Chapter-V

Tenancy Legislation and the Peasantry

The colonial authorities laid down the foundation of agrarian legislation in India that continued, though with significant changes, even after independence. The British Government was not interested to introduce agrarian legislation to foster 'economic planning' but they carried out such legislation in order to 'forestall political unrest'.¹ The idea of maintaining an even balance between different interest groups was quite high in their mind because they wanted to 'protect the social base of colonial rule'.² This chapter attempts to discuss the agrarian legislation brought by the British Government as well as the first Congress Ministry in Orissa during the period under study. The main issues discussed in this chapter are: did the tenancy legislation serve the purpose of the tenantry? What were its limitations and compulsions? How far did the agrarian reforms set by the Congress Ministry change the conditions of the peasantry?

² Regarding the early colonial policy of the tenancy law Dietmar Rothermund raises an important point that the colonial authorities turned a deaf ear to the demands for a revision of the existing tenancy law because they knew that the tenancy laws were made by landlords who wanted a 'rent recovery Act' rather than a tenancy Act. See Ibid., p.93.
The Background:

The Rent Act of 1859 was considered as a landmark as well as the first step in the evolution of tenancy legislation and peasant's rights. It is interesting to note that in 1857 a Bill was introduced which was originally meant for amending the existing law relating to the recovery of rent. During the progress of the Bill, substantial additions were made because of which it took a new shape in the form of the Rent Act X of 1859. The Rent Act provided for the first time a definition of the right of occupancy over land both for the zamindars and the tenants. However, the Act could not provide the desired result as far as the occupancy right was concerned. The Act conferred occupancy rights on tenants who had held land for twelve years. Judicial decisions after a few years of the passing of this Act clearly brought out that the occupancy rights it intended to give were not actually available, because the provision of holding land for twelve years for claiming occupancy right could be easily violated by the landlord by shifting the tenant from one plot to another. There were many other drawbacks of the Rent Act including the one that it did not put any restriction on the enhancement of rent by the zamindar.

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5 Dietmar Rothermund, op.cit., p. 93.
6 Ibid.
In 1880, the Rent Law Commission was appointed to prepare a draft Tenancy Bill which formed the basis of the Bengal Tenancy Act, 1885. As far as possible the Bengal Tenancy Act tried to remove the defects of the Rent Act of 1859 and to provide a self contained agrarian code to the province. However, this entire Act was not made applicable to the Orissa Division. The extension of the Act to Orissa was made piece-meal in 1891. The Rent Act of 1859, that was consistent with the extended provisions of the Bengal Tenancy Act, continued to be in force in Orissa at least up to 1913.

In course of the Provincial Settlement of 1890-1900 S.L. Maddox, the Settlement Officer, continued detailed inquiries about different rights in land and carefully reviewed the applicability of various provisions of the Bengal Tenancy Act to Orissa. It was then found that the extension of the provision of conferring occupancy right upon tenants for possessing same land for twelve years had brought remarkable changes in the tenurial relations in Orissa. The said twelve years rule was continued in the Bengal Tenancy Act, but it went one step further by extending this principle to the extent that any person who had continuously held land as a raiyat in any village for twelve years became a "settled raiyat" of the village.

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8 The Bengal Tenancy Act, 1885, Sect.20 (1), p. 94.
On the basis of the experience gathered and recommendations given by S.L. Maddox during the Provincial Settlement Operations many other important sections of the Bengal Tenancy Act was extended to Orissa between 1891 to 1896. Thus, the raiyats obtained, for the first time, the benefits of the statutory recognition regarding occupancy rights and occupancy raiyats were protected from ejectment for arrears of rent and from enhancement of rent beyond certain limits. The raiyats were also given the right to apply for commutation of produce rents. The right of non-occupancy raiyats were also placed on a definite footing and the power of the landlords to oust them and to enhance their rents was limited. The granting of proper rent receipts were made obligatory. In 1906, when the Revision Settlement operations began the section of the Bengal Tenancy Act regarding proprietors private lands and those about appointment of common managers were extended to Orissa.

