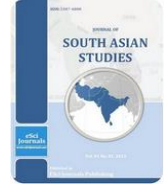




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LAND POLICIES FOR INCLUSIVE DEVELOPMENT: A REFORM AGENDA FOR INDIA'S MOST POPULOUS STATE

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ABSTRACT

The paper has demonstrated that agriculture in UP has been in deep crisis for long. Slow growth rates of agricultural output, increasing instability, stagnating productivity, declining profit margins, high incidence of poverty among marginal and small farmers are some of the symptoms of this crisis. The size of holding is gradually declining and an overwhelming majority of holdings have become marginal and economically non-viable. Due to the small land base and lack of local employment opportunities cultivators are moving out of agriculture and migrating in large numbers outside. The paper suggests an agenda of land reforms for Uttar Pradesh, the most populous state of India, where one-fifth of the farm population of the country lives. The land policies should serve the objectives of increasing access to land to the poor and accelerating agricultural growth. The situation calls for a break from the old mindset which aimed at banning tenancy and redistributing land through ceiling legislation. These policies failed to attain their objectives and proved to be against the interest of the landless and marginal farmers by restricting their access to land. What is called for is a fresh approach to land policies which are in consonance with the present times. The paper makes a strong plea for legalizing leasing of land, which is prohibited in the state, with appropriate safeguards for the landless and the marginal farmers. The state should also facilitate the purchase of land by the poor individually and in groups to take up group farming. Special attention needs to be paid to the vulnerable groups like women and forest dwellers. A successful program of land policies will depend upon modernization and digitization of land records and increasing access of the poor to capital to purchase land and invest in agriculture. While particularly focused on the state of UP the arguments put forward in the paper are relevant for other states as well.

Keywords: Agrarian crisis, Land Reforms in India, Land Leasing, Tenancy, Women and Land Rights, Uttar Pradesh, Land Market, Land Record.

The Growing Agrarian Crisis

Agriculture in Uttar Pradesh, as in other parts of India, has been in a state of crisis for quite some time. Slow growth rates of agricultural output, increasing instability, stagnating productivity, declining profit margins, high incidence of poverty among marginal and small farmers are some of the symptoms of this crisis. The slow pace of agricultural growth affects the overall pace of growth of UP and the wellbeing of over 20 million cultivators in the state. Table 1 shows agricultural growth in UP and India during the last decade. For most of the years, the agricultural growth rate was much lower UP as compared to India. Not

only the growth rate of agriculture has been slower it is marked by sharp year to year fluctuations. This is despite the fact that 80 percent of UP's cultivated land is irrigated, as with only 40 percent in the country.

A major factor in the deepening agrarian crisis in the state and in the country as a whole has been the continuous decline in the size of holdings and growing marginalization (Reddy and Mishra 2010). As per the latest NSS survey on land holdings covering the year 2012-13 as many as 83.5 percent of farm holdings in UP are marginal (below 1 hectare), while 8.36 percent are small (between 1 and 2 hectares). Area owned by marginal farmers was 20.2 percent in 1971-72 but jumped to 42.6 percent in 2013 and that owned by small farmers increased from 21.8 percent to 24.1 percent (Table 2).

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Table 1. Growth Rate of Net State Domestic Product Agriculture & Animal Husbandry Uttar Pradesh and India (at 2004-05 Constant Prices).

Year	% increase over previous year	
	UP	India
2005-06	2.09	4.60
2006-07	1.98	4.60
2007-08	2.99	5.50
2008-09	3.57	0.40
2009-10	-1.75	1.50
2010-11	3.79	8.30
2011-12	6.42	4.40
2012-13(P)	4.07	1.00
2013-14(Q)	1.12	4.00

Source: *Statistical Diary, Uttar Pradesh and Economic Survey 2013-14.*

Thus two-thirds of the land in UP is now under marginal and small holdings. Medium holdings account for 12.1 percent of landholdings and the large holdings for less than one percent. The growing proportion of marginal and small holdings and continuous decline in the average size of holding has brought about a qualitative change in the agricultural situation. It raises important questions both for sustained agricultural growth as well as the livelihood of farmers.

Table 2. Trends in Distribution of Land Holdings by Size in UP: 1971-2013.

Year	Marginal Holdings	Small Holdings	Semi-medium Holdings	Medium Holdings	Large Holdings	All Holdings
Percentage of Households						
1971-72	73.13	11.39	6.75	3.00	0.46	100.00
1982	81.85	10.89	4.95	2.16	0.16	100.00
1992	87.13	8.01	3.81	0.92	1.11	100.00
2003	81.00	12.30	4.80	1.60	0.10	100.00
2013	83.52	8.36	3.81	0.96	0.03	100.00
Percentage of Area Owned						
1971-72	20.23	21.84	25.21	22.97	9.75	100
1982	23.57	27.24	23.53	20.94	4.71	100
1992	33.28	26.24	24.15	12.15	4.18	100
2003	34.89	27.38	20.74	14.65	2.34	100
2013	42.61	24.07	20.37	12.16	0.78	100

Source: NSS Rounds on Household Ownership and Operational Holdings.

