CHAPTER - 2

AGRARIAN REFORMS

Jammu and Kashmir State came into existence on the 16th of March 1846 through the Treaty of Amritsar\(^1\) which was an offshoot of the Treaty of Lahore signed between British East India Company and Maharaja Gulab Singh\(^2\). Disparate territories Viz. Jammu, Kashmir, Ladakh, Hunza, Nagar and Gilgit stripped by the company from the Sikh kingdom of Punjab were cobbled together to bring into being this state\(^3\). Through the Treaty of Lahore, the Maharaja of Punjab agreed to recognise the independent sovereignty of Raja Gulab Singh, in such territories and districts in the hills as may be made over to the said Raja Gulab Singh, by separate agreement between him and the British Government. In accordance with the provisions of the Treaty of Lahore, a separate Agreement in the form of a treaty was signed between the representatives of the English East India Company and Maharaja Gulab Singh on 16th March, a day after the Raja was bestowed with the title of Maharaja, the emblem of sovereignty\(^4\). By the Treaty Gulab Singh received the legal title over the territories but not their possession– which the Company itself did not

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\(^1\) To quote Article 1 of the Treaty, ‘the British government transfers and makes over forever, in independent possession, to Maharaja Gulab Singh and his heirs male of his body, all the hilly or mountainous country with its dependencies situated to the east ward of the river Indus and Westward of the river Ravi, including Chamba and excluding Lahol, being part of the territories ceded to the British Government by the Lahore state according to the provisions of Article IV of the treaty of Lahore dated 9th March, 1846 A. D. For full text of the treaty, See, Balraj Puri, Triumph and Tragedy of Indian Federalisation, Appendix ‘A’ (New Delhi: Sterling Publishers Pvt. Ltd., 1981.)

\(^2\) Article 12 of the Treaty of Lahore reads, ‘In consideration of the services rendered by Raja Golab Singh, of Jammoo, to the Lahore state, towards procuring the restoration of the relations of amity between the Lahore and the British Governments the Maharaja hereby agrees to recognize the independent sovereignty of Raja Golab Singh in such territories and districts in the hills as may be made over to the said Raja Golab Singh, by separate Agreement between himself and the British Government, with the dependencies thereof, which may have been in Rajah’s possession since the time of the late Maharajah Khurrack Singh, and the British Government, in consideration of the good conduct of Raja Golab Singh also agrees to recognize his independence in such territories, and to admit him to the privileges of a separate Treaty with the British Government. C. U. Aitchison, (ed.), A collection of Treaties, Engagements and Sanads: Relating to India and the Neighbouring countries (Nendelen, 1973) Krauss rep., Vol. 1, pp. 50-54.


\(^4\) Cunnigham Joseph Davey, A history of Sikhs: From the Origin of the Nation to the Battles of the Sutlej, (Delhi, 1966), pp. 288-89.
have\textsuperscript{5}. After taking over as the ruler of the state, Maharaja Gulab Singh claimed to be the absolute sovereign and considered the State especially the valley as his purchased property quite contrary to the various provisions of the treaty Viz. Article 4, 5 and 7 indicating the fact that certain limitations were put upon the state in external affairs; therefore the state, at least theoretically\textsuperscript{6}, was neither independent nor was Maharaja the absolute sovereign\textsuperscript{7}. Also this was evidently not for the first time that the valley of Kashmir had been held by ‘outsiders’, having passed from Mughals (1586), to Afghans (1751) and finally into the Sikh hands (1819).

However, with the handing over of Kashmir to the Dogras, the nature of its political world changed. From an earlier seamless terrain of overlapping and layered sovereignties, the British now claimed a monolithic and territorially bound sovereignty, the lesser version of which they vested in Gulab Singh.\textsuperscript{8} With the transfer of territories especially that of Kashmir to the maharaja, all the obligations of the company towards Sikh-appointed Jagirdars in the ceded territories also passed on to him,\textsuperscript{9} thereby, making him responsible for the maintenance of such Jagirdars. Nevertheless, it would not be out of place to mention that the relationship between the maharaja and the Sikh appointed Jagirdars was not entirely a reciprocal one since the treaties froze these grants


\textsuperscript{6} According to K. M. Panikkar, “Until 1886 the state was a completely independent state maintaining its own limited diplomatic relations. It received no British residents in its courts”, quoted in Joseph Korbel, \textit{Danger in Kashmir} (Jammu: Vinod Publishers and Distributors, 1992), p. 14.

\textsuperscript{7} The subsequent developments in the political history of Kashmir also made it amply clear that the Maharaja was neither an absolute sovereign nor the sole proprietor of the state.


\textsuperscript{9} The Article VIII of the treaty of Amritsar reads, ‘Maharaja Gulab Singh engages to respect, in regard to the territories transferred to him, the provisions of the Articles V, VI and VII of the separate engagement between the British Government and the Lahore Darbar, dated 11\textsuperscript{th} March 1846 A.D.
as Sikh gifts and so also the direction in which concomitant allegiances were to flow.\(^\text{10}\)

Notwithstanding the fact that certain restrictions were imposed upon the Maharaja by the British Government to keep him within the domain of *British Paramountcy*, yet there is no denying the fact that the treaty of Amritsar stood on a different footing from those signed with other Indian states in that no resident was appointed, giving Gulab Singh full internal autonomy. Taking full advantage of the speciality of the treaty and magnamity of the British, Maharaja Gulab Singh and his successors claimed Kashmir as their private property on the ground that they had paid Rs 75 lakh to the British\(^\text{11}\) - everything that existed in the state was regarded as their purchased property. While laying much emphasis on the concept of the state ownership of land, Maharaja Gulab Singh declared all occupancy and proprietary rights in land in Kashmir null and void.\(^\text{12}\) This ultimately laid the edifice of the neo-landlordism in Kashmir, giving birth to a feudal class, which continued as an exploitative-cum-collaborative class till the very end of the Dogra state.

Claiming to be the sole owner of the land, the maharaja sometimes alienated the proprietorship of the land and sometimes only the right to revenue of a small portion of the valley to his family members, kinsmen, and collaborators\(^\text{13}\). The major portion of the land always remained under the direct possession of the maharaja of which he possessed both proprietorship and revenue. This land has been referred to as *khalisa* in the contemporary sources.\(^\text{14}\) To create a powerful supportive base, the Dogras gave away the revenue of big areas of land to a heteronogous neo-class of intermediaries, mostly Hindus, consisting of various types of landlords with different positions

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\(^{10}\) Mridu Rai, op. cit., p. 30.


\(^{14}\) Wingate, op. cit., pp. 78-83.
and known by different designations like Jagirdars (assignees), Pattadars (rent receivers of a piece of land), Illaqadars, Chakdars and Muafidars (rent holders exempt from payment of revenues), who acted as the collaborators of the Raj\textsuperscript{15}. Of the first category of these collaborators were the influential families. The maharaja’s family members, relatives, top officials, and some influential martial families of Kashmir and Jammu were the recipients of the Jagirs. The Jagirs were, as a rule, hereditary unless they were purely given in lieu of some temporary services\textsuperscript{16}. Here it would not be out of place to mention that although the Jagirdars were not the proprietors of land unless the proprietorship was categorically bestowed upon them but in reality they [Jagirdars] acted as masters of their Jagirs and exercised the power of evicting the tenants.

*Chakdars* and *Muafidars* constituted the other main categories of the collaborative class. The *Chakdari* system came into being during the reign of Maharaja Ranbir Singh who for politico-economic reasons adopted a novel practice of allotting big chunks of waste land [chaks], assessed at very low rates, to his favourites. Revenue of small part of the valley was bestowed upon religious men and institutions called *Muafis*, majority of such endowments being given to the Hindus.\textsuperscript{17}

At the lowest rung of the agrarian structure was the peasantry which was not a homogenous class\textsuperscript{18}. The peasantry was stratified into many stratas marked off from each other on the basis of legal and economic positions Viz.


\textsuperscript{16} Ibid. pp. 9 & 52.

\textsuperscript{17} There were two kinds of muafi grants in the Dogra period. The first was religious muafi, under which one-third of the amount of land revenue was received by the Muafidar in cash and the other two-third in kind. Non-religious Muafis were granted to persons for the construction of works for public use, such as bridges, wells, and so on. For more details see, Chitrelekha Zutchi, *Languages of Belonging: Islam, Regional Identity, and the Making of Kashmir* (Delhi: Permanent Black, 2003), pp. 75-76.

\textsuperscript{18} Chitrelekha Zutchi, op. cit., pp. 73-76.
Peasant cum intermediaries and privileged peasants, *peasants and peerzadas* collectively known as (safedposh), *khalisa* peasants, *kashtkars* (peasants working under privileged landholders), *assami* or *marusi* peasants (hereditary peasants) etc. Though the conditions of the Kashmiri peasantry were highly deplorable in both the *khalisa* as well as *non-khalisa* lands, however, contrary to what was true of Mughal India where the condition of the peasantry in khalisa lands were better off than those who farmed jagir lands\(^9\), the situation in Kashmir was quite reverse, with the Kashmiri peasantry in specially assigned lands having to deal with a less coercive administrative machinery than those who worked on the state lands. This was because unlike the jagir and chak villages the khalisa cultivators had no influential person at their back, which could save them from the official prosecution\(^20\). The khalisa peasants, therefore, formed the major segment of the peasant population, facing exclusively the brunt of *begar*, illegal exactions and official harassment.

Having restructured the agrarian system of the state by way of alienating land ownership or revenues or both the proprietorship of land and revenue to some selected few, the Dogra rulers simultaneously resorted to a very repressive taxation policy. Not only was a big part of the agricultural produce appropriated by the state as land revenue leaving a meagre proportion with the peasant for his subsistence but a number of other taxes were also imposed upon him, thereby forcing the peasant to live a very deplorable life.\(^21\) So abject were the conditions of the masses of the valley that the lobby in British India which had been advocating the complete merger of the state of Jammu and Kashmir with British India used it [the life conditions] as an effective tool to force the

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\(^21\) The cultivator in Kashmir had to pay much more than half the share of the total produce in the form of multifarious taxes to the state which included the *Nazarana*, levied four times a year, and the *tambol*, taken on occasions of marriages in the ruler’s family. Moreover the cultivator had to concede a share of his fruit, ghee, fowls, honey and sheep or goats to the government. For more details see Robert Thorpe, op. cit., pp. 9-28.
government of India to abandon the policy of non-intervention. Besides, other factors like disturbance in the Afghan frontier, the famine of 1877-79 that devastated the valley of Kashmir prompted serious reconsideration of the colonial policy of non-intervention\(^\text{22}\). Accordingly the policy of non-intervention in the internal affairs of the state was replaced by a policy of intervention which was symbolised by the appointment of resident in 1885.\(^\text{23}\)

The appointment of the resident in Kashmir was a necessary prelude to the implementation of the wide ranging reforms in the Dogra state. These included the introduction of a lighter assessment of revenue to be collected preferably in cash; the abolition of the system of revenue farming; cessation of state monopolies; the revision of existing taxes and dues (especially transit and custom duties and taxes on various trades and professions); the introduction of modern and salaried bureaucracy manned by qualified individuals; reorganization of the army, which was also to be paid regular salaries; system of proper financial control; improvements in the judicial administration of the state; the construction of proper roads; and the removal of all restrictions upon emigration.\(^\text{24}\) However, of all the measures of reforms proposed by the colonial government in the state of Jammu and Kashmir, none was as thoroughgoing as the land settlement operations instituted between 1889 and 1895 and overseen by the British civil servant Sir Walter Lawrence.\(^\text{25}\) Not only did he initiate the process of limited agrarian reforms in the otherwise tyrant, theocratic and sectarian Dogra state but the way he treated the plight of the cultivating classes of Kashmir resulted in the development of a feeling wherein Kashmiri people started believing in the benevolence of the British.\(^\text{26}\) However, even before Lawrence’s appointment, another settlement officer, A. Wingate, had been sent

\(^{22}\) Mridu Rai, op. cit., p. 149.

\(^{23}\) Oliver St. John became the first Resident of Kashmir in 1885.


\(^{25}\) Ibid. p. 147.

