Chapter IV

Progressive Legislations and Structural Resistance to Change
Having examined the political and economic background of Orissa, it is now only appropriate to discuss the role of the political elite, who in a democratic state, are trying to bring about a radical socio-economic transformation of the society by the legitimate legislative institutions of the State. The kinds of goals to be pursued and the legislative behaviour of the political elite are the most important indications of the direction of change. In this context a lot depends on whether the political elites are change promoting or are a party to resistance to change, or even though they are unable to promote change they are not a party to resistance to change.

It has been argued in the first chapter that where there is unequal distribution of economic power, there would be naturally a very unequal distribution of political power; and that the state by nature represents and defends the interests of the property owners. This of course does not mean that the state always and everywhere mechanically serves the interests of the ruling class(es). Instead, the state provides certain concessions and carries out minimum welfare requirements for the people, which at times, are contrary to the ruling class interests. Such an autonomy of the state, over and above class forces, occur when there are, (a) conflicts

between the long-run and short-run interests of the ruling class; or (b) conflicts between the ruling classes in the ex-colonial countries, where the interests of the ruling classes are imprecise, undefined and often of contradictory nature, or (c) decisive struggle of the working population; or, (d) as in many of the new states, the state apparatus is more developed than the economic base. However, notwithstanding some economic and political concessions, the state continues to remain as an instrument for the domination of the ruling class and defends its major interests. Therefore, what needs to be studied is the control exercised by the ruling class(es) in the state and the conditions under which the state acquires relative autonomy, shall not be confused with absolute sovereignty. At the same time, it is also essential to see who benefits and how much from a particular policy or expenditure of the state.

In case of Orissa, Chapter 35 has revealed that although the majority of the members of the political elite belong to big landowning class, there are also middle class professionals, and a few capitalists, small landowners and industrial workers. At the same time, it may be possible that

a leader may have a certain class interest but has to defend the class interests of his followers or supporters also - for instance Biju Patnaik, a capitalist having recruited members in his party largely from the landowning class, has to defend their interest, to safeguard his own political and economic ends. However, it has also been argued that though most of the members of the political elite belong to the ruling class(es), since they have to depend on the electorate for their votes, they are constrained to represent the broad interests of the citizens. It is in this context that we need to attempt an analysis of the class and elite interests in political politics through government policies and their implementation.

While undertaking the job of evaluation of government policies and their implementation, the study does not distinguish Centre-initiated policies from the state's policies. But since the state is not legally bound to follow the Centre-initiated policies which fall within the purview of state subject, it may change or postpone the bill if it goes contrary to the interest of the elite and the class(es). Therefore one can reasonably argue that the policies formulated finally at the level of the state assembly will provide the basis for an analysis of the interests of the state political elite and ruling class(es).

Since our major analytical focus is on the relationship between the political elite and the social structure, this can be profitably examined by an analysis of the interests of the political elite in terms of the structural criterion of class. This, in turn, can be understood by studying the policies of the state relating to land. In an agrarian society, land is
the main means of production and if land is unequally distributed, antagonisms tend to develop within land relations, consequently land becomes the main source of alienation. Almost every ministry in Orissa has tried to bring some reforms in land distribution, to help the tenants and agricultural labourers. It would be of utmost interest to analyse these land policies. Additionally policies for the protection and privileges of Scheduled Castes and Scheduled Tribes and the management of Kenu leaf business will also be discussed.

I LAND POLICIES

The pressing need for a ceiling on landholding and the distribution of excess land to small peasants and landless labourers have engaged the attention of our policy planners since pre-independence days. Accordingly, a series of legislations abolishing intermediate tenures, granting protection to tenants from arbitrary eviction, regulating land rent, and other allied measures have been undertaken by the government.

Soon after independence, in 1948, the Second Interim Ministry headed by H.K. Mahatab had passed the Orissa Tenants Protection Act, and the provisions were made applicable retrospectively with effect from September, 1947 only in the coastal districts of the state. The legislation applied to the western region but not with retrospective effect.
The main features of this act were:

(a) eviction of tenants by any landlord who possessed 33 standard acres or more was restricted;

(b) the rent payable by any tenant having occupancy rights was to be within the limit of one-third of the gross produce, and in no case would the landlord charge more;

(c) in case of Ganjam and Koraput, a ryot holding land on produce rent was to pay only one-sixth of the gross produce as rent;

(d) tenants without any security of tenure were not bound to pay more than two-fifth of the gross produce as rent; and, if any tenant is charged more than the prescribed rent, then the landlord would be penalised.

