

AGRARIAN LEGISLATION IN INDIA

By: K. G. Sivaswamy,

Secretary, South Indian Federation of Agricultural Workers' Union, Madras

THE problem of food for millions has been prominently forced on our attention. The manual labour class in villages accustomed to a consumption of 1½ lbs. of rice or 2 lbs. of dry grains are forced to be satisfied with 12 oz. ration, of which only about a third or half forms the grain to which they are habituated and the rest is made of wheat or ragi, to which they have yet to accustom their physical body. The price factor terrifies the chronically poor groups in villages whose purchasing power is low. Failure of crops and consequent unemployment increase the number in this group. Other essential food commodities as chillies, grams and pulses, oils, mutton and fish are selling at fancy prices which the common man cannot afford. Many provinces have been shown to be deficit in food crops. The serious train of consequences which malnutrition has left on the rising generation has to be arrested. We have to increase our food resources and sell them at a price which the common man in India can afford. And as a substantial majority are engaged in this industry, a sound organisation of the agricultural industry is the primary desideratum.

If lands are to be improved, crops are to be planned, and yield is to be increased by improved methods, lands ought not to be allowed to be bought and sold for investment purposes, solely with a view to earning a profit. A number of rentier landholders have invaded the land. The recent accessions are the black marketeers who have invested their surplus profits in lands by paying enormous prices. There are two sets of rentier classes in India,

those who came upon the scene through zamindars who were appointed to collect land revenue in ties, and those who bought the increased margin of profit due to land revenue on the one side, and of consciousness for a higher standard of life on the part of the cultivator on the other side. Existence of a large labour supply greater than the demand, existence again of aboriginals, tied serfs, and farm servants with low standard of life, have all helped to induce investment on land by the rentier class. The lenient calculation of land revenue, even though in theory it ought to be 50% of the net income, was another inducement for investment. If we are to assess the priority in the elimination of these two classes of rentiers, we will find that the rentier class should first be eliminated as their exploitation affects millions of cultivators who are unprotected to-day. The zamindari areas have some definite legal protection for the last one century. The number of zamindars is small. Their elimination, though essential, does not solve the evil of rentier exploitation even in zamindari areas. If ryots having better status and capacity to protect themselves have legal protection in zamindari areas, it is all the more reason that the under-ryots under these ryots, and under the ryots in ryotwari areas directly paying land revenue to Government, who are generally ignorant and little capable of organising themselves for bargaining for better conditions of living should first be protected in law.

Legislation is therefore essential firstly to eliminate the class of rentiers on

the land and secondly to prevent their growth in the future. One obvious thing has to be remembered in assessing compensation due for this class. The land income should meet the land revenue of the Government. Secondly, it should provide the minimum wage for the maintenance of the cultivator and his family. It should also somewhat provide, if not wholly, a small supplement which can be put by the cultivator for days of sickness, old age, and invalidity.

It is not impossible to arrive on this basis at the minimum income from land which a cultivator should get for the days of labour put in by him. Any compensation for rentiers can come only out of the balance remaining after the payment of land revenue and minimum wage. No rentier can have cause to complain about the deductions, as he has purchased the lands with his eyes wide open. Neither can one forget the fact that just as a rentier exercises his right of withdrawing the land from a cultivator in the sole object of making a better profit the cultivator too can use his private property of his physical labour as he thinks best, and withdraw it from the land in combination with his other cultivators. A civil war exists in the present state of society itself and with intelligent combination among cultivators, the rentier is sure to adjust his demands according to the strength of the respective parties at a given time. And if the rentier has gained so long because of the non-recognition of customary rights of the cultivator in law, and the enforcement of equality of contracts between two unequal parties by the courts, he could certainly not complain if the other party organises itself and demands no more rights than what the law allows. At any rate, he could not seek the protection

