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## Model Act for Farm Land Lease:

# Retrogressive Step to Pave the Way for Corporate Farming

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National Institute for Transforming India (NITI) Aayog had circulated a model act for farm land lease to the states asking them to adopt it in the place existing tenancy laws in their states. As a part of preparing this model act, NITI Aayog appointed a task force on agricultural development in March 2015. Basing upon the work of the Task Force, NITI Aayog released an occasional paper titled, “*Raising the Agricultural Productivity and Making Farming Remunerative for Farmers*” While releasing the paper, a disclaimer was attached that says the opinions expressed in the paper does not represent the views of either the government of India or NITI Aayog. Yet not so surprisingly, the vice chairman of NITI Aayog, Aravind Panagariya used many conclusions of the report to write an article supporting the necessity for a model act to replace the existing tenancy laws.

In September 2015, NITI Aayog appointed an expert committee on land leasing, which submitted its report in March 2016. During the preparations for the report, the expert committee held discussions with several Chief Ministers, senior state officials, farmer’s organisations and NGOs. According to the chairman of the expert committee, T. Haque, all organisations and individuals unanimously supported the law and majority of them expressed that the law should be restricted to agriculture and should not encourage corporate farming. The Model act prepared by the expert committee is now circulated to the state governments as the land comes under the state subject.

### **Negation of Peasant struggles**

The tenancy laws in most of the states in India were enacted after a prolonged, tortuous struggles by the peasantry demanding land to the tiller and an end to the feudal exploitation and oppression. Across the length and breadth of the country, peasant masses became restive and revolted against feudal oppression. Noted among these revolts were Tebhaga, Punnapra Vayalar, Telangana peasant struggles and many more. As a result of these struggles, the ruling classes of India, who got the state power transferred to them by the British colonial power, enacted several laws to distract the peasant masses from the path of struggle by sowing illusions among them. Simultaneously they unleashed a reign of terror to suppress the peasant. These laws viz., Zamindari abolition Act, Tenancy protection laws, land ceiling laws and later land reform laws, were never implemented even to the extent they provided for transfer of land to the tiller. They consciously allowed many built-in loopholes to provide escape routes for the landlord sections. These laws were observed more in breach than in implementation.

Now NITI Aayog put forward a specious argument: “*the original intent of the laws no longer holds any relevance. ... today, these restrictions have detrimental effects on not only the tenant for whose protection the laws were originally enacted but also on land owner and implementation of public policy*”

Thus the necessity for a thorough going land redistribution programme is being completely negated as irrelevant with heads down argument that confuses cause with effect.

### **Overview of existing Tenancy Laws**

As the Tenancy laws had a declared objective of providing protection to the tenant farmers, they contained such provisions. The laws varied from state to state so also the nature of protections. The major protections are: lease period, conferring ownership right, tenant’s rights and rent fixation.

The tenancy laws of majority states have not prescribed any minimum or maximum lease period. But in the tenancy laws in AP, Telangana, Rajasthan, Punjab and Haryana, a minimum lease period was prescribed. In AP, every lease period shall be for a period of six years, renewable for a further period of six years at a time. In Telangana, leases can be for a period of five years. In Rajasthan, lease agreement can be for a renewable period of five years. In Punjab and Haryana, the tenant can lease in for a minimum period of three years, but less than six years.

The tenant's right to purchase the leased land in various state is as follows:

**Andhra Pradesh & Telangana:** A protected tenant has the right to purchase the leased in land from the landowner if the landowner desires to sell the leased out land. The tenant has a first claim on the purchase. If there is no agreement on the sale price, the competent authority will fix a reasonable price.

**Assam:** An under tenant is entitled to acquire ownership right of a land leased in by him continuously for three years on payment of 50 times the land revenue

**Bihar:** A tenant (under raiyat) is entitled to purchase ownership right if he is in continuous occupation of land for 12 years, on payment of 24 times the land revenue.

**Vidarbha, Maharashtra & Gujarat:** Law provides for right to purchase the leased in land provided (a) a tenant does not hold any land, (b) his own and the land he wants to purchase does not exceed 3 family holdings, and (c) land left with the landlord is not less than one family holding.

