

Received on

20/7/73

*SR*

345, Sector 21-A,  
Chandigarh.

Dated the 20th July, 1973.

Dear Comrade, Dar. Ahmed */ Com. Kodiyani,*

I am sending you herewith a copy of the Memorandum sent by C.P.I., Kisan Sabha and Khet Mazdoor Sabha to Punjab Chief Minister on the subject of Rules and Scheme framed under the Punjab Land Reforms Act, 1972.

A copy of it has been sent also to Mr. Appu, Commissioner for Land Reforms, Planning Commission, New Delhi.

It is hoped you will do whatever could be done to get the defects in the said Rules and the scheme rectified.

Yours fraternally,

*Subodh Sharma*

Dr. Z.A. Anand,

To

The Chief Minister, Punjab,  
Chandigarh.

Subject:- Memorandum on the Rules and the Scheme  
framed under Punjab Land Reforms Act.

Shrimanji,

The Rules and the Scheme framed under the Punjab Land Reforms Act, though registering improvement over the original drafts, are still defective in some important respects- in some cases going even against the provisions of the Act whose purposes they are intended to carry out.

1. Let us take paragraph 9(1) of the scheme regarding delivery of possession of surplus land to the allottee under sub-section(1) of section 9 of the Act.

Under the Act, allotment of surplus land can be made only when it has been vested in the State Government. Section 11(1) clearly lays down that the surplus area, which has been vested in the State Government under section 8, shall be at the disposal of the State Government. Unless the surplus area becomes vested in the State Government and is at its disposal, the Collector cannot proceed to allot it. The surplus area gets vested in ~~the State Government~~ the State Government only from the date on which possession thereof has been taken by or on behalf of the State Government under section 8 of the Act.

The para tries to put the cart before the horse. It is inconsistent with sections 8 and 11(1) of the Act. If some land-lords take it into their head to go to the High Court after allotment of surplus area has been completed, entire process of allotment will be nullified and the allottees will be ejected and put to great hardship.

Moreover to ask allottees to take possession of surplus land direct from the landlords will create direct confrontation between the land-lord and the allottee which must be avoided.

2. Para 13 of the scheme, while correctly laying down that a tenant resettled on the surplus area of a landlord in accordance with the provisions of the Punjab Law and the rules framed thereunder at any time before the commencement of the Act, shall be deemed to have been allotted land in accordance with the provisions of this scheme, contradicts subsection (7) of Section 11 of the Act and even section 10-B of the Punjab Law through insertion in brackets of the words " other than a land-owner who died before the commencement of the scheme". The idea appears to be that succession has opened at the death of the land-owner and therefore the surplus area is no longer surplus area. This is a fallacious argument.

Sub-Section (7) of Section 11 of the Act reads: " Where succession has opened after the surplus area or any part thereof has been determined by the Collector, the saving specified in favour of an heir by inheritance shall not apply in respect of the area so determined."

Section 10-B of Punjab Law reads: " Where succession has opened after the surplus area or any part thereof has been utilised under clause (a) of Section 10-A,

the saving specified in favour of an heir by inheritance under clause (b) of that section shall not apply in respect of the area so utilised."

This new section 10-B was inserted retrospectively with effect from 15th April, 1953, by Punjab Act No. 14 of 1962 section 5 and 1(2). The protection given to the tenants resettled on surplus area in 1962 with retrospective effect is now sought to be taken away through insertion in brackets of certain words in para 13 of the scheme. But their legal rights cannot thus be taken away in an illegal manner.

The amount to be paid by the allottee on basis laid down in paragraph 10(c) of the schemes will be much higher than the amount to be paid by the Government to the land-owners. It is inequitable. The Government is entitled to receive not more than it pays. It is for the Government to bear the administrative expenses.

The basis for determination of the amount to be paid by State Government to the land-owners is laid down in Section 10(1) of the Act itself as follows:-

- (i) for first three hectares of land 12 times the fair rent subject to a maximum of Rs. 5000 per hectare.
- (ii) for the next three hectares of land, 9 times the fair rent, subject to a maximum of Rs. 3750 per hectare and
- (iii) for the remaining land 6 times the fair rent, subject to a maximum of Rs. 2500 per hectare.

The scheme in Para 10(c) lays down that the allottee will pay generally 12 times the fair rent for all classes of land.

How inequitable it would be for allottees can be explained through an illustration.

Suppose the surplus area of a land-owner taken over by the Government when converted into first quality land is 20 hectares. The Government will have to pay to the land-owner a maximum of Rs.  $3 \times 5000 + 3 \times 3750 + 14 \times 2500 =$  Rs. 61250. But it will recover from the allottees even up to Rs.  $20 \times 5000 =$  Rs. one lac from the allottees i.e. Rs. 38750 more than it will pay.

4. Para 11 of the scheme might cause serious hardships to the poor allottees. It lays down that for default in payment of an instalment an allottee shall be liable to cancellation of the allotment. If there is a natural calamity like floods, drought, hail-storm etc. and the crop fails, a poor allottee may not be able to pay up an instalment. Payment in such cases will have to be postponed. Anyhow, the arrears of amount should be recovered as land revenue as has been laid down in section 15(5) of the Act in case of tenant-purchasers.

#### Lacuna in the Rules and the Scheme.

5. There are certain lacunae in the Rules and the scheme.

The expression 'bona fide sale or transfer' in sub-section 5 of section 4 of the Act should have been explained through the Rules to mean:-

- (i) transfer by inheritance;
- (ii) sale of land to a tenant eligible to purchase it.

In the absence of such an explanation, the Collectors are likely to interpret it each in his own way. Much leakage of surplus area may take place, defeating the very object of retrospective application of the ceiling provision.

6. The Government is proposing to set up Advisory Committees at State and sub-divisional levels to supervise and assist implementation of land reforms. It would have been better if statutory Committees had been set up on Kerala model.

Even if Committees are to be advisory in character, provision should have been made in the Rules to the effect.

The Committees should consist of representatives of Committed Parties who should be asked to send list of their nominees.

The proposal to nominate members of the Committees in their individual capacity as 'progressives' is bound to reduce the whole thing to a sheer farce. Such individuals will represent none but themselves.