of the State for collecting the rents which he deems just. I have argued these points to indicate that rentiers could not demand a scientific compensation for the capital invested by them in the purchase of lands. They did so as it was profitable for them and they should take the consequence of unprofitableness too. A number of problems arise in laying down the principles for payment of compensation. Can there be a compensation to big rentiers in the same scale as small rentiers? Should compensation take the form of an ex-gratia payment or be based on the valuation of the land and a reasonable interest? Can land pay at all any interest, or can it give only occupation to a cultivator under existing conditions? Can we grade the compensation inversely to the area owned by rentiers? Should not the price of money invested in land during the war period be evaluated to that of the pre-war period, and compensation calculated on this basis? Can compensation be varied according to the number of members in the rentiers' families? Supposing bonds are issued by Government to meet the amount of compensation, will they not inflate the money market and thus increase the prices? To what extent can bonds be safely issued without creating inflation? Are the sums of compensation to be collected from the cultivators in annual instalments as part of land revenue? Will they be able to pay this sum year after year from their land incomes? Or will their position only become more miserable as they will be forced to pay this sum; while on the other hand their relations with rentiers are at present elastic and they may adjust their payments according to their capacity? These and various other factors should be duly considered before fixing on the quantum of

AGRARIAN LEGISLATION IN INDIA

compensation for the rentier class. These questions no doubt will not arise in the case of rentiers who change their occupation to that of agriculture, taking on themselves all the risks involved in it.

Compensation in regard to zamindars is more easy of assessment. They are only public servants appointed by Government to collect land revenue and remunerated on a percentage basis for the land revenue collected from the ryots by them on behalf of Government. Government can dispense with their services at any time. Considering their age-long service for about eight generations, they, their survivors and their posterity are entitled to a fair consideration at the hands of Government. The Zamindars are accustomed to a standard of life which should be assured to them in future too. They should be given a pension which might be gradually reduced to successive generations.

If it is considered necessary that compensation should be assessed on the basis of their present incomes, then necessary deductions from it should be made towards the expenses which Government would be incurring by directly taking over the land revenue administration of zamindari areas. The assessment of land incomes of zamindars bristles with a number of thorny problems. What is the amount of legal rent that they can collect from tenants? What is the percentage to which they are entitled out of it? All extra payments going by the name of usage or custom will have to be excluded. All excess rents over the legal rent should equally be excluded. The 'Sir' land will have to be restricted to the ancient minimum. Communal lands should be excluded in calculating the income of zamindars. Administrative

fees collected for pasturage, fisheries, fuel, wood etc. should be excluded from the income of the zamindar. The percentage of the income of the estate calculated on this basis, as provided as due to the zamindar according to the Permanent Settlement will give one an idea of the income to which he is entitled. Out of this income two items of expenditure have to be deducted. As the zamindar is released of his responsibilities of land revenue collection, maintenance of irrigation works, efficient administration of communal lands, and distribution of cultivable wastes and as these responsibilities will devolve hereafter on the Government, the recurring expenditure for carrying them out should be deducted from this income. Secondly, as the zamindar himself will be getting in future an income from his estate without incurring any expenses for collection of rents, a certain percentage should be deducted to meet these costs.

The problem does not get solved by merely eliminating the zamindars and the rentier class. Purchase of lands in future by rentiers should be prohibited. How is this to be achieved? Leasing should be penalised, and all rights in land should go to the under-ryot or sub-tenant to whom the ryot in ryotwari areas, or the occupancy tenant in zamindari areas, or the zamindar in respect of his home farm, habitually sublets.

According to the C. P. Tenancy Act, sec. 40 and 41, land may be presumed to be habitually sublet if it is sublet for a total period exceeding 7 years during any consecutive period of 10 years. If so habitually sublet, the Revenue Officer of his own motion may declare the sub-tenant to be the occupancy tenant. The sub-tenants of 'Sir' lands and malik-

makbuza lands (similar to ryotwari) will be declared occupancy tenants under these owners. The Indore Land Revenue and Tenancy Act I of 1931 goes further. "A pattadar tenant shall not sublet solely with a view to obtaining rent or merely so as to remain an intermediary between the person from whom he holds and the actual cultivator of the land". If he does so, he will be asked to cultivate his land during the next agricultural year. If he contravenes the provision a second time, "the Subha of the district, in proceeding under sec. 48, need not give him the option of cultivating the land during the next agricultural year, but may forthwith sell or resume, as the case may be, his rights in the land". Some such deterrent provision ought to prevent land sales to rentiers. Another mode of legislation has been to make lands inalienable or permit alienation by special consent in each case. The former method will reduce the credit of the cultivator. The latter too will have similar effect though not to the same extent. Permission to freely transfer, subject to imposition of penalties when a land is sublet by any agriculturist, makes the legislation less rigid.