**Himachal Pradesh:** A non-occupancy tenant or a tenant illegally inducted can purchase ownership right on payment of 96 times the land revenue, while an occupancy tenant can purchase by paying 48 times the land revenue.

**Madhya Pradesh Chhattisgarh:** A tenant illegally inducted is entitled to purchase ownership right on payment of 5 times the land revenue.

**Punjab & Haryana:** A tenant of a small land owner, who had been in continuous occupation of land for a minimum period of six years, is entitled to purchase the land

**Tamil Nadu:** Tenancy, once created is continuous and there is no provision for purchase of ownership right.

**Tripura:** An under raiyat (tenant) can acquire ownership right in respect of the non-resumable land of a raiyat on payment of 30 times the land revenue payable for the land and the value of trees, if planted by the raiyat

**West Bengal:** Share cropping once created, is continuous. There is no provision for purchase of ownership right.

**Uttar Pradesh:** A lessee can acquire the right of a bhumidhar with non-transferable right thereof, if the total extent of the land held by him together with the land held by his family does not exceed 12.5 acres. If the land exceeds 12.5 acres, the lessee shall be deemed to be a purchaser of the land, subject to ceiling.

Confirmation of ownership right to the tenant in various states is as follows:

**Assam:** The ownership rights in tenanted lands are conferred on the tenants by Government notification, on application by an occupancy tenant who has cultivated the land continuously for 3 years and a non-occupancy tenant can acquire an occupancy right if he has held land for continuously three years.

**Bihar:** Every under-raiyat of raiyat holding land above ceiling be deemed to have acquired the status of an occupancy tenant or owner on payment of a specified amount to the State Government

**Karnataka:** Law empowers the State government to acquire ownership rights in all tenanted lands on payment of compensation and transfer the same to tenants who then have to pay premium for acquisition of occupancy right.

**Kerala:** The law empowers the state government to acquire all tenanted land and pass on the rights to the tenants on payment of certain premium.

**Uttar Pradesh:** The law provides that the state government may acquire any tenanted land and transfer the occupancy rights to the tenants.

**Maharashtra & Gujarat:** On 1st April, 1957, all tenants were deemed owners of the land cultivated by them within ceiling limit. A tenant has a right to purchase the tenanted land within one year of creation of tenancy

**Madhya Pradesh & Chhattisgarh:** A tenant holding any non-resumable land, can acquire Bhoomiswami right on payment of 15 times the land revenue in five equal installments to his Bhoomiswami

**Rajasthan:** The tenants and sub-tenants of Khudkasht, became khatedar tenants of such land held by them on payment of compensation fixed under the Act.

**Punjab & HP:** The law provides for acquisition of the right of the land owner in the tenanted land by paying a specified compensation amount.

There is no legal provision to confer ownership right on tenants in AP, Haryana, Tamil Nadu and West Bengal. The tenancy laws of almost all the states have fixed fair or maximum rent on leased land as shown below:

**Andhra Pradesh:** 30 percent of the produce for irrigated land and 20 percent for other land.

**Telangana:** 2 to 5 times of Land Revenue/assessment or  $\frac{1}{4}$  to  $\frac{1}{5}$  of the produce or value thereof  
Assam:  $\frac{1}{4}$  to  $\frac{1}{5}$  of the produce or less than 3 times the land revenue

**Bihar:** 16.80 kg or 18 seer per mound

**Gujarat:** 2 to 5 times the land revenue, subject to a limit of Rs. 20 per acre

**Haryana:**  $\frac{1}{3}$  of produce or value thereof

**Himachal Pradesh:**  $\frac{1}{4}$  of crop produce or value thereof

**Jammu & Kashmir:** Tenancy is banned. So no rent is fixed

**Karnataka:**  $\frac{1}{4}$  or  $\frac{1}{5}$  of the produce or value thereof, but not exceeding 10 times the value of land revenue plus irrigation charges

**Kerala:** Tenancy is banned and so no rent is fixed

**MP & Chhattisgarh:**  $\frac{2}{4}$  times the land revenue or as agreed upon by the landlord and the tenant.

**Maharashtra:** 2 to 5 times the land revenue, subject to a limit of Rs. 20 per acre

**Odisha:**  $\frac{1}{4}$  of the produce or value thereof

**Punjab:**  $\frac{1}{3}$  of produce or value thereof

**Rajasthan:**  $\frac{1}{4}$  to  $\frac{1}{6}$  of produce or  $1\frac{1}{2}$  to 3 times the amount assessed as land revenue