\(^{26}\) This can be substantiated by the fact that Kashmiris, even today, held Lawrence in high esteem for the painstakingly taken land reforms. In the folk traditions Lawrence is still called Lawrence Sahib - a respectable title in Kashmir.
by the British to conduct a preliminary survey between 1887 and 1888. Wingate in his preliminary report had described the difficulties with which he and his Punjabi sub-ordinates had to contend and had clearly pointed out the chief abuses of the old system, indicating the lines on which reform should have proceeded. He being the first appointed land revenue settlement officer of Kashmir [1887] provides us with detailed information about the Kashmiri peasant and highlights that the Kashmiri peasant neither enjoyed the occupancy nor the proprietary rights. He made a strong argument in favour of granting occupancy rights to the Kashmiri peasantry and while pleading for the same he writes:

The durbar cannot protect itself without the assistance of the cultivators, nor is any land settlement likely to last which does not engage the active sympathies of the agricultural population in support of the state policy. This assistance and the sympathy can only be won by conferring upon the cultivators possession of the land they till.

In the similar vein, Wingate had suggested that Kashmiri cultivator had been pressed down to the condition of coolie cultivating at subsistence allowance the state property, and that the responsibility for this lay with the influential pandit servants of the state. Wingate was very uncompromising in demanding the elimination of the exemptions and privileges of the pandit revenue collectors. According to him, the land revenue system in place in the valley had left the coffers of the state empty because of the existence of a class of officials between the state and the peasantry and, therefore, to replenish revenue, and to convert a discontented and thriftless peasantry into a contented, thriving community, peasants had to give interests in the land they cultivated. To achieve this Wingate argued that it was necessary to fix the state


\[30\] Wingate, op. cit., p. 61.


\[32\] Wingate, op. cit., p. 19

\[33\] Mridu Rai, op. cit., p. 148
demand at a fair sum for a term of years and establish a system of accounts which would confine the powers of the tehsilder to revenue collection. However, as anticipated by Wingate himself, his proposals were opposed and resisted by all the vested interest groups led by the revenue officials and land grabbers jointly. In the face of bitter opposition and intrigue he had to give up and Walter Lawrence replaced him in 1889 as the new settlement officer.

According to Lawrence’s Settlement, permanent hereditary occupancy rights were bestowed on every person who at the time of assessment or at the time when the distribution of the assessment was affected agreed to pay the assessment fixed on the fields entered in his or her name in the settlement papers. So long as the assessment was paid the occupant could not be ejected. However, the right to occupancy was not alienable by sale or mortgage. Here it would not be out of place to mention that though in the tradition of Utilitarian’s, Lawrence was ambivalent towards the development of rural capitalism in the subcontinent; he continued to view an important role for the state as the provider of social overhead capital and redistribution of resources, but unlike them he was not against giving private rights in land and was not in favour of overthrowing the old elite seen as enervated and non-productive.

Lawrence argued that the right to sell or mortgage land would be the signal for the extensive alienations as most of the cultivators were ignorant and inexperienced and would thus ultimately lead to the creation of middlemen (who would procure land for themselves and the rich urban individuals especially pandit officials). Regarding the Chakdars and the Mukararidars land assigned by the deed was confirmed to the holder for the term of the

34 Wingate, op. cit., p. 34.
37 Ibid.
38 Lawrence, The Valley of Kashmir, op. cit., p. 431
40 Lawrence, The Valley of Kashmir, op. cit., P. 431.
settlement at the privileged rates mentioned in the deed. Land held in excess of the deed was, in the absence of the dispute, made over to the privileged holder, but at the ordinary rates obtained in the village or the assessment circle. The Chakdars or the Mukararidars were also granted the status of assami and permanent hereditary occupancy rights were bestowed upon them. All waste and old fallow land was entered as khalisa i.e. state land unburdened with individual assami rights. The only rule observed in the allotment of the waste land was that waste to the extent of 10% on the cultivated area recorded at survey must be left for village usage such as grazing. Furthermore, the revenue assessment was fixed for a period of 14 years and sundry taxes that the state collected from the peasantry on walnuts, forests, and live-stock were included in the land revenue, except pony and sheep taxes. Nevertheless like other British Indian officials, it seems that Lawrence drew directly on Ricardo’s theory of rent, as adapted to Indian conditions by James Mill, Holt Mackenzie and John Stuart Mill and therefore, took great pains in surveying the lands and fixed the rent on lands on the basis of their fertility and productivity. The land revenue was to be collected partially in cash and partially in kind depending upon the produce of the village - the decision being the result of the strong opposition of the administration to the idea of the cash settlement for the Kashmir valley. There were several complex reasons behind the durbar’s and revenue official’s opposition to the settlement in cash. The first being that the collection of revenue in kind gave employment and greater opportunities for pre-requisites and peculation to a large number of city pandits, secondly it would hinder the revenue officials from making huge

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41 Ibid. P. 426.
42 Ibid. p. 427.
43 Ibid. p. 433.
44 Utilitarian doctrine held that rent was an unearned increment, which represented the advantages of productivity and fertility enjoyed by the good lands over the bad. Land revenue was the state’s share of this rent and could be fixed scientifically by careful survey and settlement that would establish the product of each of the agricultural holding enabling the state to leave the cultivator enough to meet the cost of production, subsistence and productive investment. Tomlinson, op. cit., P. 44.
45 Lawrence, The Valley of Kashmir, op. cit., p. 427.
46 Ibid. P. 438
amounts of profit from sale of grain collected in kind\textsuperscript{47}. The more significant reason for the durbar's opposition, however, was the issue of the supply of grain to the city of Srinagar, which could not be achieved unless a significant amount of revenue was realised in the form of shali (kind) from the peasantry\textsuperscript{48}. Taking into account the opposition to the cash settlement and effects of the sudden change due to collection in cash in 1891 which brought about a scarcity of grain in the city, Lawrence gave each village the option to decide the amount to be paid in cash and the amount to be paid in kind, with the power of commuting the amount in kind upon by cash payments\textsuperscript{49}.

The Lawrence settlement lightened the burden of the assami as the lambardars; patwaris and other influential persons were regarded as mere assami and made to pay their share of the revenue. Lawrence strongly argued in favour of wiping off all the arrears before the announcement of new assessment\textsuperscript{50}. Notwithstanding the fact that both Wingate and Lawrence had acknowledged the responsibility of the Kashmiri pundit community in exacerbating the situation of the Muslims but Wingate was far more uncompromising in demanding the elimination of the exemptions and privileges of the former. It was because of the mild nature of the Lawrence’s Settlement towards the privileged classes that the State Council supported him, thereby, causing only temporary delays and annoyance in his work\textsuperscript{51}. Therefore, it would not be wrong to say that Lawrence’s land settlement sought to provide relief to the cultivating classes of Kashmir without entirely dismantling the privileges of the Kashmiri pundit community. It was perhaps for this reason that his blueprint for reform was accepted over that of Wingate\textsuperscript{52}.

While it is certain that Lawrence’s settlement policies had a profound impact on the region, however, the colonial sources greatly exaggerated some

\textsuperscript{47} Ibid. P.439
\textsuperscript{48} Ibid. P.440–1
\textsuperscript{49} Ibid.
\textsuperscript{50} Ibid. P.450.
\textsuperscript{51} Lawrence, The Valley of Kashmir, op. cit., p. 424.
\textsuperscript{52} Ibid. P. 149
of the changes attributed to the settlement. The Lawrence settlement ultimately left privileges in the land more or less undistributed, guaranteed to a large extent by his argument that even a reformed revenue department would have to rely on the Kashmiri pandit staff since the state was too poor to afford the expenses of the imported Punjabi officials. Nevertheless, his statement that he had never found it difficult to ascertain whether a fugitive was a mirsader or not implies a number of fraudulent claims being made. Privileged rights in land enjoyed by some groups of Kashmiris were not only maintained but means were devised to strengthen them. Though in theory the Chakdars and Mukararidars were turned into assami of the villages in which their estates lay but in reality they continued to enjoy beneficial terms of access to land until as late as 1948 when their grants were finally abolished.

Agricultural indebtedness had been marginal before the Lawrence settlement. Indeed both Lawrence and Wingate had commented on the uniqueness of Kashmir in that Banniya (Hindu moneylender) was practically unknown in Kashmir. But the conditions changed in the post-settlement period with a marked increase in indebtedness. This was the direct result of Lawrence’s policy of converting the payment of at least a part of the revenue incurred to the state from kind into cash. Moreover, the conferral of permanent hereditary occupancy rights by Lawrence had within it a loophole. It was subject to the caveat that the occupant paid in full the revenue fixed at the time of the assessment on his land. Nevertheless, the land revenue demand was not significantly reduced under the land settlement, which meant that those in

54 Letter from Walter Lawrence, Settlement Officer, to Colonel R.P Nisbet, Resident in Kashmir, dated 2 December, 1889, Foreign Department (Secret E/pros. Feb. 1891 /nos. 295-326, National Archives India.
55 Lawrence, The Valley of Kashmir, op.cit., P. 429
56 Mridu Rai, op. cit., p. 166.
57 Lawrence, The Valley of Kashmir, op. cit., p. 446.
59 Lawrence, The Valley of Kashmir, op. cit., P. 387.
60 Ibid. p. 6.
charge of collecting and managing it continued to exercise a fair amount of power over the peasantry. Therefore, even if the peasantry had been released from the grip of the revenue officials as the colonial officials claimed but the payment of revenue in cash meant that it was now connected to the larger economic system and affected by the downturns and upswings. No doubt that before the settlement the taxation system was such that there could accumulate a big revenue deficit against the zamindars as Bakaya but such accumulation never led to their eviction from the land, however, after the settlement the non-payment of revenue by a person resulted in what was known as voluntary Dustbardari—a practice through which land passed on to the state and ultimately to a person who would volunteer to pay the revenue that lay outstanding against the earlier occupant of land. This process resulted in the continued consolidation of a large estate by the privileged landed class and proved conducive to the creation of a large section of landless labours as existed in 1931.

Lawrence’s Settlement made the landlords as assamidars, which was against the interest of the zamindar community (Cultivating Community) because they (Landlords) could now grab more and more land through the system of Dustbardari. Therefore, through the Lawrence settlement, from occupancy tenants the tenants again became tenants-at-will. However, an important principle that had been put into place by the British was that at least theoretically Kashmir would no longer be governed solely to the benefit of the ruling family and the rapacious horde of Hindu officials and pundits but also for its people—the long suffering indigenous Muhammadans.

The Lawrence settlement, however, did not survey or assess the Jagir lands. Although the state council had ordered the extension of settlement...
operations to the jagir holdings in Dec, 1894 and the institution of cash assessment in such lands, it was not until 1896-97 that the rules governing jagir lands were laid on paper. Here it is worth clarifying that the jagirdari system in the valley in the pre-settlement period was not a fossilized one— the ‘class’ (jagirdari class) had been under transformation ever since the inception of the Dogra rule and disruptions in it were quite visible through the situation of many Jagirdars. However, the flaws of the system under reference were ought to be repaired through the setting up of settlement commissions— H.L. Rivett and Capt. J.L. Kaye were the most important commissioners in this regard. Highlighting the political and social consequences of the fragmentation of jagirs, which was considered as a major flaw in the system, H. L. Rivett commented in his report:

It was perhaps not the original intention of the state that jagir grants should be divided up among a number of heirs, but rather that they should devolve in entirety to one heir, the government of course retaining the power to regulate the succession to these grants.... Jagirdars at present exist absolutely devoid of merit or influence..... This has resulted in the jagir being fritted away among several heirs, and in many of the grantees now being in such miserable state of impecuniosity as to render them contemptible in the eyes of the people.

In his report J.L. Kaye quite clearly suggested the active interference of the state in jagir holdings, along with specifying the status of Jagirdars and the tenant on these holdings. Sanads or land deeds were now to be prepared for each jagir, which specified its precise area and value and the terms and conditions under which the grant had been made. The report further stated that the Jagirdar was simply an assignee of state revenue and the tenants in Jagir tracts were declared to be as much the tenants of the darbar and entitled to protection as any of its other subjects. While advocating in favour of

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67 Chitrelekha Zutchi, op. cit., p. 96.
granting occupancy rights to the tenants of the jagir lands, Kaye writes in his report:

To deprive these tenants, to whom the land means existence and whose only means of livelihood is agriculture, of their dearest right—would be the height of injustice. These cultivators are entitled to the same wise and generous treatment accorded by the darbar to its other tenants and have patiently awaited the settlement in the belief that they will be given rights similar to those granted to the khalisa assami (state tenants). Alike in the interest of the Jagirdars and the cultivators, hak assami (occupancy right) must be bestowed in the latter.\(^70\)

Regarding the occupancy or proprietary rights of the Jagirdars to their estates the report argued that “the Jagirdar stands in place of the darbar as the collector or assignee of this revenue only..... Under the grant he has absolutely no connection with the land, only with the revenue derived from it.”\(^71\) Kaye strongly supported the State Council Resolution, 1894 regarding the settlement of revenue in cash at fixed price for a term of years in the jagir lands and argued that the Jagirdar had no right to collect cesses or make villagers pay for items of expenditure which were purely personal, thus cutting short the formidable list of taxes extracted by Jagirdars from their peasants.\(^72\) The Jagirdars were also denied any right on the waste lands that they had included with their original grants over the years.