When once leases are not permitted except legitimate ones which will have to be defined, they may be evaded by usufructuary mortgages, or engagement of labour for a share of produce instead of a defined wage. Usufructuary mortgages too to non-agriculturist money-lenders or rentiers who lease back the lands to original cultivators or others should be treated as leases and permitted only between cultivators. It also happens that rentier owners who want all profits for themselves with the least amount of risk let out their lands for a share of produce or cultivate them

with labour which is partly remunerated by a share of the produce at the harvest. The law will have to define that any relationship in which a party is remunerated according to the yield of land by a landholder is one of tenancy. If such a definition is made, tenancy rights will accrue automatically to this class of labour. The recent Bombay Tenancy Amendment Bill which is under discussion by the Legislature declares that "any person shall be deemed to be a tenant if such land is not cultivated personally by the owner and if such person is not (a) a member of the owner's family, or (b) a servant or hired labourer cultivating the land under the personal supervision of the owner or any member of the owner's family". This is a safe definition which will rope in all cultivators as tenants other than cultivating owners and labourers.

When once land transfers in future are to be confined to agriculturists, it becomes necessary too to clearly and precisely define an agriculturist. The Bombay Tenancy Act restricts the definition to only those who cultivate personally or who supervise cultivation with the aid of their family members. The owner of a big farm in a country district residing in Bombay and cultivating it through paid managers will not be recognised as an agriculturist according to this definition. It is a moot point whether we should so restrict the class of agriculturists or we may expand the class to include also capitalist farmers who shoulder all risks of cultivation and engage labour.

We have here to consider whether tenancy legislation by itself, though useful in its own way, can achieve security and decency for all cultivators. Many rentiers will become capitalist farmers as

AGRARIAN LEGISLATION IN INDIA

soon as they are given the option to either leave the land on compensation or cultivate it themselves. In Berar a number of Marwari money-lenders are cultivators of many villages with the aid of hired labour and cattle, and they have become so, fearing tenancy legislation might be embarked upon at any time. There is therefore need for simultaneous labour legislation assuring minimum wage and fair living conditions for farm labour, if the object of tenancy legislation is to be wholly achieved.

The abolition of the rentier class is not done in a day. During the transition, the rights of the cultivator should be protected by tenancy legislation. The Bombay Act grants security of tenure for those tenants who were continuously for a period of six years under a landholder immediately preceding January 1938. It fixes the minimum period of any lease as ten years. But there is an idea even to declare these tenants as protected tenants after a lapse of six years.

While certain Acts permit resumption of lands for own cultivation by landholders, certain others do not.

The problem of resumption of lands by landholders will automatically disappear with the elimination of the rentier class. There is no harm in permitting them during this transition to resume the lands for own cultivation, provided it is for such a bona-fide purpose. In such cases tenants should be paid compensation for improvements. If, on the other hand, the scheme is to maintain the rentier class and assure them their rents, then it will be very unwise to permit resumption of land by generations of rentiers for purposes of own cultivation. It will be unnecessarily interfering with the longstanding rights of a tenant and creating insecurity of living for establish-

ed cultivators. The Cochin Verumpattam Act permits resumption of lands by landholders for purposes of house building and not otherwise. Some such healthy restriction is necessary in order to prevent fitful resumptions by rentier heirs in the future.

Should a landholder be permitted to acquire the land of a tenant for his own needs? This again will be disturbing a tenant who has been developing the land as his own property. Under the U.P. Act such acquisition is limited to 5 acres in the case of zamindars constructing a house and making a garden. Where a tenant has more than sufficient land for purposes of cultivation, some such provision may be made.

Should an intermediary landholder have any more rights in land than the realisation of his rent? The provision for compensation for improvement to tenants secures for the latter the value for his labour and investments on the land. Should a landholder have rights to make improvements on the land? Any rights for the intermediary only complicate the relationship. We have given the fullest freedom to an intermediary to take to cultivation of his own lands. When he is unable to do so, there is no meaning in giving him small rights which only create problems for settlement. Any facility by way of credit or agricultural requirements which an intermediary gives ought to be provided by the State.