Thus, the bulk of the substantive law on landlord and tenant applicable to Bengal and Bihar was extended to Orissa before the Revision Settlement of 1906. However, some of the provisions of the Act were not suitable to local conditions. For example, there was no recognition of Bajyaftidars and sub-proprietors. In the Rent Act of 1859 a very large number of defects had already come to notice, especially the provisions relating to the sale of tenancies which were found to be

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inadequate. Legal provisions on important subjects like making improvements, the acquisition of a portion of a holding for building or other purposes, the surrender and abandonment of holdings etc. either did not exist or were inadequate. This came to light during the settlement of 1890-1900 and the Revision settlement of 1906-12. In 1912, with the formation of a separate province of Bihar and Orissa, the need for a separate agrarian legislation for Orissa was, therefore, seriously considered.\textsuperscript{11}

\textbf{The Orissa Tenancy Act, 1913:}

The Bihar and Orissa Legislative Council passed the Orissa Tenancy Bill on 7 April 1913. The Viceroy gave his assent to the Orissa Tenancy Act II of 1913 on 26 May 1913 and the Act came into force on 12 September 1913.\textsuperscript{12} This date was selected because it was the first day of the Sunia which was celebrated by the observance of certain religious and social ceremonies associated with the landlords and the tenants as a preliminary to the business of rent collection and was therefore regarded as an auspicious occasion in Orissa.\textsuperscript{13} The main objects of the Orissa Tenancy Act, 1913 were:\textsuperscript{14} (i) to consolidate, simplify and rearrange the greater part of the statute law relating to landlord and

\textsuperscript{11} Ibid., pp. 9-10.
\textsuperscript{12} Government of Bihar and Orissa, Revenue Department, Land Revenue Branch, A Proceedings, Nos.21-26, September 1913.
\textsuperscript{13} Ibid.
\textsuperscript{14} Govt. of Orissa, \textit{Land Tenure and Land Revenue Committee}, op.cit., p. 10.
tenant, (ii) to restore to holders of sub-proprietary interests and of resumed (Bajyafti) revenue free lands, the position which they held prior to the British rule; (iii) to secure raiyats in the enjoyment of their existing rights, both statutory and customary; (iv) to make definite extension of the area held as private lands by proprietors and sub-proprietors in consideration of the tenurial security of lands reclaimed from wastelands; (v) to improve the procedure for the recovery of rents; (vi) to remove ambiguities, defects and anomalies which were known to exist in the prevalent law; and (vi) to prevent encroachment of lands over which communal rights exist. The Orissa Tenancy Act was extended to the districts of Cuttack, Puri and Balasore.¹⁵

The Orissa Tenancy Act, 1913 defined a “tenant” as one who held land under another person, and was liable to pay rent for that land to that person.¹⁶ It divided the tenants into four classes, namely, (i) tenure holders including under-tenure holders, (ii) raiyats, (iii) under-raiyats, who were tenants holding whether immediately or mediately under raiyats and (iv) chandandars. It further divided the raiyats into the following three categories, i.e. (a) raiyats holding at fixed rates, which meant raiyats holding either at a rent fixed in perpetuity, or at a rate of rent fixed in perpetuity, (b) occupancy raiyats which meant raiyats

¹⁵ Government of Orissa, Law Department, The Orissa Tenancy Act, 1913, Calcutta, 1951, p. 17.
¹⁶ Ibid., p. 20.
having a right of occupancy in the land held by them and (c) non-occupancy raiyats, who did not have any such occupancy rights. 17

Agricultural holdings were broadly divided into two categories, i.e. for the purpose of personal cultivation or for getting the land cultivated by others. As far as making a distinction between these two categories of agricultural holding or tenancy were concerned the Orissa Tenancy Act, 1913 repeated the provisions of the Bengal Tenancy Act, 1885. It laid down that a tenure holder was primarily a person who or whose predecessors in interest had acquired from a proprietor or from another tenure holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it. It also defined a raiyat as primarily a person who or whose predecessor in interest had acquired a right from a proprietor or tenure holder to hold land for the purpose of cultivating it by himself or members of his family or by hired servants, or with the aid of partners. Thus, a person holding land under a proprietor or tenure-holder could be either a raiyat or a tenure-holder. The Act further provided that such a person holding more than 33 acres of land would be presumed to be a tenure-holder until the contrary is proved. However, for deciding the real status of tenant local custom, the purpose for which the right of tenancy was originally acquired and the subsequent conduct of the parties was also considered. In other words,

17 Ibid., pp. 20-21.
the Act perhaps presumed that larger holdings were not prima facie meant for personal cultivation. This provision gave substantial rights to the lessees or persons who held large holdings, because these holders were treated as tenure holders and at the same time were also treated as raiyats. The twelve years rule gave them the occupancy right. This provision resulted in creating a very large number of sub-infeudations under the proprietors and further complicated the land tenure system in the districts under study.\(^{18}\)

The provisions of the Orissa Tenancy Act left scope for existence of temporary tenure holders such as, farmers of rent for fixed periods. However, about 90 percent of the persons holding interest in land were raiyats with right of occupancy. The twelve-year rule for occupancy right aimed at keeping the raiyati interest in the lands of a village limited to inhabitants of that village. This gave the actual cultivators the full benefits of the rule that a settled raiyat acquired the right of occupancy in all the lands he held as a raiyat in the village. These provisions were based on similar provisions of the Bengal Tenancy Act, which were earlier extended to Orissa.\(^{19}\)

Another new provision envisaged in the Orissa Tenancy Act was in respect of the land reclamation. It made the provision that a tenant who

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\(^{18}\) Govt. of Orissa, *Land Tenure and Land Revenue Committee*, op.cit., p. 11.

