CHAPTER - X

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I. Introduction

An attempt is made to discuss in this chapter the disincentive implications of the different land legislations. Disincentives include inducements to invest less of either labour or capital or both in agriculture by the landowner or by the tenant, dis-inducements to the application of scientific methods of cultivation or improvements in agricultural land, etc. It is clear that the different measures of land reforms were undertaken, by the State Government since independence with a view to providing proper incentives to the agriculturists to take more interest in agriculture leading to increased agricultural production. The State Legislature, while enacting a particular Act, usually shows keen interest on providing more incentives through legislative devices. Therefore, apparently, the question of disincentive does not arise. Nevertheless, some provisions of the law do contain some disincentive features or implications which arise due to loopholes or lacunae in the provisions of the law ultimately impending agricultural development.
II. Disincentive for Share-Cropper and Landlord.

The Assam Adhiar Protection and Regulation Act of 1948 had fixed the maximum rate of rent-in-kind that a share-cropper would pay to his landlord. Before paying the rent the adhiar was to return the seedgrains, if these were supplied by the landlord. From the remaining output of the principal crop the adhiar was to pay as rent one-fourth of the produce where the plough-cattle was supplied by the landlord and one-fifth of the produce where no plough-cattle was supplied. This provision did not provide any incentive to the landlord to supply plough-cattle to the share-cropper. In case he supplied plough cattle, he would get only 5 per cent more of the share the cost of which was far less than the cost of maintenance of a pair of bullocks during the whole year. This provided a clear disincentive to the landlord in providing plough-cattle.

Further, the provision related to the landlord's share of rent-in-kind of the principal crop only which also further discouraged the landlord to provide help in the form of plough-cattle or loans in terms of seedgrains to the adhiars.

In case the landlord intended to resume land for personal cultivation the Act provided that he could do so but the share-cropper was ensured retention of a minimum of 10 bighas of cultivable land. Here the Act did not at all differentiate between small, large and marginal landowners whereas the land reform laws had as one of their explicit aims the
objective of ensuring equity and justice to relatively unprivileged or disprivileged agriculturists and cultivators. Thus the marginal or small landowners who had earlier leased out their holding for certain unavoidable reasons could not resume the same later for personal cultivation as his tenants were eligible to retain 10 bighas of land each leaving very little for himself. The position of landowners having 10 bighas or less was worse. Sen contended that while allowing the landlord to resume land for personal cultivation the law must distinguish between the big landlord and the small owner by granting the right of resumption only to the latter.

FAO in one of its publications mentioned that if a land reform legislation wished to give the landlord a right of resumption, the exertion of the right should be limited not only in area but also in time. It should be restricted exclusively to landlords who in the past have personally been associated with agricultural cultivation and will carry out self-cultivation in the most narrow meaning of the term (not by agricultural workers).

The State Government, before allowing the tenants to retain the land, should have enquired into the reasons for the land being leased out. This closed the doors for effecting any permanent improvements in agriculture by the landowners. From

this provision the share-croppers were also not benefited. Because, the landowners, instead of resuming land for personal cultivation, preferred leasing out land for fear of losing it in the event of resuming land for personal cultivation. In absence of the provision of acquisition of ownership rights by the adhiars till 1971, Government failed to provide proper security and rights of ownership over lands by the share-croppers.

The share-croppers working or cultivating land leased out by disabled persons, minors or persons of the defence forces were always discouraged to take interest in agricultural development as they had the fear of eviction every moment because such categories of persons were not liable to allow a minimum of 10 bighas to the adhiars.

Though the Act provided certain restrictions on eviction of adhiars, in practice evictions could not be reduced as it was difficult to find out the exact number of adhiars in the State due to the absence of adhiars' record-of-rights. The adhiars were not regarded as tenants till 1971 and were therefore excluded from tenants' record-of-rights.

III. Disincentive for Tenants in Zamindari Settlement

The Zamindari system in the permanently settled areas of Assam was totally abolished. Though the Act was effective
yet it contained certain disincentive provisions. The provision that the standing tenant would hold the estate or tenure vested in the State on the same terms and conditions as immediately before the date of vesting acted, in fact, as a disincentive. Because the rates of rent charged by the Zamindars were different for different localities or estates. Generally, the small Zamindars charged exorbitant rates of rent. The big Zamindars, even if they were charging higher rates, than those prevailing in the temporarily-settled areas, provided certain facilities like free living accommodation. Thus discrimination due to payment of differential rents by the tenants continued till 1974 though the State had become the owner of such lands.

