

LAND UNREST IN ANDHRA PRADESH-I

Ceiling Surpluses and Public Lands

More than 40 lakh acres of public land have been distributed over the decades to the poor in Andhra Pradesh, perhaps the largest in the country. However, a substantial proportion has been alienated to the non-poor. The law makes it incumbent on the government to have these lands returned to the assignees, but this has not happened. It is this issue of assigned land that is driving protests in the state. The first of a three-part series on the land question.

K BALAGOPAL

That land would ever be a political issue in the 21st century was probably unthinkable at the end of the 20th. In third world countries particularly, the question of land has been a “communist one” and the era of communism of course is seen to have expired in the year 1989 or thereabouts.

Yet it was inevitable. The 21st century began with the declaration that nature was created by god so that capital may be invested to add value to it, and what more profuse resource than land? And so suddenly governments, which till yesterday pretended that while it may be desirable to give the poor land for cultivating food or putting up huts, they were helpless and properly sorry about it because there was no land available and the poor should try breeding less instead, now discovered that there was any amount of land available to be put at the disposal of the corporates for investment, and the rich in general for building nice big nests for themselves. Special economic zones (SEZs), which are not factory sites but nice and spacious townships, are being sanctioned left, right and centre, and industrialists who ask for land are being given huge tracts without asking why they need so much. Builders who propose to construct out-of-the-world residential colonies for the rich too are also being allotted as much land as they want.

Andhra Pradesh appears to be among the leading states in this bonanza.

Land Agitation

That is why the agitation for land taken up by the CPI(M) and CPI in this state, which attracted nationwide attention when policemen armed with automatic weapons mowed down six persons (a seventh died later in hospital) at a peaceful road blockade at Mudigonda in Khammam district on July 28, has seen considerable mass participation. They had two demands, one of them simple and straightforward: a hundred square yards of house site for all the homeless, which the government should have no difficulty finding because it is able to find thousands of acres for SEZs, and for the rich in general.

The sad fact that lies behind this demand is that Indian law gives its citizens no right to shelter. The lack of a right to work and a right to education (until recently) have often been commented upon, but the lack of a right to shelter is even more insuperable because shelter requires a parcel of land which, unlike other building material, cannot be picked or poached from nature. You are helpless if you are not born with it or cannot buy it. And the Supreme Court's exercise in expanding rights has extended only to declaring, in tones as ringing as the uninspired language the judiciary is addicted to would permit, that shelter is a right, but to nothing more

concrete. It has neither said that the shelterless have a right to be provided with at least a place to put up a hut, nor that if they do put up a hut on public land their occupation must invariably be regularised, nor that a reasonable alternative must necessarily be provided before asking them to move. While even colonial land regulations in many parts of the country (the Madras Board of Revenue Standing Orders, for instance) adopted the attitude that homeless poor who have occupied government land shall be given occupancy rights and not evicted, the Supreme Court has strangely found it difficult to say so: the most generous judgement that has come from the highest court is that such occupiers of government land, if they are in occupation for many years, shall be given at least two weeks time before being forcibly evicted. As for provision of alternative house sites to such hutment dwellers, the Supreme Court has said in the infamous case of Almitra Patel vs Union of India (2000) that such a proposal amounts to rewarding a pick pocket. That the comment was made in the course of expression of righteous anger (of which the courts possess plenty) at slum lords who are said to have made it a business of setting up slums on government land does not make it any the less callous.

While house sites were the focus of the agitation, the mode of struggle has perforce extended it to include cultivable land too. The agitators gather people in large numbers, identify land in the vicinity that is known or believed to be government land, and forcibly occupy it by putting up red flags, ploughing it symbolically in some places, and putting up huts in some. Where it is known that a certain extent of land is under the illegal occupation of some prominent person, preferably a Congressman, the agitators have occupied it with greater enthusiasm. The positive aspect of this method is that it is participative in an active sense. It actually puts people in possession of some land, whether they will ever get title to it or not, and thereby creates more enthusiasm than the more usual method of giving applications to the tehsildar and awaiting his pleasure. It also drives home the belief that the landless have a right to land and

are not “encroachers” as the government calls them.

The disquieting part of this method is that in terms of actual benefit it is wholly symbolic. Land rights are tightly circumscribed by the law, and there is no way that people can simply occupy wasteland and get title to it. Even if the government reacts as it should, namely, declare which part of the land occupied by the agitators is leasable or assignable in law and proceeds to confer rights to it, it still has to follow the legal regime applicable to such conferment, and it may well turn out that there are others who are more eligible than those who have actually occupied it. The left party leaders have declared that they have no objection who gets it so long as the poor get it, but the participants in the agitation who have braved police lathis may not be so generous, and there could be bitterness at the end. More commonly, the land occupied may be of the non-leasable or non-assignable category, that is to say pastures, water course, reserve forest, pathway, graveyard, etc. Or it may have already been assigned or leased to some persons who have either

been driven away from the land or found it difficult to derive livelihood from it. Or it may be the contested remnant of some pre-independence estate and not public land at all. The most convincing answer given by the left parties to this objection is that none of these considerations has ever prevented the rich from occupying public land, and so occupation by the poor will at least prevent land grabbing by the rich. At any rate the left parties can be credited with having brought the land rights of the poor, an issue which had moved on to the political backburner with the brutal suppression of the Naxalites, back on to the political agenda, and focused attention on the obscene generosity of the government in handing over huge estates of land to the rich.