\(^{19}\) Ibid., p.12.
was in cultivating possession of a reclaimed wasteland for four consecutive years could not be ejected by the landlord if he had not applied for such ejectment within that four years. This provision of the Orissa Tenancy Act intended to safeguard the interests of genuine tenants against any opposition from the landlord to deprive the tenants from the fruits of their labour. The Act made provisions that such raiyats could approach the collector for settling a fair rent for the reclaimed land.\(^{20}\) Nevertheless, these raiyats also got occupancy rights after continuous possession of the land for twelve years.\(^ {21}\)

Before the Orissa Tenancy Act came into force the Orissan peasantry were deprived of a fundamental right to their landed property without the consent of the proprietor. They were subject to extortion and paid exorbitant mutation fee to get the proprietors consent to transfer their land. Neither the Rent Act of 1859 nor the Bengal Tenancy Act solved this problem. The matter adversely affected the peasant because it was necessary to obtain the consent of the landlord for legal recognition of the transfer and for making the purchaser’s name entered in the settlement records. Under the Orissa Tenancy Act, the cultivators for the first time acquired a legal right to transfer their land. However, this right to transfer was not made in absolute terms but made conditional subject to payment of mutation feet at the fixed rate of 25

\(^{20}\) Ibid.

\(^{21}\) *The Orissa Tenancy Act, 1913*, op.cit., Section 23, p. 27.
percent of the purchase price.\textsuperscript{22} This mutation fee was too high for the cultivators.\textsuperscript{23}

\textbf{Assessment of the Tenancy Laws}

The Bengal Tenancy Act, 1885 and the Orissa Tenancy Act, 1913 did not give emphasis on the productivity of soil and ability of the peasantry while assessing rent. These two important elements were not distinguished from one another and as such their significance was diluted. Some principles were simply laid down to enhance the existing money rent to a higher level on the ground of higher prevailing rate, or rise in prices or any improvement of land made by the proprietors. However, nowhere it was stated that how the money rent was to be determined. The existing rent was increased to the prevailing rent whereas the prevailing rent was based on the rise in prices. This phenomenon of rent hikes had no checks as the laws were silent about providing a ceiling on rent. The liberty of the landlords to increase rent on the basis of rise in prices was never based on the productivity of land and ability of the cultivator, which inevitably resulted in a high rent burden on the part of the peasantry and promoted landlords interest. Therefore, the rent system followed under the colonial rule never

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\textsuperscript{22} Ibid., Section 31, 31A, 31B, pp. 31-33.
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\textsuperscript{23} The transfer fee in Bengal was 5 percent and in Bihar it was 6\textsuperscript{\textfrac{1}{4}} percent. See Proceedings of the Third Legislative Council of Governor of Bihar and Orissa, 1929, vol. XX, 6.4.1929, pp. 276-90.
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envisaged any clear-cut objective to bring about a radical socio-economic transformation of the large masses.\textsuperscript{24}

The Tenancy legislations favoured concentration of large holdings and promoted landlordism particularly absentee landlords who were more interested in collection of rents rather than contributing any change in the pattern of cultivation and productivity. Studies on land reforms points to the fact that "over concentration of land ownership tends to freeze the level of agricultural production."\textsuperscript{25} Moreover, large landowners, particularly absentee landlords often spend most of their time in the cities or outside their estate thus drawing away huge amount from the rural areas.\textsuperscript{26} This class of landlords, who were mostly moneylenders, merchants or urban based wealthy persons, did not play any useful progressive role in agricultural development.\textsuperscript{27} The Orissan peasantry experienced this trend during the colonial rule.

