

Lacunae in Land Legislations and Subsequent Amendments in Kerala

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Abstract

The land reform programme is necessary for the economic and social development of any country where the tenant farmers were exploited by the landlords. The land reform is a step forward to eliminate all forms of exploitation relating to land ownership and to impart incentive for output by increasing fertility in land. Kerala has the unique reputation of having implemented a radical land reform legislations. The rights on land were recognized as private property long before the king held control over them. The large concentration of land became the symbol of social prestige and economic power and most of the evils of landlordism remained all over the region. The relationship between the landlord and tenants became complicated that necessitated and justified calls for land reforms. Thus numerous land reform measures were introduced in Kerala. The land reforms were implemented with a view to prevent arbitrary evictions, grant of fixity of tenure, conferment of property right on certain classes of tenants, fixation of payment of compensation for improvement. After independence, a series of legislative measures were introduced. Accordingly, Acts like Kerala Agrarian Relations Act 1960, The Kerala Land Reforms Act 1963 and The Kerala Land Reforms Act 1969, The Kerala Land Reforms Amendment Act 1972 were introduced. This paper attempts an analysis of the factors led to the land reforms which changed the tenurial system and the subsequent amendments in Kerala.

Key words: land reforms, Kerala, Communist Ministry, tenurial system

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I. INTRODUCTION

From ancient period onwards Kerala had its own peculiarities in land relations. The social relations controlled the society, and so Kerala could remain with its own importance and originality. The land relations in Kerala were greatly influenced by the social relations which were amalgamated in caste – *jenmi-Nadu* – foreign domination. It is a fact that Kerala is one of the states that took initiative to look upon the agrarian problems in a serious manner and attempted to redress the intricate agrarian problems. From the nineteenth century onwards land reform measures were undertaken for the relief of the tenants in every nook and corner of Kerala. After the formation of Kerala, its first and foremost duty of the democratic Government was framing the law aiming at the development of the society. The law had great importance in bringing revolutionary changes in every aspect of the society. In the field of agricultural development notable changes were made through land reforms. Land reform legislation attempted to end the evil practices which entangled with casteism, had hindered the introduction of social justice in the society of Kerala.

Land Reforms in Kerala After Independence

Kerala, in post - independence years was in a state of chaos and confusion. It was considered as one of the problem states of India. After the independence, election in any part of Kerala did give majority seats for the ruling party except the elections of 1948 in Cochin and Travancore. Every Congress ministry formed in the former state of Travancore – Cochin after the first general election and in the present Kerala state was either based on a coalition (1952 -53,55-56, 60-62) or based on Congress legislators elected with non-congress votes (1962-64)¹. The Indian state, Kerala was formed in 1956 by integrating the present district called Travancore, Cochin and Malabar which represented pitiable situation. While the material as well as the immaterial quality of life of millions of people was going down day by day, sinking into an abyss of hunger, squalor, injustice and oppression, the vested interests, particularly the loan sharks, traders semi feudal landlordism and monopoly capital reaped the profits of the slow economic progress.² Kerala underwent a chaotic situation where the ideas

¹ E.M.S Namboodiripad, Kerala Yesterday .Today and tomorrow, p.2

² Kurup K.K.N., Modern Kerala (Studies in Social and Agrarian Relations),p.161

democracy and federalism were written in the constitution without practicing. Human rights were forgotten. The *jennmis* could continue their exploitation for centuries without the least opposition from the oppressed classes.³ Economy and politics crept into the affairs of the Kerala state. While the commercialization of agriculture and the introduction of large-scale enterprises created favourable pre-conditions for the emergence of a more clear-cut class consciousness, the ruling classes used their economic, political, social and ideological control over the state apparatus in order to divert the attention of the oppressed masses towards communal strife and socio-religious ideas.

On 5th April 1957, the first communist ministry was formed in Kerala and the leaders were sensitive to the problems of common people while they were leading underground life in the huts of the common people. This experience helped them to act as soon as they got an opportunity to form the communist government in Kerala. The agrarian cause was a major problem in the state. The complicated relationship between the landlords and the tenants led to the introduction of radical land reforms in Kerala. During the first month in office, the Communist Government took several major steps of a progressive nature: it drafted the Land Reform Bill, introduced Education Bill and constituted Administrative Reforms Committee, introduced Surplus Budget, improved the jail system and increased the salaries of several categories of employees, it stayed the eviction of tenants and hut dwellers, reduced the salaries of ministers and the high-paid gazetted officers, and commuted jail sentences. Many legislations were enacted by the government in order to redress the grievances of the peasants.

