

Land Reforms in Himachal Pradesh (1948-1980)

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Agrarian structure and relations in the region currently encompassed by the state of Himachal Pradesh underwent significant change under colonial rule. British control was established in the Shimla Hill states after the Anglo-Gorkha war of 1815.¹ In the Punjab Hill states colonial dominance was firmly established after the Anglo-Sikh war of 1846.² Even after restoring the autonomy of many local rulers, the British retained certain territories in these hills for military and strategic reasons.³ It was particularly after 1849 that a systematic and decisive intervention in restructuring the agrarian system was initiated. These changes came through the introduction of a reorganised revenue administration and systematic and periodic settlements for different regions and areas.⁴ The focus of this paper is to comprehend and explain the land tenure that existed in Himachal Pradesh before independence and trace various legislations passed by the Himachal Pradesh government in order to abolish landlordism and distribute land to tillers and landless labourers. The purpose here is to examine the extent to which these legislative measures were implemented in Himachal Pradesh and how far these brought about an institutional transformation and reorganisation of the agrarian structure.

Agrarian Structure of Himachal Pradesh prior to Independence

Prior to the emergence of Himachal Pradesh as a distinct political identity in 1948, it comprised the princely Hill states, the British administered areas of Kangra, Kullu and Lahaul and Spiti which were part of Punjab province and some hilly areas of Shimla, Chail and surrounding areas of Bharauli of the Patiala princely state which became a part of Patiala and East Punjab State Union (PEPSU) after independence which was subsequently merged in Punjab in 1956.

The nature of land tenure of the princely states may broadly be categorised as feudal. Under the land revenue settlements made by the British, the ruler was recorded as the *malik-i-ala* (superior owner of the land) and the actual tillers as *malik-i-adna* (inferior owner of the land). The *malik-i-adna* enjoyed full proprietorship and were expected to pay revenue to the state. The ruler further asserted his rights of overlordship as *malik-i-ala* by extracting forced labour called *begar*⁵ from the peasants. The hereditary rights of the cultivators on land were known as *warisi or wirasat*. The hereditary profession of chamar, blacksmith, carpenter, or priest were also specified as *warisi*. The right to hereditary possession of land was obviously contingent upon its proper cultivation and the regular payment of the state dues. The hereditary right was transferable by gift and mortgage but it did not allow absolute transfer of land in either case. The transfer of such land by gift took place only when the incumbent had no heirs. The possessor could then select successor without interference from the government, but he could not alienate his land to the prejudice of his lawful inheritors. The hereditary right on the soil, therefore, was not only non-transferable, but it was also not saleable.

The areas in the hills which were part of Patiala princely state were situated in the Shimla hill region and fell under the control of Patiala during the first half of the 19th century.⁶ The nature of terrain and agricultural practices in this area were very similar to those of other petty Shimla Hill states. While no separate study on the agrarian structure of the hill territories controlled by the Patiala state is available, we can justifiably argue that it would be hardly different from the agrarian structure of surrounding areas controlled by the hill chiefs. This is further made evident by the fact that the agrarian structure and practices in the Hill areas of Shimla under direct British rule continued to retain its traditional agrarian pattern.⁷

The Kangra district which included the Kangra group of states, Kullu and Lahaul and Spiti was directly administered by the British and was under the Punjab province before 1947 and remained under the Punjab government till its merger with Himachal Pradesh in 1966. In this region different kinds of land tenure existed. In Kangra region each Raja was landlord of the whole of his principality. But he was not, 'like feudal king, lord paramount over inferior lords of manors, but rather, as it were manorial lord of his whole country. Each principality was a single estate, divided for management into a certain number of circuits. The circuits were not themselves estates like the mauzas of the plains, they were mere groupings of holdings under

one collectors of rents'.⁸ The rent due from the holders of each field was payable directly to Raja, unless he remitted it as an act of favour to the holder, or assigned in jagir to a third party in lieu of pay or as subsistence allowance. What is important is that the cultivators or incumbent or tenant at the most called his interest as *warisi* or inheritance, not a *maliki*. The application of this term was not only limited to agricultural tenures, but included the hereditary right to official posts connected with land, such as *chaudhary* or *muqaddam*.⁹

In all there were three category of tenants.¹⁰

(1) The tenants who farms with plough and oxen furnished by the landlord.

(2) The true farmer of *opahu*.

(3) The occupancy tenants.

In Kullu, apart from the hereditary possession of land, there existed two types of tenants: a) tenant holdings under individual proprietors and b) tenants on temple land. Tenancy of the former kind was rare and existed mostly in the irrigated regions. Such tenants known as *gharu* and *utkaru* in Kullu, paid one half of the produce as rent.¹¹

In Kullu and Shimla regions, the raja alienated almost fifty per cent of the cultivated land to temples or *deotas* as endowment in perpetuity.¹² The British allowed this tenure to continue, with the accepted theory that the raja divested himself of the proprietorship in favour of the *deota*. The cultivators of such land paid rent/share to the temples and did not have proprietary right over the land they cultivated. There were two types of tenants on such lands. First, there were the first class tenants who were in the service of the temple and held rent free lands in lieu of such services. Some of them were hereditary servants such as *pujari*, musicians and florists. Such tenants held the land as long as they rendered service to the temple even if their office was hereditary. The second class of tenants paid rent to the temples irrespective of the length of their occupancy. They were entitled to hereditary occupancy rights subject to the payment of regular rent to the temple. Under this tenure too, it was obligatory to perform certain services for the *deota*. The rent was generally fixed in amounts of *grain, butter, ghee* etc.¹³ In cases where the colonial administration had resumed the temple's land; tenants paid rent in cash to the government. There also existed in the hills a class of temples known as *thakurdwaras*. These were generally found in the Kullu *tehsil* of Kangra district. Priestly classes such as the Bairagis, Gussains, Brahmins and others such as Thakurs generally owned these temples. The endowment of such land was recognised as the

virtual property of the respective families. They generally cultivated the land themselves. But in some cases, it was rented to tenants who held titles as tenants-at-will while the proprietary rights rested with the priestly family.¹⁴