There were attempts to amend the Orissa Tenancy Act in the 1920's. Jagabandhu Sinha, MLC, moved a Bill to amend the Orissa Tenancy Act in June 1925. The Bill intended to make amendments to 22 sections of the Orissa Tenancy Act which was based on the difficulties experienced in the Orissa Tenancy Act. The main objects of the Bill were

\textsuperscript{26} See Ibid.
(i) to give protection to a large number of tenants working under *Rafatankidars* who became under-tenants and were subject to ejectment according to a Patna High Court decision, (ii) right to transfer of occupancy rights by private sale, (iii) for protecting the tenants from the moneylenders by clarifying certain points regarding land mortgage etc. But the Bill was not taken into consideration by the Government. The Government was firm in denying any amendment to the Orissa Tenancy Act, 1913. It took the excuse of the Revision Settlement operations (1922-32) which was going on at that time and desired to consult the result of the Revision Settlement operations before considering any amendment to the Orissa Tenancy Act, 1913.

The Government upheld the same view on another Bill to amend the Orissa Tenancy Act, introduced in the Legislative Council of Bihar & Orissa by Bhagabat Prasad Samantra Mohapatra, in March 1926. Again, in 1929, another similar attempt was made by Lingaraj Mishra whose Bill was based on the previous two Bills. All these Bills intended to remove those inequities and difficulties that were experienced on the working of the Orissa Tenancy Act. Again, this was also not entertained.

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29 Ibid., p. 25.
because of the settlement operations.\textsuperscript{31} Furthermore, the Government expressed its view in the Legislative Council on 10 September 1929 that the Orissa Tenancy Act was a fairly modern Act which was passed into law after a very exhaustive examination and consultation of public opinion, and it was based on the experiences gained in two series of settlement operations carried out between the years 1890 and 1912. It represented a carefully balanced effort to secure conditions under which the cultivators could use their land to the best advantage while at the same time preserving as far as possible all existing rights in private property. Therefore, the Government viewed that the proposed amendments would disturb this delicate balance and felt it unwise to temper with the tenancy Act unless and until the field experience indicated that the Act was unworkable.\textsuperscript{32} Although, the Government officials agreed that some minor points in the Orissa Tenancy Act could be amended, but they strongly advocated that the Act had worked and was working satisfactorily. They denied that the Government was not aware of any defects of so serious a nature for which immediate remedy, by way of amendments in the tenancy law, was required.\textsuperscript{33}

\textsuperscript{31} \textit{Proceedings of the Third Legislative Council of the Governor of Bihar \& Orissa, Vol.20, 1929, 10 September 1929, pp. 449-50.}
\textsuperscript{32} Speech of R.E. Russell, 10 September 1929 in ibid., pp. 450-53.
\textsuperscript{33} Ibid.
The colonial authorities objected to the proposals brought in the Amendment Bills regarding reduction of mutation fee payable on the transfer of a raiyati holding from existing 25 percent to 12½ percent. They also objected to the proposal regarding rights in trees and the proposed restriction on the execution of rent decrees. Their objection was because of the official thinking that these tenancy amendment proposals carried contentious issues capable of evoking opposition from the proprietary class.  

**Agrarian Legislations under the Congress Ministry**

The Congress Ministry in Orissa attempted to redress the prevailing agrarian tension in rural Orissa by introducing various measures of tenancy legislations that were popular in nature. Besides other legislative decisions the important agrarian legislations taken up by the Congress Ministry were (i) the Madras Estate Land Act (Orissa Amendment) Bill, 1937, (ii) the Orissa Tenancy Amendment Bill, 1937 and (iii) the Moneylenders Bill, 1938. These agrarian legislations were attempts to remove disparities in the Tenancy laws and regulate the business of money lending. It helped the Congress to further strengthen its mass base.

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34 Ibid., pp. 452-53. The attitude of the British Government towards the proprietary class has been discussed in Chapter 3 and 6.
The Madras Estate Land (Orissa Amendment) Bill was introduced in the Legislative Assembly on 23 September 1937 by Biswanath Das the premier of Orissa. This was the first tenancy legislation of the Congress Ministry in Orissa which was-applicable for those areas which were earlier under Madras Province but merged with Orissa in 1936. In those ex-Madras areas of Orissa, the zamindars realized very high rents from the tenants according to the provisions of the Madras Estates Land Act, 1908. The zamindari rent was generally calculated on the basis of the half the gross produce of the land. Naturally, it was very high in comparison to the rents of the ryotwari areas of the Province. The Bill wanted to reduce the rent to the level that prevailed in the nearest ryotwari areas for similar lands with similar advantages. The Bill proposed a margin of two annas excess only in a rupee for zamindari rents over those of ryotwari areas. The Bill received a stiff opposition from the zamindars especially from the Raja of Khallikote, whose interests were to be affected by the legislation. While introducing the Bill Biswanath Das highlighted the chief provision of the Bill as the substitution of half the net produce instead of half the gross amount of rent in the newly merged zamindari areas of Ganjam. He emphasized