The small land base is not able to provide sustenance to the farm households. As per the latest report on *Farmers Situation in India 2014* (NSS 71 Round) a farm household earns only Rs. 4953 per month. Cultivation contributes only Rs. 2853 per month to household income and farming of animals Rs. 543 from farming of animals. Another Rs. 1527 come from non-agricultural sources mainly wages and non-farm business. According to the survey, an average cultivator household in UP remains a deficit household with a monthly consumption expenditure of Rs. 6230 against a monthly income of only Rs. 4953. Income from agriculture and animal husbandry is able to meet only a little over half of his consumption needs.

The low land base and lack of local non-farm employment opportunities have resulted in the large-

scale migration away from rural areas to urban areas in UP as well as other states of India. NSS Report 571 (NSS 2014: 18) shows that 77.1 percent of marginal holdings had at least one family member staying away from their village for employment. This proportion was 20.5 percent in case of small holdings but only 1.8 percent for semi-medium holdings, 0.7 percent for medium holdings and nil for large holdings. As per NSS estimates total agricultural workers in UP has declined from 438.90 lakh in 2004-05 to 402.20 lakh in 2009-10 and further to 358.48 lakh in 2011-12. Thus, as many as 80.42 lakh workers (i.e. almost one-fifth of agricultural workers) moved out of agriculture in the state. Their share in employment declined from 66.4 percent to 52.9 percent over the period.

Census data also show that the number of cultivators in

the state declined by 31 lakhs between 2001 and 2011 (Table 3). On the other hand, the number of agricultural labourers jumped by 65 lakhs. This suggests that more

and more marginal farmers are leaving agriculture and joining the ranks of agricultural labourers due to declining size of holdings.

Table 3. Agricultural Workers in UP (in Lakhs).

Categories	2001			2011		
	Main workers	Marginal workers	Total workers	Main workers	Marginal workers	Total workers
Cultivators	184.8 (46.98)	36.88 (25.18)	221.68 (41.06)	155.76 (34.9)	34.82 (16.44)	190.58 (28.96)
Agricultural Labourer	59.57 (15.14)	74.44 (50.83)	134.01 (24.82)	97.5 (21.84)	101.89 (48.11)	199.39 (30.3)
Total	244.37 (62.12)	111.32 (76.01)	355.69 (65.88)	253.26 (56.74)	136.71 (64.55)	389.97 (59.26)

Note: Figures in brackets show percentage to total workers.

Source: *Census of India*.

The shrinking size of holdings is making agriculture a non-viable occupation for the majority of farmers both from the viewpoint of agriculture and that of livelihood. Empirical studies have brought out the fact that small holdings are acting as a drag on agricultural growth. Richa Singh (2014) in a cross-section study of districts in Uttar Pradesh found that agricultural productivity at the district level is positively related with size of holding and negatively related with the proportion of holdings under marginal and small farms.

Post-Independence Land Reforms

The situation calls for a relook at the agrarian laws in the state which can meet the challenge of the present times. Before suggesting an agenda for land reforms we may briefly look at the impact of the post-Independence land reforms in the state, which focused on abolishing the intermediaries and giving ownership of land to the actual tillers.

The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1951, which was one of the most progressive measures of land reforms introduced in the country, abolished all intermediary rights in land and brought the actual tiller of the soil in direct contact with the state. It also prohibited tenancy except in some special cases. Though a large number of erstwhile tenants gained from the Act, a large number were ejected as the Act allowed land under '*khud kasht*' (self-cultivation) to be retained by the landlords (Singh and Mishra 1964). However, land ceiling reforms proved to be a failure in the state as in most of the other states of the country. The land ceiling legislation of 1960 put the land ceiling at a high

level and left many loopholes for evasion of the Act (Singh 1971). The proposal to introduce a bill to impose rural land ceiling was announced well in advance by the then state government, enabling the large land-owners to get their land in excess of the proposed ceiling transferred in fictitious (*'benami'*) transactions to family members and others to prevent the land from being declared surplus. Whatever land was declared as surplus was in most cases bogged down in legal disputes and only a small part of it could be acquired and actually transferred to beneficiaries (Vachhani et al 2009). In many cases, the land allottees were unable to take possession of the land and possession remained with the original owner (Dube, 2014; Trivedi, 2014). The transferred land was generally of the worst quality, so the poor beneficiary, with little or no credit or other input support coming from the state, was unable to utilize it (Vachhani et al 2009).

The new Ceiling Act of 1972 reduced the ceilings and removed some of the exemptions but it also met a similar fate due to landlord, bureaucrat and politician nexus (Singh 1989; Singh et al 1992). Though the beneficiaries of land distribution had a positive impact on the land allottees, it was not able to lift them above the poverty level due to the small size of holdings and poor quality of land distributed (Vachhani et al 2009). The failure of the land ceiling programme in Uttar Pradesh is revealed by the fact that till September 1991, thirty years after the enactment of the first Land Ceiling Act, only 3,34,189 acres could be declared surplus out of the expected surplus land of 8,00,985 acres. Possession

could be taken off only 3,03,272 acres (out of which 39,596 acres or 13 percent of the area were found unfit for cultivation) and only 2,19,668 acres of land has been distributed to 2,39,850 landless labourers in the state. Even by 31st March 2008, only 2,44,524 hectare of land was distributed to 2.89 lakh beneficiaries. This amounts to hardly 1.36 percent of the operational area of 179.8 lakh hectare in the state. Thus, land distribution programme failed to bring about any significant change in the land distribution pattern in the state and could benefit a very small proportion of the landless.