7. Under the Act and the Scheme, surplus land is to be allotted besides tenants and landless agricultural workers to members of Scheduled Castes and Backward Classes. Among these Castes and Classes, there are traders, officers, Ministers legislators and other well-placed persons like doctors, lawyers etc. ~~Such~~ It should have been laid down in the scheme that land will be allotted to only actual tillers. Under the scheme as it stands non-tillers may secure surplus land as happened in the case of disposal of evacuee lands.

Yours faithfully,

*Avtar Singh Malhotra*  
(Avtar Singh Malhotra)

1. Secretary, Punjab State Council, CPI.

Chandigarh, dated  
19.7.1973.

345, Sector 21-A,  
Chandigarh.

*Chhajjimal Vaid*  
(Chhajjimal Vaid)

2. General Secretary, Punjab Kisan Sabha.

*Ruldu Khan*

(Ruldu Khan)

3. General Secretary, Punjab Khet  
Mazdoor Sabha.

Copies to

- 1) Revenue Minister, Punjab, Chandigarh.
- 2) Financial Commissioner, Revenue, Punjab,  
Chandigarh.

Draft Resolutions for 14th Annual delegate session of Punjab Khet Mazdoor Sabha, (Chheharta, 16-17-18 February, 1973).

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(1)

Implementation of new Schedule of Minimum wages for agricultural workers.

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The new Schedule of minimum wages for agricultural workers notified through Punjab Government Gazette of 1st December, 1972, is a great victory for Khet Mazdoor movement. Under it daily wage has been fixed at Rs. 5 plus food or Rs. 6.50 in cash, except in Kandhi areas for which it is Rs. 4 plus food or Rs. 5.50 in cash. For an attached worker yearly wage has been fixed at Rs. 1200 plus food and in Kandhi areas at Rs. 960 plus food.

This Session while congratulating the agricultural workers on this victory appeals to them to struggle for its implementation.

The Session urges the State Government:-

- (1) To publicise the new Schedule on the widest scale.
- (2) To appoint at least one labour Inspector for agriculture in each Teshil and take other steps for its implementation.
- (3) To reduce the period of daily work from 9 hours to 8 hours as in industry;
- (4) To fix wage for overtime at twice the normal wage as in industry instead of the present scale of  $1\frac{1}{2}$  times;

The Session further calls upon the Government to extend the following laws applicable to industry also to agriculture.

- (i) Workmen's compensation Act,
  - (ii) Payment of wages Act.
  - (iii) Industrial Establishments (National and Festival Holidays, casual and sick leave) Act.
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(2)

On Central Scheme for grant of house-sites to wage workers in rural areas.

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The formulation by the Central Government of the Scheme for grant of free-house-sites within the silver jubilee year of Independence from 15th August 1972 to 15th August, 1973 to wage workers in the rural areas in all States is a very welcome and well-conceived scheme. It is an important victory for the movement of rural workers.

Under the scheme a free housesite measuring 100 sq. yards will be given to a landless houseless wage working family. Government lands or Panchayat lands will be utilised for the purpose and where these lands are not available, lands will be acquired at the cost of Government. The Government will also bear the cost of development of land- i.e. of drainage, and pavement of streets. For a cluster of 40-50 houses, Govt. will construct a masonry well. Entire cost is to be borne by the Central Government.

For effective implementation of the scheme, it was essential to prepare correct lists of beneficiaries within a reasonable time. But it is here that the machinery of the State Government miserably failed.

For weeks together the official machinery did not move. When it did move falteringly, it began to bungle. Different officers put different interpretations as to who was eligible for a house-site. The State Government issued no clear guide-lines to the officers.

Nor did the Government secure popular cooperation. Committees set up at the sub-divisional level included members of only the ruling party.

The State Khet Mazdoor Sabha actively intervened to save the scheme from sabotage by officials through repeated representations deputations, press statements and state-wide Dharnas on 23<sup>th</sup> November, 1972.

The State Government at last issued the necessary clarifications. It was clarified that a worker whether he was agricultural worker ~~wxxx~~ or non-agricultural worker was entitled to a house-site. It was further clarified that a son of a worker who had started earning his livelihood independently was also entitled to a house site, even though he had not become an adult and still lived with his father in the same house. Revision of lists prepared by field officers was necessary to implement these clarifications.

But the slow-moving official machinery was geared only in January 1973-6 months later than it should have been.

Our Sabha had been demanding from the very out-set that lists of beneficiaries should be prepared in general body meetings of rural workers in each village. It is in the month of January that the State Government issued instructions to that effect and extended last date for applications to 31st January, for appeals to 15 February, lists to State Government to 28th February.

*for submission*  
This Session sharply criticises the State Government and the official for such a long delay in ~~wxxx~~ preparation of lists.

It demands that:-

- 1) Representative Committees be set up at various levels for implementation of the Scheme and Sabha representatives be included in them.
- 2) Where lands have to be acquired for house-sites, they should be acquired from bigger holders.
- 3) While allotting lands for house-sites, they should also be reserved for common purposes.
- 4) Small towns with suitable agrarian populations should also be treated as rural areas for purposes of the scheme.
- 5) The good example of Kerala State should be followed to render free aid to the recipients of sites to build two-room houses.
- 6) A suitable legislation be passed as the Central Scheme suggests to confer ownership rights over house-sites to such persons who have not yet secured such rights.

The Session further demands that B<sub>3</sub>rigars and similar other landless sections should be settled in colonies at suitable places in the State.

(3)

On the question of evacuee lands.

This Session sharply censures the State Government for sticking to the discredited policy of auctioning evacuee lands ~~non~~ among the Scheduled Castes instead of democratic distribution ~~of xxxxxx~~ thereof among actual tillers belonging to this section in accordance with the spirit of land reforms. This policy unless abandoned will lead to ejection of over 10,000 poor occupants of this land, including scheduled caste tillers, who reclaimed the banjar lands with the sweat of their brow.

The Chief Minister soon after assumption of office in March, 1972, had committed himself to reversal of this policy and had even stated that orders to that effect had been issued. But soon thereafter under pressure of vested interests inside his party, he went back on his commitment.

