

## **Liberalising Tenancy or Grabbing Land of the Poor?\***

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The State in India, barring the Left-led governments, has never been committed to implementing redistributive land reforms and securing rights of tenants. After 1991, when India adopted the policies of liberalisation and globalisation, the government stopped paying even the lip service to the programme of land reforms as they did until then. In fact, some of the recent policy documents, most notably the 2016 Report of the Haque Committee, have openly argued for reversing land reform laws.

The Haque Committee, constituted by Niti Aayog soon after it was created, recommended that restrictions on leasing of land have resulted in inefficient utilisation of land, and have worked against the interests of small landowners. It has proposed that liberalising tenancy markets would allow owners of small, uneconomic holdings to lease out their lands to large landowners, and move to other occupations. In a recent article in the Indian Express, Ashok Gulati and Ritika Juneja have also argued that tenancy markets should be liberalised in order to protect the rights of the landowners.

It is well-known that with a half-hearted enactment of tenancy reform laws in the 1950s and 1960s, tenancy relations have continued to be informal, exploitative and embedded in socio-economic power relations. Although land continues to be leased, landowners who lease out land do so through informal, orally-agreed contracts that are not reported in land records and under-reported in official surveys. Because of these invisible tenancy contracts, often it is argued that the incidence of tenancy has been on a decline over the years.

It is important to note that the NSSO Land and Livestock survey data show a significant rise in tenancy in India as a whole. The survey data show that between 2002-03 and 2012-13, the proportion of leased in area increased from 6.6% to 10.1% of the total operated land.

In a detailed study on tenancy, authors of this article have shown that there has been a significant marginalisation of poor households in tenancy markets after 1991-92. Over this period, laws that provided security of rights to tenants were relaxed in most States. Further, poor households have been pushed out from tenancy markets because middle and rich sections of farmers have started taking land on lease to expand their operational holdings. NSSO data shows that of the total land under tenancy in 2011-12, about 36% was taken on lease by top 30% landowners.

The increased incidence of land being taken on lease by large landowners has often been misinterpreted as reverse tenancy (transactions in which small landowners give their land on lease to big landowners). Tenancy transactions in India either comprise big landowners leasing to the poor, or are between households having similar class and caste positions. Land is seldom leased out by the poor to big landowners. In 2011-12, over 77% of land was given out for lease by biggest 30% landowners. In contrast, the smallest 50% households accounted for less than 7% of land given on lease.

With increased demand for leasing in land from rich capitalist farmers, there has also been a notable change in the terms of tenancy contracts. Rich farmers usually lease in land by paying advance fixed rent in cash. Poor tenants, on the other hand, prefer to pay rent in the form of a share in produce. This allows them to share the risks with the land owners and postpone payment of rent until after harvesting. Between 1991-92 and 2011-12, the proportion of fixed-rent contracts in total leased land increased by 22 percentage points. In fact, given the possibility that rural rich might grab the land by paying advance cash rent, the poor are also often forced to accept more onerous terms of contracts. Recent primary data-based studies show that poor tenants pay rents ranging from a half to three-fourth of the produce, or even fixed rents, for leasing land. Often, lessors of land also demand other obligatory services when they lease land to the poor.

Over the last two decades, the objectives of state policy on tenancy have reversed, from providing security of tenure and giving land to the tiller to assuring the rich that they need not fear losing land because of State intervention. The Model Law proposed by the 2016 Haque Committee assures the landlords of “complete security of land ownership right” and has a provision for automatic eviction of the tenant after the fixed duration of the lease “without requiring any minimum area of land to be left with the tenant”. It also sets the stage for the state to abdicate the right to enforce rent ceilings or to outlaw exploitative provisions in rent agreements. The proposed act allows for “the terms and conditions of lease to be determined mutually by the land owner and the tenant without any fear on the part of the landowner of losing land right or undue expectation on the part of the tenant of acquiring occupancy right for continuous possession of leased land for any fixed period”.

Liberalisation of tenancy markets is often argued on the premise that small farmers are looking to give their land on lease because they get little income from their small holdings and that they would be better off shifting to other, non-agricultural occupations. Small holdings have become unremunerative because of many reasons including a steep rise in cost of production, lack of commensurate increase in farmgate prices, inadequate availability of formal credit, and low levels of public investment. All of these are direct results of post-reform State policies. A number of government programmes – the PM-KISAN scheme, the Kisan Credit Card scheme and the Pradhan Mantri Fasal Bima Yojana, to name a few – are designed with a blind eye to poor tenants.

The Haque committee also argued that huge plots of land are left fallow because landowners do not lease out in the fear of losing their lands. Land is left fallow not because poor farmers are unable to lease it out, but because of non-availability of irrigation facilities and low returns from whatever crops farmers can grow. Despite this, with their subsistence at stake, poor households cultivate their lands as much as possible and the problem of absenteeism is greater among richer sections of the peasantry.

The fact is that, with an all-time high rate of unemployment in the country, owning even a small piece of land provides economic security to the rural poor. It is a travesty of the worst kind that the distress among the poor sections of peasantry is used to argue for introduction of provisions to facilitate grabbing of land of the poor by resource-rich landlords and capitalist farmers. The intense agrarian crisis that the

country faces today requires that the state introduces effective provisions to support poor tenants and small landowners rather than dispossessing them.

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