The other demand raised by the left parties refers back to an outcome of the still-born talks between the Congress government and the other kind of left, the Maoists, in 2004. Probably the only useful discussion that took place in the course of that aimless exercise was about land. Occupation of land by the poor has always been an integral part of Naxalite activity,

even if it never received the kind of appreciative treatment the media has reserved for the CPI(M) and CPI; it was ignored or derided as antisocial lawlessness. The Naxalite movement has from the beginning encouraged and led the poor to occupy both government and private land, though in later years, especially with the Maoists, it often became symbolic occupation by armed squads on behalf of the fearful poor. If it was private land the police often moved in to evict and arrest the poor who had occupied it with Naxalite help, and where the landowner was reluctant to move back for fear of Naxalite retaliation, the land has remained fallow. There are thousands of such acres in the Telangana districts. Occupation of public land has had a more mixed fate. Some of it remains with the poor, especially forest land cleared and brought under plough by the adivasis.

Institution of a Land Commission

In the talks, the Naxalites insisted on appointment of a land commission consisting of not merely government representatives or retired judges but also

public spirited persons with known involvement in such matters, to go into the failure of land reforms and the various schemes for distribution of public land to the poor. The government was reluctant to involve the kind of public spirited persons the Naxalites wanted in the commission, but appointed instead a Land Committee with two cabinet ministers, a retired journalist, a senior Congressman and four IAS officers (one of them retired). This committee which was appointed in December 2004 at the end of the six month ceasefire, almost simultaneous with the government's decision to withdraw from the talks submitted its report in 2006. Though the committee is referred to by the name of Koneru Ranga Rao, the minister who was its chairperson, its report is evidently the outcome of a self-critical exercise by the IAS officers in it, who not only know why land reforms have failed but are party to the failure.

IAS officers spend much of their tenure dealing with rights in public land, either as administrators or as adjudicators, and when they judge the failure of public policy in the matter, they are judging their own failure as much as that of the policy. As self-criticism, the Ranga Rao Committee report is a commendable exercise, and could well have been subtitled 'The Frank Confessions of the Land Administration of Andhra Pradesh'. It is written in a tone that is blunt for the bureaucracy, and annotated in desperation with nostalgic quotations about land from a variety of persons, all the way from William Shakespeare and Joseph Conrad to an American Indian chief answering the white settlers. The implementation of the recommendations of this committee in toto is the other demand of the left parties' agitation. The government, after initial reluctance, which was strange as the report was by a committee consisting of its own people, has finally come round to accepting that it would implement all but a few of the committee's recommendations.

Koneru Ranga Rao Report

The report begins with a brief statement of the extent of landlessness in the state. It estimates that 10 per cent of rural households are landless and 36 per cent own less than half an acre. In terms of operational holdings, 38 per cent are of size less than 1¼ acre (half a hectare). Over the years, landlessness has actually increased among the scheduled castes.

Between 1961 and 1991, within the category of scheduled castes, the cultivators among able-bodied workers decreased from 23 per cent to 12 per cent, and the proportion of agricultural labourers increased from 57 per cent to 72 per cent. In absolute terms, one lakh persons of the SC communities lost land. And the average landholding of SC landowners has decreased over 1975-76 to 1995-96 from about 3 acres to about 2 acres. Needless to say, the land is usually of much poorer quality than the average. Being 16 per cent of the state's population, the dalit communities control only 7.5 per cent of the cultivated area in the state.

This indicates a sizeable and growing problem of landlessness, especially among the dalits. The two remedies envisaged all over the country are: takeover of land owned by landlords in excess of a pre-determined ceiling to be distributed to the landless, and distribution of wasteland in the control of the government to the landless. Land declared surplus under ceiling laws in Andhra Pradesh is 7.90 lakh acres, of which 2.07 lakhs are not yet distributed, predominantly (1.47 lakhs out of the 2.07 lakhs) because they are locked in litigation. Since the total cultivable area of the state is about 2.5 crore acres, the ceiling surplus land distributed amounts to a little more than 2 per cent of the total cultivated area. But this number, slight though it is, is yet misleading. Firstly, much of the land is uncultivable, because landlords managed to hand over to the government the least cultivable of their acres, which the law itself permitted. And for that reason the beneficiaries of the distribution have often abandoned the land to be reoccupied by the landlord. In the more backward areas of the state, where the poor live in fear of the landlords, this reversal has happened even where the land is not of poor quality. Secondly, in many cases even this distribution was merely on paper. Nobody was actually put in possession of the land.

