

Workshop on Land Reforms in Bihar: Implementation of Policies and Regulations Situation, Issues and Challenges

A. N. Sinha Institute of Social Studies, Patna

January 18, 2014

A one-day workshop on above thematic was organised in Patna. The workshop was jointly organised by

- A N Sinha Institute
- Department of Land Reforms, Government of Bihar
- Dalit Adhikar Manch
- Deshkal Society

The event was supported by PACS.

Introducing the issue **Prof DM Diwakar, Director**, A. N. Sinha Institute, said that though like the Zamindari Abolition Act there have been various Laws, Legislations and Acts pertaining to land reforms since Independence the reforms have lagged behind. Issues of surplus land in Bihar have remained unaddressed. Lists of the landless poor were made but no actions taken. Crores of acres of surplus land were identified across the country but much of that land has disappeared from records. Reality on ground, however, tells a different tale. There is ample land for the corporate sector with the government; little or none for the landless.

As a predominantly agricultural state, in Bihar the issue for land reform was not envisioned as merely that of distribution; but as that of social and political decentralization, reforming the relations of agricultural production, releasing the forces of production dormant in the economy, and equitable distribution of wealth.

A milestone treatise on land reforms in Bihar, the Bandhopadhyaya Report was put in cold storage by the government.

Vyas ji, Principal Secretary, Land Revenue, Government of Bihar, recalled how the eminent former bureaucrat turned social activist Dr BD Sharma thinks of government statistics as misrepresentative, and how they distort prevailing reality on ground. Such data on landlessness, *Bhoodan*, *Raiyyati* land, and eviction (*bedakhali*) amongst others reaches the government. Based thereon, government formulates its policies and plans. As an instance, nearly 50% of land shown in records is unusable. 50% of *Bhoodan* land has not been verified or supported by requisite documents. In government all such land is usable and distributable. There are several cases of eviction (*bedhakali*) inspite of *Parcha* and *Parwana* but the government has no information. In government records all such land is shown as possessed by the *Parcha* holder. In spite of long and intense struggles by IPF in Jehanabad much of *gair mazuara khas* and *aam* lands now physically lie in possession of the powerful, the mafia and the well-connected. The government acquires such land and pays out crores of rupees in compensation.

The government cannot rectify its data because it has no mechanism in place to gather accurate data or rectify the existing. Such information is available with people's organization working on the ground. For many years Deshkal Society has been gathering vital data on habitat land in Gaya district. Dalit Adhikar Manch has ample data on landlessness in its areas of work. In order to continuously update or rectify data in its possession, the government needs help from grassroots organizations. Framers' associations, associations of landless people, workers' unions, and NGOs amongst others need be identified, government data updated and roadmaps for future made. Possibly a coalition can be made with such organizations. Else, the government's priorities will not match those needed on ground. It is easy to understand why land acquisition has now become high on government agenda whereas land reform has practically disappeared from its radar. The issue of land pertains to identity, dignity and livelihood. Dispossessed, one's status is that of one on the roads. Struggles for land, as those in the preceding decades now seem no longer visible. The idiom and vocabulary of struggle seems to have changed. In such scenario such vital human issues stand side-tracked.

Speaking on **Land Ceiling and Distribution of Surplus Land**, former Chairperson, Board of Revenue, Government of Bihar and former Principal Secretary Land Revenue, Government of Bihar, **Dr. C. Ashokvardhan** observed law as the prime mover that empowers society. For such empowering governments need have political will.

The Bihar Land Ceiling Act (1961) classifies land into 6 categories. Section I (i) of the Act debars any person from possessing land in excess of the Ceiling. Under Section I (ii) any land transferred after 9.9.1970 require written approval of the Collector. Land transferred between 22.10.1959 and 9.9.1970 shall not be taken *suo moto* but be examined by Collector and if the transference is found Benami, false or with fraudulent intentions the same shall stand cancelled under law. All transference after 9.9.1970 be it with or without the Collector's approval, be it against the Law or not shall be included in ceiling area. However, under Section XXIX religious and educational institutions, hospitals, maternity centres, orphanages and such like bodies enjoy certain exemptions if in legal possession before 9.9.1970. In many cases such possessions run into thousands of acres. As it happened in Kerala, such lands should be examined and surplus land be made available for landless.