The repercussion of such legislation was interesting. In the coastal districts where the landholdings generally do not exceed the ceiling enacted, tenant evictions took place, so much as that the tenants in the districts of Ganjam, Puri and Sambalpur agitated against arbitrary evictions. The western region, where large landholdings beyond the ceiling is the characteristic feature, somehow the legislation did not apply with retrospective effect, thus the land records were suitably manipulated nullifying thereby the main thrust of the legislation. Issues like definition of a standard acre, the

8. In the coastal districts of Balasore, Cuttuck and Ganjam, there were only 150, 90 and 93 households, who had more than 20 acres of land. These figures were out of 2043 samples taken from all over Orissa. But in the Western region, there were 1592 holdings of more than 20 acres of land out of 2043 samples surveyed. S. Misra, Economic Survey of Orissa (Cuttuck, 1967), vol. I, p.149, See also, B. Misra and B. Jena "Working of the Two Tenancy Laws in Orissa", Indian Journal of Agricultural Economics (1957), pp. 117-20.
absence of land survey records, etc., confounded the provisions of the Act sufficiently to enable the continuance of the status-quo.

There was practically no authority to check the cases concerned with the problems arising out of the Act. When the tenants complained against high rent, both were dragged to the court. The judicial procedure for individual small peasants proved counter-productive, as they had neither the means nor the knowledge or expertise to confront the superior resources of his adversary. The unorganised peasants were no match for the landed interests, whose political influence and economic strength could not only outplay but even demolish them. The small peasant whose very survival is circumscribed in a relation of utter dependency to the landowner on whose leased land he has to solely depend, was reluctant to get the benefits of the policy.

After this came the Orissa Estate Abolition Act of 1931, initiated by the Congress Ministry under the leadership of N.K. Choudhury. The Act intended to abolish the intermediary interests, but surprisingly it had nothing in it to protect the tenants plights. There were altogether 4,25,693 estates. The big landowners were asked to surrender all land except personally cultivated land upto 33 standard acres, homestead land upto 20 standard acres, grazing ground, temple trusts, and land for factory (even for proposed factory). Therefore

it was not difficult for an estate owner to legally own more than 70 to 80 standard acres. Besides, since the expression of "personal cultivation" was left unclear, this proved of considerable advantage to the landlords who expedited the eviction of tenants. In effect abolition of intermediaries became basically a reform of revenue administration rather than a measure for land distribution.

By Compelled/the sporadic tenants agitations in some rural areas the same Ministry, in 1955, introduced the Tenant Relief Act throughout the state concurrently. The Act had the following provisions:

(a) no tenant in lawful cultivation of any land on the last 1st July, 1954 or at any time thereafter shall be liable to be evicted from such land by the landlords;
(b) no such tenants shall be bound to pay more than one-fourth of the gross produce of the land or the value there of one-fourth with estimated produce as rent to the landlords;
(c) no landlord can collect cesses;
(d) no tenant holding land as produce rents with permanent or heritable rights of cultivation should be liable to pay more than 2/3rd of the rent; and,
(e) the landlord had the right to evict the tenant from any land selected by him for his personal cultivation to the aggregate extent of seven
standard acres of land.

Though the Act of 1955 was more precise and clearer than that of 1948, it had several legal loopholes as well as deliberate attempts to safeguard the interest of the big landowners. For instance, the term 'personal cultivation' was defined as cultivation by (i) one's own labour; or (ii) with the assistance of the members of his family; or (iii) by servants or hired labourers on payment of wages under his supervision or under the supervision of any member of his family. Hence "the land ostensibly resumed by the landlords on the ground of personal cultivation are cultivated through crop sharing arrangements, wherein crop shares are treated as labourers or as partners in cultivation". This saved the landlords from the clutches of the 1955 Act. Interestingly, in the legislation the expression of tenant did not include the sharecropper - Bhagchasi. Similarly, the fair rent system remained ineffective, largely due to the ignorance of the Act and practical insecurity of tenancy in the villages. Therefore the old customary rent system continued to operate in the land relations. In short, both the Acts of 1948 and 1955 remained ineffective to their intentions.


12. Ibid.
Realising the weaker position of the tenants which was the main inhibiting factor in the satisfactory implementation of the tenancy reforms, the government thought it was desirable to abolish tenancy altogether. Accordingly, the next step was the outcome of the Land Reform Act of 1960. This act tries to fix ceilings on landholding and to abolish intermediary rights. (Interestingly, this pioneer legislation was passed by the coalition Ministry of the Congress and the Swatantra, under the leadership of H.K. Mahatab of Congress. The same Act was simply amended in 1965 by the Congress Ministry, which considered the earlier Act "not-so progressive" as it was passed by the coalition with the Swatantra. But in this connection Congress leader, Sadasiv Tripathy, faced opposition from his own party. Anyway, the amended Act laid down a ceiling of 20-80 acres per individual holder, depending on the type of land. But until 1971, it was not enforced. This Act considers only the question of security of tenure, and does not pay any attention to the right of the ownership of land under their cultivation. Like the earlier Acts, this also remained ineffective. It is important to note that while formulating the above policies, the government did not pay due attention to the organisation of the revenue administration, on which lay the responsibility for the implementation of the laws.