Supposing a landholder claims all his land for own cultivation, should or should it not be allowed? In the U.P. such a right in their farms has been denied to landholders paying more than Rs. 250 of land revenue. They can only have farms of fifty acres. Tenant rights will accrue in the excess lands. Some

such power the State should have in ryotwari areas in order to protect the interests of the cultivators in these lands over 50 acres. It might be that a certain landholder might be able to introduce large-scale farming on up-to-date methods. It might also be that a landholder's resumption for own cultivation of large areas might prejudicially affect the tenant families. The State therefore should have the discretion in permitting own cultivation above a certain limit of area in the case of big holders.

The landholder's right over the surface soil and subsoil should be defined. The use of surface soil for excavating clay, gravel or stone might rest with the tenant. But the State alone should have complete rights of mining. According to the existing standing orders of the Madras Board of Revenue, a holder on ryotwari tenure is entitled to work minerals on his land, but is liable to pay therefor a separate assessment in addition to the usual assessment for surplus cultivation. The order, as it is, does not give any mining rights to the State, but only the right to levy and collect an assessment. Mining, being a major industry of natural importance, the right of mining should vest in the State. The State might grant licences for mining to any person, and in such cases it might acquire the land from the tenant.

Should a landholder have the right to resume the land when it is relinquished by a tenant? This may happen when the land becomes unprofitable to cultivate and no other tenant comes forward to buy it. In such a case the landholder might cultivate it or failing which it should revert to the State. The regranteeing of such lands to cultivators should rest with the State.

Should the landholder be permitted to sanction any changes in the character of the land? This is a question which affects land use. The State should regulate the use of lands for growing trees, mining, quarrying, and raising special crops in land within flood banks of rivers etc. The rights of the tenant or any owner of land should be subject to the superior rights of control of land use by the State.

The main point of contention in any tenancy legislation is the quantum of rent to be paid to landholders. What should it be? How should it be fixed—in kind or cash? How is it to be realised? We have already indicated that rent should assure a wage with which the physical body can be normally maintained for doing the work in which it is engaged. In agriculture, wages will have to be paid even for days when there is no full work, so that the labour may be retained when it is required on other days according to seasons. It is quite possible to arrive at nutritional requirements of cultivators for different regions according to the standards of living existing among them today. Roughly, 2 lbs. of millets or 1½ lbs. of rice costing about 5 annas is the value of the energy food consumed today by a labourer. This is doubled generally to meet the cost of cereals and other essential foods. A working cultivator will have at least to maintain one non-working dependant. Some little provision will have to be made for clothing and house repairs. Four to five times the value of cereal food consumed by a cultivator should be the minimum wage to be provided for. It ought to be possible to find out for each region the number of days of work required for cultivating a unit of area ordinarily taken on

AGRARIAN LEGISLATION IN INDIA

lease, and calculate therefrom the number of days of work for cultivating one acre of land. By this method the exact amount of fair wages due to a cultivator can be computed. We have to remember that, even though no landholder calculates mathematically the comparative incomes by way of leasing the land and by hiring labour, and then decides on the profitability of lease or own cultivation, there is a traditional knowledge which enables him to see that the lease shall not leave to a tenant more than what a permanent labourer will get as wages. I use the word 'permanent' deliberately as occasional labourers are generally paid more and insist on more wages so as to compensate somewhat for days of unemployment.

Rent should leave to the tenant an income sufficient to meet all cultivation expenses including land revenue. The words 'cultivation expenses' are to be understood in their full import. According to the C. P. Land Revenue Settlement Act they include:

- (1) Depreciation of stock and buildings.
- (2) The money equivalent of the cultivator's and his family's labour and supervision.
- (3) Interest on the cost of buildings and stock."

The Taxation Enquiry Committee have included 'return for enterprise' as an item for determining costs of production.