Placing together this minuscule redistribution with the statistics concerning landlessness and near landlessness – accounting for 46 per cent of rural population – given above, one can understand why land ceiling is described by the Ranga Rao Committee as an "unfinished agenda". That phrase gives the impression that it can yet be finished, but that will never be. The committee has a hope that at least some of the cases earlier decided in favour of the landlords can be reopened,

as for instance, where they have played fraud on the courts. It laments the lack of a provision in the land ceiling laws whereby an order obtained by fraud could be reopened, and recommends introduction of such a provision. No such amendment is in fact necessary for it is a principle of law reiterated by the courts repeatedly that "fraud unravels everything". No law is required to undo an order obtained by fraud. The real problem is whether the unravelling effect of bureaucratic indifference and judicial conservatism will not turn out to be superior to the same effect of fraud. More land has escaped the net of ceiling due to the unsympathetic attitude of the courts than fraud played by the landlords.

Yet a few things may still be salvaged: the committee has noted the fact that those who are newly purchasing agricultural land are not filing declarations under the ceiling law – they have to file the declaration within 60 days – and are not being prosecuted for that by the government, though the law provides for a two-year prison sentence for not filing a declaration in time. Everybody is acting as if ceiling laws apply only to the landholdings of the past. The committee's recommendation that declarations must be insisted upon may net some land, but all told it will make little difference in the face of the massive requirement. The fixing of land ceiling is not an "unfinished agenda" but an irretrievably lost opportunity. It has been hostage to the law of property as written into the Indian Constitution and as understood by the courts. This is politely referred to as "legal hurdles" by the committee, but the law itself, namely, the law of property as understood by the courts, is the biggest hurdle. The judiciary has a uniform and deep love of property, which has coloured its attitude towards land reforms. Unless the political class of the country agrees to overhaul the entire law of property and the property structure, and writes that overhaul into the Constitution itself, there is little chance of the agenda of land reforms being "fulfilled" except by being discarded.

As the ceiling laws did not meet even a fraction of the need arising from landlessness, the government perforce turned to distribution of public land to the poor. All states of India have some policies and regulations in this regard and have undertaken distribution of such lands, but Andhra Pradesh appears to be far and away the most advanced state in this

regard. Forty-two lakh acres of government land has been distributed to the landless poor in this state from about the 1960s. This appears to be more than half the total amount of such land distributed in the whole country. Small wonder then that problems connected with this land distribution occupy the centre stage of agitations and discussion concerning the land question in the state today. Of course the first issue should have been this shift of focus away from takeover of excess land of the rich to the distribution of mostly barren government land. That the debate is oblivious of this shows how far the political priorities have changed from social justice for the poor to somehow keeping them alive.

The issues then are that in many cases, the distribution was only on paper: a piece of paper indicating the land grant was given but the recipient was not put in possession of the land. Indeed, in quite a few instances there was no clear indication of the land granted: a survey number covering a large extent would be shown on the grant and the extent granted would be shown as one or two acres (the rule being a maximum of 2½ acres of wet land or five acres of dry land), without showing where it lies in the land. Sometimes the land granted would already be encroached on by someone else and they would refuse to budge. No assistance is given to the grantee to help get possession of the land. Most often the land, being stone and bush filled, would need much work on it to make it cultivable, and the government would neither undertake the task nor provide capital to the grantee to undertake it. A landless poor person who has to labour every day in somebody else's fields to keep the family alive cannot afford to take time off to clear the land assigned to him/her of stones and bushes. And so they have often sold it cheap to someone who has the capital to bring it under cultivation. The government never heeded the demand that if assignment is to be meaningful, it should improve the land, make it cultivable, and in rain-scarce areas provide some water source too. Finally, there were cases of the powerful encroaching onto the assigned land by force and dispossessing the grantee.

The government itself estimates that 10 lakh acres out of the 42 lakhs assigned have been alienated. The left parties have alleged that about 20 lakh acres have been alienated, though the source of their information is not known. Such alienation

is illegal under the AP Assigned Lands (Prohibition of Transfers) Act, 1977 (popularly known as Act 9 of 1977), which operates with retrospective effect. The Act works on the beneficent assumption that if land assigned to the poor has been alienated by the grantee, it would be only under pressing circumstances, and therefore provides for cancelling every transfer and handing the land back to the grantee even if he has knowingly sold it. (But if he sells it again, he will not get it back: it will revert to the government.) If the tehsildars who hold the exclusive power to cancel illegal alienation of assigned land had acted as they are supposed to under the law, the 10 lakh acres would not have remained with the purchasers. They did not, and illegal transfers of land assigned to the poor continue to take place, with the rural elite being the main beneficiaries.