It was not until January, 1972, that the land ceiling provisions came into force under the non-Congress coalition ministry, headed by Biswanath Das. The ceiling was brought down to 10 standard acres. But soon after Nandini Satapathy was sworn in, the Act was amended according to the Chief Minister's Conference held in July, 1972. To this bill, several Congress legislators registered their strong dissent. After promulgation of the President's Rule, the Orissa Land Reform (Amendment) Bill, 1973, was enforced. According to the Bill, the aggregate of the ceiling area should not exceed 18,27,54,81 acres of class I, class II, class III and class IV land, respectively. Not unexpectedly, the bigger landlords including 57 MLAs (of 1972) had filed more than 500 writ applications challenging the validity of the Presidential enactment.

After 1974 February elections, Nandini Satapathy came to power. On 2nd October 1974, her government issued a notification enforcing the farm ceiling law retrospectively from September 20, 1970. The new law fixes a ceiling on landholding at 10, 15, 30 and 45 acres of class I, class II, class III and class IV land respectively for a family of five. In case of a family of more than five, the ceiling will stand at 2 standard acres per every extra member, subject to a final ceiling of 18, 27, 54 and 81 acres of class I, class II, class III and class IV land, respectively. An important provision is limiting homestead land to 3 acres.

For the first time an opportunity is extended to temporary leasees and recorded and unrecorded sub-tenants to acquire tenancy rights. Regarding rent, it lays that, in no case, it can exceed 1/8th of the gross produce. About eviction, it holds that a landlord can evict only if his tenant has used the land in a manner which renders it unfit for cultivation properly or personally; or used for other purposes than agriculture; or has not given fair rent of agricultural produce. This provision can be utilised or misutilised, easily by a landlord who wants to evict his tenants.

It is said that the surplus land of an estimated 1.71 lakh acres is not yet acquired by the government. And the follow up actions to the law is very slow, even in many tehsils, local advisory committees for the purpose are yet to be set up.

Now we have observed that initially legislation provided that a person may hold more than 70 to 80 standard acres, later it was reduced to 21 (18 +3) acres. But since the ceiling legislations are always passed without proper assessment of land, without creating the infrastructure and deliberately or otherwise providing clear-cut legal loopholes it could not give the desired results. It is doubtful whether attempts, implement land reforms through the mechanism of local advisory committees, is going to yield much results. Our main skepticism is rooted in the fact, that such
committees would in all probability include the MLAs, the Panchayat Sarapanchs and some "important" personalities of the area. More likely than not their class composition will broadly coincide with the landed interest. In such a situation, would they, against their own interest, make the law effective?

It is indeed striking that there has not been a thorough reassessment of these lands since the early part of the 20th century. Till 1974, a tenant was allowed to claim to be so only if his name was registered. There was also no system of annual revision of record of rights in the state. The records are brought upto date only during re-survey and settlement. Even then, not much care has been taken to record all the names of the tenants. The share croppers were also not included in the category of tenants, until last year. Besides, the legislations have given ample time to the landlords for their manipulation. The kind of ceiling passed is such as to encourage capitalist farming (see, personal cultivation by hired labour and level of ceiling on landholding). Obviously, it is not for peasant proprietorship - notwithstanding all the rhetoric about the peasants.

So far, the ceiling legislations have had only marginal impact on the land distribution pattern. This may be because of deliberate policy formulations or otherwise but the landlords always manage to get round the laws either legally or illegally or by both means. However, some of the
common and well known methods of circumventing ceiling laws are the following:

(a) by registering land in a number of names, including minors and far off relatives;
(b) land is often put in the name of former tenants or servants, who are deeply in debt to the landowner;
(c) by invoking the provision of self-cultivation by wage labourers, when he or any other member of his family has only to supervise the land;
(d) by invoking the provision of the joint ownership, the bigger landlords can escape the ceiling i.e. if they join hands with small or middle peasants;
(e) by taking advantage of lacunae in land records, particularly about concentration of land;
(f) when the land is owned in different villages;
(g) by constructing temples, orchards, plantations, or planning to establish factories or mills; and,
(h) or by utilising the advantage of mortgaging to cooperative Societies or Banks, such lands are legally excluded from the consideration of the ownership.