However, though law is purported to empower people its inbuilt loopholes can make it abusive. In spite of the Zamindari Abolition Act and Bihar Land Ceiling Act much of surplus land continues to be in the hands of landed class. It was transferred with assumed names and fraudulent means so that its possession and produce remained with the erstwhile Zamindars. In spite of the law providing for examination of such lands and practises none was done.

The Chhota Nagpur Tenancy Act (1908) restricts transfer of tribal land to non tribals. If transferred to or acquired by a non-tribal, and if brought to the notice of Collector, no matter how long back the transference took place, shall stand nullified. There is no time bar for the tribal to notify the Collector. An amendment of 1932 further consolidates this position of law. Sections of 9.9.1970 further testify to it. On surface tribal land appears safe against non-tribals. However, mutually conflicting clauses under the Act, as almost all Acts create loopholes whereby the very purpose of a particular Act stands negated.

As an instance, under law share cropping is recognised only when there is no 'personal cultivation' by the owner and there is a share in the produce between the owner and share cropper. Provisions under law deem the share cropper as de facto owner. However, there is no provision to safeguard the share cropper and the he can be removed by the original owner by declaring that land as 'personal cultivation', keeping that land outside the purview of Land Ceiling Act and rendering the sharecropper landless. By paying a certain compensation the original owner legalizes and land remains with him though it should revert to the government as surplus land. Law does not take cognizance of such anomalies.

Highlighting the status and situation of *Bhoodan* land **Prof DM Diwakar** in his presentation, *Bhoodan: Situation and Possibilities*, mentioned that by 1966 people of Bihar had donated 21, 17, 756 acre land to Bhoodan Yagya Committee. Of this 40.52% was later found usable and 59.48 unusable. 3, 52, 399 landless families from SC (0.76 acre per beneficiary family), ST (1.21 acre per beneficiary family), and BC (0.58 acre per beneficiary family) were granted lands. 27, 225 acres was earmarked for common use. Of total land remaining with Bhoodan Yagya Committee for distribution 1264 acre is sampusht land and 5442 asampusht land. There are 900 cases of eviction (*bedakhali*), 1614 revenue fixation disputes, 2046 applications for land, and 460 applications for legal documents of ownership. In case of Bhoodan land the major impediments faced by allottees are bedhakali, lack of legal awareness, wrongdoings in survey documents and unavailability of maps, complexities in *dakhil-kharaj*, shortage of officials, *amins* and resources with government, and mutually conflicting decisions of government and Bhoodan Yagya Committee. As rectifying measures for better delivery of *Bhoodan* land survey records need be corrected, synchronizing old and new revenue maps, resolving eviction (*bedakhali*), updating and validating asampusht lands, coordination between administration, police and lawyers, organizing public hearings for disputes, building legal awareness and social mobilization.

The floor was left open for discussion.

Priyadarshi ji observed that though the earlier landlord lobby is no longer in place yet land reforms have remained unaddressed. Emergence of new power centres in the form of legislators, ministers etc have been thwarting all possibilities as such. Bureaucrats can now no longer stand up and action reform. There is now little possibility of any further land distribution. However, those already in possession can be granted *Parcha* and *Parwana*; such as those who were granted *Bhoodan* land and are in actual possession of it. Veteran Sarvodayan and former Member of Parliament **Sh Ramji Babu** responded that *bedhakhali* has occurred on 21 lakh *Bhoodan* acres. Ownership deeds of *Bhoodan* land were fraudulently taken away from people. New ownerships created, land acquired by government and compensation paid to new 'owners'. On such lands now stand roads, industries, ponds or other infrastructure? Stacks of applications from people to reclaim their allotted land have been lying with authorities for years. They have decayed and disappeared. He recommended bedhakhali be treated as law and order problem and corrective process simplified. Also, government's earlier processes and procedure have not worked. It now ought to fix annual targets for each administrative Block. Land distribution camps be scheduled

and held in each village. All 12 lakh acres of Bhoodan land be re-verified and supported (*Sampushti*). **Pankaj ji** highlighted the bureaucracy's indifference on both Land Ceiling Act and *Bhoodan* land. It takes years for the administration to issue orders for inspecting a land with no certainty the orders would be carried out in the spirit of existing laws. Bihar Land Ceiling Act's Section V continues to be misused in Champaran under the nose of officials and minors declared majors with retrospective effect. Successive governments have lacked the will to carry out their own mandate.