Though sometimes voices for further reduction of ceilings are raised, in the present circumstances redistribution of land through lowering of land ceiling does not seem to be politically feasible or even economically desirable proposition. For one thing, there is not enough land available for redistribution as less than one percent area is now owned by large farmers (with holdings of more than 10 hectares). Against this land, hunger is acute given the very large number of agricultural labourers and marginal farmers nearly 20 million each. In fact, there is an urgent need for shifting workers out of agriculture.

However, as we will argue in this paper, there are a series of policy measures that are within the realm of the 'doable' and feasible, provided a committed government in UP was willing to put its mind to the task. The aim of the policy should be to increase the access of the poor (the landless and the marginal farmers) through non-confiscatory land transfers by liberalizing lease and land markets. The following should form part of a pro-poor land reforms agenda for UP:

- ✓ Implement Existing Ceiling Acts Effectively
- ✓ Legalise tenancy
- ✓ Facilitate purchase of land by the poor
- ✓ Establish land banks at the village level
- ✓ Encourage SHGs of women and the landless to lease/buy land
- ✓ Ensure rights of the forest dwellers
- ✓ Liberalize the land market
- ✓ Computerize land records and land entitlements expeditiously.

The case for each of these land reforms is discussed below.

Effective Implementation of the Existing Ceiling Acts

Though a drastic reduction in land ceilings and redistribution to landless and marginal farmers do not appear to be a politically acceptable policy and may also be disputed on grounds of efficiency, there are many

steps which are possible even in the given situation.

First, in cases where the land has been distributed but the beneficiary has been dispossessed or does not have a title to the land such cases should be surveyed and the land restored.

Second, religious establishments existing since the 1950s should be allowed only one unit of 15 acres (Ministry of Rural Development, 2009).

Thirdly, redistributive land reform should include distribution of waste-land to landless households. There are sizeable areas of wasteland under control of the government which can be brought under cultivation or tree farming with some investment. By using MNREGA and the central government funds for watershed development such culturable wastelands can be regenerated by means of actions to promote soil and water conservation, thus enabling group farming to take place by the landless or marginal farmers on such lands. The state government should reclaim such wastelands and distribute them to a group of agricultural labourers or women SHGs. However, the policy of redistribution of *Gram Samaj* land to the poor which the government has been following should not continue as it has reduced drastically the village common lands with adverse environmental and equity impact. Permanent pasture and other grazing lands is a common property resource that needs to be preserved for the benefit of the community. Hence, the policy of allocating government or *gram sabha* land to landless persons should be discontinued, when the land in question is common grazing land.

Fourthly, redistributive land reform in its new phase must provide for a homestead for the 8 million of the landless rural households in the country who do not even have land to build their own homes. At least one-sixth of this number are living in UP. The Eleventh Plan had proposed that all such families should be allotted 10-15 cents land to build a home, which would enable them to grow some vegetables on the plot (Planning Commission, 2008). This agenda remains incomplete and has to be taken up seriously.

Legalizing Tenancy

Legalization of tenancy and opening up of the land market has been debated for quite some time as an important measure to increase access of the poor to land. There are four categories of Indian states depending on the nature of legal restrictions on tenancy (see Appu 1996; Haque 2012):

- a. States where leasing out agricultural land is legally

- prohibited without exception (Kerala and Jammu & Kashmir);
- b. States where leasing out of agricultural land is prohibited by law except by certain category of landowners i.e., disabled, minors, widows, defence personnel (UP, Bihar, Jharkhand, MP, Chhatisgarh, Uttarakhand, Orissa, Telangana area of Andhra Pradesh, Karnataka);
- c. States where leasing out of agricultural land is permitted, but the tenant acquires right to purchase the tenanted land after a specific period of creation of tenancy (Punjab, Haryana, Gujarat, Maharashtra, Assam);
- d. States where there are no restrictions on leasing out land (Andhra area of Andhra Pradesh, Rajasthan, Tamil Nadu, West Bengal).

In spite of the legal restrictions on land leasing, it is fairly widespread across the states as the periodic NSS surveys on land ownership and operational holdings show. Over time, however, we find that there has been a steady decline in tenant holdings and leased in the area in UP as well as in India (Table 4). The proportion of tenant holdings was 25 percent in UP and 24.7 percent in India in 1971-72, which has steadily come down to 10.6 percent and 13.7 percent respectively in 2012-13. The share of leasing in the area to the operational area has declined over this period from 13.9 percent to 7.6 percent in UP and from 10.6 percent to 10.2 percent in India. It also needs to be noted that there has been a clear increase in tenancy during the last decade at all India level, in contrast to the declining trend observed in the earlier decades.

Table 4. Trends in Tenancy in UP and India.

UP/India	1971-72	1981-82	1991-92	2002-03	2012-13
Percent of Tenant Holdings					
U.P.	25.0	20.5	15.5	11.7	10.6
India	24.7	15.2	11.0	9.9	13.7
Percentage Share of Leased in Area					
U.P.	13.9	10.2	10.5	9.5	7.6
India	10.6	7.2	8.3	6.5	10.2

Source: NSS reports on land ownership and operational holdings.

It is generally believed that NSS does not capture the full extent of tenancy as the respondents are not willing to report tenancy in view of the legal restrictions (Shankar 1980). Saha (2014) in this case study of a village in Bijnor district of UP found that almost 69 percent of household accessed land through leasing. Clearly, land leasing is being adopted by all categories of farmers to augment their income.

