CHAPTER - IV

LAND LAWS OF ASSAM SINCE 1947
- A BRIEF DESCRIPTION.
CHAPTER - IV

LAND LAWS OF ASSAM SINCE 1947
- A BRIEF DESCRIPTION

I. Introduction

A brief description of the provisions of the different Acts passed by the Assam Legislative Assembly in the post independence period is given in this Chapter. These Acts enacted from time to time for the implementation of land reform measures in Assam are discussed from the economic point of view. The object of these Acts is to: (a) abolish Zamindary settlement and ensure rights to tenants, (b) provide security of tenure to the cultivator, (c) protect him from exploitation from big landowners, (d) enable him to establish a direct relationship with government and (e) fix ceiling on land holding.

II. Protection of Sharecropper

Before 1948 exorbitant rents in kind were realised from the share croppers. A share cropper, called the adhiaar, was a person who under the system known as the 'Adhi' (also called 'barga', 'chukti', 'bhag' and 'chukani') cultivated the land of another person on the condition of delivering a share
of the produce of such land to that person. In the event of failure to pay he was evicted. Consequently the adhisrs faced great hardship. The amount of rent in kind was so high that very little was left for the sharecropper for his bare subsistence. With a view to remedying this state of affairs the Assam Adhia Protection and Regulation Act, 1948 was enacted to protect the tenants or the sharecroppers (adhisrs) from rack-renting. This Act was amended in 1952, 1955, 1957 and 1960.

The Act endowed the right of occupation and cultivation of land to any sharecropper for subsequent years if curing the preceding agricultural year he had cultivated the land as an 'adhia'. The adhia could of course voluntarily relinquish the land. He could be evicted only by an order passed by the Adhi Conciliation Board. Violation of this, empowered the Adhi Conciliation Board to restore the right of occupancy and use of the land to the sharecropper and issue decree on the landlord to pay compensation to the aggrieved sharecropper up to a maximum of Rs. 200/- in each individual case.

This Act laid down in detail the conditions under which the Adhi Conciliation Board could entertain applications from landlords to evict the share-cropper from the land in his occupancy. If the landlord could establish his bonafide

2. Assam Act XII of 1948.
3. Section 3(1) of the Principal Act.
requirement of the land for his personal cultivation, then the adhiar could be evicted from the land provided the area was less than or up to 10 bighas on the condition that the landlord shall provide the share-cropper with land of equal value in the vicinity. If the area of land was more than 10 bighas, the landlord was entitled to resume the area in excess of 10 bighas for his personal cultivation provided that the total area held under such conditions by the landlord and his family for personal cultivation did not exceed 100 bighas. In case the landlord after resumption of such land, consequent on the eviction of the share-cropper, did not personally cultivate within one year or sub-let the land to some others within two years, the law provided for restoring the evicted land to the evicted share-cropper. The law also provided immunity from the above conditions to landlords who were either minors or widows or to persons suffering from mental or physical disability and to the members of the forces. The share-cropper could be evicted if (a) he had either cultivated the land in a manner which rendered it unsuitable for future cultivation, (b) he had kept the land fallow for two consecutive years without any justification, (c) he had sublet it to others and (d) he had failed in delivering the share to the landlord as per the agreement with the landlord. Thus it will be seen that in general the share-cropper was protected against eviction so far as a floor level of 10 bighas is concerned. At the same time the landlord

4. Sub-section (i)(a) of Section 5.
was debarred from undertaking personal cultivation of land either by resumption of land as a result of eviction or otherwise in excess of ceiling of 100 bighas. It will also be seen that the provisions ensured that the land was cultivated and not kept fallow either by the share-cropper or by the landlord upon resumption of such land.

So far as the payment of rent in kind to the landlord was concerned, i.e., the mode and basis of share-cropping, it was provided that from the gross produce of the major crop only, the share-cropper was firstly bound to replenish the landlord the quantity of seed grains if provided by the landlord. Thereafter, in the absence of any contract to the contrary, the landlord was entitled to 33.3 per cent (one third) of the produce of the major crop if he had provided to the share-cropper cattle for ploughing purposes or 26 per cent (one-fourth)* of the produce of the major crop in absence of such plough cattle facilities. The Act also debarred contracts exceeding the above maximum. The share-cropper was not bound to give to the landlord any share of the additional crop or crops grown by him. The Act also gave to the share-cropper the option, the money value of the crop share payable to the landlord which was defined in the Rules framed under the Act to be the market value of the crop prevailing at the time of harvesting in the locality concerned. This obviously meant farm harvest price.  

---

* Share was subsequently reduced to one-fourth and one-fifth respectively by an amendment Act of 1955.

5. Added by Assam Act XI of 1957.
III. Assessment of Revenue-Free Waste land grant.

In the early days of British rule in Assam, it was the policy of the then Government to encourage cultivation of tea in Assam by offer of land on specially favoured terms. The total area of such land given as revenue-free grants was approximately 4,80,305 acres. This practice created a wide disparity between a moneyed class of people (mostly foreign tea planters) holding vast area of land on revenue-free basis for special (tea) cultivation and the masses of the peasantry subject to payment of land revenue. The practice invited public condemnation immediately after independence as it was considered discriminatory, unjust and inequitable. Whatever justification there might have been at that time for such highly favourable terms, the continuation of this discriminatory practice could not be supposed on grounds of justice after independence. It was mainly to remove this longstanding discriminatory provision from the statute-book that the Assam Assessment of Revenue-Free Waste Land Grants Act was passed in 1948, which came into force from 1st April of the said year. It was amended in 1949.

Such lands for special (tea) cultivation which were expressly exempted from revenue assessment by the Land and

---

Revenue Regulation, 1886, were in pursuance of this Act, made liable to assessment of revenue. It may be pointed out, however, that the Act did not repeal the other terms, and conditions of the grant. In addition such lands were also made liable to pay the local rates and cesses.