Sh Kamlesh Sharma of CPI-ML observed that since the issue of land is anchored in people's culture and not state culture, it cannot be suitably addressed as long as there remain feudal elements in populist politics and bureaucracy. A particular land tangle in his area remains just as Dr Ashokvardhan had left it decades ago when he was Sub-Divisional Officer there. 17000 police case were filed against several landless poor by the *Mahant* and absentee landlord of village Purushottampur. The police, thus, began repression against people. Bihar government has never taken a stand on such developments. At the most it constitutes enquiry commissions and lays aside their recommendations. Awadhesh ji suggested that Acts and laws promulgated in the state hitherto are sufficient to resolve issues. Regrettably, instead of being enforced they are bypassed. In District Kishanganj 46 acres of tribal land was passed on to tea planters despite possession, Parcha and Parwana. With a culture of ponds, most ponds of Darbhanga, Samastipur and Vaishali have today houses and establishments built by the powerful and musclemen. Ponds have existed on government lands. It should be granted to landless.

Advocate **Basant Babu** remarked that holding workshops or debates around land reforms around election times demonstrates crisis of the ruling class. There is continuous pressure from poor sections to implement reforms but being close to centres of power the rich and influential do not let such pressure surface. When it comes to distribution though land is said to be in 'short supply' yet its privatization and selling is multiplying rapidly. Distribution is not a priority with the bureaucracy. Often the District Collector himself hampers land distribution. 90% of lower bureaucracy is illiterate on land laws. Board of Revenue is a punishment posting. Judgments are usually delivered after bribery. Towards streamlining land distribution separate Land Ceiling Courts should be established. Board of Revenue should comprise of more than 1 person, ideally 3: government functionary, social activist and advocate.

Responding to above interventions **Dr C Ashokvardhan** remarked that legal hurdles in judiciary are a major hurdle to speedy settlement of land disputes. The extent of pending cases is extremely high. In order to

identify which court has how many cases, a review of pendency is urgently required. This information can be acquired under RTI, too. Fast track courts need to be set up. Simultaneously, officials need to be trained and groomed. Government ought to constitute a Social Evidence Cell to gather data on eviction (*bedakhali*). People being the most effective vigilance squad, they need to be mobilized at village and regional levels.

Adding to above **Prof DM Diwakar** suggested there should be people's committees (Social Cells) to identify and monitor *benami* land. These committees should have statutory status. Social and economic contexts have changed much after enactment of Bihar Ceiling Act (1961). Hence, classification of surplus land should be reviewed in contemporary contexts. Bhoodan committees should be strengthened immediately for effective delivery of *Bhoodan* land. Monitoring of Bhoodan land and committees should be in the hands of people.

Vyas ji concluded the first session. He declared that many recommendations can be immediately acted upon by the Department of Land Revenue, Government of Bihar. Sampushti of *Bhoodan* land, listing of pendency cases and implementation of High Court judgments can be affected immediately. The Department would need some time to formulate strategy for review of implementation procedures in order to make them transparent and socially sensitive. He also suggested formation of a Core Group from amongst the participants of the workshop. Apart from continuously reviewing the Department of Land Revenue, it should be responsible for identifying loopholes in government's implementing strategies, relevant laws and recommend viable roadmaps. He concluded by announcing the Department would make provision for training of GPs.