The condition of the peasantry, however, varied in different princely states. In certain states, the agrarian classes were simply divided into peasant proprietors and tenant cultivators, whereas in other regions, *jagirdars* and *maufidars* were also found. In the Princely States, the large majority of the peasant proprietors were Kanets, while tenants belonged to several different castes that included Kanets, Daxis and Kolis. The latter two castes constituted the largest group of cultivators after the Kanets and also controlled the second largest amount of cultivated land in these states. The Daxis and Kolis were also known by various other names such as Halis, Sepis, Chamars, Chanals etc. They were treated as outcastes and belonged, by and large, to the artisan castes. In some cases, occupational differentiation became the basis for the different names by which they came to be known in different states. In the British administered area of Kangra group of states, four castes—Brahmins, Rajputs, Rathis, and Girths—comprised over 60 per cent of the total population.¹⁵ Together, they formed the proprietary landed classes and among them the Rathis and Girths were the primary cultivating castes. The other important castes which consisted of Chamars, Bhangis, Seraras, and Dumnas, together accounted for more than 12 per cent of the total population of the region. They constituted the work force of the villages, and were the first to be pressed into service for *begar* or the forced labour. Artisan castes comprised goldsmiths, carpenters and blacksmiths constituting less than 10 per cent of total population.¹⁶ In Bharauli and its surrounding area of Patiala state, one-fifth of the land was cultivated by tenants who were lohars, chamars, badhis, domars and kolis.¹⁷

Thus, two different types of land tenure and administration developed over the period of time in the princely states and the Patiala hill state on the one hand and the British administered area of Kangra group of states. The land tenure in the princely states and Patiala Hill state was simple. Between the raja and the actual cultivators there generally did not exist any intermediaries to intercept a share of the producers. In these areas there existed a Ryotwari form of land tenures and majority of the cultivators paid revenue and cesses directly to the chiefs. Tenancy existed mostly on land that was owned by the chiefs. Otherwise in general, tenancy was

non-existent as the low productivity of the land did not permit such a tenure to exist on any large scale. *Begar* in the form of free labour services to the chief and important state functionaries was rendered by almost all cultivators. *Beth* was another obligation that existed in these hills. It was a form of free labour services performed by the low caste on the land of chiefs and a few large proprietors. In lieu of these services the *bethu* (person providing free services) was given a piece of land free of obligations in rent or revenue.

In the British areas, a number of intermediaries such as *chaudharies*, *muqaddams* and *jagirdars* had existed for long and their tenures were in some cases recognised by the British. Tenancy as a form of tenure existed in various forms in this region. Hence, land revenue administration of what now constitutes Himachal Pradesh was not uniform throughout the region.

Thus, in the pre-independent period, the history of land reforms mainly consisted of settling the land on scientific lines, and preparing the record of rights. Infact, the settlement operations conducted by the colonial rulers in these Hill states, at best helped in the preparation of records of rights but did not sufficiently help in reducing the burden of the tenants or landless agricultural classes. They continued to be burdened with various kinds of cesses such as *begar* and *beth* and lived a very insecure life, especially because the land in most parts of Himachal Pradesh was rocky and sandy.

Praja Mandal Movement in Punjab and Shimla Hill states

It was against this exploitation and atrocities perpetrated by the rulers on the peasantry that the Himalaya Riyasti Praja Mandal was formed in the late 1930s. The emergence of this central organisation of people from different states was historically significant not only in providing a common platform to the people of the Hill states, but also in offering resistance to the rulers. It also assisted subsequently in the integration process of these Hill states into one unit. Most of the founder members of the Himalaya Riyasti Praja Mandal were members of the Indian National Congress.¹⁸ The organiser of the Himalaya Riyasti Mandal aroused the people by organising public meetings at different places and by publishing pamphlets. They also collected data about the injustice and cruelties perpetrated on the hill people and presented their cases before the Political Agent through deputations and memoranda against the Ranas and Rajas. They also encouraged people to stop paying unjust taxes and not to perform *begar*.

Encouraged by the formation of Congress ministries in 1937, the Congress resolution of 1938 and the Ludhiana (Punjab) session of the All India People's Conference in 1939, the Praja Mandal movement gained momentum in the States. Praja Mandal were set up in Mandi, Bilaspur, Chamba, Sirmaur, Jubbal, Rampur Bushahr, Dhamsi, Kunihar, Suket and other princely states.¹⁹ As a result of this mobilisation, two state level movements became particularly popular. These were the 'Dhamsi Goli Kand' and the 'Sirmaur Pajhota Andolan'. The apparent commonalities in these two movements were: a) demand for abolishing of *begar*, relief from excessive taxation, state revenue to be spent on the welfare of the people and the removal of matrimonial taxes and b) both these movements were pitted against the autocratic rulers of the Hill states and their demand was the establishment of responsible government. The Sirmaur 'Pajhota Andolan' was started under the aegis of Kisan Sabha in which Laxmi Singh, Vaid Surat Singh, Basti Ram Pahari, Sher Jung and Chet Singh played an important role. Bhagmal and Sita Ram were the leader of the movement that culminated in the 'Dhamsi Goli Kand'.²⁰ The most important contribution of movement in the Hill states was that it went a long way in raising consciousness of the people and exposing the high-handedness of the rulers.

Besides, resulting in the formation of Praja Mandal at the local level under the influence of the Indian national movement, the peasant movements also became part of the broader struggle of the Praja Mandal movement for the establishment of responsible governments in their states. Though the movement was led by upper caste *brahmans* and *kanets* (who after independence benefited most because of agrarian change resulting from land reforms), the main force behind it were the lower castes.

In the merged area of Himachal Pradesh, which was directly administered by the British, the peasant movement developed around issues concerning the tenants. The movement grew under the guidance of the Indian National Congress and also the Communist Party of India, which organised the Kisan Sabha to struggle for their legitimate rights in Una *tehsil* and Kangra district.²¹ An important feature of the tenant movement was that its leadership was provided by the lower castes such as *Rathis*, *Girthis*, and *Sainis* who were worst affected by the colonial land policy.