Further, the Act provided large tracts of lands to be retained by a proprietor and a tenure-holder up to the maximum of 400 bighas and 150 bighas respectively. The limits were further relaxed in the case of large-scale farming. The tenants working on such private lands did not get security of tenure after the abolition of Zamindari. Bhowani Sen pointed out, "it must be noted that the Acts abolishing Zamindari and Jagirdaris have not divested the feudal landlords of their large land holdings. Rather they have been permitted to retain large areas of agricultural land provided it was not let out to tenants but cultivated by employing hired labour in any form. The State has acquired only the rent-receiving interests."

Dandekar and Rath pointed out that abolition of intermediaries...

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was basically a reform of revenue administration rather than a measure of land redistribution. There was little justification for allowing the Zamindars to retain such big plots of land as private land along with homesteads and buildings, lands under tea gardens and orchards, particularly when there existed vast number of landless cultivators. Dantwala mentioned that some of the legislation, indeed, has had the perverse effect of protecting the strong against the weak, for certain classes of tenants have been ejected or lost part of their former holdings as a result of Zamindari abolition and the tenancy laws.

IV. Disincentive under Land Ceiling Act

The imposition of ceiling on land holdings created more small, uneconomic and inefficient holdings which stood as obstacles in the way of application of modern techniques of production and efficient management in agriculture. In Chapter IX we have stated that only about 3 bighas of land could be allotted to each family. In Karnataka about 14.61 bighas (1.95 hectares approximately) of land was allotted to each family. In Punjab and Maharashtra the amount was 13.95 bighas (1.86 hectares approx.), 12.46 bighas (1.66 hectares approx.) respectively.

The surplus lands acquired as a consequence of the imposition of ceilings were too meagre to meet the needs of the landless cultivators. The fixation of ceiling at 150 bighas per family in 1956 was a wrong measure, because in Assam, the number of families having more than 150 bighas of land was very small except in the erstwhile Zamindari areas. The same ceiling limit continued till 1970 when it was lowered to 75 bighas. Under the original Act the State could acquire only 2,70,134 bighas of land till its amendment in 1970 both from individuals and tea gardens.\(^7\)

The Act provided for disposal of ceiling surplus land, first, to the standing tenants. But according to the national guidelines\(^8\) while distributing ceiling surplus land priority should be given to the landless agricultural workers particularly to those of Scheduled caste and Scheduled tribes. Thus, a few landless cultivators were benefited from the Act as most of the lands acquired by the Government as ceiling surplus were already occupied by tenants. In this way the Act allowed the landlord as well as his tenants to hold 150 bighas of land. Thus, the original Act failed to contribute anything worth-mentioning towards the goal "land to the landless".

The tenants cultivating lands of disabled persons, minors, widows and defence personnel were not protected in case

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7. Revenue Department, Government of Assam.  
such persons resumed land for personal cultivation. Such persons were not required to leave a minimum of 10 bighas with the tenant. Malpractices arose in the name of such persons. N.C. Dutta mentions, "there may be some persons who are suffering from disability but are substantial owners." These persons should not have been allowed to resume land without ensuring a minimum area for the standing tenants. In such families there may be some able-bodied adults. The provision relating to unrestricted right of eviction in case of such persons acted as a disincentive measure of land reform and allowed malpractices to continue. Improvement of agriculture and increase in production could not be expected from tenants working or cultivating lands held from such owners.

The retention of land under orchards upto a maximum of 30 bighas as provided by the amended Act of 1957, was also a disincentive measure for providing cultivable lands to landless persons. As Rao states, "I do not think they deserve any exemption. They are more remunerative and hence must have a lower ceiling."¹⁰

V. Disincentive under Consolidation Act

The programme of Consolidation of holding was a total

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failure in Assam. Certain provisions of the Act themselves stood as clear disincentives to the scheme. In Punjab, Haryana and Uttar Pradesh the consolidation of holdings programme had given spectacular results as consolidation was made compulsory. The National Commission on Agriculture therefore recommended that consolidation scheme should be made compulsory in all areas of the country fit for consolidation. But in Assam peoples' voluntary agreement is the pre-requisite for consolidation of holdings. The realisation of 50 per cent of the cost of consolidation from the owners of land benefiting from this scheme was a clear disincentive. Consolidation is closely related to factors like, land improvement, new roads, proper drainage, irrigation facilities, etc. In Assam it was found that without these pre-conditions the State Government confined itself to simply amalgamating the fragmented holdings so as to form them into compact blocks. As a result, the owners were highly sceptical about the benefits they would derive after consolidation of their holdings. Thus they were reluctant to bear half of the cost of consolidation.