In this connection what Thorner observed in 50's still largely seems to ring true, "the land reform laws are
obstensibly passed for the benefit of under-privileged has
not basically altered India's village structure. The small
minority of oligarchs have had wit and resources enough to get
around these laws in which in any event, the loopholes are
so large as to give them ground.... Their uninterrupted
presence in power means that the forces of the 'depressor'...
continue to operate strongly in countryside".

It is, however, claimed that the Satapathy Ministry
has kept its promise made to the electorate last year by
distributing 2,46,139 acres of land to landless people by the
end of March 31, 1975. This has benefited 1,55,523 families.
The beneficiaries include 83,637 families of Scheduled Tribes
and 3,45,516 Scheduled Castes. However, the land apportioned
so far has been distributed from government land, and not from
excess land out of the ceiling. Further, we do not have much
information on the type of distributed land, provisions of
working capital for cultivation, and the transfer of land to
upper classes of the area, after distribution. There is yet
another way in which ceiling laws may be misused - landlords
may obtain compensations by surrendering their wastelands.
The case of wasteland owning is more acute in the Western
regions. According to 1974 Act, the compensation for the
non-resumable land shall be 10 times fair rent to be paid
in five annual instalments by the state at the rate of 4½ per
cent interest per annum on the unpaid balance. This again is

a profitable affair for some members of the class, if not for all.

It has already been noted that in the present exploitative system of agrarian relations, the small peasant and landless labourers are kept at such a precariously marginal state of existence that they are left without any choice of alternative, particularly about lease tenancies. The landlords lease out land in small parcels and to tenants with large families. Study of tenancy in several villages have not shown any tendency or sign of reduction of tenancy rather it is on the increase, in different forms. Same is the case with customary land rent. Further the tenant often has to render unpaid and underpaid labour services, though its extent and nature varies considerably from place to place. In fact, the provision that after the resumption of land for personal cultivation, the tenants shall cease to have the right to continue in cultivation has made the tenants compulsorily loyal to the landlords. All the legislations have failed to protect 32 percent of the total agricultural population of the state, who are the sharecroppers. The percentage in the coastal region is still high - about 50 per cent. Under such circumstances, one can appreciate Appu’s observation that, "so long as a class of landowners who are reluctant to engage in manual labour and

18. Ibid, see also, Chap. VII of the dissertation.
a vast army of landless agricultural labourers co-exist, any legal ban on tenancy in the Indian rural society will remain a dead letter".

AGRICULTURAL WAGE POLICY

Recognising that agricultural labourers are very weak in their bargaining power, attempts have also been made to ensure for them, the minimum subsistence wage by means of legislation. Though in 1954 and 1960, attempts were made to legislate the minimum wage for agricultural labourers, it was only in 1965, that the minimum wage was fixed at Rs. 1.00/- per day which, continued till 1972, until the coalition ministry revised it to Rs. 2.00/- per day. Again, in 1974, Satapathy Ministry has increased it to Rs. 3.00/- per day. However, the increase over the period is more than nullified by the increase in consumption costs.

Again, there is not much evidence that legislations have gone very much beyond papers. There is no specific structure to enforce the policy. It is acknowledged fact that the employment opportunities for agricultural labourers are highly uncertain and discontinuous, Besides, as they are unorganised and are crushed by insecure employment, they are very poor in bargaining or demanding. In other words,

the legislations can have meaning only when they are organized and are provided with employment guarantee. The wage is still determined by the custom and gets revised, if at all, only when the local labourers' complain about lack of parity between wages and the increase in the price of paddy. Hence, there are variations in the wages not only between regions but in the same region, depending on the nature of operation, time of demand of labour and the type of employee. Women and children workers get less than their male counterparts.

The actual wage rate of male agricultural labourer was 72 paisa in 1950-51, which increased in 1956-57, to 80 paisa, in 1960-61 to 1.25 paisa, in 1964-65, 1.89 paisa and in 1970-71, 1.90 paisa. This only shows that legislations merely legitimate the usual practice. In short the agricultural labourers, only 55 per cent of whom own marginal land, do not seem to gain from any of the legislations.

With regard to the policy for the abolition of attached labour (gothi), one notices that the accurate figure for attached labour is never available. A study committee reported the existence of a substantially large number of bonded labour in Koraput district of Orissa. No such attempt has been made for the whole of the state. The landless are weak socially, economically and organisationally, which

ultimately inhibit the exercise of their rights. Hence, the question of bonded labour it seems is difficult to be resolve without a more basic and comprehensive change in the land and money-lending relations. Legal measures may give relief of a marginal nature but cannot stop or eradicate the practice of bonded labour.