The First Communist Ministry came to power in Kerala in 1957, gave first priority to the Land Reforms Act. The Kerala Agrarian relations Bill was introduced in 1957, a historic ordinance which prohibited the eviction of tenants from their tenancy land. The collection of tax and eviction was prohibited. The cultivators became the owners of the land. The excess lands were sold by the owners. The lease owners could live and cultivate their own land without any fear. In 1958, Agricultural Debt Relief Act and Kerala Compensation for Tenants Improvement Act were passed. The Act assures the farmers compensation for the expense he had on the cultivation land. It provided for compensation at the rate of fifteen times the net annual yield of trees planted by them and actual value for permanent structures put by them. A new coalition government headed by the Congress party came into power. The government introduced a new land reform bill with some modifications. Kerala Agrarian Relations Act was accordingly passed in 1960. The changes introduced were significant as they began a process of erosion of land reform ideas effectively diluting the original intentions. The Kerala Agrarian Relations Act of 1960 was a revolutionary piece of land legislation which sought to fix ceiling on the extent of land, that could be owned by a family or adult married personal and to distribute the landless all the lands available in excess of the ceiling. The Agricultural Relation Bill was passed in 1960 by Congress Ministry forwarded the broad principles of land reforms as laid down in Five Year Plans. The landlords appealed the High Courts of Kerala and brought many provision of the Act. So the Land Reforms Act was revised and passed in 1963. The fixity of tenure to tenants and a limited right of resumption to landlords also were provided by the Act. There was also a fresh limit for imposition of ceiling which was 12 standard aces for a family of five members. The maximum area of land for a family consisting of more than five members was fixed at 20 acres hutment dwellers can be shifted to other places by the land owners. Further the Communist Ministry headed by CPI leader C. Achutha Menon (1967-1969) continued land reforms in Kerala in a pleasant manner. The Comprehensive Land Reforms (Amendment) Act (Act 350 of 1969) envisaged the desire and needs of the actual 'tiller' of the soil. With the emergence of working class especially agricultural workers, the new Act brought many provisions for the development of the working class. The most important among them were their tenancy and *kudikidappu* (homestead) rights and take over and distribution among the landless, of the lands taken over by the government after the fixation of ceiling on agricultural holdings. In brief the act proved to be the culmination of a series of measures which made possible in favour of the landless poor, since the first bill was introduced in 1957 the E.M.S Ministry. It acted as an instrument to confer homestead right to hutment dwellers, if three cents in a city, five cents in a municipality and ten cents in a panchayat area. The Act also laid a machinery to confer *kudikidappu* rights. Landlordism was legally abolished in Kerala with effect from first January 1970, which was the effective date of the Bill⁴. The *kudikidappukar's* struggle to get the newly conferred rights became victorious because of the goodwill of the government and the favourable political climate of Kerala. The police encountered the tenants and hutment dwellers at different places. The dissolution of the Ministry and competition between the two communist parties (one heading the government the other largest opposition party) further politicized and energized the implementation of new reforms in an atmosphere of extreme conflict and rural violence from 1970 onwards.⁵ It is to be noted that the Land Tribunal and

³ Elamkulam Kunjan Pillai, Studies In Kerala History, P. 324

⁴ Shifting values if Jenmi system and socio-economic consequences, Vasumathi Devi P. , Journal of Indian History, volXC.p.182

⁵ Ibid.p,184

appellate authorities in charge of executing the clauses of the Land reform Act under opposite judicial officers were more efficient than before. One of the main feature of the Act was the provision for the elimination of all intermediaries between the State and the cultivating tenants.⁶

In the initial stages of the passing of the Kerala Land Reforms Act, land owners resorted to legal subterfuges to delay the transfer of hutment sites and the official machinery was also slow and at times obstructive.⁷ Hence the *kudikidappukar* began struggle during the year 1970-71. The struggle ended when the land owners began to settle the issue by giving the land around hutment sites as prescribed by the law to the *kudikidappukar*. Thus by the Act several clauses were added to Section 72 pertaining to the conferment of ownership right to tenants, Section 50 regarding the purchase of *kudikidappu* and Section 100 for the reorganization of the land reform implementation machinery.⁸ Nearly three lakh landless householders became the owners of a tiny plot of land, ten cents in rural areas and three cents each in urban areas. Within ten years, the percentage of households possessing land rose to 87.2 percentage.⁹

The distribution of excess land taken over by the government through the land reforms Act was core part of the anti- *jenmi* legislations in the late sixties. Yet, it was fertile because the landlords did not generate expected surplus land for distribution due to the evasory tactics. Soon under the auspices of the CPI (M) led initiatives for the present organizations of Kerala Karshaka Tozhilali Union (KSKTU) agitations were initiated for immediate action on the issue of acquisition and distribution of surplus lands among the landless and land poor persons owing or holding less than one acre of land, especially those from the socially and economically backward classes. The *jenmies* were not sincere in distributing surplus land and they converted land into plantations. Since the plantations were exempted from ceiling set by land legislations reduced the scope of land redistribution and thereby the social change through land reforms became impossible. The Coalition Government pacify the Muslims and Christians and satisfied their needs also hindered the implementation of ceiling provisions. With the passing in 1970 of the “Gift Deeds Bill”, the surplus land distribution came to a stand- still as the Act opened up avenues to transfer of property as inherited gifts. The agitations for land gave much impulse to the government to implement the land reform without any delay. The struggle also forced the government to prohibit the IX Schedule of the Constitution of the Land Reforms Act.