After independence, however, the Congress leadership in Himachal—which had by and large emerged from the Praja Mandal movement—was divided on the question of land reforms. Although

it was instrumental in introducing land legislation after independence in Himachal Pradesh, conflict of its class interests became a hurdle in the implementation of land reforms. As a result the interests of the rural poor (especially tenants-at-will, share croppers and landless agricultural labourers) were ignored.

Land Reforms: Post Independence Period

In keeping with the recommendations of the first Five-Year Plan,²² Himachal Pradesh government, like in other states of India, enacted a number of legislations at different times to effect land reforms. Himachal Pradesh was a Part 'C' state and had very limited power. Therefore, it could not take any initiative in the field of land reforms till 1952 when the first popular ministry was formed. In order to bring about uniformity in tenancy laws in the state and to check the arbitrary ejection of tenants, the *Punjab Tenancy Act, 1887* was made applicable to the state by *Himachal Pradesh (Application of Laws) Order, 1948*. Later in 1951, the *Punjab Tenants Security of Tenure Act, 1950* was extended to Himachal Pradesh.²³ These two legislations proved ineffective in checking the ejection of tenants and to provide security of tenure to the tenants. Later on in 1952, the *Punjab Tenancy (Himachal Pradesh) Amendment Act, 1952* and *The Himachal Pradesh Tenants (Rights and Restoration) Acts* were enacted. The main objective of these acts was to provide relief to peasants in general and Scheduled Castes and Scheduled Tribes, (who formed 26 per cent of total population) in particular. These Acts were passed against the background of protests by tenants. The landlords in anticipation of the imminent land reform legislation had begun resorting to the ejection of their tenants. In 1951, the tenants in Mandi had already launched a movement against arbitrary eviction. As a result the people were getting alienated from the government on account of the ejection of tenants by the landlords.²⁴

The Abolition of Big Landed Estates and Land Reform Act 1953

It was during the period of Congress dominance between 1957-77 that land reform legislations were enacted and implemented in Himachal Pradesh. The recommendations of the Land Reform Committees of 1949 and 1969 set up by the Congress formed the basis of the two laws enacted in 1953 and 1972. The *Himachal Pradesh Abolition of the Big Landed Estates and Land Reforms Act 1953* was passed on 17 June 1953, under the title (in Hindi) '*Bari*

Zamindari Unmoolan Thata Bhoomi Vyavastha Adhiniyam, 1953. It received the assent of the President of India on 23 November 1953 and was made operative on 25 January 1955.²⁵

The preamble of the Act provided that it was expedient to abolish the big landed estates and to reform the laws relating to tenancies. With regard to the latter, the Act first declared as to who would be occupancy tenants under the Act. Besides those tenants who were recorded in the record of rights prepared before the coming into force of this Act, the following were included in the category of occupancy tenant:

(a) Any tenant who 'at the commencement of this Act has for a period of not less than twelve years been occupying land paying no rent therefore beyond the amount of land revenue thereof and the rates and cesses for the time being chargeable thereon'; or

(b) 'Who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the government or then by any voluntary act, has, since he ceased to be landowner, continuously occupied the land'; and

(c) 'Who has broken land for cultivation.'²⁶

The Act also allowed occupancy rights to such tenants 'who had voluntarily exchanged the land, or any portion of the land, formerly occupied by him with another piece of land belonging to the same landlord.'²⁷

Further under sub-section 11 of the Act, a tenant other than a sub-tenant, could acquire on a payment of compensation, the right, title and interest of the landowner in the land of the tenancy held by him under the landowner. However, such proprietary rights could not be acquired by the tenant from such landlords who had no other means of livelihood or minor, widow or a person suffering from physical or mental disability incapable of earning his livelihood.²⁸ In order to ensure that the tenants really benefited from this land reform measure, the government fixed a very reasonable compensation to be paid to the proprietors on the acquisition of proprietary rights on the land. The amount of compensation payable to the landowner varied as per the rent paid by the tenants prior to the passing of this Act. In case of the occupancy tenants, maximum compensation payable was 12 times of the land revenue and the rates of the cesses. In case of non-occupancy tenants it was 48 times of land revenue and of cesses.²⁹

Under the provision of the Act (Section 15), the state government could acquire the ownership of the land by notification and then transfer the ownership to the tenants. However, the provision of this

section could not be applied due to financial implications. The state, for initial payment of compensation to the landowners whose rights were acquired, the Act contained a provision for the abolition of the Big Landed Estate under section 27 of the Act. This section of Act provided that 'a landowner who holds land, the annual land revenue of which exceed Rs 125 per year the right, title, and interest of such owners in such land shall be deemed to have been transferred and vested in the state Government free from all encumbrances'.³⁰ But this provision was not to apply in respect of such land which was under the personal cultivation of landowners.³¹

The lacuna in Section 27 was that it did not apply to the land under self-cultivation and large chunks of wasteland classified as *gair mumkin or banjar kadim* remained with the landowners.³² This snag in the provision of the Section 11 was used by the landlords to subserve their interests and to circumvent the provisions favourable to the tenants. On flimsy grounds, they contested any transfer of rights to the tenants before the compensation officers. They also tried to prolong the legal proceedings by filing appeals before the District Judge even against the interim order of the compensation office. This litigation was a costly affair for them in terms of money and time. Another reason, which made the Act ineffective, was that there was no clear-cut provision for ceiling. The intermediaries were allowed to hold cultivable land to the tune of 125 acres whereas in case of the 44,435 tenants who had acquired proprietary rights over the declared surplus land of 17,411.4 hectares, the average worked out to 0.39 hectares or approximately one acre per tenant.³³

However, the litigation delayed the execution of the Act until 1962 because the landlords challenged the constitutional validity of the Act on account of it not being passed by a duly constituted legislature. The Supreme Court held the Act *ultra vires* of the Constitution in 1958 as the old state of Himachal Pradesh and Bilaspur both had ceased to exist and the new Himachal Pradesh created by their merger and the old Legislative Assembly that had passed the Act had ceased to exist. Even after 1962, because of the pressure exerted by different interests in the land from within the Congress Party, the Act could not be effectively implemented.

