

Land Legislation In Kerala: A Post-Independent Scenario

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Abstract:

This article attempts to explore the evolution of land legislations in Kerala during the post-independent period. Kerala, renowned for its unique socio-economic and agrarian structure, witnessed significant changes in land ownership and usage policies following India's independence in 1947. This study traces the trajectory of land legislations from the early decades of independence to contemporary times, highlighting key legislative milestones such as the Kerala Agrarian Relations Bill of 1957 and subsequent amendments. It examines the objectives, implementation challenges, and socio-economic impacts of these legislations on agrarian communities, land distribution patterns, and rural development in Kerala. The article also discusses the role of political ideologies, administrative policies, and societal dynamics in shaping Kerala's distinctive approach to land reforms, offering insights into the broader implications for land governance and socio-economic equity in India.

Key words: land legislations, socio-economic and agrarian structure, land ownership, Kerala Agrarian Relations Bill of 1957

Introduction

Access to land has been a matter of critical importance in large parts of India since the entire economic, social and political networks revolve around it. Agriculture and other primary sectors which rely on land and other natural resources constitute the prime source of livelihood for a vast majority of the economically vulnerable rural population in India. ¹Implementation of land reforms and evolution of equitable agrarian relations are the major aims that India inherited from its freedom movement. ² Land reform is considered an important apparatus to provide the right institutional framework for an agrarian society to bring social and economic progress. Land reform cannot be considered a modern phenomenon or a gift from enlightened governments. But it is a historical process made inevitable by the prolonged struggles of the peasantry. ³ Schooling made people capable of reading and writing and spreading ideas among them, such as individuals having rights, especially the right to the land they live or cultivate. ⁴ The imperative for land reforms mainly derives from the Constitutional mandate for equality before law and the primary duty of the state to ensure re-distributive justice. ⁵ Though the redistribution of land is the common aim of land reforms, their scope is much broader, such as eliminating intermediate tenures, rent reforms, distribution of surplus land and a ceiling on land holdings, consolidation of holdings and gathering and maintaining land records. The vital measures adopted by the Planning Commission of India pertaining to the land reforms are the abolition of intermediaries, the implementation of tenancy reforms, fixing ceiling on land holdings, and redistribution of surplus land to the tenants and tillers. The recommended measures are abolition of intermediary tenures, reform of the tenancy system including fixity of tenures, transferring of ownership rights to tenants, and imposition of ceiling on ownership of land, settlement of landless agricultural workers. ⁶ The notion of land reforms is linked with changes in tenurial patterns, abolition of monopoly of land, scientific agriculture system, and social modernity. The different plans envisaged by the Planning Commission from time to time, have emphasised the urgent need for giving security of tenure and

conferring ownership rights to cultivating tenants and sharecroppers under a time-bound programme.⁷ Accordingly the various states in India have enacted their own legislations to safeguard the interest of the citizens in tune with the Directive Principles of State Policies envisaged in the constitution.

Kerala, the early phase of the Nationalist Movement, and the activities of the Indian National Congress were closely associated with the agrarian question. However, the Congress failed to bring tenancy issues in its platforms up to 1920, since its leaders were hailed mainly from professional class or wealthy kanamdar family.⁸ A pro-tenant resolution was passed in the fifth district conference in 1920. Hereafter, the pressure for tenancy reforms was exerted through the District Conferences of Congress and the Tenancy Association.⁹ Kerala, as a linguistic state, was formed on 1st November 1956 and in the first general election to the Kerala Legislative Assembly, held from February 28th to March 11 of 1957, the Communists, won majority. Consequently, the First Communist ministry of Kerala, assumed power under E.M.S.Nambudirippad, on April 5th 1957. Kerala became the first state in the world, apart from the Italian principality of San Marino, to form a democratically elected communist government.¹⁰ The Government, after assuming office, went forward to fulfilling their election promises and initiated several policies that changed the entire structure of agrarian society which had been prevailing in Kerala.

A number of land reform legislation were framed and implemented in Kerala by different governments between 1957 and 1969. The Kerala Prevention of Eviction Proceedings Act 1957, Kerala Agrarian Relations Bill of 1957, The Compensation for Tenant's Improvement Act 1958, Jenmikkaram Abolition Act 1958, The Agrarian Relations Act 1960, Kerala Land Reforms Act 1963, and Kerala Land Reforms (Amendment) Act 1969 were notable among them. These land reforms were aimed at redrawing the land tenure systems that prevailed during the pre-colonial and colonial period. These legislations culminated in the abolition of the age-old feudal agrarian order of the state. The implementation of these acts was highly conducive to the transformation of the society and economy of Kerala. These legislative measures were aimed at bringing about land reforms and addressing the issues of land ownership, tenancy and agrarian reforms.