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37 Ibid.
that the Bill would help the already helpless, miserable and oppressed peasantry of the ex-Madras areas of Orissa.38

The Madras Estate Land (Orissa Amendment) Bill, 1937 received stiff opposition from the zamindars and their supporters in the Orissa Legislative Assembly. While opposing the Bill, Raja of Khallikote, Mandhata Gorachand Patnaik and Birabar Narayan Chandra Dhir Narendra accused the Chief Minister and the Congress for putting the landlords in terrible suffering. They advocated that the actual benefits would not go to the real cultivators.39 The opposition urged for the postponement of the Bill until the Government of Madras amended the Madras Estate Land Act. They further insisted that in the Ex-Madras areas, the tenants were not the tiller of the soil in majority cases. Moreover they went on accusing Biswanath Das, the Chief Minister for holding over hundreds of acres of propertied land in the Ex-Madras area in Ganjam district and the amendment would cater to his own interest.40

The Ganjam District Congress Committee sharply reacted to the allegations leveled by the opposition group. The President of the Ganjam District Congress Committee challenged the allegation of the opposition

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38 *Orissa Legislative Assembly Proceedings*, vol. 1, 1937, pp. 1044-46. The average land revenue per acre for the Districts of Cuttack, Balasore and Puri varied from Rs.2-8 to Rs.3-6. Whereas in the Ex-Madras Areas the rate of rent varied from Rs.5 to Rs.16 in case of wet lands and from Rs.3 to Rs.8 for rainfed lands. Even in the neighbouring Garjat states of Ganjam like Dashpalla and Nayagarh the rents varied from a minimum of 4 annas to the maximum of Rs.3-4.


on the issue of the status of the raiyat and under-raiyat in the Ganjam District. He said that the peasants occupying 50 acres or more landed property were not more than 80 whereas raiyats having 3 acres or less than that numbered 36,563, which constituted about 95 percent of the lease holders.41

After a lot of outcry the Bill was passed by the Legislative Assembly on 5 February 1938 and was submitted for the Governor's assent. The Governor refused to give his assent to the Bill and reserved it for Governor General's assent. The decision of the Governor disappointed the Congress leaders. They appealed the Governor General not to delay his assent to the Bill.42 The All India Kisan Organisation showed their interest in passing this legislation as this would serve as a model for the tenancy reforms in other parts of the country. However, the matter was not quickly disposed. The Governor General postponed his decision on the Bill for a very long time. The Raja of Khallikote, whose interest was supposed to be affected by the Bill, tried for a compromise. Lord Linlithgow, the then Governor General of India who visited Orissa in the last week of July 1939 was approached by both the parties to find a solution to the problem. The Governor wanted that the Viceroy should influence the Congress Ministry to agree for a compromise with the

41 Ibid.
42 The Samaj, 23 May 1938.
landlords of South Orissa. The Congress Ministry expressed their difficulties for any compromise on the Bill and suggested that the announcement of the Governor General's assent to the Bill during his visit to Orissa would be very much appreciated by the people of Orissa. Unfortunately, in spite of the best efforts of the Congress Ministry, the Governor General did not announce his assent to the Bill during his Orissa visit. The colonial administration still hoped for a local compromise that was not acceptable to the proposer of the Bill. The matter remained unsettled until the Congress Ministry resigned in November 1939. Subsequent to their resignation the Congress leaders kept the issue alive in all their public as well as party meetings, and tried to press the matter with the Government. Unfortunately, the Bill was rejected by the Governor General in February 1941. Justifying the rejection the colonial authorities viewed that the Bill involved complicated agrarian question and it was not based on proper investigation and negotiation among the two interest groups, i.e. the landlords and the tenants. Thus, one of the remarkable piece of agrarian legislation favouring the peasants cause brought by the first popular leadership was suppressed which nevertheless served the cause of the colonial Government and its allies.