Notwithstanding the fact that the assessment of Jagirs brought all jagir lands in line with the land settlements in the rest of the valley but the way their impact had been highlighted in the colonial sources is simply an exaggeration.\(^73\) The settlements served the purpose of state more than that of the peasantry as the state bestowed the expropriated portions of lands from the old Jagirdars to the new Punjabi and Dogra administrators, giving rise to a new class of

\(^71\) Ibid. pp. 16-17.
\(^72\) Ibid.
\(^73\) The 1901 census noted that the cultivators were better off than before and enjoyed peace and prosperity as a result of the settlement, and that considerable area had been converted into flourished fields over the past decade. Khan, *Census of India, 1901, Vol. XVIII, Kashmir, part 1, Report, 10.*
Jagirdars. No doubt the land settlements did lead to the creation of a class of settled peasants, but by 1923 a situation had arisen wherein the tenants had again started abandoning their lands. As the political slogan of reforms had already gained currency in British India and the princely states were greatly concerned about the disenchantment of the masses in general and the peasantry in particular, therefore, to redress the more pressing problems of the peasantry became a priority. Consequently, Maharaja Pratap Singh passed the Tenancy Act of 1923 according to which occupancy tenants (kashtkar Mustaqil) – tenant who held land at the time of Lawrence settlement in Kashmir- were divided into four categories.74 The landlords were restricted to evict their tenants till they declared their lands unfit for cultivation, needless to mention that the land settlements had left ample scope for the eviction of the tenant on the basis of his inability to pay the revenue assessed in full. Further the tenant could be declared an occupancy tenant under rules if he had been wrongly shown as tenant-at-will at the time of first settlement and those tenants who were not occupancy tenants under any category were declared as protected tenants.75 The Act also allowed the transference of the right of occupancy by sale, mortgage or gift, subject to certain conditions. To protect the produce from being unscrupulously expropriated by the landlords, the Act laid down the share of rent to be collected in kind and cash. A notification was issued which declared the holders of Nautoz Najaiz as tenants-at-will in the khalisa and assami in the jagir villages and Jagirdar was authorised to collect arrears of revenue from them.76 However, the legislation remained totally confined to papers and the acts of land grabbing, eviction and changing of revenue purely in kind continued.77 The Act in its actual practice was un-operative because the poor tenant never dared to go against the rapacious Jagirdars and seek

77 Jammu and Kashmir Archives, Foreign and Political Department; File No: 58 of 1933; Bazaz, 230-31
protection under the Act. Also the arrears collected from Najaiz Nautors were pocketed by these land holders instead of paying them to the state.

The landlordism in the state was further revitalized during the reign of Maharaja Hari Singh. Though certain concessions were declared by the Maharaja for the peasantry as *coronation boon* such as; that the land of any holder in *Bachchara Estate* who dies heirless shall hence forth become *Shamilat Deh* and not *Gaiwand* and in case of the death of the heirless landholder other than from Bachchara, holding proprietary or tenancy rights, the land would revert to the state,\(^78\) however, the concessions did not prove fruitful as the subsequent legislations nullified the earlier declarations. Proprietary rights and *khud-khast* residential unit, between 200 and 600 kanals, were granted to the Jagirdars whose assignments were above Rs 500. All this was granted from khalisa land before shamilat was assigned to the farmers of the village. In fact all Jagirdars were entitled full rights in village lands and not merely in assignment of revenue.\(^79\) It is worth mentioning here that the efforts of the maharaja to revitalize landlordism were in a way a result of the pressure through conspiracy tactics of the valley landlords who had submitted a memorandum of demands to Lord Reading in 1924.\(^80\) Furthermore, the promulgation *Agricultural Relief Act, 1927*\(^81\) to show concern for agricultural indebtedness, which was almost absent in the pre-settlement period and had

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\(^79\) Ibid. *Maharaja’s Order of Dec. 8, 1934*.

\(^80\) The memorandum which on its surface reading seemed to be pro-peasant or pro-tenant was in reality a clever strategy to achieve the ends of the landlords. The memorandum consisted of 17 demands and the first demand was that proprietary rights in land should be granted to the tenants as these had been forcibly snatched from them Lord Reading forwarded the memorandum to Maharaja Pratap Singh for necessary action who, thereupon, appointed a three member committee consisting of Rai Bahadur, Col. Janak Singh-a close relative, Chaudari khushi Mohammad Nazir, Revenue Minister and Mr Glancy, the State Minister of Finance and Police. The Government resorted to blackmailing to secure a repudiation of the memorandum by its signatories, who were ready to lead evidences in support of their allegations. However, the evidences were not allowed and finally the commission exon erated the Dogra Government and dismissed the charges as unproved and untrue. For more details see, Mohammad Yusuf Saraff, *Kashmiris Fight-For Freedom Vol. 1* (Lahore: Ferozsons, 1979), p. 339.

become very obnoxious in 1927, could not be of much benefit and the peasantry continued to live a deplorable life. Highlighting the plight of the Kashmiri masses, Sir Alboni Banerjee, a Bengali Christian Civil Servant of the Government of India who served as Foreign and Political minister in the state, stated that the economic conditions of the people in rural areas were as bad as they could be. He wrote in the daily tribune on 19th March 1929:

Jammu and Kashmir State [was] labouring under many disadvantages, with a large Mohammedan population absolutely illiterate, labouring under poverty and very low economic conditions of living in the villages and practically governed like dumb driven cattle. There [was] no touch between the government and the people, no suitable opportunity for representing grievances and the administrative machinery itself require overhauling from top to bottom...... It had...... no sympathy with the people's wants and grievances.

The collection of revenue in kind continued even in 1929, giving birth to a number of abuses, consequent upon which there was a great hue and cry against the system. Under pressures exerted upon the maharaja from different quarters, a committee was set up on May 16, 1929 consisting of Jagirdars Viz. Janal Singh, P. K. Wattal, and Kartar Singh and G. E. C. Wakefield to define the rights of the tenants in jagirs and muafis and the privileges and obligations of the Jagirdars and Muafidars. Though the committee recommended the collection of the revenue in cash and not in kind but it further enhanced the privileges of the landlords as the loss to the landlord, if any, was to be compensated by the grant of new jagir. This clearly indicates the fraudulent means the Jagirdars had resorted to extort more than what was due to them. The revitalization of landlordism through the different forms of agrarian transformation and the protection of the privileges of the landlords by the

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86 Bazaz, Inside Kashmir, op.cit., p. 231
Chapter 2
Agrarian Reforms

Dogra state was, however, not for nothing. The state and the landlords had been enjoying a very symbiotic relationship ever since the inception of the Dogra rule. It is, therefore, not astonishing to see that majority of the landlords especially the Jagirdari community remained loyal to the state during the popular uprising of 1931, sent telegrams of loyalty to the Maharaja and received appreciation from him\textsuperscript{89}. It goes without saying that the uprising of 1931 was the result of a century old rigorous exploitation and discrimination which the Kashmiri Muslims had undergone. The insurgency, in other words, was a motivated and conscious undertaking on the part of the Kashmiri masses. Moreover, the Kashmiri peasantry had joined the revolt to break their subalternity which was materialized by the structure of property, institutionalized by law, and made tolerable-and even desirable-by tradition. The uprising shook the whole state and administration; it unnerved the Maharaja. An official commission under the president-ship of Sir Barbour Dala, the chief justice, was set up to inquire into the causes of the uprising. The inquiry was boycotted by the Muslims.\textsuperscript{90}

It was under the pressure of the movement and the British resident that a commission under B. J. Glancy was appointed on Nov 12, 1931 to look into the grievances of the Muslims.\textsuperscript{91} The report of the grievances inquiry commission or the Glancy Commission was published in April 1932.\textsuperscript{92} Dealing with the land problem the Commission observed that proprietary rights should be granted in all respects to all lands of which the ownership is retained by the state and the right of occupancy is enjoyed by the private persons\textsuperscript{93}, lands under the Jagirdars and the landlords were not touched.\textsuperscript{94} The main recommendations of the commission were readily accepted by the Maharaja. In 1933 occupancy peasants were granted proprietary rights after the last instalment of Nazarana had been

\textsuperscript{89} Bazaz, Inside Kashmir, op. cit., pp. 219-24.
\textsuperscript{90} Bazaz, The History of the Struggle for Freedom in Kashmir, op. cit., p. 148
\textsuperscript{91} Bamzai, op. cit., p. 717.
\textsuperscript{93} Ibid.
paid.\textsuperscript{95} Malikana (proprietary dues) and other levies including Nazarana (presentation tax) to the Maharaja who was, at least notionally speaking, the sole proprietor of whole land were abolished\textsuperscript{96}. In order to safeguard the peasants from the adverse effects of giving them proprietary rights along with the right to sale and mortgage, the Land Alienation Act Of 1933 was passed which restrained the land owner from alienating land beyond 25\% of his holding for the first ten years.\textsuperscript{97} It also restricted cultivator from transferring land to Non-Agriculturalists classes.\textsuperscript{98} The Act was followed by Prior Purchase and Pre-emption Act which imposed restrictions on the alienation of agricultural lands and recognised the right to pre-emption among agriculturalists in respect of such lands.\textsuperscript{99} However, since these measures were not implemented in toto, land grabbing or the alienation of land to landlords continued, in fact the law became an easy handle in disposing the land in time of difficulty. In a span of one year mortgages increased from 3610 acres to 12183 acres and sale increased from 9208 acres to 21499 acres of land, thus leading to the further growth of landlordism\textsuperscript{100}. Furthermore, in 1935 by virtue of a royal proclamation full proprietary rights were conferred on Jagirdars over state lands or the shamilat (common lands) which had once been village property. By this order they became the owner of these lands which were also transferred to their name.\textsuperscript{101} The Jagirdars/landlords were thus enjoying enormous powers in their estates till the very end of the Dogra rule.

These measures of reform, therefore, did not as such satisfy the masses, and consequently the popular anger and disillusionment continued to exist. In fact, from 1934 onwards the programme of All Jammu and Kashmir Muslim

\textsuperscript{95} Jammu and Kashmir Archives, Foreign and Political Deptt., File No. 196/R-10 of 1933.
\textsuperscript{97} Ibid.
\textsuperscript{98} Ibid.
\textsuperscript{99} Ibid.
\textsuperscript{100} Government of Jammu and Kashmir, Administration Report 1933-35, p. 16
Conference became even more specific to the alleviation of the economic hardship facing the people. It fully realised the importance of the peasant class for the overall development of the country and strongly started supporting the phenomenon of land reforms. The most popular Kashmiri leader, Shaikh Mohammad Abdullah, in his presidential addresses to the organisation 15-17 October 1932, 15-17 December 1933 and March 1938, forcefully demanded the restoration of ownership rights to the peasantry on all types of land, Viz. jagir, khalisa, chak, shamilat and kahchari. Under the leadership of Choudry Ghulam Abass the conference during its fourth session in 1935 passed a resolution demanding reduction of land revenue and amendment of the Land Transfer Regulation. The demand for the reconstruction of the economy in general and the abolition of landlordism in particular had, however, not been affected by the conversion of the ‘All Jammu and Kashmir Muslim Conference’ into ‘All Jammu and Kashmir National Conference’ in 1939, in fact the reconstruction of the economy became a more pressing demand of the National Conference. The conversion had in reality made it more essential for the National conference to fundamentally transform the existing land relations in order to attract the masses especially the peasantry and create a socio-ideological base for the party. It would not be out of place to mention that the secular tag on the party had made it difficult for it to resort to religion as a technique of mass mobilization. Therefore, the National Conference framed a comprehensive plan for the Socio-economic, politico-cultural reconditioning of Jammu and Kashmir state, which was adopted in its September 1944 session in Srinagar as the objective of the party and came to be known as New Kashmir Manifesto (Naya Kashmir). The Naya Kashmir Manifesto was divided into two parts – the Constitution of the State and the National Economic Plan. Most significantly the plan advocated the socialisation of all the instruments of production and the re-organisation of property relationships. The three most significant goals

102 Dastawazat, pp. 385-86.
103 For details see Naya Kashmir Manifesto published by All Jammu and Kashmir National Conference.
enunciated in it, geared to the interests of Kashmir agriculturalists, were the abolition of Landlordism, Land to the tiller, and Cooperative Association. The extent to which the national conference regime followed this Manifesto in Jammu and Kashmir after independence would be discussed later in this chapter.