The Kerala Stay of Eviction Proceedings Act, 1957

The First Ministry paid utmost priority to tracing out and resolving the major issues and defects of the existing agrarian order in the state as promised in the election manifesto of the party. The primary concern of the government was to put an end to evictions which had been practiced ruthlessly by the landlords against the tenants. Subsequently, within a week of assuming power, it introduced an ordinance in the assembly that was implemented later as The Kerala Stay of Eviction Proceedings Act 1957, which came into effect on 11th, October 1957.¹¹

The Stay of Eviction Proceedings Act defines "Eviction" as the recovery of possession of land from a tenant and "improvement" as any work or product of a work which adds to the value of the holding. The improvement does not include clearances, embankments, levelling, enclosures, temporary wells and water channels that are made by the tenants during the course of cultivation and without incurring particular expenditure. On eviction, every tenant shall be eligible to have compensation for improvements made by him, his predecessor or by any other person not in occupation at the time of eviction, who derived title from either of them and, for which compensation had not already been paid. The Travancore Cochin compensation for Tenants improvements Act, 1956 and the Malabar compensation for Tenants' Improvements Act, 1899, were stood cancelled hereafter. This Act prohibited all legal proceedings initiated against tenants for evictions, either for the recovery of rental delays or for damages. The ordinance stayed eviction and all other related proceedings against the tenants, including new types of leases and prevented the courts from accepting fresh eviction suits. By this piece of legislation alone, about 21000 families were protected from eviction and more than 23000 cases were stayed.

Kerala Agrarian Relations Bill, 1957

The most popular legislative reform initiated by the first communist ministry was the Agrarian Relations Bill of 1957. Indeed, it was the pioneer comprehensive attempt of its kind in India and tackled the

complexities of the tenurial relations than any where else in the country.¹²V.R. Krishna Iyer, the First Law Minister of Kerala has clearly stated the objective of the Government in the words “We are not transforming the economy by Marxian lines, but attempting to eliminate feudalism and initiating agrarian change and bringing land reforms, enhancing minimum wages and initiating welfare measures for the working people. The government constituted a council to frame land reform laws comprising C.Achutha Menon as Convenor, E. Chandrasekharan Nair, E.Gopalakrishna Menon, Panthalam P.R, C.H. Kanaran, K.R. Gouri and E.P Gopalan as members. The main aim of the Bill was to protect the interests of the tenants, put a ceiling on holdings, redistribute surplus land to the landless and set fair rents. The Bill was introduced in the Assembly on December 21, 1957 by the then Revenue Minister, K.R. Gowri. After the scrutiny of the Select Committee, the Bill was passed on June 10th 1957 after making some amendments. After scrutiny by the Planning Commission, Kerala Agrarian Relations Bill was published, in the Kerala Gazette on 18th December 1957.¹³

The KARB was put up for detailed discussions and debate in the Legislative Assembly and the Select Committee. Almost all the provisions of the Bill evoked the opposition parties, big land owners and caste organizations. Political parties, like the Indian National Congress, Praja Socialist Party, and Muslim League along with the caste and communal organisations such as NSS, SNDP and the Catholic Church vehemently opposed the Bill. The Kerala Agrarian Relations Bill, was the first unified legislation covering the different aspects of agrarian relations in the three regions of Kerala- Travancore, Cochin and Malabar. The KARB consists of 86 sections, divided into four chapters and three schedules. The main provisions of the Agrarian Relations Bill were (1) Fixity of tenure to all types of tenants, including sharecroppers, (2) Restriction on resumption of land by owners. The resumption of land was permitted only for extension of any place of public religious worship or for the construction of residential buildings by landowners or for self-cultivation; (3) Kudiyirippu or Kudikidappu could be resumed only in accordance with provisions relating to them. Tenants were given the right to purchase the land they cultivated by paying 16 times the fair rent fixed under the Bill, or 12 times the contract rent through 16 equal annual installments. In all cases, the tenant, whose holdings were to be resumed, should be given an allowance equal to one year's rent or compensation as specified in the Tenant's improvement Act, 1958. Some special provisions were made in the Bill regarding small holders in the Travancore and Cochin regions. The bill provided for the scaling down of the arrears of rent which fell due before 11 April 1957. All arrears of rent were deemed to be fully discharged if the specified amount was paid within one year of the commencement of the act. The Bill sought to provide fixity of tenure to the kudikidappukar (hutment dwellers) also. The kudikidappukaran should be shifted to another site within a mile away at the will of the landlord. In such cases, the kudikidappukaran should be paid the price of the hut and ownership rights over the new site, which should not be less than five cents in a major municipality and ten cents in any other area. According to the bill, all arrears of rent payable by a kudikidappukaran are deemed to be charged at the commencement of the act.