These lands were initially assessed at a rent (or land revenue) of Rs. 1/- per acre of the gross area for the years 1948-49 and 1949-50. Subsequently, the State Government has been fixing the revenue rates from time to time for such lands, which are different for different localities.

In view of the urgent necessity of providing land to a large number of landless, flood-affected and displaced persons, it was proposal to widen the scope and operation of the Assam Land (Requisition & Acquisition) Act of 1949 by an amendment. The Government was liable to pay compensation for acquiring such land together with standing trees, if any, the amount being equal to ten times the annual land revenue. Thus it will be seen that this Act enabled the Government to acquire surplus lands fit for cultivation, particularly cultivable surplus lands with tea gardens, and allot them to the landless agriculturists, displaced people and flood-affected persons. The life of the Act was originally for five years (from 1953 to 1958) but was subsequently extended by another

---

7. Initially, however, the objective in enacting this legislation was to requisition and acquire vacant land and houses for providing accommodation to the Government officials only.
five years (from 1958 to 1963).

In 1950 both the States of West Bengal and Assam were faced with the problem of apportioning cultivated lands to their respective jurisdictions consequent on the partition of India. It became difficult to exercise jurisdiction in respect of assessment of revenue and other cesses over land which partly fell under East Pakistan (now Bangladesh). To tide over these difficulties of dual or overlapping jurisdictions, the Government of Assam passed in 1951 a legislation called the Assam Land Revenue, Rent & Cess (Apportionment) Act. This Act enabled the Government of Assam to extend the jurisdiction of the existing land revenue laws over such lands which fell under the territory of India in the State of Assam. In pursuance of this Act fresh record-of-rights were prepared.

IV. Abolition of Zamindari

As a preliminary step towards the abolition of Zamindari system (landlordism) in Assam the Government enacted another legislation in 1949 entitled the Assam Management of Estates Act which expressly empowered the Government to take possession of any estate in excess of 400 bighas in the permanently or temporarily settled areas (Section 4). The areas thus acquired by the Government were to be managed by a Court of Wards as provided under this legislation. Thus the Act on the one side performed the preliminary function of creating conditions
favourable for the abolition of Zamindari and on the other
prevented mischief by the landed proprietors and Zamindars
to the detriment of the tenure-holders and raiyats.

The Court of Wards set up under the provisions of
this Act managed such large estates. The Act also clearly
provided the preparations of the record-of-rights by the
Revenue Officers enlisting the type of tenure, class of
tenancy, the rights of use and occupancy, the rent or revenue
payable etc. (Sections 5 and 6).

Soon after independence, the necessity to abolish
Zamindari system from the permanently settled areas of Assam
was recognised in official circles. Along with such necessity,
the need to have intermediaries to collect revenue was consi­
dered redundant. It was gradually recognised that there should
be a close and direct relationship between the State and the
tillers of the soil, so that the State could provide them ade­
quate rights on their lands. Moreover, the Zamindari system
had perpetuated inequalities and injustices in land taxes as
rents and land revenues had ceased to bear any proportion to
productivity. Absentee landlordism had increased affecting
production adversely. Rack-renting and exploitation of culti­
vators had checked rationalisation of agriculture to such an
extent that rural poverty had reached its zenith in Zamindari
areas. The Zamindars were feudal in their outlook.

In order to remove all these inconveniences the Assam
State Requisition of Zamindaris Act was enacted in 1951 by
8. Assam Act XVIII of 1951.
abolishing the *pernicious* Zamindari system from the permanently settled areas of the State. It provided for the State acquisition of the interests of the proprietors and tenure-holders and certain other interests in the permanently settled areas on payment of compensation.

The Act, however, allowed the proprietor or tenure-holder to retain possession of homesteads and buildings including the lands on which they were situated. Similarly, the proprietor and tenure-holder could retain possession of land not exceeding 400 and 150 bighas respectively for their personal cultivation and such lands were called private lands. 9 However, if private land was cultivated by a proprietor or tenure-holder by adopting practices appropriate for large-scale farming and under a co-operative formed for the purpose, the Act allowed possession of land in excess of the above-mentioned limits. The proprietor or the tenure-holder was given the option of selecting the holding up to a maximum of 400 and 150 bighas respectively out of their total land holdings if it exceeded these limits so long as the holdings so selected belonged to compact or contiguous areas of at least 20 bighas. Such lands held were settled by the Government with the proprietor or the tenure-holder as the case may be. The lands in excess of the above-mentioned limits were acquired by the State from the proprietors and tenure-holders by paying compensation to them, which was calculated on the basis of rent for similar

9. Sub-Section III of Section 6.
lands with similar advantages situated in the same locality or neighbourhood. The Act stated the basis as well as the rates of the compensation payable to proprietors or tenure-holders whose estates or tenures had vested in the State in consequence of the abolition of Zamindari by this Act. For the purpose of computing the cost of management of holdings or tenures as well as the rates of compensation payable, the Act laid down the details for computing the gross and net income respectively. Gross income was taken to be the aggregate of annual incomes from rents and cesses received or receivable by the proprietor or tenure-holder from the subordinate tenants. It also included the average gross annual incomes from forests, fisheries, herths (village markets), bazaars, buildings and any other income accruing to any part of the estate or tenure duly vested in the State. Net income was to be computed deducting from the gross income the land revenue, cesses payable by the proprietor or tenure-holder to the Government, including municipal taxes on buildings, agricultural income tax and income tax. In addition the Act laid down a schedule of progressive rates ranging from 5 to 15 per cent of gross income for the cost of management to be deducted from the gross income of the proprietor to arrive at the net income. In the case of a tenure-holder the annual rent payable by him to his landlord was also to be deducted from the gross income for arriving at the amount of the net income. The compensation payable by the State for

10. Section 11 of the Principal Act.
land exceeding the prescribed limit acquired by the Government was specified under section 13 of the Act which is given below in a tabular form:

<table>
<thead>
<tr>
<th>Amount of Net Income</th>
<th>Total Compensation Payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Where the net income does not exceed Rs.1000/-</td>
<td>Fifteen times such net income.</td>
</tr>
<tr>
<td>(b) Where the net income exceeds Rs.1000 but does not exceed Rs.2500/-</td>
<td>Twelve times such net income or the maximum amount under (a) above, whichever is greater.</td>
</tr>
<tr>
<td>(c) Where the net income exceeds Rs.2500/- but does not exceed Rs.5000/-</td>
<td>Twelve times such net income or the maximum amount under (b) above, whichever is greater.</td>
</tr>
<tr>
<td>(d) Where the net income exceeds Rs.7500/- but does not exceed Rs.10,000/-</td>
<td>Ten times such net income or the maximum amount under (c) above, whichever is greater.</td>
</tr>
<tr>
<td>(e) Where the net income exceeds Rs.7500/- but does not exceed Rs.10,000/-</td>
<td>Nine times such net income or the maximum amount under (d) above, whichever is greater.</td>
</tr>
<tr>
<td>(f) Where the net income exceeds Rs.10,000 but does not exceed Rs.15,000/-</td>
<td>Eight times such net income or the maximum amount under (e) above, whichever is greater.</td>
</tr>
<tr>
<td>(g) Where the net income exceeds Rs.15,000 but does not exceed Rs.30,000/-</td>
<td>Seven times such net income or the maximum amount under (f) above, whichever is greater.</td>
</tr>
<tr>
<td>(h) Where the net income exceeds Rs.30,000 but does not exceed Rs.50,000/-</td>
<td>Six times such net income or the maximum amount under (g) above, whichever is greater.</td>
</tr>
<tr>
<td>(i) Where the net income exceeds Rs.50,000 but does not exceed Rs.1,00,000/-</td>
<td>Five times such net income or the maximum amount under (h) above, whichever is greater.</td>
</tr>
</tbody>
</table>
(j) Where the net income exceeds Rs. 1,00,000 but does not exceed 3,00,000/-

Four times such net income or the maximum amount under (j) above, whichever is greater.

(k) Where the net income exceeds Rs. 3,00,000/-

Three times such net income or the maximum amount under (j) above, whichever is greater.

The Act also provided for payment of compensation as ad-interim to the out-going proprietor or tenure-holder till the final amount of compensation payable was not paid. This was fixed at 2.5 per cent of the probable compensation, to be paid in cash annually*. Furthermore, the Act laid down the mode of compensation payable to the persons having interest in the estate or tenure. If the amount of compensation was upto Rs. 2,500 the entire amount was to be paid in cash. In case the compensation payable worked to be more than Rs. 2,500, 12.5 per cent of the amount was to be paid in cash and the rest in cash or in bonds or both. The bonds were to be of 20 years and carrying a 2.5 per cent annual interest. The bondholders were to be repaid by the State in 20 equal annual instalments. The bonds were negotiable and transferable. However, the Government could redeem the bonds before 20 years but solely at its option.11 The Act also applied to the acquisition of estates or tenures which were managed under the Court of Wards.

* The ex-Zamindars in Assam were not given any rehabilitation grant unlike their counterparts in Uttar Pradesh and Rajasthan.

For implementing the provisions of this Act, the Government also passed the Assam State Acquisition of Zamindaris Rules in 1952 which enlisted procedural details, rules and forms required in connection with the ejectment from the excess land, the duties of the compensation Officer, the determination of annual rents from buildings and principal amounts and interests and other details regarding the preparation, notification and publication of the compensation statement by the State Government. These rules were further amended in 1958.

V. Celing on Land Holdings

The Assam Fixation of Ceiling on Land Holdings Act, 1956\textsuperscript{12} was enacted to impose limit on the area of land that a person could hold. The Act came into force on 15 February, 1958. The main objectives of this legislation were to check concentration of land in a few hands and solve the problem of landless cultivators by distribution of land in excess of the ceiling fixed. It was extended to the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Goalpara, Cachar and Kamrup. The Act did not attract lands utilised for cultivation of tea and ancillary purposes. The Act laid down clearly the ancillary purposes, they included land used for factory buildings, staff buildings including labour line, roads, bridges and drains

\textsuperscript{12.} Assam Act I of 1957.
within the tea estate, nurseries including shade trees, hospitals, dispensaries, creches, recreation centres and playgrounds, religious institution, burial or cremation ground, building built by management as a statutory requirement, seed bari, rotational plantation for the maintenance of the planted areas not exceeding 7.5 per cent of the planted areas, lands lying within the boundaries of the actual planted area excluding tenanted khet lands, bamboo baris not exceeding 50 bighas etc. The Act also did not apply to lands held by co-operative farming societies for sugarcane cultivation provided such societies were formed for the purposes of supplying the output to a co-operative sugar factory.

In 1975 the Act was amended with a view to excluding lands cultivated under the Agriculture Farming Corporation Act of 1973. Lands under the Gramdan Act, 1961 were not attracted by the provisions of this Act. Originally the Act prescribed an aggregate of 150 bighas of land as the ceiling for any owner or tenant.\(^\text{13}\) This ceiling was reduced to 75 bighas in 1970 and 50 bighas in 1972 by two separate amendments. In Assam, while imposing ceiling on land holdings no differentiation had been made between irrigated and non-irrigated lands, dry and wet lands and lands producing single crop and double crops, as was done in States like Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, Punjab, Rajasthan,

\(^{13}\) Sub-Section (1) of Section 4.
Uttar Pradesh and West Bengal. In the Principal Act of 1956 there was no additional provision for orchard lands. In 1957 the Act was amended to provide for a ceiling of 30 bighas of land under orchards in addition to 150 bighas for cultivated land.