The Agrarian Relations Act,1963 and in the Amendment Act 1969 provisions existed for treating voluntary transfer of land on account of natural love and affection gifts to any person as valid.¹⁰ Naturally, the provision was abused by those having land in excess to the prescribed existing limits partially. By focussing the people’s role in ceiling agreements, the Government passed the Land Reforms (Amendment) Act in 1972. The land reform measures were not effective among the rural poor. By releasing it, the United Front Government in 1972 proclamation ‘one lakh houses scheme’. The scheme envisaged the building of atleast one hundred pucca houses for the rural poor. The government provided only timber and cement etc., which they needed and the manual labourers were the people of panchayat itself twenty percent houses of the houses provided at nominal price in each panchayat area were given to the scheduled castes and scheduled tribes. About 56,000 houses had been built at the end of the programme in 1976.

Along with the land reform activities, government also took welfare measures for the labour force in order to increase the agricultural production. Two cooperative farming societies were started for landless agricultural labourers in the Kuttanad region. Certain housing colonies were started, especially for the Scheduled castes and Scheduled tribes at selected centers. Agricultural labourers through political struggles and labour organisations forced the government to take more revolutionary steps for the welfare of the agrarian workers. The most notable among these was the Kerala Agricultural Workers Act passed on 2nd October 1975. By this Act the agricultural workers had security of employment and an eight hour day for agricultural work. This Act also provided Provident Fund Scheme for the workers and fixed minimum wages. The Act which has been often described as ‘the Magna Carta’ of the toiling masses was a measure of immense revolutionary potentialities. After the declaration of emergency in June 1975, the 20 point programme declared by Prime Minister Indira Gandhi, provided several provisions for agrarian uplift and measures for spreading up the land reforms. Agricultural minimum wages was revised. Special legislation was also passed to ensure payment of fair wages. In October 1975, the Kerala Debtors’ Act was passed, declaring a one year moratorium on rural debts below 3000 R.s, except those with government institutions and co-operative societies. Thus the land legislations

⁶ Kerala Land Board and Land tribunals Administration Report 1972-73, p.21

⁷ Shifting values if *Jenmi* system and socio-economic consequences, Vasumathi Devi P., Journal of Indian History, volXC. p.183

⁸ Government of Kerala, The Kerala Land Reforms, Amendment Act, 1969, section 75-100

⁹ Shifting values if *Jenmi* system and socio-economic consequences, Vasumathi Devi P., Journal of Indian History, volXC. p.183

¹⁰ Radhakrishnan P., Land Reforms in theory and Practice : The Experience of Kerala, P.133

emerged for the welfare of the landless masses which disguised more democratic and socialistic. The Land Reforms (Amendment) Act was passed on 6th February 1989 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 different classes of hutment dwellers. The second amendment KLR (second amendment Act 1989) provided for the establishment of a State Land Reforms Tribunal in order to take final decisions on the disputes and complaints regarding land reforms. The transformation of paddy fields into cash crops gardens might affect environmental issues like soil erosion, drying up of wells and ponds. This activity of human beings would affect the ecological balance and scarcity of water. To put a brake to the process, the Kerala Conservation of Paddy Land and Wetland Act, 2008 was passed. The Act was amended in 2015 which allowed the owner or a person who possessed the paddy fields could use the land for other purpose after publishing the rate of the land. The Kerala Conservation of Paddy Land and Wet Land (Amendment) Act of 2016 had cancelled the modification.

The Land Reforms Act legally abolished landlordism and the tenants were no more socially and economically subservient to the landlord class. The indispensable part of Kerala's current land question is that the large plantations, mostly owned by large Indian capital with an increased role in land grabbing. Out of the total cultivable land available in the State, a large portion is held by big two plantation companies namely Kannan Devan Hills Produce Company Limited and Harrison Malayalam Limited. According to an estimate by the Kerala State Planning Board (2011), household ownership holdings constitute only one third of the total geographical area of the State. Even without lands of big plantations, Kerala's land inequality is high.

II. CONCLUSION

When making an assessment of the land reforms enacted the State of Kerala from 1957 onwards, it has to be noticed that the land reform Acts were based upon the recommendations of the Congress Agrarian Committee of 1949 and the broad guidelines issued by the Planning Commission of the Government of India. A notable impact of these land reforms was reduction in the number of landless agricultural households and the elimination of absence of landlordism. The Communist government and the Communist party took a revolutionary step by introducing the Kerala Agrarian Relations Bill of 1957 and the subsequent amendments made desirable change in the State administrative machinery to favour the agricultural works and landless peasants. These amendments of Kerala Land Legislation enabled the agricultural workers and landless peasants to achieve standard of living in spite of low level economy. A number of landless agricultural labourers became holders of land.

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