Despite the delay in the implementation of the Act, zamindari and all forms of intermediary tenure were abolished in 1955. Under this Act a total of 3503 acres land was taken over from 1105 religious institutions of which 735 acres was irrigated, 2152 acres unirrigated

and 616 acres *ghasani*.³⁴ Those who were recorded as settled or occupancy tenants and their under tenants became proprietors of the land under the state—so far so good. But the erstwhile landed aristocracy still continued to control huge areas of agricultural land, which they retained through devious means, particularly, through *benami* transactions. Moreover, the land voluntarily surrendered by the feudal lords was not fertile and some of it was even disputed property.

Because of the enforcement of the Act in the old area of Himachal Pradesh, by 1970, 'out of 286 big landed estates that were covered under provision of Section 27 of the Act, 281 estates were abolished and 5 estates were under litigation in the court of law. As many as 56,710 tenants acquired proprietary rights under this provision. Among the landowners were included the *Jagirdars*, *Maufidars*, and *Inamdars* whose *Jagirs*, *Maufis*, and *Inams* were resumed in the process of vestment.³⁵ The tenants not covered under the section 27 could acquire ownership rights of their tenancy lands by making an application to compensation officer under Section 11 of the Act. Under this provision, 52,212 tenants had acquired proprietary rights.'³⁶ In order to check the concentration of land and to provide some land to the poor and landless peasant a ceiling on holding of five acres was provided in the Act. The resumption of land by the landowners for personal cultivation was permitted upto 5 acres, subject to a further provision that no tenant would be evicted from more than of the area under his tenancy.³⁷

The abolition of zamindari rights to revenue collection and other intermediary rights met with a certain degree of success in breaking the large feudal estates and conferring ownership rights on the occupancy tenants. Nevertheless, the tenancy reforms relating to security of tenure and better terms for the tenants-at-will (who only had verbal agreements with the landlords) were rack-rented and ceiling on holdings were ineffective because of large-scale evasion.

Despite the above mentioned results and loopholes of the Act, it is quite evident that the *Abolition of Big Landed Estates Act, 1953* was not as progressive a piece of legislation as it was generally thought out to be. Because of the reorganisation of Punjab State on 1 November 1966, when certain areas of the Punjab was merged with Himachal Pradesh, the disparity in the laws of merged and old area became evident. There were complaints of arbitrary ejection of tenants in the merged areas. Out of 1,15,000 tenants in the merged area 10,000 tenants had already been evicted and 1,05,000 tenants

remained as recorded tenants by the time the *Punjab Tenants Act, 1953* was enforced.³⁸

Therefore, as a first step to protect the interest of the tenants in these areas, the Vidhan Sabha passed the *Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968*. The ejection under the Act could only be made on the grounds similar to those that existed in old Himachal. The Act remained in force till 1971, when the *Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1971* was passed.³⁹ The Act put a total ban on ejection of the tenant till the *Himachal Pradesh Tenancy and Land Reforms Act 1972* was passed by the Vidhan Sabha. An important feature of the Act was to prevent the revival of absentee landlordism in the state and also to discourage speculation in agricultural land. Under the Section 118 of the Act, non-agriculturists, who did not cultivate the land themselves were debarred from purchasing agriculture land in the state. By virtue of the enforcement of this Act, 'out of the 4,25,145 non-occupancy tenants in the state, 3,79,676 became the owners of the land'.⁴⁰

The remaining could not be benefited from the provisions of the Act because the proprietors belonged to protected categories such as serving soldiers, widows, minors etc.

Himachal Pradesh Ceiling on Land Holdings Act, 1972 and Himachal Pradesh Village Common Land Utilization Act, 1974

By 1959, it was realised that agrarian legislation, to cover restrictions on the size of land holdings, needed to be passed in the states. The idea was to reduce the extent of inequality in the ownership of land. Moreover, land being limited as compared to the demand for it, the produce of the land, its proper rationing and distribution was considered highly conducive to agricultural growth and employment. It was realised that social inequalities could not be removed unless ceiling was imposed on land holding and the surplus land was distributed among the landless and marginal workers.⁴¹

Since the passing of *Big Landed Estate Act, 1953*, transfers of land were taking place among family members. This was advantageous to the landed section where the unit of application was the individual. It was suggested that the ceiling should apply invariably to the aggregate held by the family rather than to individuals. In an attempt to check *benami* transfers, the Third Plan besides other things, suggested that 'a distinction had to be made

between transfers among family members, *benami* transfers and other transfers not made for valuable consideration and through registered documents, and transfers made for valuable consideration and through a registered documents'.⁴² Therefore, the transfer of the last type needed careful consideration, as they may be marginal or poor farmers whose interests needed to be protected.

Another problem was that after the merger of new areas in H.P., there was no uniformity in the land ceiling laws. In fact at the time of re-organisation, the following three enactments pertaining to ceiling were applicable in the state:

- (1) The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953;
- (2) The Patiala East Punjab States Union (PEPSU) Tenancy and Agricultural Act, 1955; and
- (3) The Punjab Security of Land Tenure Act, 1953.

In areas formerly part of Punjab, the ceiling was 30 standard acres or 60 ordinary acres. In area formerly of PEPSU, the ceiling was 30 standard acres or 80 ordinary acres. In the old areas, all rights, title and interests of landowners paying annual land revenue exceeding Rs 125 vested in the government in case of tenancy land. There was no ceiling for land under personal cultivation. Immediately after the merger of new areas from Punjab, the H.P. government had set up a Land Reform Committee, to collect facts so that a rational basis could be worked out for the unification of tenancy and land reform laws. Meanwhile in 1969, the government of India had appointed a Central Land Reforms Committee for making policy recommendations on land reforms. It advocated ceiling ranging from 10 to 18 acres in case of irrigated land and 2 acres to 54 acres in case of dry lands for a family of five.⁴³ It was through these deliberations that national guidelines on ceiling and exemptions were evolved.