Having discussed the agrarian structure of the state under the Dogras and the change introduced in it under different pressures, be it from the British or those from the freedom movement, it is obvious that Landlordism continued in the state and only half hearted tenancy reforms were introduced which even remained confined to paper. The dominant feudal structure consisting of the Jagirdar, Mukararidar, and the Maufidar remained intact and continued to exploit the cultivator, draining the state of its resources. It was only after the formations of New Government in 1948 that concrete steps were taken to demolish the structure and liberate the peasantry from the slumber of economic bondage and parasitic hierarchy of intermediaries.

**Post- 1947 Agrarian Reforms in Kashmir**

Under compelling circumstances and at the behest of the Government of India, Sheikh Mohammad Abdulllah took over as the Chief Emergency Officer of the state on the morning of 27th October 1947. Since there was no clear-cut demarcation of powers between Shaikh- Chief Emergency Officer- and Mehar Chand Mahajan who was still the Prime Minister of the state, therefore, Sheikh having derived his power from ‘Popular support’ and existing Political situation soon dominated the whole administrative setup. Although the Prime Minister was being backed by the Maharaja, still he could not prove a match to Shaikh because maharaja’s own position had turned weak after the Poonch revolt, the tribal invasion and his having signed the instrument of accession with India. With Jawaharlal Nehru at Abdullah’s back and considering him to be a key factor for winning plebiscite, which he himself had promised to the people of Kashmir, Shaikh was appointed as the prime minister of the state,

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though reluctantly, by the Dogra Maharaja, replacing Mahajan on the 5\textsuperscript{th} of March 1948. Sheikh had freedom to choose his other colleagues and took oath on 25\textsuperscript{th} of March 1948.\textsuperscript{105}

Immediately after assuming power Sheikh, through different public meetings, assured the people that there would be complete democracy on the basis of New Kashmir Manifesto adopted by the congress in 1944.\textsuperscript{106} Through a radio broadcast from Jammu on 21\textsuperscript{st} of March Sheikh announced that “inevitably the Government will, as conditions permit, implement the economic programme of New Kashmir which has inspired hope into millions of our countrymen.” The New Kashmir Manifesto entailed a complete restructuring of agrarian relations in the interest of both the emancipation of the peasantry from the semi-feudal production relations and fostering the agricultural development. It was towards this commitment that the Nationalist government embarked upon a series of agrarian reforms, proceeding from the new economic plan 1944 and elaborated in New Kashmir. It is pertinent to mention here that though, the term agrarian reform as used generally refers to improvement of the agrarian structure which comprises the land tenure system, pattern of cultivation and farm organization, the scale of farm operation, the term of tenancy and the institution of rural credit and marketing, however, in case of the present study [Kashmir] agrarian reforms would only refer to the set of institutional changes with certain basic principles viz. abolition of intermediaries, tenancy reforms, ceiling on landholdings, abolition of landlordism and land to the tiller. The agrarian reforms were subsequently implemented under different phases.

\textsuperscript{105} Ibid. p. 409: The first Nationalist Cabinet consisted of eight members Viz. Shiekh Mohammad Abdullah, Bakshi Ghulam Mohammad, Ghulam Mohammad Sadiq, Mirza Mohammad Afzal Beg, Sham Lal Saraf, Girdari Lal Dogra, Sardar Budh Singh, Col, Peer Mohammad Khan.

\textsuperscript{106} Ibid. pp. 410-11.
Agrarian Reform (Phase 1): Resumption of Grants and Assignments.

[The Beginning of the ‘End of Feudal Privileges’]

The first phase of agrarian reforms in Jammu and Kashmir started in 1948 when the government resumed all assignments of the government revenue and abolished Jagirs, Muafis, and Mukararies, except those granted to religious institutions.\textsuperscript{107} The abatement of 12½ % in land revenue allowed to the Chakdars was discontinued and the hereditary character of the Lambardari institution was also abolished. The appointment of headmen was also thrown open to election.\textsuperscript{108}

The Jagirs were either in cash or in kind; some were tenable due to the grace of the ruler who also determined their grace period and some were held in perpetuity or were dependent on service to the state. The Jagirdars used to enjoy a number of privileges such as levy and realization of grazing fees on cattle, forest rights and the prior claim to appropriate waste land within the estate assigned to them.\textsuperscript{109} Regarding the abolition of jagirs through a Council resolution, it had been ordered:

That all Jagir grants tenable during the pleasure of His Highness the Maharaja Bahadur or held in perpetuity subject to the general condition of loyalty or other expressed condition be resumed with effect from 1\textsuperscript{st} Baisakh 2005 provided that the application of such grantees as may deserve maintenance allowance for want of adequate source of income or for other reasons be entertained if submitted within a period of three months from the date of resumption order and that each such case be investigated and decided on merit.\textsuperscript{110}


The Muafis were grants in shape of charity to individuals, institutions and such other bodies. Munafidars more or less enjoyed the same privileges as the Jagirdars did. They derived all the benefits from their assigned lands and yet paid no land revenue. While as the Muafis to religious institutions continued but the right of the Munafidars to collect a part of the revenue in kind was taken away but was allowed to receive the revenue in cash after assessing it at the settlement rates. The Mukararies were the cash grants given to an individual, institutions and saintly persons. Among individuals, some grants had been made in lieu of jagirs which they held previous to such grants or for some special service, ordinary or political. Mukararidar received fixed cash grants every six months from the state treasury. The Mukararies were abolished altogether and it was ordered that:

Mukararies tenable during the pleasure of his highness, or held in perpetuity, or in lieu of some political or specific service or during lifetime be resumed with effect from 1st Baisakh 2005, save such Mukararies as are held by religious institutions, which be continued and paid by the Dharmarth Department who may exercise their discretion as to the continuance or otherwise of such of them as they deem fit, and that those which are held in lieu of the services of Zakhbani and Kishtabani be continued as heretofore.

It would not be out of place to mention that the aforementioned privileged class constituted a group of do-nothings that was a dead weight on the resources of the state, generation after generation. With the resumption of all these assignments 396 of Jagirdars and the Munafidars in the state involving about Rs. 556313 and 2347 Mukararies involving about Rs. 177921 annually were liquidated. Thus the resumption of assignments and the abolition of the privileges saved about Rs 7 lakh to the state treasury annually.

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111 Land reforms 1, op. cit., p. 3.
113 In Ninety Days, op. cit., p. 12
114 Ibid. p.5
115 Ibid. p.13
116 Ibid. p. 13
117 Ibid. p. 4. Jurisdictional jagirs of Chenani came to an end; In Ninety Days, p. 11.
The peasant who previously had to pay one half of the produce to the absentee landlord now paid only 1/4th to him. This not only gave economic relief to the peasant but also removed the economic indignity and spiritual and social evils bred up by the serf-landlord relationship. Furthermore these measures relieved the peasant from the crushing burden of payment in kind and released 4250 acres in favour of the cultivator-such lands had been granted by way of self cultivation and residential units to the Jagirdars. In case of religious assignments the practice of recovery in cash alone was recognised as lawful. The jurisdictional jagirs of the state were also liquidated and population of about 2.5 lakh was freed from subjection and medieval autocracy. The jurisdictional Jagir of the Raja of Chennai with an area of 95 Square miles with a population of 12000 was taken away leaving the Raja with a monthly allowance or Rs. 300, thereby by putting an end to the unlimited powers enjoyed by him over his subjects. It is worth mentioning that the annual income from this Jagir alone was about Rs 40000.

Moreover, the government in order to rationalize agricultural production adopted measures towards extensive and intensive development of agriculture. Accordingly the ‘Grow-More-Food’ scheme was launched in 1948 under which about 185583 kanals of cultivable waste lands were allotted to the landless peasants during the year 1948-49 which increased to 49,547 during 1949-50. Better seeds and manure was also introduced which resulted an increase of about 2 lakh mounds in the food production.

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120 Under the Grow More Food Scheme, the State under Order No. 48-Cof 17th April, 1948 had declared that the cultivation on Ghalla-Batai (share produce) system be permitted, subject to the requirement of fodder, on Government lands mainly comprising of; All Nautor Najaiz area, All Khai Krisham areas, All cultivable khalisa waste land, All areas available for cultivation around Wular, Haigam and Hoksar lakes and the banks of the Jhelum and other nallas and streams, All areas under the control of Military farms and Rakhs excluding those which yield Nari and other varieties of grass, Khalisa areas illegally occupied by Jagirdars and chakdars, and All shamilat lands with the exception of areas reserved for grazing during settlements. In Ninety Days, op. cit., pp.20-21.
Second Phase of the Reforms: Tenancy Reforms

[Protection of Tenant’s Rights]

The second phase of the agrarian reforms enacted in 1948 was mostly related to the fixation of rent, fixity of the tenure and protection from ejectment of the tenants.\textsuperscript{122} The Tenancy Law as administered by the old Government had little provisions for the adequate protection of the cultivator; in fact it safeguarded the interests of the landlords\textsuperscript{123}. Any arrangement or deal in respect of rent between the landlord and the tenant was generally considered to be legally valid and it was believed that the Government could not interfere. However, in utter disregard to the principles of non-intervention and custom it always interfered in the interest of the landlord and a lion’s share was always given to him.\textsuperscript{124}

The State Tenancy Act 1924 was amended by the Government in October 1948. The new Act came to be known as Tenancy (Amendment) Act VII of S.2005 (1948). Amongst other things, the Act guaranteed fixity of the tenure to the tenant in respect of tenancy holdings not exceeding 2 1/8 acres (17 kanals) of wet land or 4 1/8 acres (33 kanals) of dry land in Kashmir province and almost double the size in Jammu province\textsuperscript{125}. The Act also fixed the maximum rent payable by the tenant to his landlord in respect of tenancy holdings, other than Malyari (lands under commercial vegetables), exceeding 12.5 acres at 1/4\textsuperscript{th} of produce (or cash value thereof) in case of wetlands (including those growing paddy, wheat ,maize and linseed) and 1/3\textsuperscript{rd} in case of dry lands\textsuperscript{126}. In no case could the landlord demand more than half in holdings below the size of 12.5 acres. It simplified the procedure for partition of Shamilat lands with a view to permit the weaker sections of the cultivating classes to occupy and appropriate the share of land due to them and also provided for summary reinstatement of a tenant who had been wrongfully evicted after

\textsuperscript{122} Land Reforms 1, op. cit., p. 5
\textsuperscript{124} Ibid.
\textsuperscript{126} Land Commission Report, op. cit., p. 7.
April, 1947\textsuperscript{127}. The Act prohibited the execution after 18\textsuperscript{th} Nov, 1948, of ejectments or decrees passed against a tenant by any court who had acquired the right of protected tenancy. The eviction of the tenant by means of notices had been stopped and had to be sued for before a court of competent justice.\textsuperscript{128} The Act also abolished the institution of safed-posh\textsuperscript{129} in the state and benefited nearly 3/5\textsuperscript{th} of the peasantry, cultivating about 7 lakh acres out of 22 lakh acres of total cultivable area of the state.\textsuperscript{130} Although the tenancy reforms secured the position of the tenants-at-will and made their ejectment a difficult task for the landlord but the ambiguity in the meaning of some provisions of the law left some of the tenants disinterested, thereby, hindering the development of agriculture. The provision of personal cultivation was one among them. Subsequently, tenants were granted more security against ejectment through amendments in the relevant Acts in 1950, 1955, 1960, 1965, 1970.