Tenancy Situation in UP

Before making a case for liberalization of lease market in UP, we may note some features of tenancy situation in UP. Leasing-in and leasing-out are common in all size categories. In 2012-13, 28.8 percent of holdings in case of landless were tenant holdings (Table 5). This proportion varied between 10 and 15 percent in case of marginal, small and semi-medium holdings, but dropped down to 3.5 percent in case of medium holdings. However, 70 percent of large holders lease in land accounting for about one-fourth of their operational area.

The difference in owned land and operated land indicates the extent of net-leasing. A lower proportion of operational area as compared to owned area shows net leasing out, while a higher proportion of operational area in relation to owned indicates net leasing in. Table 6 shows net leasing by different category of farmers in UP. The marginal farmers were leasing out nearly one-fourth of their land during the seventies and the eighties. However, this proportion has significantly declined since 1991-92. Small and semi-medium farmers were net lessees for most of the period, but the extent of leasing in has declined in their case. The medium farmers were net lessees till 1991-92 but are net lessors in 2002-03 and 2012-13. On the other hand, the large holders were net lessors in 1971-72, but are now leasing in land in substantial degree. These trends suggest that self-cultivation has become more profitable since 1991-92 as compared to leasing out the land. This explains the decline in the incidence of tenancy over the period.

Table 5. Incidence of Tenancy by Category Of Operational Holdings, 2012-13.

UP/India	Landless	Marginal Holdings	Small Holdings	Semi Medium Holdings	Medium Holdings	Large Holdings	All Holdings
Percentage of tenant holdings by category of operational holdings							
UP	28.8	10.1	13.3	14.6	3.5	70	10.6
India	2.6	13.2	13.6	18	14.8	21.8	13.7
Percentage of area leased-in by category of operational holdings							
2012 (July-December)							
UP	10.0	8.06	9.59	6.03	1.67	25.39	7.63
India	1.67	10.73	9.85	10.01	9.52	12.25	10.22
2013 (January-June)							
UP	6.67	8.33	9.39	8.2	2	27.71	8.25
India	1.37	11.3	11.25	13.14	8.64	12.59	11.3

Source: NSS Report 571.

Table 6. Net Leasing in and Leasing Out Area as Percent of Owned Area in UP, 2012-13.

Year	Marginal Farmers	Small Farmers	Semi-medium Farmers	Medium Farmers	Large Farmers
1971-72	-22.9	15.8	18.2	1.4	-38.5
1981-82	-23.2	-12.6	19.0	12.7	38.0
1991-92	-24.9	0.2	8.9	49.8	2.9
2002-03	2.3	6.6	-4.5	-14.7	19.7
2012-03	-4.0	-1.3	5.0	-2.1	161.5

Source: Calculated from NSS Report 571.

Tenancy also has a distinct caste dimension (Sharma 2007; Saha 2014). All social groups are leasing out as well as leasing in the land (Table 7). OBC is the dominant player in the lease market in UP, accounting for 46.9 percent of those leasing out and 62.5 percent of those leasing in. The other castes account for 46 percent of the leased out area but only 19.9 percent of leased in the

area. In case of the ST and SC, the proportion of farmers leasing in the land is higher than those leasing out. Thus, leasing improves the access of land to the weaker sections. This conclusion is further buttressed by the data in Table 8 which shows that ST, SC and OBC households are net lessees while other castes are net lessors of land.

Table 7. Leasing in and Leasing Out by Social Categories in UP, 2012-13.

Households/ Area	ST	SC	OBC	others	All
	Leasing out of land				
Households (00)	56	1508	4487	3512	9563
% of Households	0.59	15.77	46.92	36.72	100.00
Area (ha)	1365	43361	226524	231201	502450
% of Area	0.27	8.63	45.08	46.01	100.00
Leasing in of land					
Households (00)	239	5136	15142	3726	24242
% of Households	0.99	21.19	62.46	15.37	100.00
Area (ha)	5489	142417	581833	181730	911468
% of Area	0.60	15.63	63.83	19.94	100.00

Source: NSS Report 571.

Table 8. Area of Land By Kind Of Possession For Each Social Group (in ha), 2012-13.

Social Groups	Owned & Possessed	leased in	otherwise possessed	leased out	Total possessed	Net Leased in	% of Total possessed
ST	58450	5489	2077	1365	66016	4124	6.25
SC	1202831	142417	287	43361	1345536	99056	7.36
OBC	6131617	581833	17381	226524	6730831	355309	5.28
others	3718458	181730	12904	231201	3913092	-49471	-1.26
All	11111358	911468	32650	502450	12055475	409018	3.39

Source: NSS Report 571.

Table 9 shows the distribution of leased area by terms of the lease. About one-third of the leased area is under share of produce. Generally, the landowners share in the

cost of inputs and take half of the produce. About one fifth leased in the area is under fixed produce and nearly same in fixed money.

Table 9. Percent Distribution of Leased-in Area by Terms of Lease.

Period	Fixed Money	Fixed Produce	Share of Produce	Other	All
UP					
Jul'12-Dec'12	22	18	36	24	100
Jan'13-Jun 13	16	21	32	31	100
India					
Jul'12-Dec'12	26	10	41	22	100
Jan'13-Jun 13	28	12	38	22	100

Source: NSS Report 571.