The provisions relating to the valuation of land on the basis of prevailing market price, where the value of newly allotted land was less than the value of the original plot, was also a disincentive measure. They declined to accept the

price offered to them as they felt that the rental value of the land or the prices of the agricultural produce served as better norms in this respect. The prevention of future fragmentation below 5 bighas was such a measure which instead of providing incentive for consolidation, retarded it. In the beginning, the Act provided for consolidation of holdings, whereas, later on it prevented future fragmentation and creation of a new plot below 5 bighas which indirectly meant that there can be fragmentation of lands upto 5 bighas.

Moreover, the assurance given by the Consolidation Officer on behalf of the Government that after consolidation every person would get, as far as possible, the same area or area of the same village as the original area, did not come out true for the obvious reason that it was an impossible thing to guarantee. Thus, the consolidation programme was a total failure despite the fact that the State Government had deputed a large staff for training in Uttar Pradesh and Punjab in 1967-68. Innumerable loopholes in the legislative measure were also responsible for this failure to a great extent.

VI. Disincentive Under Occupancy Right

The reduction of the period for acquisition of the right of occupancy from twelve years to three years was no doubt an encouraging measure, but the small landowners were adversely affected by this. The occupation of land for a
continuous period of three years allowed the occupancy tenants to acquire the right of ownership. The small owners who had leased out land for certain unavoidable reasons were thus adversely affected because they could not resume their small holdings again for personal cultivation after letting it out for 3 years. The law should have exempted such small owners of land from the provision of ownership rights by occupancy tenants particularly when they had leased out their small holdings for genuine difficulties.

The provision regarding deposit of compensation within one month from the date of acquisition of ownership rights as well as intermediary rights by occupancy tenants and under-tenants, desirous of acquiring such rights, also acted as a disincentive in the way of acquiring such rights as few tenants or under-tenants had the capacity of doing so within such a short period. Where the Government acquired such rights on behalf of tenants it undertook the responsibility of paying the compensation to the owners and to recover the same from the tenants who had acquired such rights in five equal instalments. The first instalment fell due on the expiry of three months from the date of the order given by the Government. As a result the occupancy tenants as well as the under-tenants depended on the Government to acquire such rights on their behalf. This caused immense delay in the acquisition of such rights and vesting them to occupancy tenants and under-tenants.

The Hyderabad Tenancy and Agricultural Land Act, 1950\textsuperscript{12} provided

\textsuperscript{12} Ibid., p.110.
for both voluntary purchase of ownership by the tenants and compulsory transfer of ownership to protected tenants.

The very term 'personal cultivation' as provided by the different land legislations contributed much to the failure of the Act to achieve their purpose viz., safeguarding the interest of the tenants. Dantwala rightly states, "if the idea is to thereby promote genuine owner-cultivation, the obvious flaws in the definition have not only prevented its fulfilment, but has encouraged extension of cultivation through hired labourers. From the point of view of land tenure reform the result has, therefore, been regressive." Warriner pointed out that the chief loophole in the tenancy legislation was the landowner's right of resuming land for personal cultivation, which allowed him to evict tenants and cultivate the land by employing agricultural labourers or share-croppers. The restrictions for such resumptions could always be evaded because the landowners could exert pressure on the tenants to make 'voluntary surrenders.' The various Acts defined personal cultivation as cultivation by the person himself or by any member of his family or by hired labourers on fixed remuneration payable in cash or in kind but not in cropshare. Moreover, personal supervision and bearing of risk of cultivation were needed. In course of time malpractices arose. For example,


instead of remuneration to be paid to the labourers, the land was leased out on cropshare basis the result of which was the reappearance of insecurity of tenure. The Tenancy Act of Gujarat as amended in 1973 made 'personal cultivation' more restrictive and the landowner was required to cultivate his land himself or by a member of his family, i.e. his wife or his male descendants, and had to reside in the village in which the land was situated or the village not farther than 15 Km.