Transgressions

The lid was blown off this issue by the chief minister Y S Rajasekhara Reddy himself who confessed some time ago that his own family had been owning about 1,000 acres of land assigned to the poor. He said they had been owning it in a fit of absent-mindedness for decades and having woken up belatedly he deemed it his duty to the law to hand it back to the government. (He did not however deem it his duty in law to get arrested for the wrongful occupation, for such a

transgression is a penal offence carrying a six-month jail sentence.) In fact, he had created some kind of a garden known as the Idupulapaya estate in the land, with varieties of trees watered by a stream flowing nearby. He was known to retire, now and then, to this estate and it was public knowledge in his native district of Cuddapah that his family had grabbed it from the poor, but nobody had spoken out because of obvious reasons. Why he chose to confess to his offence is not known but there must be a good enough reason for he is not known to bow to the law, in time or belatedly. What is true is that (even) 1,000 acres of rural land in a rain-scarce district like Cuddapah is nothing for him, for he has been known to have plenty of much more solid property in urban India.

The government thereupon declared its intention to apply Act 9 of 1977 strictly to all alienated assigned land and cancel every transfer. It would have been the simplest thing, as the Ranga Rao Committee noted, for every tehsil office has the record of assignments made and every village cultivation account shows the name of the person in actual possession of every bit of land. All that was needed was to make this information public and appoint special tehsildars to take up the cases, cancel all the transfers and restore the land to the original grantee. The government did no such thing, but instead made an amendment to the Act 9 of 1977. The amendment says that after cancelling

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the transfer the tehsildar is not required to give the land back to the original grantee if the area has been notified for this purpose "in public interest and for a public purpose". In such areas the wrongfully alienated land will go back to the government instead of the original grantee.

This was a clever ploy. The government itself knows that about one-fourth of the land assigned to the poor has been alienated, and its opponents say that one-half has been. So by issuing notifications under the amended Act 9 of 1977, it takes the land back to be given to some enterprise or the other, or some special economic zone. It means that so much land goes for ever out of the reach of the poor in general, and not merely from the original grantee of the land. The whole exercise begun in the name of safeguarding the interests of the landless poor assignees of government land then turns out to be for the dubious purpose of getting back as much of the assigned land as possible into the hold of the government, to be put to use for higher purposes. In addition to this amendment, Y S Rajasekhara Reddy has often declared contrary to the law that if the purchaser from the assignee is a small farmer, then the transfer will not be annulled but the land will be settled with the purchaser. But who will not turn out to be small farmer in such enquiries? Thus the land-grabbers will get an opportunity to whitewash their offence and the government will get back from one-fourth to one-half of all the land assigned to the poor in the past. That all this should be done in the name of setting right the wrongs done to land assignment is an index of how shameless governance can be in this country.

Role of the Left Parties

The left parties are demanding the taking back of these dishonest alterations (one of which is contrary to the law), but the government is adamant. The left parties are leading poor people to occupy wrongfully alienated lands which the rich have got possession of. Such occupation certainly inspires the poor, but whether it will have any more lasting consequence than making for good TV visuals – the sea of red flags, especially – needs to be seen. Except at Mudigonda, the police have been exhibiting a tolerance which is very democratic but is uncharacteristic of the AP Police. The special position of the CPI(M), especially, which has enough

votes to make a difference in a close contest in a few districts and has made it known that in the matter of electoral alliances it follows no principles (except that it will not join with the BJP), has served to kindle hope in Chandrababu Naidu and cause jitters to Y S Rajasekhara Reddy, who has evidently instructed the police not to go beyond token arrests. Chandrababu Naidu, who during his eight-year rule began the policy of reserving public land exclusively for the use of the rich, has been allowed by the left parties to pretend that was never so and join the land struggle. In fact, while Congressmen never had much genuine love for the poor, it was in Chandrababu Naidu that one saw for the first time a chief minister who would talk of the poor and of poverty with open contempt. The political opportunism of the CPI(M) has allowed him to wipe off the stigma of that arrogance and pose as a friend of the poor.

But ceiling surplus land and assignable public land are not the only issues agitating the villages of Andhra Pradesh. There are two other categories of land: that being acquired for industries and special economic zones, and tribal land in the scheduled areas. The former category accounts for nothing less than two lakh acres, and probably much more than that and the latter is a tragedy all by itself, dealt with quite elaborately but still inadequately by the Ranga Rao Committee. Villages across the state are agitated by these issues, but they require separate treatment, both for reasons of space and because they are not central to the left parties' agitation, being often the subject of agitation by smaller groups or the affected people themselves. Yet each one of them could lead to a Nandigram some day. ❧

Email: kbalagopal1952@gmail.com