The KARB, sought to resolve the problem of inequality in the distribution and excessive accumulation of land by a few people. It fixed fifteen acres of double-crop rice field or its equivalent as the ceiling area for an adult unmarried person or for a family of five members. For a family having more members, every additional member would get an extra acre subject to a maximum of twenty-five acres.¹⁴ However, certain lands were exempted from the provisions of the ceiling, such as land required for mills and factories, as well as plantations like rubber, tea, coffee, cashew and cardamom. Further, the KARB exempted private forests and lands owned or possessed by religious and charitable institutions. The Bill also empowered the government to exempt any other land through special notification in the public interest. The excess land surrendered to the government has to be distributed by the Land Board among the landless. The KARB, envisaged to bringing about a revolutionary change in agrarian relations of Kerala by creating a large section of economically strong peasant proprietors and making a self-sufficient agrarian population, stood for a uniform agrarian system across Kerala. Many of the provisions of the KARB were aimed at nipping the capitalist formation in agriculture in the bud itself. Subsequently, a massive agitation called *Vimochana Samararm* (liberation struggle), was organised and led by the Nair Service Society, and the Christian Churches, with the support of the Congress-dominated coalition of the opposition parties. Finally, after imposing Article 356 of the Indian Constitution, the Nehru Ministry dismissed the government on July 31st, 1959, alleging the destruction of law and order in the state.

The Kerala Agrarian Relations Act,1960, (ACT 4 OF 1961)

In February, 1960, general elections were held in Kerala and the Congress- PSP coalition, which secured 94 out of 128 seats, assumed power. The new government passed the Kerala Agrarian Relations Act (KARA) after making some modifications to the KARB of 1957. The Congress-dominated coalition, tried to revoke the measures adopted by the Communist ministry in the field of land reforms. In spite of stiff opposition from the peasantry led by the Communist party, the government greatly diluted the provisions in the KARB, and implemented it in February 1961 and came into vogue in the state from 15th February 1961 as the Kerala Agrarian Relations Act (KARA) of 1960.

The Act legalised thousands of evictions and also excluded plantations and agricultural land from the ceiling provision and permitted evictions of laborers from small plots of land given to hutment dwellers located in the plantation area.¹⁵ The act, exempted the land belonging to religious, charitable and educational institutions as well as of public trusts from the ceiling limit. Further, the Act contained provision for the elimination of political nominees from the land board and land tribunal. Instead, it recommended the appointment of government servants and nominees in them.

However, the government failed to implement the act due to legal hurdles. Though the KARA,1960, was suspended with the interference of The High Court of Kerala, the political turmoil and the state wide agitation for the implementation of land reforms tempted the government to find out an alternative to pacify the agitative forces. Therefore, the government decided to introduce another piece of legislation after incorporating the relevant suggestions and representations received from the people. Resultantly, a new bill named, The Kerala Land Reforms Act was introduced in 1963 and came into effect from April 1964.

Kerala Land Reforms Act,1963

The Kerala Agrarian Relations Act of 1960 was followed by the Kerala Land Reforms Act of 1963. The Act provided the tenants with a uniform rate of fair rent across the state and ensured security of tenure for the cultivating tenant. The Act, came into effect in April 1964, conferred the cultivating tenant with security of tenure, fair rent and ownership right over his land holdings after paying the required amount to the landlord. The Act further extended the definition of 'tenant' to accommodate those persons who were not entitled to protection or other privileges. Another notable provision of the Act is the legal protection and permanent occupancy rights given to the hutment dwellers. It declared their rights as heritable but not alienable and their eviction was allowed only in some emergency conditions. The Act proposed the formation of land tribunals having exclusive jurisdiction to deal with the matters pertaining to the act.¹⁶ Even after the implementation of the Act, evictions of tenants continued on an extensive scale. Consequently, the Kerala Scheduled Castes and Scheduled Tribes Prevention of Eviction Ordinance, was passed on the 5th July, 1966. It contained provision for the prevention of evicting the cultivating tenants and hutment dwellers who belonged to scheduled castes and scheduled tribes and restoration of their holdings. The non-compliance of the provisions of this Act was punishable with a fine of Rs.2000/- or with rigorous imprisonment for up to one year. Some of the provisions of the Kerala land Reforms Act were also amended by the Kerala Stay of Eviction Proceedings Act, of 1967. Another three major amendments of the Kerala Land Reforms Act, 1963 are the Kerala Land Reforms (Amendment) Act of 1969, Kerala Land Reforms (Amendment) Act of 1971 and the Kerala Land Reforms (Amendment) Act of 1972.