On our-representations to the Central Government, Union State Minister for Agriculture Mr. Shinde had written a D.O. letter to Gyani Zail Singh in September last hoping that evacuee lands would be disposed of in accordance with the letter and spirit of land reforms. But even this letter had no effect on him and he wrote back to Shinde saying that there was no need for modification of his Government's policy.

The bankrupt policy of restricted or open auction has already in the past led to officers, legislators and other influential persons building farms on evacuee lands through bidding in their names and names of their near relatives. The ~~material~~ material that has already been placed at the disposal of the M.L.A.'s Committee to probe this scandal reportedly indicates that 103 I.A.S. and P.C.S. Officers, 11 M.L.As and 6 M.P.s had built such farms at the cost of the poor tillers of the soil.

The official machinery has not faithfully implemented the ~~Government's~~ Governor's decision of September, 1971, to sell evacuee lands under the occupation of Scheduled Caste and Rai Sikh abadkars as from Rabi 1970 or earlier. It was officially stated at that time that 9000 occupants would benefit by this decision. But only 3728 persons had been sold evacuee lands so far while 1839 applications were pending.

This session is not opposed to ex-servicemen being given evacuee lands. But they should be accommodated on vacant lands. Their settlement on evacuee land should not be used as a weapon to evict poor abadkars.

This Session demands emphatically that:-

1. The State Government's bankrupt policy of open or restricted auction be abandoned forth-with.
2. Poor occupants of evacuee lands be permitted to purchase lands under their occupation upto 10 acres including their own land, if any, at reserve price.
3. Evacuee lands be degrabbed from officers and other influential persons.
4. All the vacant evacuee lands plus lands de-grabbed from officers and others be democratically distributed among actual tillers belonging to Scheduled Castes, giving them the right to purchase them at reserve price.

On Land Reforms

The Punjab Land Reforms law passed by the Assembly in December, 1972 meets some important demands of land movement. At the same time it has many loopholes which are likely to negate substantial part of the gains.

This law unifies ceiling provision for the whole State. Ceiling is applied on ownership of land instead of self-cultivated area as in erst-while Punjab. Ceiling has been lowered and is made applicable on family basis. Most of the exemptions have been withdrawn. Entire surplus area including that already declared surplus under Punjab Law and PPSU law will be vested in the State Government for conferment of rights of ownership on tenants and for allotment to tenants, members of scheduled Castes and Backward classes and agricultural workers. Amount to be paid to land-lords for surplus lands has been linked to fair rent instead of market price and has been reduced compared to that under Punjab law, though further reduction is called for. Distinction between local and displaced persons in the matter of ceiling has been done away with. The tenants eligible to purchase their tenancy lands under the Punjab law will now be able to purchase them at Rs. 200 per acre or 90 times the land revenue whichever is less instead of three-fourth of the market value. Amount to be paid to land-lords for surplus land will not now be challenged in a law court.

On the other hand, there are many loopholes and negative features in the law. It legalises 'bona fide' transfers made after 24th January, 1971. A land-lord has been allowed the right to select full permissible area for each adult son, Lands under orchards except of bananas guava and grapes are being treated as Barani lands.

No statutory Committees are proposed to be set up to supervise and assist implementation of the law. The same old corrupt, pro-land-lord Revenue machinery has been left to implement it.

Nor is a Tribunal proposed to be set up to unearth old Benami transactions made by big land-lords and to cancel them.

This Session demands that:-

- (i) Loop-holes in the law be plugged.
- (ii) Committees of rural poor be set-up at village level and statutory Committees comprising representatives of committed parties and mass organisations including Punjab Khet Masdoor and Kisan Sabhas be set up at district level to supervise and assist implementation of the law.
- (iii) The state Government should formulate and announce a time-bound programme for implementation of the law within 1973.
- (iv) Lands already declared surplus under Punjab and PPSU laws be taken over immediately and utilised within three months.
- (v) From among Scheduled Castes and Backward Classes only agricultural workers, tenants and actual tillers be given land.
- (vi) The Rules under the Act and Scheme for utilisation of surplus area be laid on the table of the Assembly in the Budget Session and discussed.

On Social oppression and Nakabandi.

Despite Abolition of untouchability Act, untouchability has not been eliminated though the evil has been considerably mitigated in the State of Punjab. Its off-spring social oppression continues to prevail in various forms. The members of Scheduled Castes are subjected to indignities, abuse, beating, their women-folk are molested by the village rich and goonda elements. In case of wage and other disputes they are subjected to social boycott and Nakabandi.

The Police has failed to protect them from oppression. On the other hand, it generally sides with the oppressors.

The State Government despite its professed anxiety to protect the weaker sections of the community has failed to discharge its responsibility in the matter.

This Session demands that:-

- (1) Nakabandi and social and economic boycott be declared a penal offence.
- (2) Provisions of anti-Untouchability Act be made more rigorous and it should be amended to include offences in connection with social oppression.
- (3) Special cells be created in the district administration to look after protection of their interests;
- (4) Effective and speedy steps be taken to eliminate economic causes of social oppression through complete abolition of land-lordism and usury and rapid economic uplift of the down-trodden masses.

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(6) On Provision of effective legal aid.

The weaker sections of the community cannot hope to win in litigation in a law court against the moneyed person. Litigation involves expenditure of a lot of money in the form of court fees, copying fees and lawyer's fees. They can seek justice only if they are given free legal assistance. Though oppressed, humiliated, beaten and cheated of their dues, they dare not go to a law court for want of finance.

The Government has in-principle accepted the need for free legal assistance to the poor. But in practice legal assistance rendered by it is only an eye-wash.

In 1971-72 only Rs. 10,000 were provided in the State Budget for such assistance and in 1972-73 Rs. 1 lac.

This Session demands that

- (1) The Scheme of free legal assistance be made effective and comprehensive to cover all cases arising out of wage, tenancy disputes, social oppression, physical assault and molestation of women.
- (2) A panel of lawyers enjoying the trust of the poor- be appointed in each district to legally defend their interests.

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(7) Monetary Assistance to the distitute and needy.