Acts on Money Lending

It is not surprising that, 80 percent of the rural 24 credit comes from the local moneylenders. Only one Act, which regulated moneylending in Orissa, was the Money-lender’s only Act of 1937. It is in 1972 that there was a talk on moratorium on some money-lending practices. But there is no specific Act regulating money-lending so far. The proposal to place a moratorium on the outstanding debts of small farmers and rural artisans deserves careful consideration. The all India Debt and Investment Survey, published by Reserve Bank of India found that the poorest section of the people are the non-farmer villagers of Orissa having assets worth only Rs.1428/- per family and the liabilities of average village household is Rs. 202/-. The present proposal is not an outright cancellation of debts, as was done in 1937-38 by A.K. Fazul Huq in Bengal for compulsory debt settlements at local levels. It has no agency to operate at the village levels. Further, one has to consider that rural indebtedness is a phenomenon which essentially distinguishes the

unorganised sector. Those who incur loans and those who advance loans are bound by an unwritten concordat; this concordat has its basis on one side in fear and on the other in the confident realisation that the borrower has nowhere else to go. The agony in the village is the agony of an inequitous socio-political structure. If some alternative credit system of the structure, if some alternative credit system of the state is not developed and if the direct cancellation of the debts are not undertaken simultaneously, one can always find millions of peasantry in the shackles of indebtedness and bonded labour.

We have examined the shortcomings in the legislations relating to ceiling on land, tenancy reform, agricultural labour and money-lending. These legislations, so far, do not seem to have affected the interests of the rural elite, on the contrary, they seem to favour the interests of the rural "elite" and not of rural "masses. There is the stress on capitalistic farming, the interests of the feudal lords face no threats either from the government or from the people, and the parties can manage to keep a radical image. This exposes the kinds of interests that still remain protected or at least unaffected, and the landed class with which these interests are associated.

We are told that the zamindar, stripped off his feudal rights still commands position and resource enough "to control votes.

in his village and he supports only a like minded candidate who when elected to the State Assembly will put his weight against any drastic legislation on land reform.

An analysis at the level of political parties should prove useful at this stage. The Swatantra party is considered to be a conservative party, and yet they had passed the famous Land Reform Act of 1960—which later on was only amended, by the Swatantra in coalition with Congress. Again in January, 1972, the main ceiling law was promulgated by the same party, in coalition with the Utkal Congress (Table-I). This manifests two things: First, that progressive legislations on reforms need not necessarily indicate that party initiating the legislation is progressive, if that were so hardly any party would disqualify to be progressive. Secondly, whichever party assume power, in order to get the support of the people, has to show some consideration for the common man. So far in Orissa, only Swatantra, Congress and the splinter parties of the Congress have come to power, but there is hardly any difference between these parties towards land reform legislations.

Since progressive legislations on land reforms have been initiated by parties irrespective of party ideologies, it can be inferred that such legislations were introduced in consideration of maintenance or acquisition of power rather than for generating social and economic

Table 1
Opinion of the MLAs of Parties in Power on Land Reform Policies

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Year</th>
<th>Legislation</th>
<th>Party in power</th>
<th>Support</th>
<th>Opposition</th>
<th>Absent or no opinion</th>
<th>Opposition + Absentee</th>
<th>Difference between opinions</th>
<th>Strength of the House</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
<td>(6)</td>
<td>(7)</td>
<td>(8)</td>
<td>(9)</td>
<td>(10)</td>
</tr>
<tr>
<td>1.</td>
<td>1948</td>
<td>Tenancy</td>
<td>Congress (45)</td>
<td>36</td>
<td>18</td>
<td>6</td>
<td>24</td>
<td>+ 12</td>
<td>60</td>
</tr>
<tr>
<td>2.</td>
<td>1951</td>
<td>Estate Abolition</td>
<td>Congress (67)</td>
<td>78</td>
<td>38</td>
<td>24</td>
<td>62</td>
<td>+ 16</td>
<td>140</td>
</tr>
<tr>
<td>3.</td>
<td>1955</td>
<td>Tenancy</td>
<td>Congress (67)</td>
<td>69</td>
<td>45</td>
<td>26</td>
<td>71</td>
<td>- 2</td>
<td>140</td>
</tr>
<tr>
<td>4.</td>
<td>1960</td>
<td>Land Reform Amendment</td>
<td>Congress + Swatantra (56+61)</td>
<td>81</td>
<td>39</td>
<td>20</td>
<td>59</td>
<td>+ 22</td>
<td>140</td>
</tr>
<tr>
<td>5.</td>
<td>1965</td>
<td>Land Reform Amendment</td>
<td>Congress (83)</td>
<td>60</td>
<td>47</td>
<td>27</td>
<td>74</td>
<td>- 14</td>
<td>140</td>
</tr>
<tr>
<td>6.</td>
<td>1972</td>
<td>Ceiling Laws June</td>
<td>Swatantra + U.Congress (78)</td>
<td>78</td>
<td>29</td>
<td>32</td>
<td>61</td>
<td>+ 17</td>
<td>130</td>
</tr>
<tr>
<td>7.</td>
<td>1972</td>
<td>Ceiling + Tenancy July</td>
<td>Congress (94)</td>
<td>58</td>
<td>49</td>
<td>33</td>
<td>82</td>
<td>- 24</td>
<td>140</td>
</tr>
<tr>
<td>8.</td>
<td>1974</td>
<td>Ceiling + Tenancy</td>
<td>Congress (68)</td>
<td>70</td>
<td>59</td>
<td>17</td>
<td>76</td>
<td>- 6</td>
<td>146</td>
</tr>
</tbody>
</table>