In 1972 the Act was further amended reducing the ceiling for lands under orchard to 15 bighas which was further reduced to 4 bighas in 1975, presumably to prevent owners from circumventing the ceiling provisions by showing a sizable part of excess lands as orchard lands. Thus it will be seen that the overall ceiling both for crop cultivation and for orchard was progressively reduced from 180 bighas in 1957 to 105 bighas in 1970, 65 bighas in 1972 and 54 bighas in 1975. The Act debared fictitious and "benami" transfers and partitions of land in excess of the ceiling limits made either on the eve of or immediately after the enforcement of this Act by providing that such malafide transfers and partitions would be taken into account in the determination of the ceiling. 14 Excess lands shown under the cover of co-operative societies were also attracted by the provisions of the Act. Thus the aggregate lands of all the members of co-operative societies and their families including portions of their land not shown under the co-operative society were taken in account while determining the aggregate ceiling. Further, for the

14. Sub-Section (4) of Section 4.
purpose of determining the ceiling of 50 bighas of land under crop (not orchard), even land taken from the Government on annual lease basis was not exempted. However, no compensation was provided for such land under annual lease. The Act empowered the State Government to take possession of the excess lands with all rights, titles and interests attached thereto by a notification in the Gazette. Pending such notification the Government could take advance possession of land under dispute (as to its being in excess of the prescribed ceiling or not) on payment of land revenue and local rate by the Government to the owner or tenant of such lands.

The Act provided for payment of compensation for the excess lands acquired by the Government. Different rates of compensation were provided for owner-cultivators and tenant-cultivators and as the latter between tenant-cultivators with occupancy rights and without occupancy rights. Likewise the amounts of compensation were different for fallow lands and cultivated lands. Lands which were not cultivated for a consecutive period of 3 years preceding the date of acquisition and which contained no trees, bamboos or structures were classed as Fallow Lands.

In the case of such fallow lands 25 times the annual land revenue was payable to the owners. If such lands were under an occupancy tenant, 10 times the annual land revenue were payable to him as compensation for acquiring

15. Section 12.
occupancy rights and 15 times were payable to the owner. Where the fallow lands were held by tenants without occupancy rights the compensation to them was fixed at 5 times the annual land revenue and the rest 20 times were payable to the owners.

In the case of cultivated and all other lands (excluding fallow lands as explained above) the compensation rates were 50 times the annual land revenue to the owner-cultivator, 35 times to the tenant-cultivator with occupancy rights and 30 times to the tenant cultivator without the occupancy rights.

If there were sub-tenants on the acquired excess lands, 50 per cent of the compensation payable to the tenants was to be paid to sub-tenants. If the owner or the tenant had effected any improvements in the excess land, then an additional sum not exceeding twice the amount of compensation payable (as stated above) was to be paid. The additional amount within the stipulated maximum was to be determined keeping in view the extent of enhancement in land value and the benefits which would accrue as a result of these improvements including the capital and labour invested in such improvements.

The law provided for payment of compensation in cash wholly or in instalments within a period of five years from the date of acquisition and carried an interest of 2.5 per cent per annum on the unpaid balance of the compensation.
computed after the first six months of the said date. The law also provided for payment, out of the total compensation payable, to whom the land was mortgaged in full discharge of their claims so that the land acquired was free from all encumbrances. In case of disputes regarding final determination of amount of compensation the law provided for ad-interim payment, analogous to the provision made in the Assam State Acquisition of Zamindaris Act, 1951, as explained in this Chapter earlier.

In case of revenue-free land or land assessed at a concessional rate under the Assam Land and Revenue Regulation, 1886, or the Assam Land Revenue Re-assessment Act of 1936, the compensation would be determined pari passu with the annual land revenue payable for lands situated nearest to it.

After acquisition of the land in excess of the ceiling, the Government would settle or distribute the excess lands to the landless cultivators or to those having uneconomic holdings, or to those possessing holdings less than the ceiling of they were already cultivating the excess lands as tenants. Where surplus land was settled with the cultivating tenants, they could acquire the status of landholders by paying to the Government within five years an amount equal to or less than the compensation payable by the Government for land so acquired.

16. Sub-Section (a) of Section 13.
In making settlements of such excess lands the Act stated that preference would be given to cultivators rendered landless by flood, erosion or earthquake over other landless cultivators. After these categories were exhausted, the remaining land would be settled with the Agricultural Farming Corporations established under the Assam Agricultural Farming Corporation Act of 1973. It is significant to note that cultivators holding less than 3 bighas (approximately one acre) were also construed as landless cultivators for the specific purpose of settling excess lands thereby allowing settlement of such lands with owner or tenant-cultivators of uneconomic holdings. The ceiling laid down by this Act was overriding and applied to even future acquisition of land either by transfer, inheritance, gift etc. The purpose was to ensure that concentration of land-holdings did not reappear in future. In this sense the ceiling of 50 bighas (excluding 4 bighas for Orchard land) was sacrosant and binding in all circumstances. So far as the ceiling resumption of land by the landlord from the tenant for personal cultivation was concerned the Act made provisions analogous to those in the Assam Adhia  Protection and Regulation (Amendment) Act, 1957. In other words, if the aggregate area of lands in actual

17. Sections 16 and 17.
20. Section 20.
occupation of a tenant did not exceed 10 bighas, he was not to be ejected from these 10 bighas until he was provided with land of equal value in the locality. And if the aggregate area of lands in actual occupation of a tenant exceeded 10 bighas selected by him, the excess lands would be resumed by the owner for personal cultivation but in no case the aggregate lands held by the owner after resumption alongwith the lands previously held could exceed the overall limit of 50 bighas. The tenant so ejected would be given compensation for any improvement made by him on the land from which he had been ejected, keeping in view the enhancement of the value of the land due to the improvement, probable duration of the effect of the improvement, labour and capital invested for such improvement and any advantage allowed to the tenant by the landlord in consideration of the improvement.