The State Government has introduced as scheme for grant of pensions to the aged destitutes who have no means of livelihood and none to support them. Allowances are also given to dependent children whose parents are not able to support them. In 1972-73 the number of those in receipt of oldage pensions was 14565 involving an expenditure of Rs. 39 lacs, while 10,000 applications were pending for want of money.

This session demands that:-

- (1) Greater allocations be made for the purpose;
- (2) Besides the aged, those physically incapacitated and having none to support them and widows should also be rendered monetary assistance;
- (3) The monthly pension amount should be raised from Rs. 25 to Rs. 50.

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(8)

On activities of Scheduled Caste Corporation.

This Session welcomes the decision of the Corporation to grant interest free loans to members of Scheduled Castes upto Rs.1500. It further welcomes the setting up by the Corporation of a Colony at Surtapur near Ropar where 100 families are being settled on 735 acres of land. Each family is allotted 5 acres of land and assisted to carry on agriculture, poultry, piggery and dairy.

For making the activities of the Corporation more comprehensive and beneficial, this session demands that:-

- (1) Rs. 10 crores be placed by the Government at the disposal of the Corporation as grant and not as its share-capital.
- (2) The Ceiling limit on loans should be reduced from Rs.50,000 to Rs. 10,000 so that a larger number of persons are benefited.
- (3) The quantum of interest free loan may be raised to Rs. 3000 ~~and interest on loans between 2000~~ and Rs. 10,000 be fixed at 3%
- (4) At least 75% of the amount advanced as loans should be ear-marked for grant of loans up to Rs. 3000.
- (5) Seed farms, most of which the Government has decided to wind up and dispose of, should be handed over to the Corporation to set up colonies on the model of Ropar colony.

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(9)

On Price rise.

In the recent period, prices of food-grains, pulses, sugar, common cloth, vanaspati and most other articles of common use have steeply risen. Coupled with the prevailing conditions of acute unemployment and under-employment, price spurt has hit hard the living standards of masses. It has proved calamitous for those crores of our people, the urban and rural poor, who have already been living below the poverty line.

The monopolists, hoarders and speculators, the black-marketeers and profiteers aided and encouraged by Government policies are responsible for this state of affairs.

This session calls upon Central and State Governments to fulfil their election pledges and to take urgent and effective steps to end this state of affairs.

It demands that:-

1. Trade in essential consumer articles as food-grains, pulses, vanaspati, sugar, common cloth etc. be taken over by the State and the same be supplied to the common people at fair prices through a net-work of public distribution system.
2. Sugar, textile, vanaspati, food-processing and pharmaceutical industries be nationalised.
3. Black-money be unearthed through demonetisation and other stringent measures.
4. Excise duties and sales tax on most essential articles of common use be abolished.
5. Hoarding, profiteering, <sup>l</sup>back-marketing, smuggling and speculation be curbed ruthlessly.

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(10) For rehabilitation of uprooted persons.

About 2 lac persons were uprooted from their houses in the border districts as a result of Pak aggression in December, 1972 some of them were evacuated for defence needs. In accordance with Simla agreement, occupied areas have been vacated by both sides. Pak army has vacated the areas belonging to India.

The up-rooted persons have gone back to their villages after having suffered great hardships for more than a year. On return they find their houses completely destroyed and house-hold effects ransacked. Worst sufferers have been agricultural workers who have no hand to fall back upon nor any cash to start cottage industries. The Government had meted out to them a step-motherly treatment by refusing to pay them any compensation for loss by them of their share of crop as 'siris'.

The ~~xxxxxx~~ uprooted persons have to re-construct their houses, places of common use and start agriculture and cottage industries from the very scratch.

This session demands that:-

- (1) Adequate grants be given for reconstruction of houses, and building<sup>s</sup> of common use like gurdwaras, Dharmshalas, Panchayat Ghars etc.
- (2) Full employment be guaranteed to agricultural workers by starting rural development works.
- (3) Full assistance be rendered to start agriculture and cottage industries.
- (4) Free ration be given to landless workers for at least 3 months.
- (5) Landless workers should also be compensated for the loss of the share of their crops as (siris) etc.

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(11) Congratulations to heroic North Vietnamese

This Session sends heartiest congratulations to the heroic people of Vietnam, the Government D.R.V. and N.L.F. of South Vietnam on the victory achieved by them in enforcing cease-fire on U.S. aggressors and their Saigon puppets. Under Paris agreement,

U.S. has to withdraw all its armed forces from the territory and seas of Vietnam with 60 days of signing of agreement, U.S. POWs are to be freed, South Vietnamese through free exercise of their franchise will determine their future and negotiations will be held for re-unification of North and South Vietnam.

The people of Vietnam have made countless and unparalleled sacrifices in their war of national liberation against Japanese, French and U.S. imperialists.

They have won a glorious victory against U.S. imperialism who for 11 years used most destructive weapons of war to crush their struggle.

They won because they were united and determined and their cause was just.

They won because they were supported by the forces of Peace and democracy all over the world-including peace-loving people of U.S.

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(12) Set up Separate Cooperative Credit Societies for landless poor.

There are no separate Cooperative Credit Societies for landless rural poor. They can become members of common Cooperative Credit Societies along with land-lords and other village rich, including the money-lenders. These Societies are dominated by the village rich who utilise their resources to subserve their own interests.

The landless poor find it exceedingly difficult to secure credit from such societies.

This Session demands that:-

1. Separate Cooperative Credit Societies be set up for landless rural workers.
2. Reserve Bank, the Government and Nationalised Banks make adequate credit available to these societies at concessional rates of interest.
3. Procedure for securing credit be simplified.

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Received M 12-1-73.

To

- 1) The Chief Minister, Punjab,  
Chandigarh.
- 2) The Revenue Minister, Punjab,  
Chandigarh.

Shri Manji,

The Punjab Land Reforms law recently passed by the Punjab Assembly while conceding some important demands of the democratic movements at the same time contains some dangerous loopholes and negative features which are likely to negate the gains that might have accrued from its positive provisions.