Post lunch session commenced with a presentation by former Member of Legislative Assembly **Satyana-
rayan ji**. He mentioned that Bihar has 6 lakh landless families and 16 lakh nearly landless with less than 1 acre (termed "bonded labour" by Bandhopadhyaya Commission). Of the total rural population (89%) more than 3/4th are landless, nearly landless, sharecroppers or agriculture labour. The spirit of land reforms is to provide land to the tiller. Bihar has a long history of struggle for land. After independence it was the first state to pass a land reforms Act (1950). Several other Acts and supportive laws and ordinances were passed thereafter. Even then the tillers continue to be landless. On one hand the powerful, land mafia or neo-rich sections continue to own land through legal or illegal means, on the other the *Parcha* holders of surplus land, those living for generations on *gairmazuara* land, or *Parcha* holders of *Bhoodan* or habitat land continue to be landless. He observed that in the name of land reforms large scale fraud

has been practised in Bihar with connivance of administration. Those allotted lands are being dispossessed through fraudulent practises or point of a gun. The *benami* 500 acres under landlord late Mohan Gupta's control is being sold by his brother-in-law 36 years after his passing away. Eight Mahadalits have been murdered in the process. There is no action by the administration. Seventy six acres of surplus land for distribution in Begusarai was brought to notice of the government. On that, too, there has been no action. Even those granted *Parcha* and *Parwana* have not been able to take physical possession of their lands. Those living for decades on *gairmazuara aam* or *khas* have not been provided documentary evidence of their living there. The powerful, land mafia or neo-rich continue to displace and dispossess them at will. A single *Parcha* or *Parwana* of *Bhoodan* land is distributed amongst 4-5 landless people leading to strife and violence. Much of such land still stands unverified (*asampusht*). Thousands of land disputes are pending in courts for decades. Government records are too inadequate or incorrect to help the court in settling disputes. The landless have a right to land. It is the state's responsibility to honour such right. They need government assistance in form of land reforms to maintain their lives and livelihoods.

Sh Sanjay Kumar, Secretary Deshkal Society, in his presentation **Right to Homestead Land in Rural Bihar** referred to a study by Deshkal in 9 districts and sampling 1800 households. He recalled that Bihar was the first state in India to enact a law for those without homestead, the *Bihar Privileged Persons Homestead Tenancy Act, 1947* (BPPT). The Act favours a 'privileged' with permanent ownership a person living for one year on private land given by a landowner. A 'privileged' person is defined as one who, besides homestead land, holds no other land or holds a maximum of one acre. By a later amendment (1971) irrespective of *gairmazuara aam* or *gairmazuara khas* land a 'privileged person is entitled to secure ownership over his place of residence. Recently the Bihar government initiated a scheme of purchasing and allotting 3 decimals homestead land to *Mahadalit* families. However, despite Acts, laws, policies and provisions large numbers of rural landless and marginalised households are denied secure homestead land even though many have been living there for generations. Lacking ownership, they are unable to avail provisions under Indira Awas Yojana and several other government schemes.

Of the 1800 sampled households 91.67% are labourers. 69.89% are living in *kutchha* houses of which 69.22% are one room tenements. 66.78% have been living in present homesteads for last 50 years and 82.78% for more than 30 years. 48% have been living on tiny patches of less than 1 decimal. 32% are living on *gairmazuara aam* or *gairmazuara khas* lands. Of these 14.67% do not know the category of

lands they are living on. 27.442% have Parcha and Parwana, 65.66% are without them and 7% are unaware that they are provisioned legal entitlement.

It was found by the study that there are several administrative, institutional and socio-economic hurdles to acquiring entitlements by the poor landless. The main hurdle lies in the complex and cumbersome paper work and administrative procedures and processes. Bihar government has not gathered data about number of households without secure homestead. Land records have not been updated; even old records are difficult to find. For a poor, landless labourer it is monumental to arrange for them. Policy guidelines or government circulars are not available at Block, Sub-Divisional or District offices leading to different officials interpreting rules and laws differently. Lacking an official manual often officers do not know what to do when submitted with an application for entitlement or how to implement the provisioned rules and laws. Compounded with this is the shortfall in required lower level revenue officials as *Karamcharis*.

In light of above, some of the recommendations made by the study for implementation of policies and law are as follows:

- Administrative processes and procedures need be simplified and streamlined
- Entitlement for homestead land on *gairmazuara aam* land is settled by Divisional Commissioner instead of long winding process of Department of Revenue and Land Reforms.
- Specified 3 decimals be enhanced to 10 decimals in order to provide, apart from shelter, open space for *sahan* and supplementary livelihood activities
- Updating of land records and revenue maps
- Copies of laws, circulars, manual for policy guidelines be made available at Block, Sub-Divisional and District offices

(For more, refer paper by Sh Sanjay Kumar)

For effecting land reforms it is necessary to reform governance, its nature and functions. Equally necessary is reforming government's implementing agencies.