Keeping in view the above issues, laws and the national guidelines, a bill was introduced in Himachal Pradesh Vidhan Sabha in 1972. It was passed on 21 December 1972. It received the assent of the President on 10 July 1973 and came into operation from 1 January 1974.⁴⁴ The main feature of the Act was that it provided a ceiling of 10, 15 and 30 acres for land under assured irrigation growing two crop in a year, land under assured irrigation capable of growing one crop in a year, and other categories of land in the different area of the state was fixed at 70 acres.⁴⁵ The surplus area after ceiling was to vest with the government against the payment of compensation,

which was the multiple of the land revenue plus rates and cesses. On vestment, the area was to be distributed among the landless agricultural labourers and persons whose holdings do not exceed one acre according to scheme to be made by the government. An important feature of the ceiling Act was that ceiling under the Act did not apply to the private forests and wasteland (non-tenancy) and under personal cultivation of the landlords. The effective land ceiling for them was 125 acres, which in the state like Himachal was too huge where cultivable land was less than 20 per cent of the total land and land-man ratio in relation to cultivable land was lower in India. The average cultivable land is not more than 2 acres per hectare for the state.

Coming into force of Himachal Pradesh Ceiling on Land Holdings Act, 1972 in the northern division,⁴⁶ 5,398,47 acres of land was declared surplus and in turn vested with the government. Out of this surplus land, about 3,584,96 acres of land was distributed among 5,300 landless and eligible persons.⁴⁷ And out of the total of 2,86,764 non-occupancy tenants, 2,42,918 non-occupancy tenants had been granted proprietary rights upto December 1980.⁴⁸ In the southern division out of the total 96,405 non-occupancy tenants, 443 non-occupancy tenants were granted proprietary rights thereby raising the number of non-occupancy tenants having acquired proprietary rights to 88,992.⁴⁹ In the areas of old Himachal, the Kanets who numerically formed the larger caste group and controlled the largest portion of agricultural lands, were able to gain occupancy rights over the lands they cultivated.

The overall impact of the reform has been rather limited. For more than a decade, these Acts remained caught in legal squabbles. Like the *Abolition of Big Landed Estate Act, 1953*, the *Land Ceiling Act* was also challenged by the landlords in the court. The full bench of the High Court on 23 June 1976 disposed of the petition filed collectively by a number of landlords, held legislation to be valid. Its operation was stayed only with respect to those owners who had filed the writ petitions in the High Court. The operation of the Act as a whole was not stayed.⁵⁰ Under this Act, as many as 2714 returns came for consideration. Out of which 2708 had since been disposed off. In these returns the area of 2,84,053 was declared as surplus. Out of which an area of 2,81,461 acres has been taken possession. The balance of 2592 acres either is locked in litigation or is under the process of being taken into possession. An area of 3340 acres

had been distributed to 4400 persons. The remaining portion of land was declared unfit for allotment.⁵¹

The distribution of land in Himachal Pradesh has its own problems. There were two facets of this problem. One, provision of land for landless and two, increasing the size of holdings. The government felt that the surplus area available under the ceiling Act might not be very large. Therefore, legislation was enacted to vest the 'shamalat' lands in the government by way the *Himachal Pradesh Village Common Land Vesting and Utilisation Act, 1974*. The Act not only sought to correct the anomaly that existed in the rules regarding its regulation in the old and new areas of Himachal⁵² but by vesting such land in the government, it could distribute 50 per cent such land for the settlement of landless and eligible persons and for the common purposes of the estate right holders. The government had banned the allotment of such land till 1980. The ban was lifted for allotment of land to landless and eligible persons from allotable pool under the 20-point economic programme then launched by Indira Gandhi.⁵³ Under this provision the number of person below poverty line in rural areas decreased marginally between 1971 and 1978 from 31.53 to 28.12 per cent.⁵⁴

Himachal Pradesh Nauthor Land Rules, 1968

This was another important piece of land reforms legislation passed in the state. It went a long way in eradicating landlessness particularly among the Scheduled Castes and Schedule Tribes. The state provided for grant of land to landless or persons holding less than 10 bighas of land under self-cultivation on 1 January 1974.⁵⁵

Though the intention of the legislation was to eradicate landlessness in the state but the act was subverted in many cases where people not authorised under the Act managed to secure lands by bureaucratic manipulations and showing fake partitions. In some cases the land of the poor peasants were also purchased by the well to do neighbours at higher prices. Under this Act and other economic programme mes, 17000 acres of culturable waste land was distributed.⁵⁶

Land Reforms: Attitude of the Political Parties

On the issue of land reforms, the political parties in Himachal Pradesh adopted different overtones and supported these on the bases of caste and class interests. While introducing the bill, Dr. Y.S. Parmar, the then Chief Minister of Himachal Pradesh, pre-empted the

opposition to the 125 acres limited proposed by the bill on cultivable land to be retained by the landlords. He justified it on the grounds of existence of large joint families in Himachal Pradesh.⁵⁷ He declared that the intention of the bill was not to introduce any major changes in the land systems but was to make minor changes by giving some land to landless and those having little land so that 'every one have bit of land and they do not have to depend on the landowners'.⁵⁸ At the conclusion of debate, while introducing the resolution for acceptance of the bill by the house, the Chief Minister complemented the bill for not having ignored the interests of the tenants or that of the landlords.⁵⁹ He made these observations while referring to the remarks made by Kishan Chand of Mandi (who opposed the bill for being in favour of landlords) and Swami Krishan Nand, (who was also from Mandi District and was opposing the bill for being against the landlords and the Jagirdars). The Chief Minister Dr. Y.S. Parmar claimed to have followed middle path by allowing the peasants to retain what they possessed and allowing the landowners to keep what they owned. Therefore, Congress partially implemented the land reforms, distributed surplus wasteland under the *Nautor Rules, 1968* and 20-point economic programme to landless in the state, and was able to manage the support of the feudal classes, cultivating peasant and lower caste working population.