Terms of lease are influenced by the relative bargaining power of the lessees and the lessors. Saha (2014) in his field study found that households seasonally leasing in land belonged to the lowest classes, namely small peasant and manual labour, while Other Caste Hindu households (landlord, a rich peasant, and upper middle peasant households) in the village leased in land only on annual fixed rent contracts.

Impact of Tenancy Reform

Tenancy has been regarded traditionally as an inefficient and exploitative form of land tenure. Soon after independence state governments passed legislation to either totally prohibit or restrict and regulate tenancy. These measures did benefit a large number of tenants who were able to acquire land rights on the lands cultivated by them. However, a large number of tenants were displaced and forced to join the ranks of the agricultural labourers. At the same time prohibition on tenancy tended to restrict the access of the poor (agricultural labourers and marginal farmers) to land through rental markets. It led to concealment of tenancy and made the condition of the tenants vulnerable in the absence of legal protection. Tenancy contracts by such

landless or marginal/small farmers with their landlords are oral since they are in violation of law; the tenants' position is precarious and he may have little incentive to cultivate land efficiently. On the other hand, the ban on tenancy encourages both larger and smaller landowners to keep land fallow.

There is a general consensus among scholars that the tenancy reform failed to attain the desired result. Appu in his review of tenancy reforms in India observes; "Four decades of tenancy reform has not resulted in the attainment of the objectives set out in the Five-Year Plans. The incidence of tenancy is still substantial in some regions. Banning of tenancies and imposing restrictions on leasing out has only led to tenancies being pushed underground. As long as a class of landowners who shun physical labour and a vast army of landless agricultural labourers and marginal peasants coexist, any legal ban on tenancy will remain a dead letter. As tenancy is contracted secretly in violation of the law, the tenant's position always remains precarious and consequently, the tenant has no incentive to cultivate the land efficiently. And in several regions, landowners keep the land fallow or raise only one crop when two could be raised. They do not

lease out the land for fear of losing their rights if they let it out illegally." (Appu 1996).

The National Commission on Agriculture 1972 was also of the view that "... tenancy cannot be totally banned under the present man-land ratio until such time as socio-economic development brings about a radical change in man-land ratio, the tenancy will have to be permitted only in a restricted and strictly regulated form." (Govt. in India, 1976).

Besley et al (2011) on the basis of field studies for south Indian villages spanning a thirty year period find tenancy reform did produce significant and highly persistent shifts in land distribution. However, the benefits of reform were lopsided and favoured relatively wealthier tenants, while SC/ST households saw a decrease in land holdings and generally became more reliant on agricultural labour. They also report a substantial increase in agricultural wages, due to an increase in demand for hired labour from large landholders no longer relying on tenants. They conclude that while the welfare impacts of tenancy reforms are substantial and long-lasting, their impact is heterogeneous between types of cultivators. They have argued that stricter regulations reduced the rents landowners could extract from tenants and thus increased land sales to relatively richer and more productive middle caste tenants resulting in aggregate productivity gains. At the same time, tenancy regulations reduced landowner willingness to rent, adversely impacting low caste households who lacked access to credit markets. These groups experience greater landlessness and are more likely to work as agricultural labour (Besley et al. 2011).

The Case for Liberalizing Tenancy

Over the years a broader consensus has emerged among scholars that land rental markets can play a substantial role in increasing land access for the poor (Appu 1996; Hansdat 2005; Haque 2013; Besley et al 2011; Deininger et al 2012). The official view has also shifted in recent years in favour of liberalization of tenancy. The Government of India came out with a policy document on tenancy reforms in 1999 (Govt. of India 1999). The Tenth Five Year Plan (Planning Commission 2002) for the first time acknowledged that tenancy reforms did not help in attaining the desired objective and advocated a shift in tenancy policy. To quote:

"The prohibition of tenancy has not really ended the practice. This, in turn, also depresses employment

opportunities for the landless agricultural labourers. The ban on tenancy, which was meant to protect tenants, has only ended up hurting the economic interests of the tenants as they are not even recognized as tenants. As a result, they are denied the benefits of laws that provide security of tenure and regulate rent." (Planning Commission 2002).

The eleventh Plan also supported the view that tenancy should be legalised in a limited manner. The policy was reiterated by the Twelfth Plan which observed that:

"An important step that would help small and marginal farmers is to reform the tenancy laws. These were originally meant to help small and marginal farmers but now operate against them. Even limited legalisation of agricultural tenancy and freeing the land lease market with a proper record of ownership and tenancy status will help such farmers. Some small farmers may lease out land to shift to other occupations, provided they were assured that they could resume the land if they wished. Some large farms may lease on the land and even employ the small owner on his own farm to grow specific crops under supervision.... Many large and absentee owners are leaving land under-cultivated which could be leased out if they were assured of retaining ownership." (Planning Commission 2012).

The Draft National Agricultural Policy 2013 (Government of India 2013) also advocates that "Restrictions on land leasing within ceiling limits should be removed to help improve poor people's access to land through lease market and also for improved utilization of available land, labour and capital. However, there should be legal safeguards in the lease contracts that would protect the small and marginal farmers, and a clear recording of all leases, including sharecropping." (Government of India 2013).