As already discussed earlier in the chapter, the payment of revenue in cash though introduced with an objective to help the cultivator had ultimately paved way for his enslavement by the moneylender through the service of rent. By 1948 peasant indebtedness had become an actual problem. The State cabinet having realised that while there must be a legislation to exact a fair standard of business on part of the credit-moneylender, the legislation in itself did not go far enough, and the peasant or the manual labour could not be made debt-free unless his margin of profit increased and alternative credit facilities were provided to him\textsuperscript{131}. To give immediate relief to all sections of the population the Government passed \textit{Ordinance No. XXI of 2004} which stayed for period of one year all suits or proceedings of the nature of execution or otherwise for the realisation of the debt against agriculturalists, wavers of all kind, \textit{hanjis}, artisans and craftsmen including embroiders, manual labourers of all kinds including factory labourers, any other person or class of persons notified in this
behalf by the head of administration and non commercial debt not exceeding Rs 2000.\textsuperscript{132} Under the ordinance, relief had been given to those who deserved it and commercial debt or ordinary business transactions were little interfered with.\textsuperscript{133}

To further alleviate the distress of the poverty stricken people of the state especially agriculturalists, the \textit{Distressed Debtors Relief Act, 2006 (1948)} was enacted. Five \textit{Debt Conciliation Boards} were appointed in the districts of Anantnag, Baramulla, Kathua, Jammu and Udhampur to bring about voluntary conciliation between the debtors and the creditors\textsuperscript{134}. Debt claims of about Rs 175 lakhs were conciliated by them and scaled down to Rs 85 lakhs. Moreover, mortgaged debts of the value of Rs. 14.59 lakhs were liquidated\textsuperscript{135}. This relieved the agriculturalists, artisans and the village menials of the burden of their accumulated debts. Moreover, to enable the mortgagors to recover their property in a summary manner and to allow them the benefit of income received by the mortgagee during the period of mortgage, a new Act known as the “Mortgaged Properties Act” was enacted. Under the provisions of the Act, if the court finds that the value of the benefits enjoyed by the mortgagee equals or exceeds the cost of improvements, if any affected by the mortgagee, plus 1 ½ times the amount of the principal money or the pecuniary value of goods actually advanced, the mortgage would be extinguished. In no case should the principal sum plus the interest at a rate not higher than 6 per cent exceed 1 1/2 times the principal money or the value of goods actually advanced.

**Third Phase of Agrarian Reforms: Abolition of Landlordism**

[Land to the Tiller]

This phase of the reform programme was launched in 1950s and aimed at the abolition of Landlordism and the transfer of the land to the tiller. The earlier reforms had only marginally ameliorated the conditions of the

\textsuperscript{132} Ibid. pp. 18-19
\textsuperscript{133} Ibid. p. 19
\textsuperscript{135} \textit{Land Reforms in Jammu and Kashmir}, op. cit., p. 3.
peasantry; the laws acting as traditional remedies for production disincentives—tenure-reform legislation guaranteeing security of tenure, ‘reasonable rents’ and support and compensation for improvements—were more often evaded than obeyed. Therefore, in order to achieve the goal of social justice as envisaged in the *Naya Kashmir Document* (*New Kashmir Manifesto*) and as promised to the poverty stricken rural population, the Government had to radicalize the programme of land reforms. Here it would not be out of place to mention that the policy of ‘land to the tiller’ was gaining currency at the all Indian level as well. The *Congress Agrarian Reforms Committee* [1949:39] had concluded that, under prevailing conditions, the only way to assure tenants of rights and production incentives was to make them owners\(^{136}\). The committee summarized the argument:

> It has been found by experience that unless land is owned by the tiller, his incentive to production does not reach to the optimum point. Because of the absence of any guarantee that he would get the full benefit resulting from the improvement he has no desire to make any improvement in the land he cultivates. The improvement, if any, made by him will only enhance the rate of rent which he has to pay even if he is allowed to enjoy security of tenure.

Notwithstanding the fact that there was a broad consensus among the central leaders that inequalities in the countryside were inconsistent with the democratic and socialistic goals of the congress and that, therefore, land ceilings should be imposed and that the surplus land made available be distributed amongst the poorer farmers and the landless but agriculture being a state subject, the central leadership could only set guidelines and attempt to persuade state leaders to institute land ceilings and implement redistribution\(^{137}\).

The government of Jammu and Kashmir, however, was adamant to follow the *New Kashmir* programme and in April 1949, appointed ‘Land Reforms Committee,’ under the chairmanship of Mirza Mohammad Afzal Beg,

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to examine and report on various issues connected with the implementation of
the declared policy of giving Land to the Tiller. The committee consisted of two
official members Viz. Khawaja Ghulam Mohammad Sadiq (Minister of
Development) and G. L. Dogra (Finance Minister) and three non-official
members namely B. R. Th. Kartar Singh (a Jagirdar representing the Jagirdars of
Jammu), Kh. Ghulam Ahmad Mir-Zaildar of Salla (Anantnag) and kh. Ghulam
Qadir War of Warpora, tehsil Sopore– representing the cultivators.

The committee drew up a Tentative Agricultural Plan which, besides
other things, proposed that the ownership of all lands would vest in the state
which would recognize every occupier of land as ‘holder’ thereof.\textsuperscript{138} The plan
was published to know the public opinion and at the same time a
comprehensive questionnaire was compiled to receive definite suggestions
regarding the number of issues, the most important being\textsuperscript{139}:

i) Whether the ownership of land should vest with the state or be
   transferred to the tillers?
ii) In case of transference of ownership to the tiller, whether any portion be
   left in the possession of the existing owners or not?
iii) What should the unit of an economic holding?
iv) Whether any restrictions be placed on the alienation of lands?
v) Whether any compensation be given to the landowners or not?

The questionnaire was widely circulated for public opinion; replies to
the questionnaire came from people, institutions and organizations, from all
over the country.\textsuperscript{140} S. M. Abdullah, on 13\textsuperscript{th} of July 1950, while making an
announcement regarding the abolition of landlordism, highlighted the
significance of the questionnaire by saying that an opportunity had been
afforded to all those who were interested in giving their views in the form of the

\textsuperscript{138} For more details see, Government of Jammu and Kashmir, The Tentative Agricultural Plan
(Srinagar: Land Reforms Committee, 1950)
\textsuperscript{139} Ibid.
\textsuperscript{140} M. A. Beg, On the Way to Golden Harvests: Agricultural Reforms in Kashmir, op. cit., pp. 235-37; The Tentative Agricultural Plan, op. cit.,
replies to the questionnaire. The Agricultural Plan was adopted on the basis of the data collected and suggestions received by the committee. However, pending the examination of the questions by the “land to the tiller” committee S. M. Abdullah announced, on 13th July 1950, that:

.. any person or institute within the territories of Jammu and Kashmir State, possessing more than one thousand kanals-125 acres-of land in proprietary, shall forfeit all such lands, except 160 kanals-20 acres of agricultural land for his personal maintenance, in favour of the tillers thereof Subject to the rules and regulations, in force as regards collection of land revenue etc. with effect from today, only the tillers of these lands will be recognized as the proprietors, who will be sole owners of the next kharif crop.

Thus on, 13th of July 1950, the 19th anniversary of the Marty’s day, the Government made a historic decision of introducing the most sweeping land reforms in the entire sub-continent and probably most radical in any non-communist state world over, except Japan, South Korea and Taiwan. On 17th of October 1950, the ‘Big Landed Estates Abolition Act’, also called as the Magna Carta of the peasants was passed which revolutionized the whole agronomic organization of the state- transferring land to the tiller. The Act superseded most of the proceeding temporary measures and legalised the sweeping land reforms. The most important features of the Act were:

a) Fixation of ceiling on the holding of proprietors at 22 ¾ acres equal to 182 kanals of land excluding orchards, fuel and fodder resources and unculturable waste;

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144 In South Korea strict provisions were enacted and implemented to prevent the re-emergence of dis-equalising tendency with a low ceiling of three hectares per family, and therefore the stronghold of the traditional rural oligarchy was destroyed. Pradhan H. Prasad, “Institutional Reforms and Agricultural Growth”, p. 11, in Social Scientist, Vol. 14, No. 6, (Jun., 1986), pp. 3-19.
b) Expropriation of proprietors from areas exceeding the ceiling;

c) Transfer of tenanted areas from which owners were expropriated to tillers in cultivating possession thereof;

d) Fixation of ceiling at 160 kanals including land already held by them in ownership rights in respect of lands transferred to tillers in Proprietorship;

e) Such areas out of lands from which proprietors were expropriated, as were not in cultivating possession of any person, escheated to the state.

Thus under the law right to ownership in land in excess of the ceiling unit was extinguished and transferred to the tiller, to the extent of their actual cultivating possession during kharif 2007 (9 Sep-Oct, 1950). The tiller to whom proprietary rights were being transferred was not required to pay any compensation to the ex-proprietor and the question of compensation was left to be decided by the constituent committee\textsuperscript{148}. The Tiller had been defined as a person who tills land with his own hands\textsuperscript{149}, and with reference to land owned by a proprietor, has on the date of commencement of the Act (17th October, 1950) been in actual cultivating occupation of such lands, and included a tenant who after 1st Baisakh, 2007 (13th April 1947) had been ejected otherwise than in due course of law, or has ceased to cultivate the land owing to reasons beyond his control. A trespasser, a servant who was paid in cash or kind for his services, a person who is not the actual beneficiary and a hired labour were not considered as tillers.\textsuperscript{150} The tiller was made responsible for payment to the Government of land revenue and cesses assessed on the land. In other words, all rights and liabilities in respect of the land so transferred devolved upon the new proprietor and he could directly deal with the government.\textsuperscript{151}

\textsuperscript{149} Daniel Thornier defined tiller as those who plough, harrow, sow, weed and harvest, see Ronald, op. cit., p. 154.
\textsuperscript{150} \textit{Land Reforms 1}, op. cit., p. 7.
However, the tiller subject to the restrictions imposed by the law could not possess more than 160 kanals of land and had to pay, besides land revenue and other dues payable at that time, a special cess called *Land Development Cess* at the rate of four annas per rupee of land revenue which was to be utilised for the rehabilitation of the cultivators and improvement of the land that passed on to them.\(^{152}\) The fund aimed to provide better roads, improved breeds of cattle, modern agricultural implements and chemical fertilizers to the peasants.\(^{153}\)

The Act led to the nationalization of the lands which were untenanted,\(^{154}\) owned by evacuees and those which belonged to the enemy agents.\(^{155}\) The Government had a plan to develop *Collective or Cooperative Farming* on this expropriated land to help those who were landless at that very time.\(^{156}\) The law granted the cultivator a right to ownership of the land from the moment it was transferred to his name by mutation all rights, titles and interest of the expropriator in such lands, including trees, wells, tanks, ponds, water channels, and pathways vested in the tiller free from all encumbrances but private wells and water mills which the old owner had himself continued to be held by him.\(^{157}\) In order to safeguard the new owner from getting subjected to any harassment on gaining the new acquisitions all suits and proceedings pending in any court at the date of transfer of the land, and all proceedings upon any decree or order passed in any such suit or proceeding previous to the date of transfer were stayed.\(^{158}\) With a view to check and safeguard against the evasion and circumvention of the law, the *Big Landed Estates Abolition Act* declared all transfers of land, or declaration for title or possession granted by an order or decree of any court after 1\(^{st}\) Baisakh 2005 (13\(^{th}\) of April, 1947) to be null and void,

\(^{152}\) Land Reforms 1, op. cit., p. 8


\(^{154}\) Ibid.

\(^{155}\) Land Reforms 1, op. cit., p. 8; Enemy agent, being largely defined as persons who had expressed a desire for Kashmir to join Pakistan, Joseph Korbel, op. cit., p. 211.


\(^{157}\) Ibid. 245

\(^{158}\) Ibid. 245
subject to the condition that such transfer or declaration had been made malafide or with a view to defeat the object of the enactment.\textsuperscript{159} No proprietor of land or tiller to whom land was transferred under the new law could alienate the land or any interest therein without the permission of the Government. Moreover, to safeguard the land from getting fragmented into un-economical holdings the government declared all holdings between 2 and 12 acres of self cultivating proprietors as inalienable. However, the proprietor was the given the choice of alienation to the Government, if he wanted so.\textsuperscript{160}

The law gave the proprietor the right to choose his retainable unit of 22 ¾ acres of land so that the rest of the land excepting orchards, grass farms and fuel reserves may be easily transferred to the peasants without creating any hardships to the owner.\textsuperscript{161} One more purpose of doing this was to avoid the possibility of dispute between the land owner and the tiller.

In order to check the back door entry of non–cultivating elements into agricultural system and avoid the chances of the creation of intermediaries for private profit, the Act extinguished the ownership held in land of a person who died intestate without leaving a heir to inherit, or transferred his land or any interest therein in contravention of the provisions of the law, or having got the land as tiller sublet it continuously for two harvests.\textsuperscript{162}

Having left the question of compensation to the Constituent Assembly of the state the Act provided for payment of annuity by the Government to the ex-proprietor for the lands of which the right of ownership was extinguished till the question was settled. The annuity for the first year was to be $\frac{3}{4}$th of produce of the land revenue, $\frac{2}{3}$rd for second year and $\frac{1}{2}$ for 3\textsuperscript{rd} and the

\textsuperscript{159} Land Reforms 1, op. cit., p. 9.  
\textsuperscript{161} Land Reforms 1, op. cit., p. 9.  
\textsuperscript{162} M. A .Beg, On the Way to Golden Harvests: Agricultural Reforms in Kashmir, op.cit. p. 249
subsequent years subjected to the condition that the total amount payable annually did not exceed Rs 3,000\textsuperscript{163}. Nothing had to be paid for shamilat lands.

