 and 81 provide for lifting of the above-mentioned restrictions if "land use" is changed by filing a declaration. A similar provision was in existence in the shape of Section 143 of ZA and LR but the new Code appears to be even more liberal in lifting restrictions imposed on transfer of such land. This is likely to dispossess a large number of SCs and STs of their land. Several other sections were of immense importance in providing protection to the weaker sections. The new Code has not included any of these provisions.

Regularisation of Possession

Similarly, the marginalised sections are further weakened by relaxing of provisions that provided for regularisation of possession. Section 122B(4F) of ZA and LR had provided for regularisation of possession of SCs, STs and landless agricultural workers on gram samaj agricultural land. The new Code does not have any provision to this effect.

Reversal of Land Reforms

The new legislation has far-reaching consequences in terms of reversing the impact of whatever little land reforms took place in UP. It disempowers the landless further in a state where land-ownership structures have remained skewed. For instance, the share of dalits in terms of the number of operational holdings stands at 17.12% and their share in total operated area is merely 10.85%. This is a disproportionately minuscule number as dalits constitute as much as 21% of the population and a comparatively larger section among them depends on agriculture.

Data from the agricultural census also reveals stark inequality between dalits and non-dalits in UP. While the average size of landholding for all social groups is 0.83 hectare, for dalits it is only 0.53 hectare. For non-dalits, it stands at 0.89 hectare. Absolute landlessness among dalits in UP may not appear so high but functional landlessness is still very high. Two-thirds of landholdings belonging to dalits are less than 0.5 hectare. The average size of landholding in this category is only 0.23 hectare. As many as 87% of the total dalit holdings fall in the category of less than one hectare.

Unlike previous land legislations aimed at providing ownership to the landless, this Code appears to have focused on making the land tenure system of the state more market compatible in terms of liberalising land usage conversion, easing restrictions on sale of land belonging to the SCs and STs and with changed definition of "land" almost watering down any possibility of implementation of the Ceiling Act. What is happening is a reversal of land reforms aimed at "land to the tiller" (Saxena 2010). After the repeal of the Urban Ceiling Act, builders, colonisers and investors in land property have been acquiring agricultural land on a vast scale. This phenomenon is being scaled up by including more and more villages in municipal areas. The ZA and LR Act gave right of utilisation of agricultural land to the tenure holder in the manner s/he wants. This provision was also misinterpreted by authorities and builders alike and a number of residential colonies have been coming up on the land which was still recorded as agricultural.

All these changes seem to reflect a new discourse on land reforms which can be categorised as market-led land reforms. This view calls for phasing out or replacing "traditional" measures of land distribution. As part of *non-traditional* measures, one is advised not to view ceiling laws as a fundamental component of future land reform efforts (Hanstad et al 2008); and provision for loans to the poor for buying land from market is proposed. This discourse

focuses and promotes liberalisation of land sale market by doing away with all the restrictions put on changes in land use – from agriculture to non-agriculture and by allowing industrialists or other non-agricultural land users to directly negotiate with landowners for purchase of their land (World Bank 2007). Experts also call for legitimising leasing of land (Haque 2003) where it remains illegal till now and eliminating restrictions on land rental and lease term where leasing is legal but these restrictions are in place.

While pursuing these measures, the state totally ignores the reality that from the dalit standpoint, land reforms are not just transfer of an economic asset in their favour but also entail a reversal of a discriminatory sociopolitical structure. Land reforms through market totally sidetrack this cardinal element. Land reform is not just empowerment of the landless and the poor through assured access to the redistributive land and tenurial security but disempowerment of the powerful top landowning households as well (Bandyopadhyay 2002).

One of the major provisions of the ZA and LR Act that is retained in the new Code is ban on tenancy with few exceptions. This has happened despite strong advocacy of legalisation by experts and international organisations. The argument of legalisation of tenancy mainly rests on the premise that by taking cognisance of de facto practice, the state would be in a position to intervene to protect interests of the poor. Second, tenancy facilitates access of land poor to otherwise inaccessible land. While doing so, a very simple reality is ignored – that persistence of tenancy is only a reflection of unequal land distribution and most of the land legislations were intended to correct this imbalance. So instead of treating a deep "malaise", the state would end up institutionalising it if tenancy is legalised. As far as intervention of the state is concerned, voices in the media and political circles are already getting louder to eliminate restrictions on terms of tenancy where it is legal. Moreover, with a large body of evidence revealing increasing practices of reverse tenancy, it is hard to claim that legalisation would facilitate flow of land from the rich to the poor.

Central Government's Advisory

Following the Agra Agreement with *Janadesh*, in March 2013, the Ministry of Rural Development issued a detailed advisory to the state government on land reforms. The state government is advised to update irrigation status of land and apply ceiling for irrigated land which has acquired irrigation facilities after the cut-off date while refixing ceiling for irrigated land at five acres. The advisory also exhorts the state government to withdraw various types of blanket exemptions given in Ceiling Act to *goshala* (cow shelters), charitable and religious trusts, plantations and stud farms, certain areas, every adult son, educational institutions. It also calls for amendment to the Benami Transactions (Prohibition of the Right to Recovery Act) of 1989 and set up a special Task Force of revenue officials and gram sabha for identification of Benami Transactions and further take appropriate actions to distribute these lands to the eligible landless poor, with priority given to the marginalised women. The advisory emphasises amending respective clauses of the new Code to regularise possession of homestead land, provide protection against alienation and insert "personal cultivation" in the Code including family labour, residential status and dependence on agriculture for livelihood as preconditions.

The advisory is an exemplary document in paving the way for distribution of land to the landless. If the state government's much-touted land reform agenda is to be implemented in its true sense, the market logic of land reforms will have to be shunned in favour of vigorous implementation of the measures described by the central government in its advisory and bringing back all pro-poor provisions of the previous law.

NOTE

1 Committee on State Agrarian Relations and Unfinished Task in Land Reforms, GoI suggested a new set of limits of 5-10 acres (2-4 hectares) in the case of irrigated land and 10-15 acres (4-6 hectares) for non-irrigated land.

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