Recently The Expert Committee on Land Leasing appointed by the NITI AYOOG has strongly supported the case for legalizing land leasing (NITI AYOOG 2016). The Expert Group has expressed the view that "There is a strong case for legalizing and liberalizing land leasing as it will help promote agricultural efficiency, equity, occupational diversification and rural transformation. In the past few decades, even socialist countries such as the People's Republic of China and Vietnam have liberalized agricultural land leasing with significant positive impact on economic growth as well as equity (NITI AYOOG 2016). The Expert Group has also prepared a Draft Model Land Leasing Act.

However, no action on these suggestions was taken by the majority of state governments. The policy makers lack a pressing reason for reconsidering the tenancy issue in the absence of any public demand in its favour. Their thinking remains bogged down in the old mindset, which assumes that the restrictions on tenancy protect the poor. Consequently, they fail to realize that liberalization of tenancy restrictions has a potential of benefiting the poor by increasing their access to land (Hansdat et. al 2008).

In our view legalising tenancy would have several benefits. First, it would increase access to land to the landless and the marginal and small farmers and make agricultural holding more viable. Secondly, if the tenancy is permitted for a long enough period (while protecting the rights of the landowners) it would encourage investment in the leased-in land, thus promoting agricultural productivity. Thirdly, legalising tenancy would reduce the land lying fallow, since that land would be leased out raising output and incomes for both. Fourthly, leasing would help in overcoming the problem of fragmented holdings without formal consolidation, which has been a highly corruption ridden process everywhere. This is so because a farmer with scattered holding can lease it out to those whose farms are near the small and scattered parcels of land. Fifthly, legalising tenancy would enable some of the marginal and small farmers to lease-out their land and seek better employment opportunities in non-agricultural activities. This process will accelerate the pace of transition to non-agricultural employment and reduce pressure on land. As Khusro said long back that permission to lease out one's land is an important aspect of the mobility of labour (Khusro 1973).

Leasing of land is expected to increase investment in agriculture and will help in increasing agricultural output through a reduction in fallow land and raise productivity through intensification of agriculture. In fact, field studies have shown that the input cost and the yield levels on lease in the land are not less than on owned land (Haque 2011; Fahimuddin 2014). Thus, liberalizing lease market is justified both in terms of equity and efficiency (Deininger et al 2012).

The major argument against legalizing tenancy is the fear that it will encourage reverse leasing, that is leasing in by the medium and large farmers from marginal and small farmers and it will deprive the marginal and small farmers of the one source of security. In our view, these

fears are somewhat exaggerated and unfounded. As we have demonstrated above the majority of players in the land lease markets are the marginal and small farmers, who lease out as well as a lease in the land. Already in many states, there is no ban on leasing out of the land. The free lease market in these states has not lead to a large-scale shift in the area in favour of the large farmers. In none of the major states, more than 6 percent of households have reported leasing out of the land (Table 10). Moreover, there is no significant difference in the proportion of households leasing out land in the states which have no restrictions on leasing (West Bengal, Haryana, Punjab, Andhra Pradesh, Rajasthan) as compared to the states where leasing is prohibited (UP, Bihar, Jharkhand, MP, Chhatisgarh, Odisha, Telangana Karnataka). On the other hand, in many of the states allowing leasing out the proportion of farmers leasing land is higher, suggesting that liberalization of lease market helps a large number of poor farmers to access land. The Gini ratio in case of operational holdings is found to be lower than the Gini ratio in case of ownership in all the major states holdings indicating that lease market improves access of land by the poor (Bhawmik 2012: 209),

We are not advocating freeing of lease markets without any restriction. Several steps can be taken to safeguard the interest of the marginal and small farmers while opening the lease market as advocated by a number of scholars (Hanstad 2008; Fahimuddin 2014, Government of India 2013). Firstly, the corporate sector should not be permitted to lease in the land. Secondly, the operational holdings should not be allowed to exceed the land ceiling limit including leased in the land. Thirdly, tenancy agreements should be in writing stipulating the rent amount, the length, and other important terms of the lease. A three to five-year minimum period of the lease should be enforced with provision for renewal with mutual consent. Fourth, the state should not try to fix the rent to be paid and leave it to the market forces. Fifth, the state should clearly announce that ownership rights of landowners will not be taken away and the new tenants will not be given any long-term or hereditary rights to land. This will incentivize landowners to give land on lease. Finally, the tenants should be legally entitled to get facilities like bank credit, fertilizer subsidy, crop insurance, etc. as has been provided under the Andhra Pradesh Recorded Tenancy Act (Haque 2013).

Table 10. State-wise Incidence of Tenancy.

State	% of Households Leasing Outland	% of Households Leasing in Land	Average Area Leased in (ha.)	As % of owned area
Andhra Pradesh	4.64	37.21	0.779	59.03
Assam	1.78	7.04	0.397	4.50
Bihar	3.11	18.72	0.395	30.71
Chhattisgarh	3.46	13.66	0.537	9.30
Gujarat	2.10	6.15	0.833	6.38
Haryana	5.48	12.94	0.963	16.38
Himachal Pradesh	4.91	21.17	0.102	5.47
Jammu & Kashmir	0.52	3.03	0.034	0.24
Jharkhand	2.64	5.90	0.178	2.18
Karnataka	6.02	8.64	0.687	6.99
Kerala	2.01	14.29	0.148	10.26
Madhya Pradesh	2.14	5.61	1.081	5.41
Maharashtra	0.90	8.41	0.383	3.60
Odisha	4.82	19.28	0.403	20.47
Punjab	5.25	15.77	1.157	29.10
Rajasthan	5.22	7.56	1.242	6.36
Tamil Nadu	1.91	13.16	0.400	15.03
Telangana	1.20	16.45	0.793	18.59
Uttar Pradesh	3.90	10.64	0.394	8.61
West Bengal	3.57	17.80	0.167	17.29
All India	3.26	13.65	0.501	11.62

Source: NSS Report 571.