As per the provisions of this Act a Land Reforms Board was constituted by the State Government in 1959 initially with five members. The number was increased to six in 1962. The Board was an advisory and evaluative body. It was to advise the Government in enforcing the provisions of the Act and formulating land reform policies and schemes for co-operative farming societies. In addition, the Board was to

21. 1) Two non-official members nominated by Government:  
   ii) Secretary to the Government of Assam, in the Revenue Department;  
   iii) Land Reforms Officer who is also the Secretary of the Board;  
   iv) A Chairman nominated by the Government.
periodically evaluate the progress and effects of land reform measures. This Board held eleven sittings. It was reconstituted in April 1962 and it held one sitting during its term of three years. The Land Reform Board has been advising the Government from time to time to encourage formation of co-operative farming societies and settle the waste lands as well as the lands acquired as surplus over the ceiling with such societies. Thus in its first sitting in 1959, it recommended the formation of such societies. In pursuance and implementation of this recommendation about 230 co-operative farming societies were formed by August 1959. The number increased to 298 by August 1960. With a view to carrying out the provisions of this Act the Government framed Rules in 1957. The last amendment in these Rules were made in 1957. These Rules prescribed, interalia, ceiling on lands used for purposes ancillary to the cultivation of tea so that lands in surplus of the ceiling were not evaded from being truely reported under the cover of being used for purpose ancillary to tea cultivation.

VI. Acquisition of Land Belonging to Religious and Charitable Institutions.

It may be mentioned that the two legislations abolishing Zamindari and laying down ceiling on land holdings, as briefly described above, could not attract vast areas of cultivable tracts and other lands held by religious and
charitable institutions, trusts and endowments. In some States like Andhra Pradesh, Madhya Pradesh, Uttar Pradesh and West Bengal, lands held by Religious and Charitable Institutions were exempted from the purview of the ceiling. With a view to doing away with the intermediary interests held by such religious and charitable institutions (Satras, maths, public temples, mosques, public waqfs, dargahs, gurudwars and churches) the Government enacted the Assam State Acquisition of Lands Belonging to Religious and Charitable Institutions of Public Nature Act in 1959\(^22\) so that it could acquire such lands and thereby endow a secure status and fixity of tenure to the actual occupants. The purpose was also to acquire lands from such religious and charitable institutions and settle them with the landless peasants. This Act was however challenged in the Court and after the disposal of the case it came into force only from 18th March 1963.

Under this legislation the Religious and Charitable Institutions were allowed to retain all those lands which they were owning and actually occupying free of revenue but which they had not tacitly or expressly sublet to any person as a tenant either for rent in cash or on crop share basis provided that such lands were owned and actually occupied by these institutions on or before the last day of Chaitra, 1365 B.S. which corresponded to 13th April, 1959.\(^23\) The

\(^{22}\) Assam Act No. IX of 1961.
\(^{23}\) Sub-section (i) of Section 5.
legislation however debarred these Institutions to transfer or alienate their right of ownership or possession. In addition, the legislation also allowed the right of ownership and retention of possession to persons or corporate bodies over tea garden lands provided they paid full land revenue. Thus, low lying lands within tea gardens or tea estates which were also sublet either tacitly or expressly to landless people escaped attraction by this legislation. According to this law the Government took possession of all lands of religious and Charitable institutions and of tea estates which did not qualify for exemption as explained above. It must be stated here that since the purpose of this legislation was to ensure a fixity of tenure to the persons actually cultivating such land on sub-letting basis and to endow them with the status of a privilege riyat, land holder with occupancy rights or a settlement holder as defined under the 1886 Regulation, the Act specifically excluded them from being construed as an encumbrance.

The Act provided for payment of compensation for land acquired from Religious and Charitable Institutions. By and large, the procedure and principles laid down for the determination of compensation for lands acquired under this Act were similar to those provided for lands acquired under the Zamindari abolition Law. The differences were as follows. Under this Act deduction of cost of management from the gross compensation was allowed.

24. Section 7.
income was not allowed for the first Rs. 5,000/- whereas under the Zamindari Abolition Law no deduction for cost of management was provided in the gross income did not exceed Rs. 20,000/-. Furthermore, unlike the Zamindari Abolition Law the rate of deduction for cost of management were relatively less under this Act. The other important difference was that under this Act the compensation was to be paid in cash annually as a perpetual annuity which was exactly equal to net income arrived at by deducting from the gross annual income the rents, royalties, cesses, taxes and costs of management, whereas under the Zamindari Abolition Law the compensation payable ranged from two times to fifteen times the net income as explained in this chapter earlier and shown in the schedule. This Act also provided for interim payments pending final determination of compensation and the usual provision of interest on the unpaid balance.

As stated earlier the purpose of this legislation was to remove the presence of a Religious and Charitable Institution acting as an intermediary and to establish a direct relationship between the tenant and the Government. Hence under this legislation the lands acquired from Religious and Charitable Institutions were to be settled by the State with the persons cultivating them. If any person who had taken land from a Religious or Charitable Institution on a rental basis and of the rent was either equal to or less than the usual rates of revenue, then the land will be settled first
with such a tenant and he was given the status of land-holder having permanent, heritable and conditional transferable rights (he could transfer his holding only to persons belonging to the same religion that was propagated by the religious institution from which the land was acquired). Lands were settled with them generally for 30 years. If the land was being cultivated by a person with neither a right of occupancy nor rights of inheritance or transfer, then the lands were settled with them and they were given a relatively inferior status of settlement holders with no rights of transfer or of sub-letting. In such cases the settlement was on the basis of annual lease. Where the lands acquired under this Act were unoccupied by any person or class of tenants, the Act empowered the state Government to settle it with cultivators who were rendered homeless due to flood, erosion or earthquake, or with Co-operative Farming Societies formed by landless cultivators.  

It will thus be seen that the Act not only removed the Religious or Charitable Institutions acting as intermediaries and absentee owners of cultivated land but also ensured fixity of tenure to the actual cultivators. Land settled under this Act was to be assessed at full revenue rates.