development. This becomes even more evident when we analyse the intra-party differences at each successive stage of land reform legislation. If one interprets abstention by a member on his opinion or vote on a particular legislation as not favouring such legislation, then a very interesting pattern unfolds itself.

The highest support for land reform legislation was given in 1960, when there was the coalition ministry of the Congress and the Swatantra. This is followed by the support obtained by the coalition ministry of January, 1972, when the Swatantra and the Utkal Congress introduced the Bill. Of course, similar support was secured by the Congress while passing the 1951 Act. It is interesting to note that the so-called conservative parties when associated with the introduction of such bills they got more support from within their parties than when these were introduced by the Congress. However, table-1 clearly indicates that after 1957 the Congress, whenever it has been in power without coalition (1955, 1965, 1972 and 1974), has had the majority of its legislations, they passed. The minority support within the party inspite of which the legislations were introduced particularly in 1965 and 1972, clearly suggests that the mere passing of such legislations appears to be self defeating even before their take-off. In 1965, many Congress MLAs were against the then Chief Minister and were supporting Biju Patnaik, the ex-Chief Minister of the same party. In 1972, Satapathy government was a conglomeration of Utkal Congress, FSP, Independents and Congress which were united for the time being
but really was not a cohesive group. Further, her leadership then was quite unable to control the defections. All these go to indicate that though by and large, the members are legally bound to support the decision of the party, very often they did not subscribe to the party's decision. Perhaps the most conspicuous feature of all the debates on such legislations was that nearly 1/5th of the MLAs either remained absent for the whole period of debate or preferred not to pass any opinion.

When the aggregate data for five legislative contests are examined, we find that parties in power, (either single or as a coalition partner) give greater support to land legislations, but when in opposition their support also dwindles remarkably. Column 6 of Table-2 gives a clear picture of the support index for progressive legislations by various parties. The support index ranges from a scope of 100 indicating total support by all party members in all the five legislative contests to a negative scope of -100 indicating a total disapproval in like manner. It is interesting to observe, of the three parties which have shared power, when in power, Congress has an average high support score of 68.8, when in coalition it reduces to 42.9, but when in opposition it has a negative score of -9.8. The Swatantra/Ganatantra Parishad when in opposition is totally against such legislations with a score of -93.5, but when in coalition with Congress it becomes less negative, -13.7,
### Table-2