The law seeks to impose ceiling on ownership of land for the first time in erst-while Punjab areas. Entire surplus area would be vested in the State Government for utilisation to confer ownership rights on tenants and for allotment to tenants, agricultural workers and members of Scheduled castes and Backward classes. Most of the exemptions from ceiling have been withdrawn and family has been made the basis for imposition of ceiling. Distinction between local and displaced land-lords has been eliminated in the matter of ceiling. Amount to be paid to land-lords for surplus area has been related to fair rent instead of market value, though it would have been desirable to reduce its scale. Through section 2, legal challenge to the amount in a law court has been debarred.

Area already declared surplus under Punjab law and PPSA law will vest in the State Government for utilisation in terms of the provisions of the new law. Tenants with 5 years of continuous occupation who are competent to purchase their tenancy lands under Punjab law have been given a concession through reduction in the price of land from three-fourth of market value to Rs. 200 per acre or ninety times the land revenue whichever is less.

All these are very welcome features and would have led to considerable weakening of land-lords and accrual of sizable surplus lands for satisfaction of land hunger among the rural poor but for the loopholes in the law.

The Communist group in the Assembly sought in a

very constructive manner to plug the serious loop-holes to improve the law and to set up a dependable machinery for effective implementation of the law. Had the Communist suggestions been accepted and incorporated in the law, the objects of the welcome features would not have been put into jeopardy.

What are the negative features?

Whereas the land bill introduced in the Assembly in the month of May last was made retrospectively effective from 26th September, 1970, the new law has been made effective from 24th January, 1971. Malafide transfers made between the two dates get legalised thereby.

The law legalises all bonafide transfers made after 24th January, 1971. The word 'bonafide' has not been defined. Revenue officers will follow their own whims. It might become an escape clause for leakage of large surplus areas.

Another dangerous loophole is that a land-lord has been allowed to select full permissible area for each adult son. It is a step backward from provision in the May Bill which allowed 2 hectares of first quality land to an adult son.

To treat lands under orchards except in case of bananas, guavas and grapes as Harijani land is another loophole. It is anomalous that land-lords who get six-times the normal canal water allowance for their citrus gardens wherein they practise inter-culture on a large scale, should be allowed to pass them off as 'Harijani' lands.

To evade the ceiling provision under the Punjab law and PPSU law, the land-lords had ~~been~~ resorted to large-scale Harijani transactions. The new law does not seek to identify and cancel such transactions. Communist group's suggestion for appointment of a Tribunal for the purpose was not accepted.

A softer action has been provided in the law to make land-lords file their declarations. The Punjab and PPSU laws authorised the collector to reduce the permissible area of a defaulting land-lord from 30 to 10 standard acres i.e. by 20 st. acres, but the new law allows deduction of the permissible area only by 2 hectares. Delay may, therefore, be caused in filing

declarations.

The new law does not incorporate Congress Working Committee's decision to set up statutory Watch-Dog Committees consisting of representatives of committed parties and mass organisation to supervise implementation of land reforms. The implementation of the laws has thus been left to the same Revenue machinery which had sabotaged implementation of the Punjab and P.W.S.U. laws in the past.

We, therefore, make the following suggestion for improvement of the law and for its effective implementation in the interest of the rural poor.

1. President may be approached by the State Government for grant of immediate assent to the law.
2. State Government may issue an ordinance to plug the loopholes pointed out above.
3. Rules under the Act be framed at the earliest to be laid on the table of the Assembly in the Budget Session.
4. Scheme for utilisation of the surplus areas should also be framed at the earliest to be laid on the table of the House in the Budget Session.

The scheme should provide that:-

- (a) Only agricultural workers and tenants from among Scheduled castes and Backward classes should be allotted surplus land.
  - (b) A percentage of surplus land shall also be allotted to marginal owners to be defined in the scheme.
  - (c) Amount to be paid by an allottee of land shall not exceed Rs. 1200 per acre of first quality land, payable in 15 half-yearly instalments interest free instalments, ownership right to be conferred on payment of first instalment.
5. Through Rules' bona-fide' transfer should be defined to mean,
    - (a) transfer by inheritance;
    - (b) sale of land to an eligible tenant or tenant settled on area declared surplus.

All other transfers should be disregarded. If such a provision cannot be made in the rules, executive instructions to that effect may be issued to the Collectors.

6. Provision may be made through rules to set up watch-dog Committees consisting of representatives of committed parties and mass organisations to supervise implementation of land reforms, at various levels.
7. Time-bound ~~provision~~ ~~should~~ ~~be~~ ~~made~~ ~~in~~ ~~the~~ ~~act~~ ~~to~~ ~~effect~~ ~~the~~ ~~provision~~ ~~of~~ ~~the~~ ~~law~~ ~~to~~ ~~set~~ ~~up~~ ~~the~~ ~~watch~~ ~~dog~~ ~~committees~~ ~~at~~ ~~various~~ ~~levels~~.

Time limit should be laid down for each of the three stages-filing of declarations, declaration of surplus land and distribution thereof.

The rules should provide that land-lords shall file their declarations latest by 31st March, 1973.

But the Revenue authorities should be instructed to collect simultaneously data regarding names and lands of land-owners owning lands above the permissible area.

8. The State Government will disregard transfers or other dispositions of land in calculating and utilising the surplus area including utilisation of the areas already declared surplus under Punjab law and PPSU law. Procedure for disregarding transfers should be laid down through rules as a specific provision to that effect has not been incorporated in the law as had been done through section 8 of Haryana Land Act.  
  
It should be provided that in calculating the surplus area, if surplus area of a land-lord is equal to his permissible area, the entire permissible area will be taken over as his surplus area. If still some deficiency is left, it will be made good from lands transferred by him, provided that the land-lord will compensate the transferees.
9. The areas already declared surplus under Punjab law and PPSU law should immediately after commencement of the Act be taken possession of by the State Government and utilised within 3 months i.e. by April and at the latest.
10. Tenants already settled on surplus lands be given ownership rights forth-with.
11. Land-lords in collusion with Revenue Officials have falsified girdawaris even in case of tenants settled on surplus land. A special staff should be set up to rectify the records within a specified period.
12. Implementation of the land reforms should not be left to the ordinary staff. A special machinery manned by officers having faith in land reforms should be set up.

Yours faithfully,

*Arjun Singh Malhotra*

Dated:-

Received on  
13.6.73.