There are difficulties in arriving at the net income from land as land yields and cultivation expenses may vary even in one and the same village. But no Government of modern times which is bound to levy agricultural income-tax, can avoid appointment of a trained staff for assessing net incomes. Rent Settle-

ment Officers in C. P. and U. P. go into all these questions when deciding rent. The fixing of yields and cultivation expenses for different groups of lands according to circles and soils is the first desideratum. This will give a basis what portion of the gross produce should be fixed as rent for different groups of lands. The rent officer should then declare for each tenant what portion of the gross produce he should pay as rent. At the same time Government should give relief from payment of land revenue to the small holder intermediary. Otherwise the latter may not be able to pay it out of the rent paid to him. A lower exemption limit of income below which the state should not collect any land revenue will have to be laid down. The question here will arise whether uneconomic holders as tenants or owners cultivating pieces of land who can never hope to increase their area to that of a minimum holding should get the benefit of this exemption. Their elimination from the point of view of creating proper holdings is equally necessary as that of big holders having surplus lands. Many of them may be plying occupations other than agriculture. Relief from payment of land revenue should be restricted to subsistence holdings cultivated by a tenant. This means that while Government may lose its portion of land revenue in respect of these holdings, the intermediary landholder will be assured of a rent for the land.

What should be the proportion of rent to net income? It should allow a portion as return for enterprise for the cultivator. The tradition is that the latter should get 'kozhu labham', i. e., profit for the plough which is fixed as one-third of the net income. Assuming broadly that cultivation expenses amount

to half the value of the gross produce, the other half should be available for the State, the intermediary, and the cultivator. The U. P. Tenancy Act has fixed maximum rent as not to exceed one-fifth of the value of produce. The recent Bombay Tenancy Amendment Bill says "that the maximum rate of rent shall not exceed in the case of irrigated lands one-fourth of the crop share and, in the case of the other lands one-third of the crop share". The ancient Hindu law is that one-sixth of the gross produce, which may be estimated roughly as a third of the net income, should go to the State. If we permit the same provision for the intermediary, which is also the Kerala tradition, rent should not exceed one-sixth of the gross produce nor one-third of the net income from land. This quantum of rent should also assure a minimum wage for the cultivator. Tenant holders of small holdings will also get an additional relief as they will not have to pay rent to the intermediary to additionally cover the land revenue paid by him, in as much as we have proposed exemption from land revenue in respect of such holdings.

In order that Government may make up the loss in land revenue, they will have to increase it in the case of bigger holdings on a progressive scale and collect it as agricultural income tax.

In a country of ignorant peasants who have not the capacity to bargain with landholders on equal terms, the agency of a civil or revenue court with provision for appeals is hardly suited for fixing rents. Rent officers should fix the rent for lands. The court is a bugbear. The cultivator generally avoids summons for various reasons. It is costly for him to leave his occupation and attend a court. The court

should be replaced by rent officers.

Should the rent be paid in cash or kind? Kind rent will require no changing, as prices do not affect it. Provided standard measures are enforced, the tenant ought to be able to take care of his portion of the produce. When disputes arise there should be provision for arbitration by a village Panch and for appeal to the rent officer. Where a landholder and tenant agree to a cash rent, there should be provision for publication of prices by the civil courts in each taluq for different kinds of produce after the harvest, on the basis of which each rent should be calculated.

All services such as cess, rates, taxes, and service of any description from a tenant should be abolished. Thus alone the present system of forced labour and forced perquisites be wiped off (Sec. 14, Bombay Tenancy Act).

Government should also take power to fix immediately rents in areas where they are high and exacting (Sec. 15, Bombay Tenancy Act).

Even when rent is once fixed by a rent officer, certain problems of refixing rent will arise for various causes. The quality of the soil might have improved or depreciated for various causes. Or again, the increase in the produce might be due to the improvements effected by the tenants. It should be laid down in law that rents might be changed only when the quality of the soil has been affected by natural causes, and not for any other reason.

Again, there might be years of failure of crops. When the yield from land cannot even meet the cultivation expenses, there can be no payment of rent or revenue. In other words, revenue to Government or rent to the intermediary should be payable only when the yield

is at least 50% or more of the normal. Rent or revenue might be payable in proportion to the yield where it is more than 50%. The Rent Control Officer might decide the rent in disputed cases.