Bhartiya Jan Sangh, presently known as Bharatiya Janata Party, pleaded the cause of landlords against the interests of tenants', rights through an organisation called the *Laghu Zamindar Sabha*. The party was opposed to passing of the *Himachal Pradesh Transferred Territory Tenants (Protection of Rights) Bill, 1968*, which was brought about in the background of large-scale evictions of tenants that were taking place in the merged areas that the operation of *Abolition of the Big Landed Estates Act, 1953*, would give tenants an upper hand. The party while admitting the large scale evictions justified it on the ground of default in the payment of rent. They argued that the *Panjab Security of Land Tenures Act, 1953*, and the *Pepsu Tenancy and Agriculture Land Act, 1955*, which allowed landlords to evict tenants on grounds of non-payment of rent or rendering cultivation ineffective, should be continued and there was no need for any protection to the tenants.⁶⁰ The party also advocated for speedy payment of compensation to landlords in old areas.⁶¹ It argued that 1.75 lakhs of cultivable land lying vacant instead should be distributed among landless and the tenants.⁶²

The Bharataiya Jan Sangh charged that in the formulation of the

land reform and Land Ceiling Act the areas of old Himachal have been favoured and merged areas had been put to difficulty. It was argued that the ceiling of 30 acres for non-irrigated land, which include orchards, favoured old Himachal. The party pleaded for lowering the ceiling in case of orchards to 6 acres.⁶³ The party rather than dealing the tenants' rights on merit 'emphasized the regional discrimination to be the main motive behind the land reform legislations, thereby making regionalism as an important issue in the politics of the state'.⁶⁴ They also opposed the transfer of temple lands to the cultivating tenants and pleaded that lands for their rehabilitation be made out of the surplus lands with the government. While pleading the interest of landlords, their leader in the Assembly opposed the payment of compensation to landlords as a multiple of revenue and argued for the payment to be made at market value.⁶⁵

The Communist Party of India and the Communist Party of India (Marxist) stood firmly for the rights of the tenants. They organised several struggles of tenants for occupancy rights and security of tenants but could not stop the better lands being transferred to big landlords as well as eviction of tenants. Due to loopholes in law it made easier for landlords to evict tenants. The Kisan Pass Books which did not enter the names of tenants who cultivated the land made it difficult for the tenants to prove their tenancy.⁶⁶ The legislation also benefited the big landlords because appeal against the value of land that the patwari and settlement officer decided could not be challenged under sections 56 and 57 of the Act. The big landlords, by bribing the patwaris and settlement officers, were able to get better land transferred in their favour.⁶⁷

Besides, the Communist Party of India, the Lok Raj Party led by Hira Singh Pal, Thakur Sen Negi and Jai Behari Lal Khachi and some independents supported the cause of the tenants and criticised the government for helping the landlords by not bring the land reforms legislation. On the other hand, the Bharatiya Jan Sangh which had its base in the merged areas, failed to raise the issue of its adverse impact on the tenants. Instead the party opposed occupancy rights that were given to the *Kismi* tenants (sub tenant) who were in the cultivation of particular land for generations.⁶⁸

The influence of the landed classes became so apparent that during emergency in 1976, the government provided another opportunity to them to resume land for personal cultivations under sections 104 of the *Himachal Pradesh Tenancy and Land Reform Act; (Act No. 15, 1976)*. The Act provided for resumption from non-occupancy

tenants for personal cultivation. If a landowner had not reserved any land from 26 January 1955, he could reserve 3 acres of unirrigated and one half acre of irrigated land. Because of the very limited irrigated and agricultural lands in the state, the Congress government sought to convert these landed classes into the capitalist farmers by encouraging horticulture and tea plantation in the region. For this, the tea plantations were exempted from ceiling, and the ceiling on orchards was increased to 30 acres for a family of five members.

The ruling Congress Party's policy which sought to mediate and balance the conflicting agrarian interests of the landlords and tenants, the exploiting classes and castes, left loopholes in the various land reform legislations. The landed classes made full use of loopholes to evade the legislations and deny the poor and illiterate tenants, who lacked effective organisation, to protect their legal rights.

CONCLUSION

Though land reforms in Himachal Pradesh have not brought about any revolutionary changes in the agrarian structure yet it shall not be fair to term these as insignificant and a futile exercise. The near absence of landlessness in the state could be attributed to the positive effect of the land reforms despite the fact that the disparities in the ownership continue to persist. The composite effect of the land reform legislations, distribution of culturable waste land among the poor peasants and the landless during 1970 under the *HP Nauthor Land Rules, 1968* and some rural development programme mes like 20 point programme mes, Small Farmers Development Agency (SFDA) and Marginal Farmers and Agricultural Labourers (MFAL) scheme and other rural development programme mes contributed to the agricultural growth and socio-economic improvement of the people particularly the small and marginal farmers and those belonging to the Scheduled Castes and Scheduled Tribes.

In fact, landlessness had never been a problem in the state prior to independence. The peasants, to a larger extent, held land independently from the very early times except in the irrigated areas where some form of tenancy existed. Even the British settlement officers recognised the existence of the Ryotwari forms of cultivation in the Hill states where cultivator was owner of the land he cultivated and for which he paid revenues and cesses to the feudal lord. The double ownership of the superior and inferior kind existed only in name. The occupancy tenant, as he was called, had permanent

heritable and transferable rights subject to the payment of rent fixed by the authority. After 1953, when the Abolition of Intermediary Act was passed, they all became independent owners. Therefore, official records showed decline in tenancy and an increase in owner proprietors in the form of independent cultivators. However, in the merged areas the Land Reform Act 1972 did make a difference because here tenancy operated in a classical sense in the significant parts of the Kangra district of Punjab. The decline in the tenancy to a greater extent relieved the tenants from the element of exploitation and also provided, though in a very small measure, an opportunity to increase their efficiency and productivity on land.

Even though, the benefit of the land reforms percolated down to the peasantry, yet the picture that emerges from the aforesaid discussion is that land reforms, especially relating to ceiling laws, did not meet with a high degree of success. Abolition of the Intermediary Act of 1953 was ridden with loopholes to favour the big landholders. The provision for vestment of the surplus land in excess of Rs. 125 of annual revenue did not apply to land under personal cultivation, private forests and no-tenancy waste land. This by itself allowed the intermediaries to retain and resume possession of a large amount of valuable forest and waste lands. The feudal chiefs were more interested in retaining forest lands, which contained valuable timber, rather than to keep large tracts of unirrigated terraced lands with them. It would otherwise have been nearly impossible for them to bring such lands under personal cultivation. The feudal lords were, therefore, permitted to keep the most fertile irrigated lands and the valuable forest lands in their possession beyond the limit of land ceiling even though these non-cultivable lands could have been put to a more profitable use for the development of the state. Another lacunae, which made the Act ineffective was that there was no clear cut provision for the ceiling. The intermediaries were allowed to hold this type of land to the tune of 125 acres i.e. 625 bighas. The non-cultivable land became more valuable and profitable with the extension of horticulture on such unproductive land particularly in old Himachal areas. The upper strata of the peasantry which included feudal bureaucracy and erstwhile feudal lords (mainly the members of the upper caste though the Kolis were not excluded from it) were benefited immensely from the land reforms.