Memorandum to Study Group on Land Reforms of  
national Commission on Agriculture

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The Punjab Land Reforms Bill was passed by State Vidhan Sabha on 14th December, 1972. But Presidential assent to it was given on 26th March, 1973- about 3½ months after its passage. The new Law was published in the official Gazette on 2nd April, 1973- which marks the commencement of the new Act. But the Rules and the scheme under the Act have not been finalised and published in the Gazette still-even 5½ months after passage of the law. This inordinate delay betokens lack of seriousness on the part of State Government to implement the law.

Evaluation of the Act.

Before proceeding further to make suggestions for implementation of positive provisions of the new Act, we want to give evaluation thereof.

The new Act while conceding some important demands of the agrarian movement at the same time contains loopholes which are likely to negate to a great extent the gains that might have accrued from its positive provisions.

The law seeks to impose ceiling on ownership of land for the first time in erst-while Punjab area. New ceiling provisions etc. have been made uniformly applicable in both erst-while Punjab and PEPFU areas. Entire surplus area would be vested in the State Government for utilisation thereof to confer ownership rights on tenants and for allotment to tenants, agricultural workers and members of Scheduled Castes and Backward classes. Most of the exemptions from ceiling have been withdrawn and family has been made the basis for imposition of ceiling. Distinction between local and displaced landlords has been eliminated in the matter of ceiling. Ceiling limit too is sought to be reduced. Amount to be paid to land-lords for surplus area has been related to fair rent instead of market value, though it would have been desirable to reduce its scale. Through section 2, legal challenge to the amount in a law court had been debarred-though the Supreme Court has recently struck down such a provision.

All these are welcome features and would have led to considerable weakening of landlordism and accrual of sizable surplus lands but for loopholes in the law.

Negative features.

The law legalises bonafide transfers made after 24th January, 1971. The expression bonafide has not been defined. Revenue Officers will follow their own whims. It might become an escape clause for leakage of much surplus area.

Another serious loophole is that a land-lord has been allowed to select full permissible area for each adult son. It is a step backward from provision in the Bill of May 1972 which allowed 2 hectares of first quality land to an adult son.

To treat lands under orchards except in case of bannaga, guava and grapes as Barani land is another loophole. It is anomalous that landlords who get six times the normal canal water allowance for their orchards as in Muktsar sub-division and also practise extensive inter-culture should be allowed to pass them off as Barani lands.

To evade the ceiling provision in the past the landlords had resorted to large scale Benami transactions. The new Act too does not seek to identify and cancel such transactions.

A softer action is proposed in the new law against landlords who default in filing returns of their lands in time. The Punjab law and PEPSU law authorised the collector to reduce the permissible area of a defaulting landlord from 30 to 10 st. acres, but the new law allows deduction by 2 hectares only.

But if the State Government develops political will and determination to implement the positive provisions, the rural poor might yet be benefited to some extent.

We therefore deal with the all-important questions of implementation now.

#### Implementation of Law

We entirely agree with the Task Force of the Planning Commission on land reforms that lack of political will had been a main stumbling block to implementation of land reforms in the past. This malady continues on its pernicious course in this State. Unless the Central Government makes effective intervention to rectify the situation at the political level, the new law may meet the fate of its predecessors.

We also agree with the Task Force that a separate Land Reforms machinery manned by handpicked officers should be set up to implement the law expeditiously. We support its suggestion that a Special Land Reforms Commissioner at State level be appointed to head this machinery and Land Reforms Officer equal in rank and seniority to the District Collector should be appointed in each district. The State Government should draw up a phased programme for implementation of land reforms and the special machinery should be instructed to strictly adhere to the schedule.

But implementation of land reforms can be effective only through popular cooperation the need for which is recognised by the ruling party. But the crucial question is in what form that cooperation is to be secured.

We support the recommendation of the Task Force that at village level (where land is likely to be available) elected committees of village poor should be set up to assist in implementation of land reforms. They can help locate surplus lands and give information regarding mala-fide transfers effected by landlords to escape the ceiling provision. They can also give useful information regarding particular land-lords who hold lands in other places, inside the district or else where.

But the main work of implementation is to take place at sub-divisional level. The S.D.O (Civil) is Assistant Collector 1st Grade. He is being given powers of a Collector.

We have suggested to the State Government through written Memoranda as well as through oral discussion with Ministers that Statutory Committees on Kerala model with necessary criminal and civil powers be set up at sub-divisional level, the S.D.O (Civil) being one of its members. Experience of Kerala

143807 St. areas  
15017 St. areas  
15486 St. areas

Declared surplus  
Utilised  
Unutilised

shows that implementation of land law did not get an effective start there until the Act was amended in November, 1972, and Statutory Committees were set up.

Such Statutory Committees should consist of representatives of committed parties and mass organisations.

The response of the State Government to this suggestion of ours is not positive. It is, however, conceded that advisory committees would be set up. But even on that point the State Government has not made up its mind finally. We have been told that the Centre's guidelines do not necessitate setting up of Statutory Committees.

It is proposed that the Union Agriculture Ministry may be persuaded to issue a directive in this behalf. The ceiling Acts can be amended through an ordinance to incorporate the provision for constitution of Statutory Committees.

We are of the view that an Implementation Committee may be set up at the State level also to supervise, review and direct effective implementation of the land reforms. This Committee should contain representatives of committed parties and mass organisations besides Chief Minister, Revenue Minister and Land Reforms Commissioners.

To this suggestion of ours too we have not received necessary positive response.

Rules and Scheme under the Act.

Rules and the Scheme to be framed under Section 11 of the Act for disposal of surplus area have not yet been finalised.

We have held two informal meetings with Ministers wherein we were informed of the Governmental thinking on the subject. We have made concrete suggestions to improve the Rules and the Scheme so as to carry out and not to whittle down positive provisions of the law.

We have criticised certain Rules and provisions of the Scheme which are contrary to the provisions of the Act. We drove home the point that Rules cannot over-ride the provisions of the Act.

We shall give just one instance to illustrate our point.