25. Sub-section (1) of Section 16.
VII. Consolidation of Holdings.

The State Government passed the Consolidation of Holdings Act in 1961 with a view to stopping the subdivision of land into uneconomic units so that the introduction of modern farming practices and implements was not rendered impossible. Thus the Act provided for prevention of fragmentation of agricultural holdings and their consolidation by amalgamation or exchange of lands in the seven plains districts of Assam. The Act prohibited future fragmentation of holdings below 5 bighas.

Under the Act provision was made for payment as well as for realisation of compensation which was to be equal to the difference between the market value and the original value of the plots to be consolidated by amalgamation. Thus, where the market value of the plot was less than (more than) its original value, i.e. the purchase price, compensation equal to the difference was payable (realisable) to the owner. Hence the scheme was contemplated to be self-financing in nature. Further if the market value of the newly allotted plot to an owner was less than the market value of his original plot whose possession had been transferred as a result of consolidation, then the State Government was to

27. Sub-Sections (1) and (2) of Section 18.
compensate the owner of the original holding for the difference in the market value. Conversely compensation in the case of excess market value of the new holding allotted to the new owner was realisable from him. It is thus clear that except for the cost of consolidation, 50 per cent of which was to be realised from the persons benefited by consolidation, the scheme was visualised as self-financing, and self-liquidating with no expenditure commitment on the part of the State Government. 28

So far as consolidation either by exchange or amalgamation of lands was concerned, it was left to the owners to voluntarily opt for it.* The Act did not in any way affect or abridge the rights, titles and interests of the persons except transfer of possession as a result of consolidation. As stated earlier, this legislation also provided for prevention of fragmentation after consolidation and partition, by transfer, lease or mortgage of any plot of less than 5 bighas. Thus the legislation intended to regulate the size of an operational holding after consolidation by fixing a floor of five bighas.

28. Sub-Section (4) of Section 18.

* In Punjab, Haryana and Uttar Pradesh Consolidation of Holding programme had given spectacular results as was made compulsory.
VIII. Bhoodan and Gramdan

In pursuance of the Bhoodan movement initiated by Acharyya Vinoba Bhave the Assam Gramdan Act of 1961 was brought into force on 10th March 1962. It provided for donation of land by way of Gramdan and declaration of a village as Gramdan village. The legislation was conceived as a peaceful revolutionary step to establish social ownership with villages as units through voluntary surrender of rights of individual ownership.

It was extended to the whole State of Assam except the Autonomous District of Karbi Anglong and North-Cachar Hills. Under this Act any owner of land could donate by way of Gramdan all his lands in a village. Such a declaration to transfer ownership by gift or donation was final and irrevocable. Further any person could join the Gramdan village community if he contributed to the said village community (Gram Sabha) one-fortieth of his net annual income periodically even if he had no land to donate or no desire to donate any land.

The Act also provided that a Gram Sabha would be established by the Government for the Gramdan village and all the adult citizens residing in the village irrespective of their owning or not owning land therein would be the

30. Sub-Section (1) of Section 4.
members of the Gram Sabha.

Village in which the extent of donated land under Gram Sabha was not less than 51% of the total lands under private ownership could be declared as Gramdan village provided that the number of persons making a declaration to donate or to participate was not less than 75% of the total number of residents. The part of the village declared as Gramdan would be registered as a separate revenue village if the population was at least 100.

After the declarations were made, all rights, titles and interests of the persons would cease and would be transferred to and vested in the Gram Sabha to be established for that Gramdan village. The Gram Sabha would be responsible for the payment of land revenue, rent and other cesses and rates. Further, the Gram Sabha would be responsible for all encumbrances in respect of the lands donated. For such payments the Gram Sabha was competent to recover the amount from the owner concerned who donated the land.

The Act was amended in 1962 according to which the State Government was also empowered to transfer to the Gram Sabha common lands in the revenue village for management by it.

Persons who had donated land and other landless persons desirous to participate in the Gramdan community was entitled to allotment of land for personal cultivation. 31

31. Sub-Section (a) and (b) of Section 5.
of land were entitled to 95 per cent of the donated land for personal cultivation, the rest 5 per cent being available for allotment to other landless members of the Gram Sabha.\textsuperscript{32}

If as a result of donation, a person became landless the law provided that the entire land donated by him would be given to him for personal cultivation. Lands allotted under this legislation were heritable and transferable, the latter right being restricted to persons or co-operative societies within the Gramdan the usual land-revenues and to other cesses and rates to the Government in addition to payment of one-fortieth of his annual net agricultural income to the Gram Sabha as his contribution. Further, the allottee was prohibited from keeping the land fallow for more than two years.

Yet another legislation to facilitate the voluntary donation or grant of lands was the Assam Bhoodan Act enacted in 1965\textsuperscript{33} in pursuance of the Bhoodan movement initiated by Acharyya Vinoba Bhave. It came into force on 22nd August 1968 and provided for accepting individual donations of land and its distribution among the landless persons. The work was primarily carried out by non-official agencies. This Act also included town lands. Lands held under a grant, lease or assignment from the Government without permanent right, encumbered lands, lands in which the interest of the owner was limited to his life time, lands held under the system of

\textsuperscript{32} Sub-Section (1) of Section 23.
\textsuperscript{33} Assam Act XXIII of 1966.
personal service' or 'bhog', encroached lands, and lands under litigation could not be donated under this legislation.

All rights, titles and interests of the persons donating the land would cease after donation and these stood transferred to and vested in a body called the Bhoodan Board.

The Bhoodan Board was established by the State Government to carry out the provisions of this Act. The State Bhoodan Board would have its own fund, and would accept grants, donations or gifts from the Centre or State Government and other local authorities, and individuals. Further lands donated under this Act were exempted from the Assam Fixation of Ceiling on Land Holdings Act, 1956.

The new allottee of the donated land would acquire the rights and interests of a land holder if the original donor was a proprietor, landholder or settlement holder whereas he would acquire the status of an occupancy raiyat if the original donor was a tenant having permanent, heritable and transferable right. The grantees were precluded from transferring or sub-letting the land or keeping the land fallow for two consecutive years. The grantees were liable to pay land revenues and other dues to the State Government.