How are rents to be recovered? Distraint processes of movables should be simplified. The implements and materials of husbandry, animals kept for husbandry, and the produce and cattle fodder necessary for the maintenance of the cultivator and his cattle respectively till the next harvest are the minimum to be exempted in the application of coercive processes, if the cultivator is not to be hampered in any way in his occupation of agriculture. We may restrict this exemption to the smaller agriculturists, and not extend it to the bigger ones as they have sufficient resources to replace the articles that are distrained.

Restrictions on distraint of crops—Recovery by distraint of movables should not take an unduly long time. The U. P. Tenancy Act avoids the custody of the distrained movables by the landholder by making the tenant responsible to keep them till they are sold (sec. 155). Consequently police assistance to a landholder to take charge of movables which leads to bitterness and assaults in villages is not necessary under the U. P. Act. The fixing of responsibility on the tenant has another advantage, that he need not bear the costs of protection of distrained crops, and the feeding of the distrained cattle. The U. P. Act further provides for so fixing the date of sale as to fall on the dates when the crops mature, and they can be sold (sec. 160). It restricts the distraint on standing crops or products ungathered or gathered on the holding, deposited on a threshing floor, or the like. It prohibits distraint of crops or products that have

been stored. It prohibits distraint of any other property. The amount which can be distrained shall not exceed one-fourth of the crops or products (sec. 153). "No distraint shall be made of any produce of the whole or any portion of which a previous distraint has been made." (sec. 152,2c). These provisions may be suitably introduced in any Tenancy Act for rayatwari areas.

Restrictions on sale of holdings—Where rents could not be collected by attachment of a portion of the produce raised from the land whose rents are in arrears, the alternative of selling a portion of the land may be adopted. But distraint processes should be permitted only during the year in which the rent falls into arrears.

The Court should have the authority to determine the portion of land that should be sold to meet the arrears and costs of distraint. They should also determine the upset price for which the land should be sold. And if letting is to be prevented, court sales should only be to agriculturists. The landholder should consent to forego any arrear of rent due over the price realised in sales, but not exceeding the upset price fixed by the court (vide sec. 163 A, Bihar Tenancy Amendment Act, 1938). The court should also have power to distribute the rent on the sold and unsold portion of the holding.

Another question connected with sale of holdings is the manner in which the interests of mortgagees are to be protected. Rent is no doubt the first charge on land but, if subject to this charge, a mortgagee's interest can be protected, it will improve the credit position of the tenant. It will thereby enable him to borrow for his needs at a lower rate of interest than what he is able to do at

present. One safeguard provided in the Bihar Tenancy Amendment Act is :

"That, if there is any encumbrance on any portion of such holding, the Court shall not order such portion to be sold unless in the opinion of the court, the decree cannot be satisfied without the sale of such portion (sec. 162A, 2nd proviso)."

Another safeguard may be equally made that the surplus realised, if any, after paying the arrears of rent by a public sale of land, might be used to pay off previous encumbrances.

Execution of rent decrees—Rents might also be collected in disputed cases through courts. Here too the law should not allow collection of disputed rents which have accumulated for more than three years. The decreed rent should be collected within three years of the date of the decree. The procedure proposed for distraint should apply equally to rents collected through rent suits and decrees.

Cost of distraint or of sale of holding—One other question regarding recovery of rents by distraint or by sale of holding is that of the amount of cost that should be borne by the tenant. The scale of costs subject to a maximum should be fixed in law, as has been provided in the U. P. bill.

Collection of rents by the State—The best method of avoiding the interference of the landholder in the collection of arrears is the collection of rent by the State and its payment to the landholder. When once the State undertakes this function, the tenant should pay the rent only to the State. The rent will be recovered by Government as arrears of land revenue. A certain percentage will be deducted for collection charges. A register of rents due will be maintained (vide 40A, to 40 L,

Jenmi-Kudiyarn Regulations, Dec. 1932 of Travancore).

Exemption of homesteads from attachment.—We may consider here the question of exempting homesteads from sale in execution of decrees for arrears of rent.