The Scheme is making a provision that the eligible tenants resettled on surplus area shall be deemed to have been allotted their tenancy land in terms of Section 11 of the Act. On payment of purchase price they will become owners of land. But one category of such tenants is sought to be deprived of this benefit i.e. tenants of a land-owner who may have died before the commencement of the Scheme. Now this is totally against sub-section 7 of Section 11 of the Act which reads:-

"(1) Where succession has opened after the surplus area or any part thereof has been determined by the Collector, the saving specified in favour of an heir by inheritance under sub-section (5) shall not apply in respect of the area so determined".

It is also against Section 10B of the previous Punjab Law which reads:-

" Where succession has opened after the surplus area or any part thereof has been utilised under Clause(a) of Section 10-A, the saving specified in favour of an heir by inheritance under Clause(b) of that section shall not apply in respect of the area so utilised".

Utilisation of the surplus area under the Punjab Law meant resettlement of eligible tenants thereon.

We found a tendency in the Revenue Ministry and top Revenue Administration to erode through Rules and the Scheme some positive provisions of the new Act.

The amount to be paid by beneficiaries for land to be allotted to them is sought to be fixed at a higher rate than what the State Government itself will be paying to the land-lords.

When Rules and the Scheme are finally published, we shall send our Note on them to the Committee.

We would earnestly suggest to the Union Agriculture Ministry to thoroughly scrutinise the Rules and the Scheme to ensure that they do not infringe the provisions of the Act and militate against the spirit of land reforms.

We are in complete accord with the recommendation of the Task Force of the Planning Commission that land reforms laws should be immunised against judicial scrutiny and writ jurisdiction of the High Courts and Supreme Court and that they should be included in the 9th Schedule of the Constitution.

It is suggested that this recommendation of the Task Force should be expeditiously implemented through amendment in the Constitution.

Steps should be taken to include Punjab Lands Reforms Act in 9th Schedule of the Constitution.

Immediate distribution of lands already declared surplus.

We have urged the State Government to immediately start distribution/ utilisation of lands already declared surplus under Punjab Law and PEPSU Law.

At the Chief Ministers' Conference held at New Delhi on 26th September, 1970, the representative of the then Akali Ministry presented a pro-forma regarding lands declared surplus by then under Punjab Law and PEPSU law, the lands utilised and those still remaining un-utilised. Following table gives summary thereof.

Under Punjab Law

Declared surplus	143507 St. areas
Utilised	71021 st. areas
Unutilised	72486 st. acres

Under PEPSU Law

Declared surplus	34236 St. acres
Utilised	14060 St. acres
Un-utilised	20176 St. Acres

Under both Punjab and PEPSU laws area declared

surplus by September, 1970, then was 177743 St. acres which almost tallies with the figure of 178000 St. acres as given in Parliament the other day by Union Minister of State Shri A.P. Shinde.

Under Punjab Law, surplus area could be utilised only for resettlement of eligible tenants. For non-utilisation of 72486 St. acres, the Government took the plea that eligible tenants were not available. Now under the new Act that plea no longer holds good, for surplus land can be utilised for allotment to members of Scheduled Castes and Backward classes, other tenants and landless agricultural workers.

The area of 71021 St. acres said to have been utilised may not have been actually utilised in full. We have, therefore, proposed to the State Government that actual utilisation should be checked up and the lands that have not been utilised should together with 72486 acres of un-utilised surplus area be taken possession of by the State Government under section 8 of the new Act so that it becomes vested in the State Government and utilised the same under section 11 of the Act.

Under PEPSU Law surplus area was vested in the State Government as soon as possession thereof was taken by it. It could be utilised for allotment to eligible tenants, other tenants, agricultural workers and land-poor peasants. It is surprising that in case of PEPSU too 20176 st. acres should have remained un-utilised. It appears to be a case of deliberate and open sabotage.

We have suggested to the State Government that it should be checked whether area of 14060 st. acres said to have been utilised has actually been utilised. The entire un-utilised area should in this case too be taken over and vested in the State Government under Section 8 and utilised under Section 11 of the Act.

It is possible that land-lords may have disposed of some of the surplus areas. Such malafide dispositions have to be ignored.

Section 15 of the Act gives a concession in purchase price to tenants who were eligible to purchase their tenancy lands under Section 18 of Punjab Law. Tenants with 6 years of continuous possession could purchase their tenancy lands at 3/4 of the market price. Now under section 15 of new Act, they can purchase the land at Rs. 200 per acre or 90 times land revenue whichever is less. The PEPSU law had given this concession to tenants and it is being extended to tenants eligible to purchase tenancy lands under Punjab law.

Such tenants can apply for purchase of land within one year of commencement of the Act - by 2nd April, 1974.

But State Government has taken no steps to publicise this concession.

Suo moto action should be taken by the Collectors to identify and assist such tenants to apply and purchase lands.

We are aware that there are not very many such tenants. But there are some tenants who will benefit.

But there is a larger number of tenants who have been

in continuous possession of surplus tenancy ~~even~~ hands for a period of 6 years or even more. Their girdawari records have been falsified. Cases for rectification of their Girdawaris are pending in the Revenue Courts.

We have urged the State Government to appoint a special staff to rectify the Girdawaris by on-th-spot inspection within a specified period of say 3 months. Their routine disposal may take a long time and their applications for purchase of land may become time-barred.

Then there is the question of tenants who had been resettled on surplus land under the Punjab Law. Those who had been in continuous possession of land for at least 6 years become entitled to purchase land under section 18 of Punjab Law and now under section 15 of the new Law. There is no provision in Punjab Law to debar them from exercise of this right. But thinking in the State Revenue Ministry seems to be other-wise.

The Union Agriculture Ministry should give necessary corrective to the State Revenue Ministry.

In anticipation of the implementation of the new law, landlords have in many places launched eviction offensive against tenants. We have been bringing to the notice of the State Government such cases. It is necessary that State Government issues a directive to the district Collectors to give necessary protection to the tenants.

#### Definition of word 'bonafide'

We have urged the State Government to define the expression "bonafide transfers" in sub section 5 of section 4 of the Act through Rules to mean only (1) transfers to an heir by inheritance and (2) sale of land to a tenant eligible to purchase it.

As regards payment of amount by an allottee to the Govt., it should not exceed 9 times the fair rent or Rs. 3000 per hectare. On the average the State Government will not have to pay more than this to the land-owners for surplus land taken over from them.