IX. Tenancy Reform

The first major step towards tenancy reform in Assam was the enactment of the Assam (Temporarily settled
Areas) Tenancy Act, 1971. The rights and protections given to the tenants under the old Assam (Temporarily Settled Districts) Tenancy Act of 1935 were found inadequate. The adhiars were not able to acquire the status of occupancy riyats under that legislation. The rights of tenants were different in three tenancy Act, viz. the Assam (Temporarily Settled Districts) Tenancy Act, 1935, The Sylhet Tenancy Act, 1936 and The Goalpara Tenancy Act, 1929. The object of the Act of 1971 was to bring all these tenants under one common category so that they could be given full rights and protections including the right to get institutional credit.

The Act was passed to regulate the relations of landlord and tenant in the temporarily settled areas of Assam. It was extended to the districts of Kamrup, Nowgong, Barrackpore, Sibsagar and Lakhimpur. However, lands included in any reserved forests, lands owned by the Union or State Government or by local authority and used for public purposes, professional grazing reserves, village grazing, recreation grounds, burial or cremation ground, roads, canals, drains etc., non-agricultural land situated outside the town land area and lands used for special (tea) cultivation including ancillary purposes were excluded from the purview of this legislation. The Act, thus, repealed the three Acts mentioned above along-with the repeal of the Assam Adhiar Provisions and Regulation Act of 1948. However, the beneficial provisions in these

34. Assam Act XXIII of 1971.
legislations were incorporated into this new and comprehensive Act of 1971. This Act conferred additional benefits on the tenants. For this purpose it was considered necessary to acquire the rights of the landlords and intermediaries and endow these rights to occupancy tenants and under-tenants. It was also necessary to prohibit future sub-letting and to fix the maximum rate of rent payable by tenants to the landlords to avoid rack-renting.

The Act defined a 'tenant' as any person who cultivated or held land of another person on the condition of payment of rent to the other person. It also included persons who were 'adhiars' or sharecroppers.35

This Act classified tenants into two categories, viz. occupancy tenants and Non-Occupancy tenants.36 Tenants who had held the land for a continuous period of three years were occupancy tenants. All other tenants were considered as non-occupancy tenants. Such occupancy tenants had permanent, heritable and transferable rights of use and occupation of the land. Transfer of land was allowed if it was to agriculturists who cultivated it personally.

All tenants who had not held lands for a continuous period of three years were clubbed under the category of non-occupancy tenants. Such tenants had only the right of possession. Lands held by persons as non-occupancy tenants

35. Sub-Section (17) of Section 3.
36. Sub-Section (1) of Section 4.
were not transferable. Non-occupancy tenants also had no right to sub-let their holdings.

Both the classes of occupancy and non-occupancy tenants were entitled to pay rent either in cash or in crop. The Act laid down the maximum rates of rent payable so that there could be no rack-renting or extortion. Cash rent could not exceed three times the land revenue while crop rent could not exceed 20% per cent of the produce of the principal crop grown in any agricultural year. These rates were considered as fair and equitable. In the event of natural calamities or similar unforeseen circumstances if the harvest was poor the cash rent payable was allowed to be reduced to two times the land revenue. The Act also provided for conversion of crop rent into cash rent for which purpose farm harvest price of the principal crop was to be taken for valuation of the crop-share. In the case of improvements in land resulting in increasing its productivity the landlord could claim for enhancement of rents through the Government. Conversely, there was provision for occupancy and non-occupancy tenants claiming for reduction of rents through the State Government. The rents were allowed to be raised or reduced if the land revenue rates were increased or decreased by the Government. The Act allowed payment of rent equal to the land revenue rate if the occupancy tenants had been occupying the land for a continuous period of 10 years or

37. Sub-Section (a) and (b) of Section 27.
38. Sub-Section (ii) of Section 29.
more. But the under-tenant holding any land prior to the enforcement of this Act would continue to hold it under the same terms and conditions prevailing immediately before the commencement of this Act until he acquired the intermediary and ownership rights in his holding.

Among the other important provisions of this Act was the acquisition of intermediary and ownership rights by occupancy tenants and existing under-tenants. Where the occupancy tenant was personally cultivating the holding, he could acquire ownership rights by paying to the landlord the compensation as prescribed by this legislation.39 Likewise under-tenants cultivating lands of occupancy and non-occupancy tenants could acquire intermediary rights as well as ownership rights by paying compensation. The compensation for acquiring both intermediary and ownership rights was fixed at 50 times the annual land revenue for occupancy tenants.40 In the case of under-tenants 75 per cent of the total compensation was to be given to the landlord for acquiring ownership rights and the remaining 25 per cent to the occupancy or non-occupancy tenants as the case might be.41

After payment of such compensation, the Act vested all rights

39. Section 21.

* The Hyderabad Tenancy and Agricultural Land Act, 1950 provided for both voluntary purchase of ownership by tenants and compulsory transfer of ownership to protected tenants.

40. Section 24.

41. Sub-Section (2) of Section 25.
titles and interests in the holding to the occupancy tenants or under-tenants as the case might be.

This Act also protected the tenants from unjust, forcible and indiscriminate acts of ejectment by the landlord. So far as occupancy tenants were concerned they could not be ejected so long as they cultivated the land without rendering it unfit for future cultivation. In case of non-occupancy tenants, they could not be ejected from at least 10 bighas of land so long as an equivalent area of cultivable land was not given to them by the landlord. In all other cases they could be ejected from the land in excess over 10 bighas if they were either cultivating the land in a manner which would render it uncultivable in future or if they failed to pay arrears of rent or violated the terms or conditions of the contract between them and the landlord. However, if after 12 months but before 15 months of the tenancy, the landlord required the land (in excess of 10 bighas) for his personal cultivation, he could eject the non-occupancy tenant. The right of the tenant in such cases was restored if the landlord failed to personally cultivate the land so acquired by ejectment.