As a result of the enactment of the law, 9000 and odd proprietors were expropriated from 4.5 lakh acres of land out of which about 2.3 lakh acres were transferred to the tillers in ownership rights and the remaining land vested in the state\textsuperscript{164}. By 1961 about 8 lakh acres of land were transferred to tillers\textsuperscript{165}. Moreover, about 70900 landless peasants, mostly Muslims, in the valley but including 25000 lower-caste Hindus in Jammu region, became peasant-proprietors\textsuperscript{166}.

The nationalist Government was highly appreciated for such a measure both inside and outside India.\textsuperscript{167} Though Kashmir was not the only state in India where landlordism and jagirdari systems were abolished, but land reforms in Kashmir were definitely bolder than in any other part of India. Whereas other states of India paid compensation to the expropriated landlords, in Jammu and Kashmir the landlords did not get any compensation\textsuperscript{168}. Further a ceiling of 22 ¾ acres for the proprietor had been imposed whereas there was no such imposition in India.\textsuperscript{169} The National Herald of 9 Nov., 1951 while describing

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\textsuperscript{163} Land Reforms 1, op. cit., p. 17.
\textsuperscript{167} In an interview with Hindustan Times, Dato unnbin Jafer, Member for Home Affairs in the Malayan Federation on his visit to Kashmir said that he was well impressed by the Agrarian Reforms of the Kashmir Government, Hindustan Times, Dated: 10-4-1952 ; The American writer Tom A Cullen in a special article in Christian sciences Monitor wrote “in troubled Kashmir, where the wooden plough is still universally in use, peasants have been handed an agrarian revolution on a platter....... After centuries of exploitation under feudal land tenure systems which date back to the Mughal emperors, kashmiri tillers have awakened to find themselves the owners without a shot being fired.

\textsuperscript{168} According to the Land Compensation Committee which had considered the case for and against the payment of compensation in all respects, compensation to the expropriated proprietors was both on principle and policy not desirable. Government of Jammu and Kashmir, Report of the Land Compensation Committee, 1951-52 (Jammu: Land Reforms Officer, 1952), pp. 25-27.
\textsuperscript{169} In this regard Amrit Bazar Patrika, Calcutta, Dated: 20-1-1951, wrote that “S M Abdullah does not belong to the socialist party of Shri Jay prakash Narayan, but he has already done what the socialists merely profess to do”. Vancouver San, Cannada, Dated: 7, April, 1951.
of October 1950, a Red Letter Day, to highlight the socialist face of the law, observed: “with one stoke of pen on that Red Letter Day, six lakh acres of land were transferred to the actual tillers, 15 lakh people bowed down by the weight of centuries of exploitation and oppression”. Another significant aspect of the land reforms was that the state had not to use force even in a single case of transfer of land.

However, despite the progressive nature of the reforms, the Act suffered from certain inherent defects. The land Abolition Act permitted 22 3/4 acres and 20 acres of land to be held in ownership right by the proprietor and the tiller respectively, in all parts of the state regardless of the nature of soil, its productivity and location. The adoption of the uniform size of the holding was based on assumption that it was not the different soils which mattered but the technique of cultivation, the system of farming, capital and labour which could develop the land to yield maximum production. However, this assumption was false and was later on fully acknowledged through the different tenancy amendment Acts which held that; “irrigated lands are more productive than dry lands in both provinces of the state and land in Kashmir on the whole is twice as productive as in Jammu province”. Also keeping in view equipment and methods of farming in Kashmir the holding size of 180 and 160 kanals for the proprietor and the peasant respectively was too large to be an economic unit. Besides this, some assessment reports had shown marked differences in production in different villages of the same Tehsil and between one class of soil

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quoted J. L. Nehru saying “even the constitution may have to be changed in hurry to follow the Kashmir lead everywhere, and argued “that constitution was made for man and man not for the constitution.” It is important to mention here that even the mainstream political parties (Congress Party) accepted the principle of ceiling on land only in 1957.

171 Ibid.
173 As per Tenancy Amendment Act xii of 1955
2 acres of Abi are equal to 4 acres of Khushki in Kashmir province, including ladakh
4 acres of Abi are equal to 6 acres of Khushki in Jammu and 2 acres of Abi in Kashmir are equal to 4 acres of Abi in Jammu.
and another class leading to the dissatisfaction and heart burning among the people.\textsuperscript{175}

Secondly, the ceiling limit was fixed on individual holdings rather than family holdings\textsuperscript{176} and to evade resumptions the landholders broke up the joint families, thereby, entitling each adult male to the limit of 22 $\frac{3}{4}$ acres.\textsuperscript{177} This diluted the objective of redistribution of land to a great extent.

Thirdly, the exemption of lands under orchards, fuels and fodder reserves and un-culturable waste land from ceiling limit gave land owning class enough leeway and opportunity to own and operate unlimited areas of land. Landowners converted their estates into orchards, hence, avoiding the ceiling.\textsuperscript{178} The returns from orchards, especially from apple tended to be much greater than from the cultivation of the food grains.\textsuperscript{179} So by retaining their orchards and converting some of their cereal acreages into orchards, the bigger landowners of Kashmir, whose ranks included pundits, reversed some of their losses by entering into the highly profitable world of horticulture exports. The Jammu landlords could not exploit this assumption so well because of the climatic differences in the provinces.\textsuperscript{180} The Act was therefore not resisted by Kashmir pundits quite as shrilly as their Dogra counterparts.\textsuperscript{181}

Fourthly, the landless labourers were not benefitted by the legislation because they neither acquired any land in ownership nor did their economic conditions improve.\textsuperscript{182} The Act did least for the two largest categories in the

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\textsuperscript{178} Siddhart Prakash, op. cit., p. 2054.
\textsuperscript{179} Nisar Ali, \textit{Agricultural Development and Income Distribution}, p. 212.
\textsuperscript{180} The \textit{Praja Prashad}, therefore, very strongly resisted the reforms.
\end{flushright}
countryside Viz. petty tenants and landless labourers.\textsuperscript{183} Moreover, while transferring the expropriated land the fact that the average holding in tenancy was 10-15 kanals (1.25 acres to 1.87 acres) both in Jammu and Kashmir province was practically lost sight of as otherwise people having much more than this average in tenancy should not have been allotted out of this transferred land more till the requirement of the landless.

Fifthly, the fixation of different rates of rent on holdings of size of 100 kanals and below and those exceeding 100 kanals (12.5 acres) carried with it an inherent inequality which created problems on devolution through inheritance and partition.\textsuperscript{184} There were no grounds for making an iniquitous distinction with regard to the rate of rent by reference to the area of tenancy involved. The difference in the payment of rent led to discontentment as some tenants had to pay \(\frac{1}{2}\) and others \(\frac{1}{4}\)th of the produce as revenue. Even a single tenant had to pay different rates of rent to different landlords and interestingly sometimes the tenant had to pay more for the less fertile holdings. This led to dissatisfaction and bitterness not only between landlords and tenants but also among tenants themselves. In certain cases the tenants refused to pay even the lawful rent invariably to the landlords who in turn could not eject these wrong doers, they, however, involved them in litigation.\textsuperscript{185} The Wazir inquiry committee observed in its report:

\begin{quote}
With such estrangement, between tiller and the landlords ‘the productivity of land is bound to suffer’. If our reforms fail in increasing productivity of land and establishing harmonious relationship between landlord and tenant, they cannot said to have achieved their object. It is only when the entire rural population is contented and satisfied that a country can be happy and prosperous.
\end{quote}

Moreover, since no limit was placed on the extent of protected tenancy, such of the protected tenants as came to possess large lands clandestinely


\textsuperscript{185} M. L. Bhat. op. cit., pp. 33-4.
sublet their lands, which went against the spirit of law. Another consequence which led to resentment was that protected tenants holding larger tenancies and even proprietary lands but assured of security of tenure showed decreasing interest in the cultivation of the lands of landlords, a situation leading not only in the loss of such landlords but also in the corresponding fall in the production of food grains. Also as the state share was not fixed on rational basis the landlords preferred to keep the land fallow, their possession of land instead of an asset became a liability. It may also be added that land reforms did not provide facilities of rural credit along with it, therefore, affecting the agricultural production heavily.

The faulty implementation of the Act through the so-called ‘Contingent of Special Staff’ consisting of Tehsildars, Girdawars and Patwaris, which in reality was the same old bureaucracy and known for its corruption, further diluted its otherwise progressive provisions. The corrupt bureaucracy not only favoured their nears and dears in taking the best pieces of land but also stood in the way of the petty tenants to get the benefits of the said Act. The job of implementation was entrusted to a well knit team of corrupt officials because there was no other alternative and the national conference motivated by the special sense of urgency arising from the plebiscite issue felt that it lacked time in which to create an alternative enforcement agency. The lack of statistical

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187 M L Bhat, op. cit., p. 34.
188 Ibid. op. cit., pp. 34-35.
189 According to M. K. Bhat, “bureaucracy, in the Indian context, is a part of the state and serves the interests of the big capitalists and landlords, therefore, land relations cannot be altered radically and land cannot be re-distributed properly without organised and militant struggle by the peasantry and landless poor,” mentioned in A. R. Rajapurohit (ed.) Land Reforms in India (New Delhi: Ashish Publishing House), p. 40; The Communist Party of India, through its election manifesto of 1957, also underscored the need of carrying out the agrarian reforms, not through bureaucratic machinery, but through democratically elected agricultural labourers and peasant committees, Election Manifesto of Communist Party of India, New Delhi, 1957, p. 3.
information was itself responsible for administrative injustice.\textsuperscript{191} Moreover, the association of the local \textit{Party leaders} with the enforcement staff by the nationalist government to Act as watch dogs upon the officials proved to be a mistake and in actual reality the two elements cooperated all too well, with each other, at the expense of the tiller.\textsuperscript{192} The political interference greatly undermined the egalitarian aims of the reforms as land was distributed and redistributed according to the political affiliations of the tenant.\textsuperscript{193} The noted Historian and Economist, Daniel Thorne thus observes; “In practice any beneficial results have been more than balanced by the government’s food procurement policy, the cooperatives’ reign of extortion, the implementation and redistribution through the old bureaucracy, and the sole political party’s setting itself up as yet another privileged rural hierarchy.\textsuperscript{194}” Such was the extent of corruption that some of the prominent political leaders of the time could not stop themselves from raising voice against it.\textsuperscript{195} In an article about the corruption in Kashmir, M. A. Beg mentions:

There is hue and cry in our country against bribery, it is estimated that corruption has assumed an epidemic which has taken the whole state in its grasp. Despite the efforts of the government it has not been satisfactorily remedied.\textsuperscript{196}

Mir Qasim, another important political figure of the state who himself was actively involved with the making of the law, observed that; “.......there were complaints that the implementation of the land reforms had been left to

\textsuperscript{191} Hindustan Times, Many Anomalies in the Working of Land Reforms, Dated: 20 August 1952.
\textsuperscript{192} Daniel Thorner (1956), \textit{Agrarian Prospects in India}, Delhi, P. 52.
\textsuperscript{193} Siddhartha Prakash, op. cit., p. 2054.
\textsuperscript{195} Speaking in the Constituent Assembly on 29\textsuperscript{th} of March 1952, a prominent nationalist member, Mr Rampiara Sarraf, complained that “since the land reforms in the state were being implemented by a bureaucratic officialdom, tillers had to pay bribes which in no case were less than the actual compensation”.
\textsuperscript{196} Economic Chaos in Kashmir, Kashmir Today: 4 (Delhi: Kashmir Democratic Union, 1952)
the whims of the corrupt bureaucracy. It was a revolutionary programme which had fallen prey to large scale corruption.  

Nevertheless, delaying techniques of landowners, destruction of records, by tribal raiders- which, however, could not be substantiated and seems to be a deliberate attempt on part of the landlords to delay the implementation-, and overall deficiency of land records was also an impediment in the way of the implementation of the programme. It is, however, pertinent to mention here that the implementation of the law, notwithstanding its defects, was a very peaceful process- not even a single case of violence was registered/seen anywhere. 