Members of Scheduled Caste and Backward Classes have also to be allotted surplus land under section 11. We have suggested to the State Government to make a provision in the scheme so that only agricultural workers, tenants or actual tillers from among them are allotted land. It should be further provided in the Scheme that the allottees will become owners of land on payment of the first instalment of purchase price.

#### Filing of returns by landlords

The land-owners, we understand, are being given a period of 3 months to file returns of their lands. In case they fail to file the returns, the Collector may on his own get the necessary information.

We are of the opinion that alongside calling upon landlords to file their returns within the specified period, Revenue staff should simultaneously collect the necessary information so that delay is not caused in determining the surplus area if landlords adopt obstructionist and non-cooperative attitude.

In cases where sales or transfers are disregarded.

The Punjab Act, unlike Haryana Act, is silent as to how the transferee or vendee would be compensated in case the transaction is disregarded.

Haryana Act makes the landlord to suffer for that.

It has been provided under the Haryana Act that the person who has received advantage under transfer of land shall be bound to restore it or pay compensation for it, to the person from whom he received it. In other words, the land-lords will compensate the transferee either with land or money.

It has been provided that lands transferred after 24th January, 1971, in contravention of the Act, shall be deemed to be owned or held by the land-lord in calculating the permissible area.

It has also been provided that in case the area left with the land-lord after transfer is equal to the surplus area so calculated, the entire such area shall be treated as surplus area. It has been further provided that in case the area left with the landlord is less than the area so calculated, the entire area left with him shall be deemed to be the surplus area and to the extent of deficiency in it land so transferred shall also be deemed to be surplus area.

When the Punjab Act is implemented, all these problems will arise. The Haryana Act provides solution to them, but Punjab Act keeps mum thereon. But those problems will have to be faced and solved.

It is suggested that the new Act be amended through an ordinance on the lines of Haryana Act and to the extent possible, provision should be made in the Rules.

The PEPSU Act had the following proviso to Section 32-FF:-

" Provided that any person who has received any advantage under such transfer or disposition of land shall be bound to restore it, or to make compensation for it, to the person from whom he received it."

Plug the loopholes

While pressing for vigorous implementation of positive provisions of the new Act, we shall continue to demand that loopholes therein be plugged. As implementation process gets under way, it will become clearer that the loopholes are endangering introduction of progressive land reforms in the interest of rural poor.

Unearth Benamis

The new Act despite the improvement it has registered over the previous ceiling laws does not seek to unearth and cancel the Benami transactions made by big land-lords in the past.

An ordinance to constitute a special Commission for identification and cancellation of Benamies should be promulgated.

Distribution of evacuee land

In a package deal in 1961, the Punjab Government purchased from the Centre evacuee lands as listed at concessional prices.

- \* Cultivated land 80,000 St. acres at Rs. 450 per Standard acre.
- \* Banjar land 1,11,004 acres at Rs. 5 per acre.
- \* Ghairmumkin land 103344 acres at a token price of Rs. 100 in all.

The State Government generally adopted the policy of open auction of those lands and after 1964 of restricted auction among the Scheduled Castes. Thereby it has earned a profit of Rs. 9 crores.

The Scheduled Caste occupants of evacuee land as in Rabi 1960 were allowed to purchase their lands at reserve price.

Caste The United Front Government of 1967 gave the right to purchase lands to Scheduled occupants recorded as such in Rabi 1965. It also decided to distribute the rest of evacuee lands to Scheduled Castes by drawing lots. This latter decision was, however, changed by the successive Government.

The Governor-in-Council in September 1971 decided to sell evacuee lands to Scheduled Caste occupants as in Rabi 1970 as Rs. 500 per standard acre and to Rai Sikhs at Rs. 1000 per standard acre. The rest of the land was proposed to be disposed of through restricted auction.

The C.P.I., Kisan Sabha and Khet Mazdoor Sabha have consistently resisted open or restricted auction. As a result of this resistance, successive State Governments including the present Congress Government had to suspend auction. For through auction, officers and other influential persons are enabled to get hold of best evacuee lands, while poor tillers are driven to the wall.

The findings of the M.L.As' Committee into the matter have revealed that as a result of open auction and then of restricted auction, 108 I.A.S. and P.C.S. Officers, 4 M.Bs and 11 M.L.As have grabbed considerable lands and built prosperous farms thereon.

The Report of the Committee has not yet been published by the Government.

We learn that the State Government has decided to give up the policy of auctioning evacuee lands. An alternative policy is to be worked out.

The balance of evacuee lands that still await disposal are:-

- \* Cultivated land: 42324 St. areas.
- \* Banjar 29135 acres.
- \* Ghair mumkin 66518 acres.

To these should be added lands to be degrabbed from those

who have grabbed them through auction or otherwise.

We have proposed to the State Government to adopt the following measures to utilise these lands in the interest of rural poor in the spirit of land reforms:-

1. All poor abadkars in actual possession of evacuee land to be verified by on-the-spot inspection be allowed to purchase lands under their occupation upto 5 St. acres, including land already owned by them, if any, at reserve price.
2. Land grabbed by officers and others as revealed in the Report of the M.L.As Committee be degrabbed.
3. Lands to be degrabbed as in <sup>2</sup> plus rest of the evacuee lands be distributed among locally available Scheduled Caste tillers and resrve price be charged from them.
4. Only those evacuee lands be made over to the Forest Department which are totally unfit for cultivation.
5. Ex-Service-men may be granted a percentage of evacuee lands excluding lands in possession of poor abadkars

#### Village Common Lands

The area of village common lands in the State is 751266 acres. An area of 16833 acres continues to be in unauthorised occupation. Such occupation should be ended.

The State Government had decided and issued instructions long ago that one third of common lands should be leased to Scheduled Caste tillers. That decision has been reiterated. But so far it has mostly remained on paper.

We think the Government instructions as they stand are not mandatory on Panchahats. They can be implemented only if they are given legal sanction.

Dated : 6.6.1973

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Punjab  
Kisan Sabha

Punjab Khet Mazdoor  
Sabha.

Punjab State Council  
of C.P.I.