The Kerala Prevention of Eviction Act, 1966(No.12 of 1966)

The Kerala Land Reforms Act of 1963 couldn't resolve the land questions as expected. Hence, the government introduced new land legislation, the Kerala Prevention of Eviction Act in 1966, to rectify the flaws of the Kerala Land Reforms Act of 1963. The act was proposed for the prevention of eviction of cultivating tenants, and hutment dwellers from their holdings and for the restoration in certain cases of the possession thereof.¹⁷ The main provisions of this Act was prevention of eviction, notwithstanding anything to the contrary contained in any other law or in any contract, custom or usage or in any judgement, decree or order of court, no person shall evict or attempt to evict a cultivating tenant or holder of a kudiyirippu or kudikidappukaran from his holding, kudiyirippu or kudikidappu if such tenant or holder is a member of any Scheduled Caste, or Scheduled Tribe. Further, any cultivating tenant who belongs to a scheduled caste or

tribe and has been evicted from his holdings on or after 1st April 1964, shall be entitled to restoration of possession of his holdings.

The Kerala Stay of Eviction Proceedings Act, 1967

The United Front government, which came to power in 1967, introduced the Kerala Stay of Eviction Proceedings Act 1967. This act stayed the eviction of all types of occupancy in land and provided for the stay of eviction for tenants and hutment dwellers and for matters related there with.¹⁸The Act came into force on 31st December, 1968 was not applicable to lands or buildings or both belonging to or vested with the Government of Kerala or the Government of any other state in India or the government of India or local authority or a corporation owned or controlled by the government of Kerala or the government of any other state in India or the government of India.

Kerala Land Reforms (Amendment) Act, 1969

Robin Jeffery opines that the land reforms implemented in Kerala during the 1970s were qualitatively different from any other attempts that had been made in South Asia to change agrarian relations.¹⁹ The Kerala Land Reforms Amendment Act of 1969 is regarded to be the most comprehensive among of all pieces of land legislations introduced in Kerala after independence. The Act, implemented by the UDF led coalition government under C.Achutha Menon, came into force on 1st January 1970. It put an end to the age-old feudal system that prevailed in the state and ensured the rights of tenants on land. However, cash crop plantations were exempted from its purview. It gave full ownership rights to tenants and abolished exploitation, and inequalities in the consistent progress and transformation of society. The Act vested in the government, the ownership right on all land leased out to tenants, and banned creation of new tenancies with retrospective effect from April 1964.²⁰It gave option to the hutment dwellers to purchase his homestead from the land owners on easy terms and conferred ownership of the lands under tenancy on the cultivating tenants. This act had reduced the ceiling limit to 20 acres for a family of five and confined the exemption to rubber, tea and coffee plantations, private forests and other such non-agricultural land belonging to religious, charitable and educational institutions of a public nature. The act further empowered the government to confiscate surplus land by ceiling laws and distribute it among landless agricultural labourers. The Kerala Land Reforms Amendment Act of 1969 envisaged the following three schemes: 1. Conferment of full ownership on the cultivating tenants. 2. Fixity of occupation to the hutment dwellers and conferment of the right to purchase at concessional rate a small extent of land in and around their hutment. 3. Ceiling on land holdings and distribution of surplus lands after take over. It is estimated that 4 lakh hutment dwellers in the state were benefited by the Act and has effectively made the kudikidappukaran, the owner of the kudiyrrippu and the surrounding lands. They were given the optimal right of purchase of homestead from the landlord exceeding three cents in any city or major municipality or five cents in any other municipalities, or 10 cents in any other area or township, in possession either as owner or as tenant, on which he could erect a homestead. It will be deemed that the existence of kudikidappu was with the permission of the land owner. This provision has been interpreted by the Kerala High Court in a number of cases in such a way that initial occupation of the land with permission of the person in lawful possession is obligatory to make the dweller a kudikidappukaran. The benefits of the provision are available only to whom permission for occupation is granted but subsequently withdrawn by the land owners.

Conclusion

All these land legislations implemented in Kerala were aimed at the destruction of the centuries old feudal socio-economic order and the foundation of a new era, based on economic and social equality. The majority among them addressed the crucial issues faced by the tenants, sub-tenants and small cultivators and tried to put an end to illegal eviction, landlordism, high rates of rent, etc. In the chronicles of Kerala's development narrative, land reforms stand as a testament to the state's unwavering commitment to equitable progress. This paper has endeavored to shed light on the transformative potential of land reforms,

emphasizing that beyond the realm of economics, their impact resonates in the lives of individuals, families, and communities. In short, the land reforms inaugurated a path of equity, justice, and empowerment.

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