Party-wise opinion of the Land Legislations in the OIA

<table>
<thead>
<tr>
<th>Party</th>
<th>Status in Assembly</th>
<th>Voting Decision</th>
<th>Total (3)+(4)</th>
<th>Difference (3)-(4) as % of(5)</th>
<th>Assembly Strength</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
<td>(5)</td>
</tr>
<tr>
<td>In power</td>
<td>54 10</td>
<td>64</td>
<td>68.8</td>
<td></td>
<td>141</td>
</tr>
<tr>
<td>In coalition (Swa.)</td>
<td>40 16</td>
<td>56</td>
<td>42.9</td>
<td></td>
<td>140</td>
</tr>
<tr>
<td>In opposition</td>
<td>23 28</td>
<td>51</td>
<td>-9.8</td>
<td></td>
<td>140</td>
</tr>
<tr>
<td>G.P./Swatamka In coalition (Congress)</td>
<td>22 29</td>
<td>51</td>
<td>-13.7</td>
<td>140</td>
<td></td>
</tr>
<tr>
<td>In coalition (U.C)</td>
<td>20 16</td>
<td>36</td>
<td>11.1</td>
<td></td>
<td>139</td>
</tr>
<tr>
<td>In opposition</td>
<td>1 30</td>
<td>31</td>
<td>-93.5</td>
<td></td>
<td>141</td>
</tr>
<tr>
<td></td>
<td>43 75</td>
<td>118</td>
<td>-27.1</td>
<td></td>
<td>420</td>
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<td>U.Congress In coalition</td>
<td>28 10</td>
<td>38</td>
<td>47.4</td>
<td></td>
<td>139</td>
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<td>J.Congress (Swat.)</td>
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<td></td>
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<td></td>
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<tr>
<td>Jharkhand In opposition</td>
<td>2 19</td>
<td>21</td>
<td>-81.0</td>
<td></td>
<td>143</td>
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<tr>
<td></td>
<td>30 29</td>
<td>59</td>
<td>1.7</td>
<td></td>
<td>282</td>
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<tr>
<td>PSP</td>
<td>In opposition</td>
<td>5 2</td>
<td>7</td>
<td>42.9</td>
<td>141</td>
</tr>
<tr>
<td>SSP</td>
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<tr>
<td></td>
<td>5 2</td>
<td>7</td>
<td>42.9</td>
<td></td>
<td>141</td>
</tr>
<tr>
<td>CPI</td>
<td>In opposition</td>
<td>5 2</td>
<td>7</td>
<td>42.9</td>
<td>141</td>
</tr>
<tr>
<td>CPM</td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>5 2</td>
<td>7</td>
<td>42.9</td>
<td></td>
<td>141</td>
</tr>
<tr>
<td>Independents</td>
<td>In opposition</td>
<td>3 8</td>
<td>11</td>
<td>-45.5</td>
<td>141</td>
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<tr>
<td></td>
<td>3 8</td>
<td>11</td>
<td>-45.5</td>
<td></td>
<td>141</td>
</tr>
</tbody>
</table>

**Note:** The figures are reduced to average indicating equivalent of a single contest. Thus all frequencies have been standardised to a single contest for the sake of comparability. There are in all five contests standardised to one.
but when in coalition with another opposition party it emerges with a positive score of 11.1. The Utkal Congress combine, which is a Congress splinter party, has a high positive score of 47.4 when in coalition with Swatantra, but when in opposition, they have very high negative score of -81. Thus we see that it is not the parties which support progressive legislations or oppose them, but it is the compulsion of progressive legislations that force any party in power to show that it subscribes to them. Only the Congress, on the whole, as a ruling party, has, inspite of its fluctuations an overall positive support score 36.8, and the left parties (CPM, CPI, SSP) with a low representation have a consistently positive score 42.9%. But even here, for progressive parties such a small score should not give them any reason to be proud of. The Socialist parties till 1960, were critical to some sections of the bills, later on always they have supported. The CPI and CPI(M) have consistently supported all the legislations, excluding a bit of 1974 legislation. In the beginning the independents were largely indifferent while later on they were mainly in opposition. This is about the different parties.

Just as parties in power when in opposition vote differently, individual MLA's when they cross floors also seem to change their voting preferences. Although aggregate data on this is not available, both the impression and the behaviour of parties would suggest this to be true. For instance, in 1965, 2 Swatantra MLAs, who were Congress MLAs in 1974 had supported the legislation while earlier they
were opposed to them. Similarly to both Congress MLAs of 1974, who were in support of 1972 January legislation, had opposed it in 1974. Seven Congress MLAs, who were consistently in support of the legislation, also did not hesitate to oppose it in 1972 July in their own party. However, it shows that personal committment to a particular reform measure is very much lacking among the experienced legislators of the Orissa Assembly.

Protection of Weaker Sections:

The Scheduled Castes and the Scheduled Tribes population together comprise 38.2 per cent of the total population. As we know, Article 46 of the Constitution of the Republic lays down that "the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation". It is important to see the legislative provisions extended by the Orissa Legislative Assembly for their upliftment.

The Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation was enacted in 1956 by the Congress Ministry under the Chief Ministership of H.K. Mahatab. This Act provides protection to those Scheduled...
Tribes, who inhabit the Scheduled Areas only. Still, "The Regulation could not be brought into operation before 1959, as rules under it were framed only in 1959. In the meanwhile, the clever non-tribals have utilised the interim period for their own advantage". It is also being observed that irrespective of the law, "there had been largescale transfers in the Scheduled Areas and the tribals have thereby lost a part of best lands".