NOTES AND REFERENCES

1. These including the states of Bilaspur, Bagal, Bhagat, Bhaji, Beja, Balson, Bushahr, Dhami, Darkoti, Jubbal, Kutlehar, Keonthal, Kunihar, Kumarsain, Mahlog, Mangal, Nalagarh, Sangri, Sirmaur, and Throach. The area at present constitutes the districts of Bilaspur, Kinnaur, Shimla, Sirmaur, and Solan.
2. At the conclusion of the Treaty of Lahore (9 March 1846) between the Sikhs and the British, the Punjab Hill states of Datarpur, Guler, Kullu, Kangra, Jaswan, Lahaul Spiti, Mandi, Nurpur, and Suket came under the control of the British. The area at present constitutes the districts of Kangra, Hamirpur, Una, Mandi, Kullu and Lahaul Spiti.
3. The area retained by the British for strategic reason included Kotgarh, Kotkhai, Bharauli, Shimla, Dagshai, Jutogh, Sabhatu, Sanawar, Solan, and Kasauli, Rawin Dhadi. See, *Punjab District Gazetteer, 1904*, vol. VIII A, Lahore, 1908, pp. 12-17.
4. The first such settlement was carried out at the Kangra district (then a part of the Punjab Province) in 1850 A.D. See G.C. Barnes, *Report on the Land Revenue Settlement of Kangra District, 1854*, Lahore, 1859.
5. For a detailed study of various kinds of *begar* that existed in the Shimla Hill states see Jaideep Negi, *Begar and Beth System in Shimla Hills*, Delhi, 1995, pp.16-25 and C. L. Datta, *The Raj and the Shimla Hill States: Socio-Economic Problems, Agrarian Disturbances and Paramountancy*, Jalandhar, 1997, pp. 91-123.
6. "It was during the Campaign of 1815 that the Maharaja of Patiala render us (British) valuable assistants by providing supplies and was in return given land he now possess in the neighbourhood of Shimla. Other tracts he was allowed to purchase, and so became to all intents and purposes one of the hill chiefs. The village of the Kalka at the foot of hills and military post of Kasauli, were later on transferred to the British government by the Maharaja of Patiala at the requisition of Lord Hardinge, his highness refusing to receive any compensation for the land thus given up." Edward J. Buck, *Shimla: Past and Present*, New Delhi, First Published in 1904, rpt. 1979, pp. 3-4. See also E.G. Wace, *Report on the Revenue Assessment of Elakas, Kotkhai, Kotguru and Shimla*, Lahore, 1883, Appendix – VIII, pp. XL-XLI.
7. *Ibid.*, p. 3 and see Appendix – VIII, p. xxxiv
8. *Kangra District Gazetteer-1925*, Chapter III-C, Land Revenue, p. 365.
9. Barnes, G. C. *Settlement of Kangra District*, p. 18.
10. For details refer to *Kangra District Gazetteer, 1925*, pp. 388-391.
11. *Gharu* were the tenants of the first class who paid rent as a share of each field to the proprietor, and the *utkaru* were those who paid in lump sum for the whole grain and cash. See *Gazetteer of Kangra District, Part II; to IV, Kullu and Lahaul Spiti*, 1897, reprint, New Delhi, 1994, p. 71

12. *Ibid.*, p.71
13. *Ibid.*, pp. 41-52 and 72.
14. Lyall, J.B. (1889), *Report on the Land Revenue Settlement of Kangra District, 1875*, Lahore, p. 98.
15. Barnes, G. C. *Settlement of Kangra District*, p. 40.
16. *Ibid.*
17. *Shimla District Gazetteer*, Chapter III, Section C, 1854, p. 47.
18. Bhagmal Sautha and Pandit Padam Dev were prominent among those who had Congress membership. See Satya Singh 'The Formation of Himachal Pradesh as a State of Indian Union (1941-71)'. M.Phil. dissertation submitted to H.P. University, 1988, p.23.
19. Sharma, Anita (1988), "Himachal Prajamandal Ki Swatantra Sangram Main Den", *Himprasth*, August, p. 15.
20. Sharma, Ranbir (1977), *Party Politics in Himalayan State*, New Delhi, p. 39. See also C.L. Datta, *The Raj and the Shimla Hill States*, pp. 245-247.
21. Master Hari Singh, *Punjab Peasant in Freedom Struggle*, vol. II, Delhi, 1984, pp. 263-264. See also Bhagwan Josh, *Communist Movement in Punjab*, Delhi, 1979, pp. 185-186.
22. Draft outline to the First Five Year Plan provided that the Centre would be an advisory body to the states concerning the legislation and implementation of land reforms and to confirm that the legislation on the land reforms would vary from state to state in accordance with differences in the historical land systems. Nonetheless, the *Draft Outline* went on to identify certain commonalities to be anticipated in the legislation then being enacted in the states. These commonalities, it was suggested, included commitments: a) to abolish landholding intermediaries (i.e. zamindars) between cultivators and the state and, where appropriate, to confer proprietary rights on cultivators classified as occupancy tenants; b) to protect tenants at-will; and c) to set up ceiling on future acquisition of land by individuals. See, Government of India, Planning Commission, *The First Five Year Plan (A Draft Outline)*, New Delhi, Planning Commission, July 1951, p. 95.
23. Mahajan, Des Raj, "Land Reforms in Himachal Pradesh", in *Symposium on Social and Economic Problems of Hill Areas*, Directorate of Economic and Statistic, Himachal Pradesh, Shimla, pp. 21-25 See also *Report on Agricultural Census, 1990-91*, Himchal Pradesh, Directorate of Land Records, Report no. IX, p. 22.
24. Y.S. Parmar's Speech made at the time of the introduction of the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 as quoted in the *Proceedings of Himachal Pradesh Vidhan Sabha*, vol. III, no. 30, April 1953, pp.12-15.
25. *The Himachal Pradesh Abolition of Big Landed States and Land Reforms Act, 1953*, Act no. 8, 1953, p. 4.
26. *Ibid.*, pp. 5-6

