

Chapter 3

TENURE HISTORY OF KERALA AND LAND REFORMS

Kerala comprises of the erstwhile princely states of Travancore and Cochin and the Malabar district of the former Madras Presidency. In this chapter, we discuss the tenure relations evolved in the three regions separately and the various attempts at reforms prior to the formation of the State. Land reform measures initiated and implemented after its formation and their impact are also briefly outlined.

The tenure relations that existed in Kerala have some peculiarities. It was largely a caste based *jenmi* system. For a long time, it resembled the feudalism in Europe, except for the differences introduced by the caste system (Raj in Varghese, 1970: VII). This type of relation is mainly attributed to the peculiar geographical characteristics and the relative predominance of small chieftaincies and independent principalities that survived for longer times¹. It has also been observed that no other parts of India and few other places in the world presented such a bewildering variety of land tenures as Kerala² (Oommen, 1971: 10).

¹ At the time of British conquest of Malabar there were 43 chieftaincies in Kerala. See Varghese, 1970, P. 13, Fig. 2

² According to Jeffrey (1976) in 1913, after much simplification there were still 66 kinds of land tenures and 387 permutations

It is generally held that Kerala was under *Chera's* rule until the first quarter of the 11th century. Prior to that (until 5th century) Kerala was known to be in Sangham age. It has been hypothesised that private ownership of land began in Kerala even before the Sangham age and owners of land were pulayas, idayas, vedas, villavas all belonging to either cultivators or chieftains³. From them ownership passed to the present class of landowners in the period between 9th and 13th centuries. Nevertheless, the agrarian relations that existed in Kerala since the turn of the Christian era down to the first millennium AD, it is argued, were centred around communal settlement based on co-operative labour.

The communal settlement was sometimes imbued with rudimentary specialisation of craft and exchange and the over all socio-economic scenario of the region is best represented in the 'Tinai' concept of Tamil heroic poetics (Gurukul, 1992)⁴. The people of 'tina' were class based descent groups dispersed into domestic segments (*Kutis*) around each one's clan settlement ('Ur'). Agricultural production was mainly confined to riverbanks and other wet lands.

³ See Kunjan Pillai, 1970 "There is enough evidence to show that it was not Parasurama but the economic structure of the epoch that created the landlords. Most of the land was owned by non-Nampoothiris before the 9th - 13th centuries. During this period many landowners bestowed lands on Nampoothiris and Temples".

⁴ The Tinai concept differentiates economic systems in five sub segments namely Kurinji (hilly backward areas), Palai (the parched areas), Mullai (pastoral tracts), Marotam (wetland) and Neital (littoral land). The concept includes the people and their mode of subsistence in the respective economic types. Accordingly the Vetar and Kuravar (hunters and shifting cultivators) inhabited Kurinji, the Maravor (warriors) the Palai, the Itayar (pastorolist) the mullai, the Ulavar (ploughman) and the Paratavar (fishing community) the Neital, of all the forms of production plough agriculture was superior to others in terms of technology. See Gurukul (1993-94)

However, the economy and society of the Sangham period characterised by subsistence production based on redistribution and reciprocity and co-operative labour of the Kinsmen were gradually transformed into a society based on *Brahmin* landed households and then into a temple centred one. This type of land tenure that emerged during the period between 5th and 12th century has been described by scholars as Kerala Agrarian system⁵.

By the 11th century, i.e., immediately before the final extinction of the Chera Empire, Kerala came to be known as a Brahmin country. The Brahmin immigrants organised themselves into sixty four groups associated with old chieftaincies scattered all over the region. They began acquiring land for building temples. Gradually they were able to convert these institutions into the nerve centres of social and political life in Kerala⁶ (Prakash, 1982). They introduced 'Chaturvarnya' (four caste system) into the region and encouraged the spread of joint family system among them.

In order to preserve their property rights they introduced non-partible matrilineal joint family system among the Nayars while they themselves

⁵ This system of production cannot be equated with the relations of production under feudalism in so far as in the latter the tenants enjoyed full administrative and judicial authority over the inhabitants. The Karalar (cultivators) had no such rights. The Pulayas and Adiyars, the primary producers were quite unlike the European serfs of old but just landless labourers. Therefore the system is peculiar and can be called the Kerala Agrarian System. Varier and Gurukul, 1991, p.p. 169-70.

⁶ The temples performed the functions of present day schools, libraries, religious seminaries, theatres and public parks. When a temple was built it was usual to endow it with property, the revenues of which would be sufficient to meet the daily expenses of worship, festivals, schools and reading places. See Prakash, 1982.

practised the non-partible patrilineal joint family system⁷. They also gave the ruling chieftains the status of Kshatriyas, the warrior class (Nayars) who protected the system was given only a low caste status and all others were reduced to the status of social untouchables or '*mlechchas*'.