The process of restoration of lands to tribals is very slow. About 4,000 cases of land alienation are reported to be pending in Koraput district alone. The chief reasons for the alienation appears to be-(a) inadequate legislation, absence of ownership rights in government records, and defective implementation, (b) poverty, ignorance and apathetic attitude of tribal folk; and (c) coercion and fraud by non-tribals to gain illegal possession of tribal lands. Admitting, the existing acute problem of alienation of tribal land, the commissioner concerned recommended a clear cut rule for selling off mortgaged lands of a tribal (due to non-payment of the loan) only to another tribal and not to others. But, the state government opined that there is no need for any special legislation, as alertness of the concerned officers are expected to check any undesirable tendency or attempt to defraud the Scheduled Tribes. Similarly, the

29. ibid, Supplementary note, p.416; and also, M.L. Patel, Changing Land Problems of Tribal India (Bhopal: Progress Publishers, 1947), p.42.
32. 12th Report-Commissioner for Scheduled Castes and Scheduled Tribes: 1963-64, Part I (New Delhi: Manager Publications), p.77
Orissa Land Reform Act of 1960 provides protection to Scheduled Castes against the transfer of their land, but here again its implementation has been ineffective.

Again, the incidence of landless is more pronounced among the Scheduled Castes and Scheduled Tribes than among the general population. Most of the cultivators amongst them when compared with the general population, own uneconomic and small holdings. Between the two, the Scheduled Castes are more disadvantaged than the Scheduled Tribes, as far as ownership of land is concerned (Table-4). Hence, there is the question of allotment of land to these two categories of people, in addition to protection of their existing land. But there is no specific legislation relating to the allotment of land to Scheduled Castes and Scheduled Tribes. The government has merely issued a set of instructions for the settlement and lease of waste and encroached lands of the state. Usually, land for redistribution and allotment is procured from two sources (a) Cultivable waste land of the state, and (b) land obtained through Bhoodan and Gramdan. The other possible source is expected to be released from the ceiling and restoration of tribal land. But it has not yet materialised. In this situation, the issues about the quality of distributed land and the availability of the working capital for cultivation, are bleak. Anyway, without considering that, the members of the Scheduled Castes and Scheduled Tribes are given first and second preference.

Table 3


<table>
<thead>
<tr>
<th>Landholding (in acres)</th>
<th>Scheduled Caste (2)</th>
<th>Scheduled Tribe (3)</th>
<th>Total Population (4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1</td>
<td>7.4</td>
<td>5.84</td>
<td>8.2</td>
</tr>
<tr>
<td>1-2.4</td>
<td>57.14</td>
<td>31.29</td>
<td>30.8</td>
</tr>
<tr>
<td>2.5-4.9</td>
<td>35.72</td>
<td>26.86</td>
<td>27.8</td>
</tr>
<tr>
<td>5.0-9.9</td>
<td>-</td>
<td>22.65</td>
<td>27.8</td>
</tr>
<tr>
<td>10.0-14.9</td>
<td>-</td>
<td>7.10</td>
<td>7.10</td>
</tr>
<tr>
<td>Above 15.0</td>
<td>-</td>
<td>6.26</td>
<td>5.4</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>100.00</strong></td>
<td><strong>100.00</strong></td>
<td><strong>100.00</strong></td>
</tr>
</tbody>
</table>

in the distribution respectively, over other applicants.

Closely related to land alienations, there is the acute problem of moneylending, to which the weaker sections of the population are exposed, since generations. There is no special legislation for safeguarding the tribals and untouchable castes from the exploitation by the moneylenders. All these show, lack of interest of the state to promulgate regulations for the betterment of the Scheduled Castes and Scheduled Tribes. This can be viewed from the fact, that since independence there has been very little effort (other than the Jharkhand and the Naxalite movement) among the tribals themselves.

Nearly 20 years have passed since the Untouchability Act came into force, yet incidents of violence, insult, rape, humiliation and atrocities directed against the untouchables has been on increase. This has been pointed out by the Union Home Ministry's statistics of 1973. It has been reported that only a few cases get registered, on account of discretion granted to the police administration and not all registered cases are challanged. On the other hand, the people belonging to this category are dominated by the rural class of usually 'touchable castes.' Lack of economic and political support, ignorance of the law even render judicial help of little use. The Committee observes that 65 percent of people are unaware of the Untouchability Act.

In brief, the state has not paid any definite attention to the so-called "weaker sections". The little attempt has remained only in statute books. That is to say unless and until they are made conscious of their rights no legislation can solve their socio-economic and cultural problems.

We have so far been used to associate progressive legislation with far reaching social changes. In the context of our present analysis, we have been confronted with the contradiction of progressive legislation and an inert and stagnant society resisting and refusing to respond to the legislative mechanisms. We have examined this with respect to legislations directed towards scheduled castes/scheduled tribes, the landless and poor peasants and etc., in order to make them economically mobile to enable the society to reduce its inequalities. We have observed further that every legislation had its inherent weaknesses and were therefore of very limited utility. So also are the issues relating to implementation of policies.