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44 Ibid.
45 Ibid.
The Orissa Tenancy Amendment Bill, 1937

After its proposed amendment to the Madras Estate Land Act, 1908 the Congress Ministry took up the proposal to amend the Orissa Tenancy Act, 1913 as per their Election Manifesto. Nityananda Kanungo, the Revenue Minister introduced the Orissa Tenancy (Amendment) Bill in the Legislative Assembly on 25 September 1937. As discussed earlier similar efforts to amend the Orissa Tenancy Act in 1925, 1926 and 1929 could not be entertained because of the ongoing settlement operations. By 1932 the settlement operations were completed and the Ministry was not expecting such hurdles on the way of their fresh attempts to advance the proposed amendments. To bring change in the following four important issues was the main thrust of the Orissa Tenancy Amendment Bill, i.e., (1) the abolition of mutation fee, i.e., free transfer of holdings, (2) giving the tenants the right to cut trees standing on their holdings, (3) reducing interests from $12\frac{1}{2}$ percent to 6 percent on arrears of rent and (4) restraining all illegal levies on tenants. Besides this the Bill made provisions for absolute rights of the occupancy tenants over plants, flowers, fruits and to fell, utilise or dispose the timber of any tree on their lands. However, where the rights of landlords on these things had been established in civil courts, the tenant had to apply to the Collector and pay a reasonable compensation. In other words, the Bill

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aimed at giving right to trees to the occupancy raiyats which was not their in the Orissa Tenancy Act, 1913. As per the provisions of the Orissa Tenancy Act, 1913 the tenants, even if they got occupancy rights over land, did not have any claim on trees which was the zamindar's absolute liberty.\(^{48}\) However, the Bill aimed at serving the cause of the peasants not the cultivators.\(^{49}\)

The Government wanted the Bill to be referred to a Select Committee. But the opposition insisted that the Bill should be circulated for eliciting public opinion.\(^{50}\) The Raja of Madhupur also bitterly criticised the Bill and pointed out that the right of unrestricted transfer would have a far-reaching effect on the general economic condition of the country. The tenants or the real cultivators would be reduced to the position of landless labourers or would be compelled to leave their home. This will lead to their inevitable dependence on the moneylenders who would force them to part with their land.\(^{51}\) Mandhata Gorachand Patnaik, though welcomed the principle of the Bill that recognised the peasant as the proprietor of the soil, was critical of the provisions of the Bill. He viewed that the Bill would not be of any help to the peasants.\(^{52}\)

The critics of the Bill proposed for circulation of the Bill for eliciting


\(^{49}\) Ibid., p. 868.

\(^{50}\) Ibid., vol. I, 1937, p. 1217.

\(^{51}\) Ibid., vol. 2, No.12, 25 February 1938, pp. 836-80.

\(^{52}\) Ibid.
public opinion, which was not supported by majority in the Council, and therefore, the Bill was referred to a select committee. The zamindars of the districts of Cuttack, Puri and Balasore tried to persuade the Congress Ministry for a compromise between them and the tenants. When their efforts become fruitless, the matter was brought to the notice of Mahatma Gandhi. On behalf of the Orissa Zamindars' Association Braja Sundar Das sent a telegram to Gandhiji complaining that much injustice was being done to them. He also suggested that, Gopabandhu Chaudhury, a prominent member of the Gandhi Seba Sangha, should be asked to mediate on this matter. However, Gandhiji replied that the zamindars of Orissa should put forth their grievances before the premier of Orissa. Therefore, the representatives of the Zamindars' Association headed by Braja Sundar Das met the premier as well as the Revenue Minister on 30 January 1938. They agreed to reduce the mutation fee on the transfer of land. Regarding the rights on trees, they were also prepared to accept the statement recorded on the settlement papers. Discussing the issue of mutation fee, the premier held that “the bill gives no absolute economic relief, but takes away the rights the landlords secured at a stage when people did not have power in their hands.”

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53 Ibid.  
55 Ibid.
Justifying the legislation, he explained that unless small things were done for the peasantry it would endanger their socio-economic life.56

The Orissa Legislative Assembly witnessed hot debates on the Orissa Tenancy Amendment Bill. The opposition members contested most of the clauses and moved a number of amendments on the clauses of the Bill. Braja Sundar Das who represented the zamindars interest in the Assembly alleged that "the Bill smells of Leninism all through. It is expropriatory in almost all clauses." Biswanath Das sharply reacted to this allegation. He said, "when surging waves of nationalism in countries other than ours have been shaking empires... in this unfortunate country of ours expropriation and revolution have been the cry for granting a little concession to raiyats which may touch land-holders income by about five percent." He further elaborated the point for the opposition saying, "The people have got the political power. However long could you go on enjoying advantages that were conferred by Government which had nothing to do with popular feeling and sentiment and much less with their economic life and existence."57

The oppositions moved to bring amendments to the Bill could not yield support and hence, was rejected. The Bill finally received approval of the Governor and was passed in November 1938 with remarkable