Section 60 of the Civil Procedure Code exempts buildings and sites of agriculturists from attachment in execution of decrees. But this law has been so interpreted that it will not apply to those who have a transferable right in land. The Bihar Tenancy Amendment Act of 1938 has made the following provision regarding exemption of houses and sites which may be embodied in any Tenancy bill :

"A decree for arrears of rent against a raiyat or an under-raiyat shall not be executed by the sale of houses and other buildings with the materials and the sites thereof and the land immediately appertinent thereto and necessary for their enjoyment belonging to the raiyat or under-raiyat occupied by him; provided that any such house or building and the materials and the site thereof and the lands immediately appertinent thereto and necessary for their enjoyment may be sold in execution of a decree for arrears of rent due in respect of the site of such house or building (Sec. 177 A)."

The tenure of homesteads—Closely connected with the question of exemption of homesteads from attachment for arrears of rent is the larger question of the right of its ownership. When a homestead is in the holding itself, the question of its ownership does not arise as the land of the holding is the rayat's land.

But the incidents of tenure of a homestead of a rayat in the village site or in the site of a contiguous village should be defined. The right of a tenant

AGRARIAN LEGISLATION IN INDIA

to a house-site in the village Natham (site) is a right to a share in one of the communal lands in the village. This should be recognised as a common law right, and not left to be decided according to custom.

We have adverted at length to principles of tenancy legislation as this is a stage to be passed through until all intermediaries are abolished. We will have first (1) owners in ryotwari areas, (2) ryots under zamindars, and (4) tenants under 1 and 2. With the abolition of rentiers in ryotwari areas and zamindars in zamindari areas, we will have only one class of cultivating owners under the State. When once we give legal protection to tenants, it is but fair that the State should insist that lands below certain minimum should not be subdivided either by owners or by tenants in the interest of economic cultivation and the provision of an economic holding which can maintain a family and make cultivation economic. The Bombay Tenancy Act leaves it to the revenue officer to select the proper heir in case of dispute. The Hindu law will require revision in this respect preventing sub-division of land among all the heirs. Provision may no doubt be made for a share of the income from the holding in respect of co-heirs.

We have taken to the last certain fundamental questions of any agrarian legislation. Supposing a tenant is granted security of tenure, what resources has he to develop the land? Parcelling out of estates to pauper cultivators has always been a failure. Though tenancy and labour legislations have their own importance by themselves yet the maximum benefit cannot accrue unless we create an effective machinery to utilise fully the

small owner and the tenant cultivator, and their lands for raising maximum production. There should be planning of cultivation and live-stock breeding in such a way as to give maximum employment for the cultivators. Every aid to cultivation by way of seeds, implements and manures should be provided. Where costs can be reduced by joint-farming, cultivators should be induced to combine and cultivate. Where common ownership of instruments of production such as maintenance of cattle is more economic than individual ownership, it should be encouraged. Domestic supplies too should be made by the local organisation. There should be provision for marketing of any surplus produce. An institution which can render efficient and economic service to agriculture should be created in every village. The cultivator should be trained by short courses on agriculture and livestock breeding. I will not pin my faith to the co-operative society for success in these directions. A centralised body alone, comprising of men charged with this responsibility and directed by a personality will be able to regulate the village institution and appoint rural missionaries in each village for this task.

The individual cultivator might be left free to develop his own land subject to certain broad lines of crop-planning. Or the agricultural instruments might be owned commonly and hired by the cultivator. Water may be supplied with the aid of electric power and the charges distributed. Or all lands might be jointly cultivated. Or cultivators might combine only for making the finished produce or for marketing purposes. Individual or combined cultivation with varying degrees of combination should depend on

CHECKED
5003-01

THE RURAL INDIA FOR NOVEMBER AND DECEMBER 1946

the nature of the soil, and the kind of crop that is raised, the underlying principle being maximum production at minimum costs.

It is only when agriculture has been reorganised so as to achieve the maximum yield at minimum cost, and when a machinery has been set up to supplant the services of private agencies as money-lenders and traders, it will be fair on the part of the State to guarantee price for the produce. Otherwise a high price

will only pamper the rentier class or a money-lender may get a portion of this price by collecting a higher rate of interest. Or a merchant may take a greater margin for distribution. When the State is asked to levy an import duty on foreign rice or wheat so that internal production may not suffer, it has every right to insist on scientific modes of production and exercise of economics in cost by agriculturists.