Notwithstanding the defects in the law and faults in its implementation, which diluted its objectives, the provisions of the law were very progressive. It gave a death knell to the feudal setup of the state and played a key role in the reconstruction of the rural economy. The success of the law can very well be appreciated from the fact that out of 9.5 lakh acres of land distributed throughout the country till 1970, about half i.e. 4.5 lakh were distributed in Jammu and Kashmir only. In order to remove the defects of the land reforms which had created dissatisfaction not only among the landlords, whose landholdings exceeded the ceiling limit, but also to certain other sections of the society further measures, on the basis of the experience gained in the implementation of the aforesaid reforms, were introduced to stabilize the security of tenure and to provide opportunity to the landlords to resume lands for self cultivation. Tenancy (amendment) Acts in this regard were passed in 1955, 1962 and 1965 which gave more and more rights to the tenants–

\[199\] The chief elements introduced through the Tenancy (amendment) Act 1955 were:  
\[i\] All tenants other than occupancy and such fixed term tenants as held Malyari or vegetable growing land have been deemed to be protected tenants and to be recorded as such for the entire land in their cultivating possession.  
\[ii\] No tenant (other than a tenant-at-will) can be ejected from his tenancy subject to certain conditions like 'the landlord requiring the land for his personal cultivation.'
restrictions were imposed on ejectment and resumption laws were made more stringent. One important result of such laws enacted by the state government was that vast tracts of cultivated lands escheated to the state from the expropriation of landlords. This land was from time to time, distributed among the landless agricultural labours and displaced persons.\textsuperscript{200} In consideration to the discontent among a section of the people a committee was appointed in 1957 (\textit{Wazir Committee}) to report on the inequities and anomalies in respect of Kandi areas that had resulted from the reforms introduced till then. Besides other things the committee recommended\textsuperscript{201}:

\begin{itemize}
  \item[i)] The maximum unit for a proprietor in Kashmir Kandi should be fixed at roughly 28 acres and for a proprietor in Jammu in Kandi should be fixed at 34 acres.
  \item[ii)] There should be equitable distribution of land, particularly in favour of landless tillers and agricultural labour;
  \item[iii)] The maximum a tiller can acquire in ownership under the Abolition Act together with the land owned by him should not exceed 65 acres.
  \item[iv)] Land under occupancy rights cannot be resumed by the landlord for personal cultivation, nor can land be resumed from a tenant for a fixed term before the expiry of the term for which it is let out to him.
  \item[v)] Protected tenancy rights are declared heritable though not alienable.
\end{itemize}

Following changes were introduced through the \textit{Tenancy Amendment Act 1962}:

\begin{itemize}
  \item[i)] In respect of the cultivated land other than the \textit{Malyari} held by a landlord or each of the co-sharing landlords, as the case may be including the land in his personal cultivation, exceeding 100 kanals, the maximum rent payable by the tenant cannot exceed the limit as specified by the tenancy amendment Act of 1948.
  \item[ii)] Any reduction made in the size of a holding as specified in clause (i) above does not make the tenant liable to pay rent at a rate or amount higher than that which he was liable immediately before such reduction.
\end{itemize}

The tenancy amendment Act 1965 introduced the following changes:

\begin{itemize}
  \item[i)] The tenants were provided the facility of mortgaging their right of protected tenancy with the state banks, cooperative bank or the land development bank this was done with the objective that the tenant could take advantage of the existing credit facilities.
  \item[ii)] The landlords were provided further opportunity for making applications for resumptions of land for personal cultivation within a period of one year.
\end{itemize}


\textsuperscript{201} Wazir Committee Recommendations as cited in, \textit{Land Commission Report, 1968}, op. cit., p. 11.
kanals and there should be no bar against such tiller acquiring by purchase or otherwise further land in ownership right up to the limit permitted for a proprietor;
iv) There should be no fragmentation of land below 65 kanals by partition;
v) An unsatisfied decree for arrears of rent should be a ground for ejectment of a protected tenant.
vi) Land of proprietors who keep it fallow for two consecutive crops should be given to the landless tillers.
vii) The government should provide speedy facilities for rural credit.

However, a detailed examination of the existing land laws and also the state’s agrarian structure was undertaken by the Land Commission setup in 1963. The commission proposed basic changes in the agrarian structure of the state with a broad objective of increasing agricultural production, utilising man-power resources in fuller measure and ensuring distributive justice.\textsuperscript{202} Emphasising the importance of institutional reforms the commission remarked:

\begin{quote}
It is accepted at all hands that farm tenancy reduces output and unless land is owned by the tiller, incentive to production does not attain the optimum point. In the absence of any guarantee that he would get the full benefit resulting there-from, the tiller does not feel interested in making any improvement in the land he cultivates...... The abolition of landlordism is not only a matter of social justice but if maximum production is to be secured and the cultivator’s full participation in the country’s economy is to be assured, he should be given complete hold and sway on the land he tills by being made owner thereof.\textsuperscript{203}
\end{quote}

In 1967 the Government made another concession by amending the land revenue Act 1966, thereby, exempting all landholdings assessed to revenue not exceeding Rs 9 from payment of land revenue which was estimated to result in the reduction of annual land revenue to the state by about Rs 30 lakh.\textsuperscript{204} However, although the position of the tenant by 1967 was fairly secure –

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\textsuperscript{204} Ibid. p. 32.
\end{flushright}
the number of evictions suffered a decline, the tiller could, therefore, conduct regular agricultural operations with good deal of interest-, yet he was grooming under the unjust and exploitative system of share cropping and the fear of eviction. Also the tiller was still nothing more than a tenant and had to part with a portion of his produce for the benefit of the landlord. The repeated opportunities given to the landlord for the resumption of land introduced an element of uncertainty which was not conducive for the long term investment in land by the cultivators. No doubt the chances of resumption by the landlord were remote still the tenant was hesitant enough to make big investments for the purpose of permanent investments which ultimately affected the agricultural production and the overall development of the state. Although the state was much ahead to other states in respect of land reforms, yet it remained the constant endeavour of the government to remove all defects in the existing land laws in order to keep pace with the changing times. Therefore, in order to remove the intermediaries altogether and bring the tiller in direct contact with the state, the state came with a new legislation in 1972 which opened a new phase of the reform programme in the state. However, it is pertinent to mention that the subject of land reforms had already got a new tempo throughout India since 1969 and a series of Chief Ministerial Conferences (1969, 1970 and 1972) were held to review the programme of agrarian reforms in different states and evolve guidelines for their implementation. In January 1971, the chief minister of the state, Syed Mir Qasim, declared that one of the prime objectives of his policy would be to initiate structural reforms in rural sector so as to give the tiller of the soil a sound economic base and ensure him the full benefits of his sweat and toil. In conformity with the objective of rationalising the existing ceiling, abolition of the system of absentee landlordism including the allied forms of intermediaries and conferring ownership rights on the tillers of land, a bill known as *The Jammu and Kashmir*...
Agrarian Reforms Bill\textsuperscript{206} was introduced in the assembly in March 1972 to bring the tiller in direct relationship with the state by abolishing all intermediary interests in land.\textsuperscript{207} The bill was referred to a joint select committee and after many amendments\textsuperscript{208} it was adopted in October 1972 by the legislature and came to be called as ‘State Jammu and Kashmir Agrarian Reforms Act of 1972’.

The main provisions of the Act were:

i) Vesting of ownership rights of land (excluding orchards) held by owners and intermediaries who were not in its personal cultivation to those who held such land in personal cultivation on 1-9-1971.

ii) Imposition of a ceiling (excluding orchards) of 100 standard kanals (12.5 standard acres) and vesting of all land in excess of ceiling in the state.

iii) Compensation in lieu of all land vested in the state as result of (a) and (b) above at rates specified conditions.

iv) Provision for resumption of land by any intermediary or absentee landlord on certain specific conditions.

The Act, therefore, extinguished the right of ownership of any person and also the right of any intermediary in land not held by him in his personal cultivation on 01-09-1971. The interests of the mortgagee without possession were, however, protected. Ownership rights were conferred on tillers on payment of levy which had to be uniform– the levy had to be recovered from the tiller by the government, at rates lower than the prevailing market rates, in easy instalments. A ceiling of 12 1/2 standard acres was prescribed for all those who were owners of land, all owners of land to be tillers thereof. The exempted categories had been considerably curtailed. The areas which were known as Kah krisham, bedzars safedzars and other fuel and fodder growing areas were

\textsuperscript{206} Ibid.
\textsuperscript{207} Ibid.
\textsuperscript{208} As many as 38 amendments to the various sections of the bill were moved by the members, mostly congressmen. Fourteen amendments stood on the name of Syed Ali Shah Geelani of Jama’at-i-islami., Indian Express, Dated: 28-10-1972.
removed from the category of exempted lands. Subject to certain conditions orchards were also hit by the ceiling law.\textsuperscript{209} The \textit{Standard acre} was defined and detailed conversion tables were worked out under the rules framed for the Act to arrive at the ceiling limits in different geographical areas.\textsuperscript{210} Therefore, variations in locality and fertility were given a due consideration through the device of standard acre, thereby removing the main loophole of the earlier programme of reforms. The ownership of land not owned in personal cultivation and also of the land held in excess of the imposed ceiling vested with the state. The ceiling was fixed on family and not on individuals as was the case in the Big Landed Estates Abolition Act 1950\textsuperscript{211}.

Right of resumption upto three standard acres was provided to owners whose income did not exceed 500 Rs per month subject to the condition that the tenant should not be left with less than two standard acres and the owner resides in the village or adjoining village where the resumption takes place. However, in case the owner could not resume land for personal cultivation because the tenant could not be left with 2 standard acres, compensation at market rates was provided to owners.

However, despite these progressive provisions of the Act some defects remained which came to the surface with its implementation. The position relating to orchards was quite complicated. The categorization of the orchards into ‘\textit{new orchards}’ and ‘\textit{old orchards}’ created a complicated situation for the layman observer and doubts were expressed regarding the rationale in such classification of orchards. Although land not in personal cultivation of the owner was to be transferred to the tiller in ownership on payment of levy in full, yet he was required to pay off the mortgage of such land in addition to the

\textsuperscript{209} Orchards were categorized into 2 classes: 
a) New orchards—orchards which came into existence after 1\textsuperscript{st} September 1971 
b) Old orchards—which were there before, the new orchards were squarely covered by the ceiling law. For more details see, Government of Jammu and Kashmir, \textit{New Agrarian Reforms in Jammu and Kashmir: Salient Features} (Srinagar: Department of Information), p. 5.


\textsuperscript{211} For the purpose of ceiling, a family consisted of man, his wife and their minor.
levy if the land had been mortgaged without possession by the ex-owner. This was too heavy a burden on the tiller.\textsuperscript{212}

Many other lacunae, shortcomings and difficulties were found in the operation of the Act. The Act instead of introducing reforms in agricultural estates gave rise to unnecessary litigation, created chaos and confusion and caused hardships to landlords as well as tenants and the main reason behind it was its drafting. The Jammu and Kashmir High court in a full bench judgement observed:

The new Act is not well drafted and this appears to me to be one of the main reasons which has made its underlying schemes obscure and rendered. It is difficult for most of the people to comprehend its scope and content. I apprehend that the imperfections in drafting might even lead to avoidable and unnecessary litigation. The Government will be well advised to have the Act examined from the drafting point of view and take steps to remove the drafting errors and imperfections, if any, detected as a result of such examination.\textsuperscript{215}

Under pressure from the landlords as well as the peasants who filed many representations and counter representations with regard to the different provisions of the law, the Government had to make certain amendments in the Act to facilitate its implementation.\textsuperscript{214} However, before the amended law could be implemented, the state in early 1975 experienced a very significant change; S. M. Abdullah staged a political comeback and formed a new government. In light of the numerous representations received by the new government from different sections of the society, the operation of the Act was suspended and a committee of experts was set up to look into the shortcomings of the law. Subsequently changes were made in the proceeding Act and a new Act was passed which came to be known as the Jammu and Kashmir Agrarian Reforms Act 1976. Some of the most important features of the Act were:

Abolition of absentee landlordism in all forms. The Act extinguished all rights, titles and interests retrospectively from 1st of May 1973, on the land of any person who was not cultivating it personally on first day of September 1971 and such rights, title and interests were deemed to have vested in the state. After the implementation of the Act, no new tenancy could be created and tenancy created and continued after 1, May, 1973 in respect of any land was declared as invalid. No person in future could acquire land for personal cultivation without the permission of the competent authority, otherwise than for personal cultivation or for horticultural purposes or for residential purposes upto 4 kanals. Any person who resumed land under the provision of the Act had to take up normal residence for the purpose of cultivation the resumed land personally in the village in which such land was situated or in an adjoining village of such village

The Act fixed a ceiling of 12.5 standard acres varying in terms of ordinary measure between 9 to 25 ordinary acres depending upon the quality of soil, availability or unavailability of irrigation and the region were the land is situated. Orchards were squarely brought within the preview of the ceiling law and no exemption for what were called old orchards had been provided in the Act. For the development of horticulture the Act provided an incentive for those who converted lands of inferior types into orchards, the incentive being an addition to the ceiling area of 12.5 standard acres to the extent of 10% of the land covered by the orchards on land of medium class and of 20% of land of inferior class subject to overall upper limit of the ceiling area at 200 kanals.