The tenants ejected were entitled to be compensated for the improvements effected by them. The Act laid down certain norms to be followed in estimating the compensation payable for improvement.

(a) The increase in production or the increase in the value of the land after improvement;
(b) The condition of the improvement and its probable duration;
(c) The labour and capital invested for such improvement;
(d) Reduction or remission of rent provided by the landlord in consideration of such improvement, and
(e) The period for which the tenant had enjoyed the benefits of the improvement like reclamation or irrigation without an enhanced rent. 42

Besides, the Act also provided for the preparation and maintenance of a comprehensive record-of-rights of tenants. 43

It may be mentioned here that the Assam Land and Revenue Regulation of 1886 was amended once each in 1959, 1960 and 1962 and twice in 1971. The first three amendments did not alter, change or affect any of the provisions relevant to our study. The first of the two amendments effected in 1971 was with respect to the procedure of recovering arrears of revenue from settlement holders having no permanent, heritable and transferable rights of use and occupancy. It empowered the government to attach and sell the immovable property of defaulting settlement holders to recover the arrears. The second amendment of 1971 is also not relevant to our study.

Similarly, the Goalpara Tenancy Act of 1929 was amended in 1970. As a result of this amendment the earlier

42. Section 52.
43. Section 55.
system of crop share was also included under the definition of 'rent'. However, in the case of Government being a landlord, rent was payable in cash. Further, persons cultivating land under the 'adhi' system were also included under the definition of tenants. The amending Act also determined 20 per cent of the yield of the principal crop grown as the 'fair' rent. In case of crop failure due to natural calamity such 'fair' rent was fixed at double of the annual land-revenue or rent payable by his immediate landlord. Under the provisions of the amended Act, adhiars were also included in 'under-raiyat'. With these the Assam Adhiars Protection and Regulation Act, 1948 was repealed from the areas under the jurisdiction of the Goalpara Tenancy Act, 1929. Consequently, the Adhi Conciliation Board was abolished.

The Sylhet Tenancy Act was amended in 1970. The amendments were by and large of the same nature as those made in the Goalpara Tenancy Act of 1929 as explained above. In addition, the amended Act more clearly specified the purposes ancillary to the cultivation of tea to include land used for factory buildings, staff buildings, labour lines, roads, bridges and drains, nurseries including shade trees, hospitals, dispensaries, creche and recreation clubs and seed bari. With these amendments the application of the Assam Adhiars Protection and Regulation Act of 1948 in the Karimganj sub-division of Cachar district was repealed confirming the adhiars the status of occupancy or non-occupancy tenants.

The Assam Land Revenue and Rent (Surcharge) Act,
1970 was enacted in 1970 in order to provide for the levy of surcharge on land revenue and rent assessed in the State of Assam. Under the provisions of this Act every person holding land of 10 bighas or more directly under the State Government would be liable to pay a surcharge on land revenue or rent, as the case might be, at the rate of 30 per cent of the land revenue or rent of all classes of holdings in addition to the usual land revenue or rent payable by him.

With a view to introducing a uniform pattern of land revenue administration in the areas formerly known as permanently settled areas of Goalpara District and the Karimganj Sub-division of Cachar District after the abolition of Zamindari System, a legislation was passed in 1974 known as the Assam Land Holding (Adoption of Relationship Under the Assam Land and Revenue Regulation, 1886 in the Acquired Permanently Settled Estates) Act. It was extended to the permanently settled areas including the areas called 'acknowledged estates' covered by the erstwhile Bijni and Gidli Estates. It was enforced on 18 January, 1975 and superseded all other laws in force. Under the provisions of this Act any person holding any land directly under Government in those areas on the commencement of this Act would continue to hold the same as a land-holder subject to payment of usual land-revenue. Similarly, persons holding land as tenants of other persons in these areas would continue to hold the same as

44. Assam Act I of 1975.
tenants on payment of the usual rent. The Act also made ex-
proprietors or ex-tenure-holders holding any land or homestead
land in these areas on revenue free basis after abolition of
Zamindari was liable to payment of land revenue. Further,
occupancy or non-occupancy tenants of ex-proprietors or ex-
tenure-holders holding land in these areas after the abolition
of Zamindari were endowed with the status of land-holders.

**Present Position of Land Reform Laws in Assam:**

Though the Adhiar Protection and Regulation Act of
1948 was repealed by the Tenancy Act of 1971 and crop rent
replaced by cash rent, from our practical experience we still
find the existence of the adhi (cropsharing) system in Assam.
In some areas, particularly in interior places the share-
croppers have to pay 50 per cent of their produce to the land-
lord. The provision relating to regulation of rent in different
land legislations have not reached these share-croppers till
to-day.

The Act relating to ceiling on land holding was en-
acted in 1956 but its proper implementation took place only
after the promulgation of emergency in 1975. Out of 5.99 lakh
acres of land declared surplus upto 1982, the distribution of
76,000 acres is held up due to stay orders issued by the High
Court, although the right to appeal was withdrawn in 1976. The
disposal of these cases needs to be expedited. The new assig-
nees of ceiling surplus land are holding land on annual lease
basis. These lessees are not in a position to obtain loans from financial institutions. It would, therefore, be expedi­ent to give regular settlement to the allottees of ceiling surplus load.

The enactment of the Tenancy Act of 1971 was a bold step towards the establishment of peasant proprietorship in Assam. But unfortunately no significant progress was made in this direction. The poor tenants are not in a position to purchase the right of ownership from their landlords. The Government also has not done anything to acquire the rights of ownership on behalf of the tenants.

**Machinery for Implementation of Land Reforms** : The task of implementing the various measures of land reforms rests with the Deputy Commissioner. The Deputy Commissioner directs the Sub-Deputy Collectors to take the necessary steps for implementation of various land reform measures in the district. It is the Mondal (Recorder) who actually goes to the field and looks after the implementation. The Sub-Deputy Collectors accept the returns as submitted by the Mondals.