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57 Ibid.
changes over the Orissa Tenancy Act, 1913, i.e. (i) Tenants got right of free transfer of their land without paying mutation fee, (ii) reduction of rate of interest on arrears of rent from 12½ percent to 6 percent, (iii) right of tenants over trees on their holdings, and (iv) unlawful levies would attract regular trial and fine up to Rs.500 or simple imprisonment not exceeding six months. Some of the important provisions of this amendment were as follows: Section 6 of the Orissa Tenancy Act, 1913 provided that a bajyaftidar raiyat was to be treated as a tenure holder for the purpose of registration of transfers and division of tenancy. There was no distinction between a bajyaftidar raiyat and an ordinary occupancy raiyat except for the fact that bajyafti holdings were once claimed to be revenue free but the claim was disallowed, but in consideration of the fact that these holding had in the past been held without payment of revenue the initial assessment on them was light, this light assessment continued at all subsequent settlements. In view of the fact that the assessment on different raiyati holdings even in the same village was not uniform. It was considered that this light assessment on bajyafti holdings should not be the reason for placing the holder at a disability in the matter of registration of transfers in the landlords' papers or for division of tenancy.

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Another important provision of the new Act was regarding right of occupancy of raiyats over trees on their holding. The original provision of the Act left the right over trees to be settled according to custom. Thus trees were always a prolific cause of dispute between the landlords and raiyats.60

The usual but not universal custom was that landlord and the raiyat used to share fruits and sometimes the timbers. There were cases where persons other than the landlord and the raiyat had interest over trees standing on the raiyati holding. Right over trees was considered to be valuable in the coastal districts to which the Orissa Tenancy Act applied because they were situated at a great distance from the forests. Both the landlord and the raiyats were therefore, interested in having exclusive possession and use of trees. In view of the fact that the raiyat was in physical possession of the holding, he was in a better position to plant more trees.61

This encouraged people for demanding further revision of the Tenancy Act in order to give them complete freedom from the zamindar’s fold. The Congress Ministry appointed a special officer for thorough revision of the Orissa Tenancy Act, 1913 and to have uniformity in

60 See Krushak, (Oriya weekly), 18 June 1938.
61 Ibid.
tenancy laws in Orissa. However, with the resignation of the Congress Ministry they could not proceed further.

**The Orissa Moneylenders Bill, 1938**

One of the major problems that engulfed the Orissan peasantry was their accumulating indebtedness during the colonial rule. The high rate of interest charged by the moneylenders further deteriorated the economic condition of the peasantry. The Bihar and Orissa Banking Enquiry Committee Report (1929-30) clearly reflected the high rates of interest that existed in rural areas. The Congress Ministry undertook to deal with the problem in right earnest. In the light of the Banking Inquiry Committee Report, the Ministry introduced the Orissa Moneylenders Bill, 1938 in the third session of the Legislative Assembly on 31 August 1938. The Bill made provision for fixing the rate of annual interest at 9 percent on secured loans and 12 percent on unsecured loans. For transaction of money beyond Rs.1000, it was suggested that moneylenders should register their names paying registration fees. It also envisaged that if the moneylenders made any cross entry in the register they would be penalised with a fine of Rs.500. The provisions made in the Bill truly reflected its main

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64 *Orissa Legislative Assembly Proceedings*, vol. III, 1938, p. 127.
objective that aimed at regulating moneylending transactions and granting relief to debtors. In support of the Bill Biswanath Das said,

"The value of land has gone down. House property has deteriorated. The borrowing capacity of the people has been reduced and the circumstances demand necessary legislation as the existing laws are insufficient to give necessary protection. This measure is even small and imperfect in comparison with the vastness of the problem, but is expected to give protection to the section of the people who need more protection."  

The Congress Ministry adopted a progressive spirit in its attempt to relieve rural indebtedness in Orissa. Biswanath Das warned the critics of the Bill by saying that if no steps were taken the existing pattern of credit system would lead to serious agrarian trouble. He vehemently criticised the existing credit system and compound interest. Referring to the oppositions demand for dropping the proposal for registration of moneylenders he said, "We are not accustomed to the back door method, if we all choose to attack, it is a frontal attack; we straight forward approach and try to find a remedy." He expressed his hope that if moneylending was made a registered business it would help the
Government and courts to regulate and control the same.\textsuperscript{70} He however pointed out that if India had attained independence, it would have taken a stringent measure than the Bill he had introduced.\textsuperscript{71} This shows the limitations of the partial autonomy under the Government of India Act. E.M. Evans, a nominated member in the Legislative Assembly hailed the legislation saying that people borrowing money at 30 percent to 50 percent interest would now be borrowed from 9 percent on secured debts and 12 percent on unsecured debts which would certainly be beneficial to the poor debtors.\textsuperscript{72} The Bill was passed by 30 votes to 1 on 25 February 1939. The only person who fought in the Assembly on behalf of the moneylenders was Mr. Viswanadham Raju MLA.\textsuperscript{73} The Governor gave his assent to the Bill and it was passed into Act.\textsuperscript{74}