The floor was left open for discussion.

Deep Chand ji highlighted that 1702 acre surplus land is available in Gaya, Nalanda, Rohta and Khagariya districts. Some of the 2107 applications pending with the government can be allotted this acreage. Districts administration is unable to deliver because they are ill-equipped to handle the landlords, mafia or musclemen. Administration should be provided with task force.

Prof MN Karn remarked that there has been much debate around land law there have hardly been discussions about the problems that have arisen because of law. An important function of debates and discussions is to keep issues alive and maintain pressure on governments. To this **Priyadarshi ji** responded that the government should discuss **weaknesses** in its systems and delivery mechanisms so that civil society can identify areas where it can help.

Another participant intervened to query about land left behind by members of Muslim community who left after partition. It is now *benami* and ought to be distributed as per existing laws. There is much land in the state that has 'disappeared' thus. The government had granted 10 acres each to some Dalit families in 1947. Though it was registered in their names but records have disappeared, rendering the families landless. Issue of land is one of dignity, decentralization of village power structures, changing the social arrangements, and livelihood.

Pankaj ji suggested law be enforced against those who effect eviction (*bedakhali*) and till land without legal entitlement or with fraudulent means. **Sh Ram ji Babu** cautioned that whereas the suggested Core Group would function at a higher level, real work can be undertaken only at grassroots levels. Hence, such Group should be constituted at village and Block levels too. Spreading out thin would be risky for effectiveness. Kanu Sanyal focused on one village and launched a country wide movement. Else land would continue to be granted to the high and mighty. Whereas there is 'no land' for the landless the Ambani House was granted 1.5 lakh acres in defiance of Bihar Ceiling Act and relevant laws. Often the government is the biggest impediment in land reform. Cautioning against excessive optimism **Kamlesh ji** reminded that governments belong to the ruling class. Government is not committed to providing land to landless but to the corporate and high and mighty. There is not a single CO in the state who neither is aware of land laws nor is provisions made to educate them as such. Given the magnitude of secure homesteads amongst the poor of Bihar the government should constitute a separate ministry. Forest Department is the biggest zamindar in the state. Even though FRA was promulgated in 2006 the Depart-

ment, after years of litigation, has granted ownership rights to only 32 families for ownership of forest lands. The rest have only right to usage.

Concluding session of the workshop was given to deciding **Future Directions**. **Prof DM Diwakar** suggested Core Group members be of diverse backgrounds: activists, lawyers, academics, bureaucrats and funding agencies amongst others. The Group should have frequent and issue-based meetings. Along with other agenda it should press for fast track courts, building legal awareness, and restoration of ownership in eviction (*bedakhali*) cases. He offered AN Sinha Institute as a potential location for Core Group. Kapileshwar ji suggested that the Group press the government for updating land records so that a roadmap on land could be made. The Group should also prioritize on homestead land. The Group need continuously coordinate with government. **Sh Sanjay Kumar** suggested that since 90% of village maps have been digitalized, along with them updated land records be made available at Block offices. Once applications for land reach officials a deadline for delivery be fixed. **Satyanarayan ji** was of the view that the Group form legal committees for identifying and helping plug loopholes in relevant laws. Land mapping need be a priority of Core Group. Ownership should be in the name of both husband and wife. **Rajpal ji** (PACS) pressed the Core Group prioritize simplification of processes and procedures of homestead land, and the same be notified in appropriate channels. Core Group membership need not be too small; however, a small Working Group can be identified therein. There should be adequate representation of women and tribals in Core Group.

Summing up **Prof DM Diwakar** suggested that all present in the Workshop be members of the Core Group, and a Working Group be constituted from amongst them. Working Group can be identified by organizers of the Workshop. Eminent people from *Bhoodan* ought be in Working Group. Strategies for continuous coordination between grass roots and Core Group be jointly devised for effective delivery.

The Workshop concluded with a vote of thanks by Sh Sanjay Kumar.