Various field studies have also indicated that a substantial number of farmers across the country are in favour of legalizing tenancy. Haque in his study of states covering Kerala, Andhra Pradesh, UP and Bihar reports that a substantial proportion of farmers said that if the tenancy is legalized they will offer land on lease and seek other employment (Haque 2013). Similarly, Fahimuddin (2014) in his field survey of several districts in UP also found that more than 75 percent of the tenants reported that tenancy should be legalized.

Creation of a Public Land Bank

The idea of establishing a public land bank for increasing access of the poor to land has been mooted in recent past (Sinha 2012). *The Twelfth Plan Working Group on Disadvantaged Farmers Including Women* (Planning Commission 2011) also recommended the creation of a public land bank to offset the problems faced by small and marginal farmers. According to the Working Group report "This bank would accept 'deposits' of land parcels from landowners wishing to lease out their land, with

the deposit being for one season, one year or three years and more at a time. On deposit, the farmer would get a small payment as incentive, even for fallow land; second, they would receive a rent for land that gets leased out; third, they could be offered development of the leased out land in terms of soil conservation under MNREGA works; and finally, receive a government guarantee that owners can withdraw the land from the bank after giving notice." (Planning Commission 2011).

The draft Land Policy of the Government of India 2013 also calls forth to encourage "Land Banks and its various models, which help in making available land to the Scheduled Castes/Scheduled Tribes (SCs/STs)". (Government of India 2013). The draft policy suggests that "The Land Bank may operate the market route to acquisition of land as has been in the case of the IPK in Andhra Pradesh, the lands being inalienable." (Planning Commission 2011). The document recommends that "A Land Bank comprising the SHGs of landless workers may be constituted on a pilot project basis and if found

appropriate can be extended to the rest of the country." (Planning Commission 2011). We recommend that the UP government should launch a similar scheme on a pilot basis.

Redistribution through Purchase of Land

Another option to increase access to land to the poor is by activating the land purchase market and supporting the landless and land-poor to themselves purchase land, preferably in groups (Shankar 2014). Such land purchase programs have been implemented in several countries across the world as Brazil, Colombia, Guatemala, Honduras, Philippines, and South Africa. Proponents of the land purchase approach emphasize that it is more cost-effective and efficient than traditional expropriatory land reform (Deininger and May 2000).

In India, also several states have been following the policy of facilitating access to land through subsidized land purchase for enhancing livelihoods on a small scale in India for more than two decades. The Scheduled Castes and Scheduled Tribes Development Corporations in various states like Andhra Pradesh and Karnataka. The State Bank of India and the National Bank of Agriculture and Rural Development have all adopted small land purchase programs. The World Bank has begun working with state governments in Andhra Pradesh and Madhya Pradesh to expand access to land through land purchase projects linked to already existing self-help/micro-credit groups.

There are several advantages to group farming by small/marginal farmers facilitated by the state government (Agarwal 2012). As individual farmers, small and marginal farmers are disempowered. But as a group, they can pool land, engage in joint crop planning, invest in lumpy inputs like irrigation, buy recurrent inputs jointly at better prices, and engage with corporates to undertake contract farming which is currently occurring only with medium/large farmers. Besides, their lands could be developed through joint activity using MNREGs funds.

The Twelfth Plan Working Group on Disadvantaged Farmers Including Women (Planning Commission 2011) recommended that a loan cum grant scheme (50% as grant and 50% as a loan) may be introduced to enable the landless or near landless women and men to purchase land collectively. The Working Group, however, advised that the government should not purchase land directly for redistribution as it will hike

up land prices. The government's role should be limited to implementing policy reforms needed to increase the supply of land to the market; delimiting areas deemed to be inappropriate for farming; drawing up criteria for selecting beneficiaries; subsidizing land purchase (through grants and/or loans) and training for beneficiaries and funding complementary infrastructure; and monitoring and evaluating the land reform process.

Group farming by women SHGs can be an important instrument for empowering women as the experience of states like Kerala and Andhra Pradesh shows. Under the Kudumbashree programme in Kerala land leasing by SHGs of women for the group, farming is being encouraged. SHGs undertaking group farming can be registered as Joint Labour Groups – a NABARD scheme – and given financial and technical support. The state government provides support for land preparation and reclamation (linking it with MGNREGS in some districts), and subsidized seeds, manure, electricity for farming machines. Similarly, Andhra Pradesh has demonstrated that group farming by women can be a successful enterprise. The AP Mahila Samatha Society is working with about 175 women's groups across five districts of Andhra Pradesh, involving over 4000 women farmers, mostly small and marginal farmers and landless labourers. Field studies show that these groups have earned substantial amounts and help improve the economic condition of members (Haque 2013; Vakati et al 2012). UP Government should also adopt such programs by promoting group farming by women SHGs on lease in the land.