**Tamil Nadu:**  $\frac{1}{2}$  to  $\frac{1}{3}$  of produce or value thereof

**Uttar Pradesh:** Rent as agreed upon between the tenant and his landlord or the Gaon Sabha

**West Bengal:**  $\frac{1}{2}$  to  $\frac{1}{4}$  of produce ( $\frac{1}{2}$  of produce if the landowner supplies plough, cattle, manures and seeds)

If these laws were implemented in earnest effort, protection would have been provided to the tenants. But that was not the intention of the law makers.

As these laws had not been provided for compulsory registration of tenancy and tenant farmers and for a permanent machinery to supervise its implementation and as it left to the will of the land owners to put in writing the lease agreement, these laws were largely remained on the pages of statute books. The landless and poor peasants, who forms the bulk of the tenant farmers were left to the mercy of land owners.

As the growth of employment generation in non-farms sectors are moving at a tardy pace, these peasants have left with no other alternative than toiling on the land, which they did not possess or have a small holding that cannot sustain their families. Thus over the decades tenancy became oral or concealed without any legal sanction and the rent for tenancy jumped to not less than 60 per cent of the produce. In many of the fertile and irrigated areas the rent reached to 100 per cent of the first crop, while the yield from the second crop covers the cultivation costs. The tenant peasant is left with hay stalk which he uses to feed 2 to 3 cows so that the milk could be sold to the dairy. Such is the pathetic condition that landless and poor peasants face today. The only escape from this abyss for them is to migrate to cities to live more wretched life of destitution, misery and poverty.

### **What the Model Act Proposes?**

The model law proposes to remove all the protections provided for the tenants in the law. The Expert Committee and NITI Aayog stopped calling these as “protections” to tenants and coined another term, “restrictions on the rights of land owners”. This set the direction, tone and tenor for the Model Act. Accordingly the clauses in the law are framed to deny every right to the tenants.

### **Chapter II. Section 3 of the model law says:**

(f) The government shall not fix the duration of the lease period, as this shall be decided and mutually agreed upon by the land owner –Lessor and Lessee Cultivator.

Provided further that any period of lease as per the lease agreement under this Act shall not create any protected tenancy right on lessee cultivator.

(g) Government shall not fix a minimum or maximum lease amount in fixed cash or kind or share of produce to be given to the land owner-lessor for the use of land as this shall be decided and mutually agreed upon by the land owner-lessor and the lessee-cultivator;

- (h) The lease agreement may or may not be registered, depending upon the mutual agreement of the land owner-lessor and lessee-cultivator;
- (i) A written agreement may be attested by village revenue officer or sarpanch/Pradhan or any local branch officer or a notary with two witnesses;
- (j) A lease agreement written or oral shall not be entered into record of rights, as the leasing for any period whatsoever shall not create any occupancy or protected tenancy or right against lawful eviction or lease termination, under this Act;

Thus the tenant peasant is left to the mercy of the land owner on every count. He may toil on the land under the onerous conditions imposed by the land owner. The model Act resolved issue faced by the tenants by doing away with all the protections provided in the earlier laws with specious argument that those laws have failed to protect the very intention of enacting those laws. It amounts throwing child along with water and tub. In fact there is no need to adopt the model law; it is enough to declare the existing laws as null and void.

### **Distorted Arguments**

To justify these anti-peasant proposals, NITI Aayog and Expert Committee distorted the facts of life to suit their aim.

**One:** the concealed tenancy became an impediment to improve agricultural productivity as the tenant farmer does not have incentive to invest. This is distortion of the well documented fact. Long back the Planning Commission studies emphatically showed that the poor peasants and tenant farmers having less than one hectare of land holding had largely contributed to the phenomenal growth in productivity during green revolution, while the large land holders had very negligible role. Also many studies showed that the productivity in the later period of green revolution stagnated due to inherent weaknesses of that technology, such as heavy dependence on chemical fertilisers, pesticides and irrigation water, rather than lack of incentive to invest on the part of peasants.