The stand taken by the Congress Ministry while bringing out radical agrarian reforms like the Madras Estate Land (Orissa Amendment) Bill, Orissa Tenancy Amendment Bill, and the Orissa Moneylenders Bill points to the fact that the popular ministry had developed an understanding of the agrarian distress that the peasantry suffered during the colonial rule. Therefore the ministry tried to integrate the agrarian reforms and the peasant question with that of its

\begin{itemize}
\item \textsuperscript{70} Ibid.
\item \textsuperscript{71} Ibid., vol. III, Pt.-II, p. 778.
\item \textsuperscript{72} Ibid., vol. III, Pt.-I, 1938-39, pp. 148-50.
\item \textsuperscript{73} Indian Annual Register, vol. I, 1939, p. 292.
\item \textsuperscript{74} Orissa Legislative Assembly Proceedings, vol. IV, 1939, p. 46.
\end{itemize}
struggle against colonialism. The ministry represented popular hopes by initiating such legislations. However, the leaders openly admitted their difficulties in undertaking full-fledged reforms due to the stronghold of colonialism. Inspite of the limitations of the working of the provincial autonomy within the parameters of colonialism and the brief period for which the Congress remained in power, the legislations brought by them revealed their capacity to undermine the laws that never served the cause of the majority.

The popular and representative character of the Congress Ministry, to a certain extent, reflected the ideals of the Left and distanced itself from the pressure of the Rightwing forces so far as the agrarian reforms were concerned. The analysis of the nature and role of mobilisation of peasantry by the Congress leadership and its efforts at translating the popular hopes recorded in the Election Manifesto points out their strategy to expose the limitations of the colonial rule and constitutional provisions for safeguarding the interest of the people in general. But their failure to take more radical steps may be attributed to the limited scope under the Act of 1935. Moreover, it was not possible for the Congress leaders to undertake a fight with the landed elements and vested interests as they were conscious that the latter was the by product of colonial rule and therefore developed their strategy to sharpen their fight with imperialism.
Conclusion:

To sum up, Orissa did not have any self-contained agrarian code up to 1913. Prior to that it was governed by the Rent Act of 1859 and the Bengal Tenancy Act, 1885. That these Acts were not adequate was revealed by the settlement operations. Therefore, the need for a separate agrarian code for Orissa was seriously considered by the Government and accordingly the Orissa Tenancy Act, 1913, which aimed at removing the ambiguities, defects and anomalies in the existing laws was passed. Apart from codifying various interests on land, the Orissa Tenancy Act, 1913 defined the tenancy rights and recognised the rights of tenants to transfer their holdings without the consent of proprietors. However, the Orissa Tenancy Act, 1913 was not free from defects. It did not help to reduce the rent burden on the peasants. Like the Bengal Tenancy Act, it also favoured concentration of large holdings and promoted landlordism particularly absentee landlords. There were attempts to bring amendments to the Orissa Tenancy Act by the Oriya members of the Bihar and Orissa Legislative Council. These amendment proposals were not considered because the Government felt it unwise to temper with the Act and argued that the Act was satisfactory and was working well. The unwillingness in the Government to amend the Orissa Tenancy Act was part of the colonial policy not to jeopardise the loyalty of the proprietary class to the Raj.
The formation of the Orissa Province in 1936 was followed by the formation of the popular Congress Ministry in 1937. The Congress ministry favoured enactment of agrarian legislation and amendment to tenancy laws in order to give protection to the common peasantry. The agrarian reforms introduced by the Congress ministry, i.e. the Madras Estate Land (Amendment) Bill, Orissa Tenancy Amendment Bill, Orissa Moneylenders Bill etc., had a progressive spirit to redress the agrarian tension and rural indebtedness in Orissa.

Except the Madras Tenancy Amendment Bill all other Bills were passed into Acts. The Congress Ministry represented popular hopes but it faced difficulties in undertaking full-fledged reforms due to the limitations of the working of the provincial autonomy. However, the Congress ministry, despite the limitation of its achievements in effecting radical change in the condition of the peasantry, in articulating peasant grievances served to reveal the exploitative nature of the colonial regime.