Ensuring Land Rights to Women

There are historic gender-based inequities in land relations, but only some states have taken action to enable land rights for women to be realized. States like Karnataka, Tamil Nadu and Andhra Pradesh have amended the Hindu Succession Act to facilitate succession by women. The Hindu Succession Amendment Act 2005 gives equal right to daughters to succession. The Act should be strictly implemented in UP as well. As recommended by *the Committee on State Agrarian Relations and the Unfinished Tasks in Land Reforms* (Ministry of Rural Development, 2009) there should be a mandatory joint entitlement for women and men and ownership rights through central initiatives. The Committee has also recommended that "The new Land Acquisition Act should require that all females above the age of 18 should be recipient of the

government notice to acquire land, and unmarried daughters/sisters, physically challenged women, female orphans, widows and women divorcees should be treated as separate families in the rehabilitation and resettlement section of the Act (Singh and Mehrotra ed. 2012). The UP Government should supplement the legal changes to the Hindu Succession Act suggested above. As suggested above the state government should promote group farming by women SHGs on own or leased in the land.

Recognition of Rights in Forest Land

An important issue in inclusive land reforms is that of the of forest dwellers. The UP Private Forest Act was enacted in 1948 just before the Indian Constitution came into existence and before the enactment of Zamindari Abolition Act in 1950 (Singh and Mehrotra ed. 2012). The revenue land that was not acquired under UP Zamindari Abolition Act was vested with the Forest Department. However, the notification of the Zamindari Abolition Act was delayed for many years in areas like Sonbhadra district of UP. Meanwhile, the revenue lands were appropriated by the landlords and the forest land was appropriated by the forest department. The forest department extinguished all rights enjoyed by the people in such forest land after independence. In many cases, both forest and revenue departments claim the same land in their records and have been showing separate actions in their respective land records relating to the same land for the last 50 years. Such disputes are common in the UP districts of Chitrakoot, Sonbhadra, Mirzapur, Chandauli, Lakhimpur Kheri and Bahraich (Chowdhury and Roma 2014). We suggest that the UP Government should take urgent steps to investigate the status of land and its re-distribution among forest dwellers in this region as per the provisions of the new Forest Rights Act 2006.

Liberalizing the Land Market

Apart from the restrictions on leasing out of the land, there are various legal restrictions on the sale and purchase of land imposed by the state governments. For instance, the land owned by a scheduled caste person cannot be sold to a non-scheduled caste person. Similarly, tribal land cannot be sold to a non-tribal person. There are also restrictions in some states on the purchase of land by persons of other states. These restrictions were imposed in order to protect the weaker sections from the dispossession of land owned by them. However, in practice, these restrictions have failed to

attain their objective and promoted *benami* transactions. The government itself has been the biggest culprit acquiring large areas for public purpose thereby dispossessing all categories of landowners. The net result of these restrictions has been to make the land market dormant. It has also tied landowners to the tiny pieces of land and restricted their mobility to seek better employment elsewhere. High stamp duties have further dampened the land market and created avenues for black money. In addition, there are restrictions on the conversion of agricultural land to non-agricultural uses. These restrictions on the land market prevent their most economical and efficient use thereby preventing the poor to benefit from the potential gain. It also restricts opportunities for private investment in the area. It is high time that the restrictions on the land market are removed. To protect the interests of the poor it would be necessary to establish some mechanism of social audit in the process and keep the land sales transparent so that coercive methods are not used by the rich to purchase land.

Land Record Management, Registration and Titling

One of the important pre-requisite to a smoothly functioning land lease market is clear land records and titling. Proper land record management provides the institutional framework to facilitate both legal tenancy and land sales. Such transfers can enhance efficiency by transferring land from those farmers unable to cultivate to other farmers and by facilitating the use of land as collateral in the credit market.

The Ministry of Rural Development (Land Resources Department) has taken a major initiative to strengthen revenue administration, updating land records and their computerization and the digitization of maps with 100 percent financial assistance from the Centre. UP, unlike states of Karnataka and Goa, has been very slow in implementing the land record modernization programme. The process of digitization of land records in the state should be completed expeditiously and the manual issue of land titles should be stopped as has been done in Karnataka.

Concluding Remarks

The paper has demonstrated that agriculture in UP has been in deep crisis for long. The size of holding is gradually declining and an overwhelming majority of holdings have become marginal and economically non-viable. Due to the small land base and lack of local employment opportunities cultivators are moving out of

agriculture and migrating in large numbers outside. The paper suggests an agenda of land reforms for the most populous state of India, where one-fifth of the farm population of the country lives. The land policies should serve the objectives of increasing access to land to the poor and accelerating agricultural growth. The situation calls for a break from the old mindset which aimed at banning tenancy and redistributing land through ceiling legislation. These policies failed to attain their objectives and proved to be against the interest of the landless and marginal farmers by restricting their access to land. What is called for is a fresh approach to land policies which are in consonance with the present times. The paper makes a strong plea for legalizing leasing of land, which is prohibited in the state, with appropriate safeguards for the landless and the marginal farmers. The state should also facilitate the purchase of land by the poor individually and in groups to take up group farming. Special attention needs to be paid to the vulnerable groups like women and forest dwellers. A successful programme of land policies will depend upon modernization and digitization of land records and increasing access of the poor to capital to purchase land and invest in agriculture.

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