**Two:** Due to legal restrictions many land owners prefer to keep their land as fallow as they fear of losing right over land if it were given on lease, which results in underutilization of land and loss of agricultural output argues the Expert committee.

According to 59<sup>th</sup> round of NSSO data as quoted by the expert Committee, about 36 per cent of the tenant peasants are landless, while nearly 56 per cent are marginal farmers. This category of peasants are leasing in the land more than any other section. More over the concealed tenancy indicated by proportion of land leased to the total in various states varies widely. According to NSSO data, it is 33.75 in AP, 21 per cent in Bihar, 24 per cent in Punjab, 14 per cent Haryana and 13 per cent in Tamil Nadu, while the All India average is at 10.10 per cent. The expert Committee quoted older data. The latest NSSO data shows that the concealed tenancy has reached to 80 per cent in AP and all India average around 50 per cent. Underutilisation of due to fear of tenancy laws is a false argument.

**Three:** formulation and implementation of public policy, such as institutional credit, crop insurance and relief during natural calamities, became difficult due to the tenancy laws. So a transparent land lease law is needed.

These benefits are being cornered by the land owners while actual tiller tenant is left to his fate. This argument conceals some facts. The crop loans are being increasingly diverted to agri-business. Crop insurance, in practice, is designed an insurance for the crop loans given by the banks. The allocation of funds for immediate relief when natural calamities struck are being drastically reduced whatever may be the extent of damage. Even if the Model Act were to be adopted by the states, there will not be any help coming to the tenant peasant. It is amply proved by the experiences of group tenancy by joint liability groups in Kerala under Kudumbasree scheme and issue of identity cards to tenants in AP that unless and until the basic orientation of the government is changed these schemes remain as an eye wash.

### **What is the Real Aim?**

The declared aim of the Model Act is legalizing land lease to promote agricultural efficiency, equity and poverty reduction. But behind this rhetoric there concealed the real aim.

The Task Force says that the consolidation of land holding will enhance efficiency in land use. As the land is getting fragmented into small parcels making them economically unviable, consolidation attracts private investment leading to more productive farms. These will create more well-paid jobs on the land one

side, and on other, the migration of land owner who leased out land, to non-farm employment will increase his income, thus bringing equity and reduction of poverty. So, a vibrant land lease market should be created through transparent land lease laws.

The Task force further proposed:

“An important instrument for creating vibrant land lease market is land bank. Such a bank may be held by a public agency. Interested land owners may deposit their land parcels in the bank and potential cultivators may lease in land from it. The public agency would work essentially as a clearing house. It would transfer rent from actual cultivator to owner while charging a small fee to cover its costs. Land bank can give confidence to the land owner that his land would remain safe earning competitive rent. On the other hand, potential tenants would find it easier to find land parcels they wish to lease in.”

The parcel of land available will be larger one, according to the logic of Task force to be economically viable, which could not be leased by the landless and poor peasants as he lacks sufficient resources. Hence it results in their alienation from the land and the big market forces will enter this vibrant land lease market, which are nothing but agribusiness giants from abroad and Indian big bourgeoisie. Elsewhere, the Task force envisages the linking of agricultural producer with the organized retail, another name for FDI.

This when seen in conjunction with other recommendations of the task force, such as use of new technologies to increase yield per every drop of water, GM seeds, switching over to high value commodities, doing away with minimum support price mechanism, dismantling of public distribution system, it becomes clear that the BJP government at the center is taking steps to pave the way for the corporate farming by the foreign capital through a series of measures. One them being Model Act on Land Lease.

This is the real and concealed aim of the Model Act on land lease proposed by the NITI Aayog at the behest of BJP government. BJP, since the days of its earlier avatar–Jan Sangh- used to oppose the land reforms and tenancy laws vehemently. And many of the Chief Ministers have concurred with the proposal. It is only a matter of time and expedience for the ruling classes and their political re-presentative to enact the Model law.

This proposal is detrimental to the interests both the country and the people as it throws the millions of peasants into destitution and jeopardises the food production and thus food security of the people. It perpetuates India’s dependence on the imperialist countries. It should be stopped by giving full support to the struggling peasants demanding land to the tiller.

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