The term Standard Acre is the most important, technical and complicated term in the whole scheme of the ‘Act’. The Act states that value of one standard acre is equal to one rupee.


Government of Jammu and Kashmir, Jammu and Kashmir Agrarian Reforms Act, 1976, Department of Information,
iii) The Act related the ceiling area to family and family under the law meant husband, wife and their children excluding their married daughters and a son of 18 years or above and who had separated from his father on or before 1st September, 1971 and held land separately on his name.\textsuperscript{118}

iv) The Act made provisions for the resumption of land;

v) The Act provided for the conferment of ownership rights to such persons who had resumed land for their personal cultivation. They were not entitled to receive any compensation for the area left after resuming the permitted limit on rent basis and such land left vested with the ownership rights to the tenants free from any levy. However, in the cases where by virtue of the maximum of five standard acres, the owner was not able to resume the entire land, which he could otherwise. The tiller had to pay levy for such part of the land, remaining with him after resumption, as the ex-owner had failed to resume by virtue of the, 5 standard acre limit.\textsuperscript{119}

vi) The Act provided for the distribution of surplus land among the landless persons\textsuperscript{120}

vii) The Act provided adequate compensation to the persons whose rights in land got extinguished as a result of the implementation of the Act, at fixed proportionate rates to the type of land and quantum of rent to such persons.

viii) The Act prohibited the alienation of land by way of by way of sale, gift, mortgage with possession, bequest and exchange;

ix) The Act provided for the creation of new administrative machinery for the implementation of the provisions of the Act.

Therefore, the Act removed the major defects of the earlier laws and as aforementioned made provisions to: bring the orchards squarely under the

\textsuperscript{118} Hakim Imtiyaz Hussain, op. cit., p. 11.
\textsuperscript{120} Hakim Imtiyaz Hussain, op. cit., p. 14.
preview of ceiling law, transfer surplus land to the tiller except in case of land belonging to places of worship and public trusts, relate the ceiling laws to the nuclear family, ensure that ownership follows personal cultivation and to provide surplus land to landless. However, the law could not be implemented due to some technical difficulties. Accordingly, when Sheikh Mohammad Abdullah came to power in July 1977, he picked up the thread again by proposing some amendments in the 1976 Agrarian Reforms Act. Finally, the Jammu and Kashmir Agrarian Reforms (Amendment) Act was passed on, 8th April 1978 and came into force on 13th July 1978. One among the most important amendments in the Act was that the orchards were exempted from ceiling laws.

According to the provincial estimates of Agricultural Census (1970-71), 29 per cent peasants were expected to benefit from 1976 Agrarian Reforms Act. As a result of the implementation of the Act, about 4000 acres of land were expected to become surplus for allotment to landless and tillers of about 5 lakh acres of land were expected to acquire ownership rights. The implementation, however, was not carried with a sense of urgency and commitment which the state witnessed in 1950’s. Through the law rights of ex-owners were extinguished for over 3,49,794 acres of land affecting 5,01,557 ex-owners and 5,33,222 persons were declared prospective owners. But absolute ownership rights had been conferred on 1,62,041 persons for land measuring 1,17,797 acres. Thus only 30.39 per cent of the persons conferred with prospective ownership rights had been made absolute owners so far (1990). “About 2.36 families were covered under the land reforms during 1981-82 against a level of 0.091 lakhs during the previous year. Ownership rights had been extinguished for an area of 0.60 lakh hectares during 1981-82 against 0.27 lakh hectares during the previous year. Area transferred to the tillers was almost of the same order. Area on which absolute ownership rights had been

221 Misri, op. cit., p. 71.
223 Misri, op. cit., p. 71.
conferred on the prospective owners was estimated at 0.10 lakh hectares during 1981-82 against 0.04 lakh hectares during the previous year.”

To accelerate the pace of agrarian reform work in the state, the government under G.M shah as a first step merged the agrarian reforms organization with that of financial commissioner to provide single line of command to the revenue administration in the state. Even the government admitted that the pace of the land reforms under the Act of 1976 was slow and desired results were not achieved. While examining the various measures, with a view to accelerate the tempo of the land reforms in the state, it was felt that measures of statutory nature as well as administrative and structural character required to be taken. One of the serious drawbacks which came to be noticed by the government was the lack of unified control in the department as the agrarian reforms work was being attended by a separate organization different from that of the Financial Commission’s Officer.

However, although the Act marked a tangible improvement over all the previous Acts and abolished the dualistic agrarian structure by making the tiller of the land the actual owner of the land, there still remained certain deficiencies. The restriction imposed on the transfer of land and the requirement of permission for such transfers though aimed at watching over the ceiling area, caused certain amount of hardships to those intending to transfer the land and unfortunately they, reportedly, resorted to collection of entries of kharif, 1971 to achieve the objectives of the transfer of land from one person to another, obviously in a clandestine manner. Also the relaxation granted for transfer of four kanals of land for residential purposes was misused by converting Abi (Irrigated) land to residential purposes without the permission as required under the land revenue Act. Furthermore the exemption of orchards from the preview of the ceiling laws also mitigated the objective of

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distributive justice and became a main cause of the emergence of income inequalities in rural areas—giving rise to what is sometimes referred to as neolandlordism.

**Impact of the Land Reforms**

The sweeping land reforms registered a landmark in the history of Kashmir. The hitherto feudal setup was eliminated in all its forms and manifestations. Land was transferred to the actual tiller with a ‘bundle of rights’ of permanent nature, without any compensation being paid to the original owner of the land. Besides securing the position of the peasant the land reforms also restored confidence in the peasant and ‘had begun to extinguish Kashmir’s kaleidoscopic hierarchies’\(^{227}\). Visiting Jammu and Kashmir in mid-1950s, Daniel Thorner, an agrarian historian and economist found that despite some “defects in implementation, many tillers have become landowners and some land has gone to the landless. The peasantry of the valley were not long ago fearful and submissive. No one who has spent time with Kashmiri villagers will say the same today.”\(^{228}\)

Another expert, Wolf Ladjensky, observed that “whereas virtually all land reforms in India lay stress on elimination of the Zamindari [large estates] system with compensations, or rent reduction and security of tenure [for tillers], the Kashmir reforms call for distribution of land among the tenants without compensation to the erstwhile proprietors ......[and] whereas land reform enforcement in India is not so effective, in Kashmir enforcement is unmistakably rigorous.”\(^{229}\) Nevertheless the radical nature of the land reforms had substantially emancipated the peasantry of the state from the bondages of institutional depressants and, therefore, had injected the elements of dynamic growth in the agricultural setting of the state. The peasant now was very eager to make investments in land as he was more secure and also was the direct

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beneficiary of any such investments. Therefore, although the peasant continued
with almost the same seeds and techniques of cultivation as in pre-reform (pre-
1947) period, and notwithstanding that land reforms led to the fragmentation
of land\textsuperscript{230}, which is considered to be inversely related to productivity by some
economists believing in the economy of scale, yet the agricultural production in
the state increased substantially between 1951-52 to 1964-65. This is
substantiated by the following table:

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|}
\hline
Year & Production in Lakh Mounds & Year & Production in Lakh Mounds \\
\hline
1951-52 & 82.56 & 1958-59 & 146.75 \\
1952-53 & 101.60 & 1959-60 & 143.17 \\
1953-54 & 118.67 & 1960-61 & 155.93 \\
1954-55 & 100.26 & 1961-62 & 160.30 \\
1955-56 & 125.50 & 1962-63 & 177.22 \\
1956-57 & 123.53 & 1963-64 & 161.34 \\
1957-58 & 103.21 & 1964-65 & 166.10 \\
\hline
\end{tabular}
\caption{Production of Food Grains between 1951-52 and 1957-58}
\end{table}

\textit{Source}: Progress of Land Reforms, Planning Commission, Government of India, 1963

Moreover, since the peasant was now the master of his piece of land
and could take decisions having market utility, therefore, it is not astonishing
to see that the peasant resorted to the cultivation of high value market crops,
hence changing the cropping pattern of the state (for more details separate
chapter on Cropping Pattern). It is pertinent to mention that, economically,
land reforms produced mixed results. No doubt it succeeded in empowering a
large section of peasants by transferring land to them but the arbitrary nature

\textsuperscript{230} For details on fragmentation of land in the state see chapter 7 (Land-Man Ratio)
of distribution led to unequal distribution of land. Since land was transferred to tillers the landless labourers did not get any land and in most cases peasants got very less land than others. This further created class structure in the society. The agrarian reforms, nevertheless, made the peasant more receptive to the new technologies introduced under the programme of Green revolution. It is, however, pertinent to mention that the exemption of orchards from the ceiling limits and incentives for horticultural development also played a key role in giving agriculture a commercial orientation. Orchardization in Kashmir with high remunerative value was, therefore, to a considerable extent the direct and long drawn impact of land reforms. The substantial decrease in land revenue in the beginning and its subsequent abolition under the land reform programme did ameliorate the condition of the peasant and enabled him to save and invest money on other basic necessities of life. The economic emancipation paved way for the social advancement motivating the peasant to educate his children and avail facilities of better health and cultural advancement. The land reforms had other important social consequence as well. “They fostered the phenomena of occupational mobility, inter-caste marriages and gradual shift from joint to nuclear family pattern.”

There are many cases in Kashmir where the whole village or in most cases some particular castes had to depend on alms to feed their families. However, after the land reforms they not only became self sufficient but also their status got markedly improved and some of them progressed more than those who were traditionally rich classes. However, it is interesting to note that in case of Shia sect, land reforms had a negative impact so far as the social status of those who received land was concerned. Since Shias follow their religious leaders (than political leadership) who were beneficiaries of the landlordism they tended to discourage the land transfer declaring it un-Islamic. Even today in the Shia

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community those who got land due to land reforms are referred as *gasibs* (grabbers)\(^{232}\).

The transformation of rural economy, however, had far-reaching political consequences. Hundreds of thousands of newly empowered peasant families would henceforth regard Sheikh Mohammad Abdullah, seen as a principal agent of this transformation, as a messiah\(^{233}\). These emancipated serfs thus provided an everlasting supportive base to Sheikh and were at his back till his very end. However, at the same time the land reforms antagonised the most influential section of the Kashmiri society namely Kashmiri Pandits who were hit hard by the land reforms being the main beneficiaries of the feudal and sectarian rule of the Maharajas. As the Kashmiri Pandits enjoyed considerable influence in the corridors of New Delhi, they, it is believed, launched a sustained movement against Shaikh government leading to its dismissal in 1953.\(^{234}\) Also in parts of Jammu region, the imposition of land reforms catalyzed a tenacious movement of social and political reaction. The “majority of landlords and money lenders were Hindus, and the axe naturally fell on them”\(^{235}\) and they dubbed the movement as anti-Hindu and pro-Muslim.\(^{236}\)

It would not be out of place to mention that the inherent loopholes in the land reforms and their implementation especially in early 1950s’ through the corrupt and politically affiliated bureaucracy not only mitigated their impact but also proved harsh for the landlords as well as peasants with Muslim conference background. Therefore, the inequalities (class differential between the higher and lower farm sector)-as envisaged by the reforms- instead of extinguishing sufficiently became more dominant with the passage of time. It

\(^{232}\) The information is based on an interview with Ali Mohammad Para, resident of Maugam village of District Baramulla. Ali Mohammad belongs to Shia Sect and is a progressive farmer.


\(^{234}\) Siddhartha Prakash, *op. cit.*, p. 2054


created conducive conditions for the support of *Jama’at-i-islami*. However, the notion that ‘the *Jama’at* drew many of the better-off urban or landowning classes who had lost out to land reforms; that they had been deprived of feudal privileges a reason why they adopted the primness, saving and professional respectability; that this puritanical movement promoted and later on when the national conference failed to deliver on governance grounds the *Jama’at* emerged as the most potent rival’\textsuperscript{237} needs to be validated.

\textsuperscript{237} David Devdas, op. cit, pp. 77-78.