27. *Ibid.*
28. *Ibid.*
29. *Ibid.*
30. *Ibid.*, Chapter- III, Section 27.
31. *Ibid.*
32. Patel, G.D. (1970), *The Land System of Union Territory of India (W. Rly.)*, India, p. 2823.
33. *Review of Economic Condition and Development Activities in Himachal Pradesh, 1970*, Directorate of Economics and Statistics, Shimla, p. 21.
34. "Land Reforms in Himachal Pradesh", an unpublished document with the Revenue Branch of H.P. Secretariat, Shimla.
35. *Report of Agriculture Census, 1970-71*, Himachal Pradesh Directorate of Agricultural Census, Shimla, p. 25.
36. *Ibid.*
37. *The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953*, Section 54 (g).
38. Discussion on Himachal Pradesh (*Transferred Territory*) *Tenants (Protection of Rights) Bill*, dated 3.4. 1968, Vidhan Sabha Secretariat, p. 70.
39. *Report on Agriculture Census 1990-91*, H.P. Directorate of Land Records, Report no. 9, p. 22.
40. *Ibid.*, p. 26.
41. *Area Based and Beneficiary Oriented programme mes, (Ceiling on Holdings)*, Act 1972, New Delhi, p. 88.
42. *Ibid.*, p. 89.
43. P.S. Sundaryya's *Explanatory Note to the Central Committee, CPI(M), Resolution on Agrarian Issues*, adopted at Muzaffarpur Session, (March 8 to 15, 1973), p. 9.
44. *The Himachal Pradesh Ceiling on Land Holdings Act, 1972. Act no. 19 of 1973*, Shimla, The Deputy Controller, Printing and Stationery, Himachal Pradesh, n.d.
45. "The permissible area for the purpose of clause (c) of sub section (I) for the district of Kinnaur and Lahaul and Spiti, Tehsil Pangi and Sub Tehsil Bharmour of Chamba district, areas of Chhota Bhangal and Bara Bhangal of Baijanath, Kunungo Circles of Tehsil Palampur of Kangra district and area of Dodra Kawar, Patwar Circle of Rohru Tehsil and Pandra-bis Pargana of Rampur Tehsil of Shimla District shall be 70 acres." *Ibid.*, p. 3.
46. For administrative convenience, Himachal Pradesh government divided the state into two revenue divisions, namely Northern and Southern. Northern division comprised Chamba, Kangra, Hamirpur, Una, Mandi, Kullu and Lahaul Spiti whereas Southern division consisted of Shimla, Solan, Sirmour, Bilaspur and Kinnaur. See *Economic Review of Himachal Pradesh, 1981*, Directorate of Economic and Statistics, H.P., p. 22.
47. *Ibid.*

48. *Ibid.*, p. 23
49. *Ibid.*
50. *Land Ceiling in Himachal Pradesh, Case Studies in Indian Administration*, New Delhi, 1984, p. 22.
51. "Land Reforms in H.P.", an unpublished document of the Revenue Branch of H.P., Secretariat, Shimla.
52. In the merged areas such lands were vested with certain exceptions, in the panchayats by the Panjab Village Common Land Regulations, Act 1961 whereas in old areas of H.P. such lands were either with the village communities or with co-sharers, with no control of the government or the panchayats.
53. *Economic Review of Himachal Pradesh*, 1981, p. 23.
54. Sharma, L.R. (1987), *The Economy of Himachal Pradesh, Growth and Structure*, Delhi: Mittal, p. 110. The poverty ratio of Himachal Pradesh was 27.2 per cent as against 48.1 per cent for the country. It was fourth lowest in the country.
55. "The H.P. Nautor Rules, 1968", in *Himachal Pradesh Land Code*, Government of H.P., Revenue Department, Shimla, pp. 491-503.
56. Surjeet, Harkishan Singh, *Land Reforms in India*, p. 132.
57. *Proceedings of the Himachal Pradesh Vidhan Sabha*, vol. III, 23 April 1953, no. 30, p. 14.
58. *Ibid.*, p.12
59. *Vidhanmala* (Hindi), Special Issue on Election Reforms, July-December 2000, H.P., Vidhan Sabha Secretariat, Shimla, pp. 141-42.
60. *Discussion on H.P. (Transferred Territory) Tenants (Protection of Rights) Bill*, 1968, dated 3.04.1968, H.P. Vidhan Sabha Secretariat, p. 63.
61. *Ibid.*, pp. 65-66.
62. *Ibid.*
63. *Discussion on the H.P. Ceiling on Land Holding Bill, 1972, (Bill No. 31 of 1972)*, dated 12.12.1972, H.P. Vidhan Sabha Secretariat, pp. 136-138.
64. Chauhan, Rajinder Kumar (2003), "Agrarian Relations and Politics in Himachal Pradesh since Independence", Unpublished Ph.D Thesis submitted to Himachal Pradesh University, p. 178.
65. *Discussion on H.P. Ceiling on Land Holding Bill 1972*, pp. 136-138.
66. *Discussion on H.P. (Consolidation and Prevention of Fragmentation) Bill, 1971*, pp. 80-90 (Annexure, p.102). As many as 892 cases of objection decision of the settlement officers were pending in 1971.
67. *Ibid.*, pp. 69-91.
68. *Kismi* tenant is one who is recorded as tenant of any kind i.e. *Maad* or *Kismi* in the records of the estate in which the tenancy is situated. *The Himachal Pradesh Tenancy and Land Reform Act, 1972, (Act no. 8 of 1974)*, amended by the *Himachal Pradesh Act no. 15 of 1976 and Act no. 6 of 1988*, p. 88. There were 8015 *Kismi* tenants in Kangra who under the act became owners of land.