The Brahmins seem to have been able to acquire land for temples and through the temples, for themselves. Land was either gradually transferred or taken away by the chieftains. Some of the Nayars who helped to implement this transfer also acquired land in this process. When the control of land was transferred to chieftains under coercion, the cultivators were given to understand that they were to do it as a token of allegiance or respect. "That is how one of the important tenures of Kerala namely '*Kanom*' originated ... the beginning of *Kanom* could be traced to *Kanikka* i.e. the respect shown to superiors by subordinates⁸ (Varghese, 1970: 15). The new owners felt free to confer *Kanom* rights over such lands to anyone they liked. The main beneficiaries were Nayars in the south and Nambiaris in the north. These people considered cultivation beneath their status.

⁷ According to this system the eldest male member of Namboothiri family were allowed to marry from their community. The other members could marry Nair woman but the resulting children cannot have any claim on their father's (Namboothiri) properties. This was intended to ensure the preservation of property rights within the Namboothiri fold. See Varghese, 1970, pp 11-12.

⁸ Historians differ widely over the transfer of land from the original owners to the temples and then to the Brahmins. It is argued that the Brahmins were able to acquire land for the temple and for them by spreading the myth that land was presented to them by Lord Parasurama. It has also been argued that the landowners placed their land under the protection of the temple during the hundred years war between the Cholas and Cheras (M.G.S.1972). Yet another view is that it was in the exigencies of war (hundred years) that janmi system took place in Kerala (Shreedhara Menon, 1996). To finance this unending war, Chera Kings imposed a tax on all land except the temple lands. To get exemption many people handed over their land to the temple nominally and continued cultivation themselves. In course of time the Brahmins legalised this surrender and the legal owners became temples. Thus a substantial portion of land in Kerala came in the hands of the Devaswoms. See Oommen, 1971: 15. Such opinion was questioned in Balakrishnan (1983). He argues that there was no such war as 'Hundred Years War'.

Therefore the whole land under their control was leased on '*pattom*' and other inferior kinds of tenure to the lower communities like Christians and Ezhavas in the south and Muslims and Theeyas in the north.

In the medieval Kerala, the basic organisation of land was as follows. Temples and Brahmins together with *Natuvazhies* (chieftains) held most of the available lands on permanent hereditary rights (*janmom*) and such lands were classified as *Devaswom*, *Brahmaswom* and *Cerikkal / Pandaravaka / Circar* lands. These lands were leased out for cultivation. Leaseholders paid a share of the produce to the *Janmi*. The right of the *Janmi* over the land was expressed by '*Kiliyakkam*' (traditionally accepted norms of the region) and obligations of the tenants were determined by custom / local '*Maryadai*'. Even the Brahmins could exercise control over land rights only within the limits set by local '*Maryadai*' Gurukul (1992).

Thus the new system of land relationship was controlled by status rather than contract. Therefore this period has been referred to as 'the region of King Custom' (Varghese, 1970: 16)⁹. Though all-important rights connected with the land were vested in the hands of the higher castes, they never asserted their rights in a way that infringed on the rights of the inferior leaseholders. The '*Kanamdars*' were required to pay only a nominal share of the produce to the *Janmies* and so also inferior tenants, a very small rent to the '*kanom*' holders. Therefore the cultivators who were

⁹ Discussion in this part heavily relies on Varghese (1970).

deprived of their landed properties did not feel the full significance of the change till the coming of the British (who interpreted customary practices on a contractual basis and started enforcing them ruthlessly Ibid: 16).

By the 17th century changes in the agrarian economy were taking place within the context of overseas trade. Cultivation was extended to forest and uncultivated areas. There were frequent quarrels and clashes among different chieftains, which negatively affected production and disrupted the payment of customary dues. Increased flow of cash from overseas trade added to the growth of land mortgages (*otti*), *Kanom* etc. New intermediaries emerged and the tenorial relations began to be redefined. The system of '*pattom -- panayam*' (tenure *otti*) became popular in the place of simple *pattom* system. New forms of land tenure like '*kuzhikanom*' evolved. The *kanom* holders subleased their lands. The customary owners like the temples; Brahmins and rulers held *janmom* rights and the intermediaries acquired controlling rights. However *janmom* rights meant only customary interest on land and never meant absolute rights on the holder of *janmom*. Land was never treated as a private property of an individual prior to British period (Kallarackan, 1996).

This was the general tenure relation in Kerala prior to Mysorean invasion. However the Mysorean conquest in the middle of 18th century led to certain changes in land relations in Malabar. Large majority of the

Nampoothiries were forced to migrate to the South and many Rajas fled to the mountainous regions. They introduced direct taxation of land, which did not exist in Kerala until then (Raj in Varghese, 1970: IX). As one of the Mysorean motives was to extract large revenue from the land, they introduced for the first time in Kerala, a comprehensive land revenue assessment. In most cases, the assessment was made with the cultivators, the majority of whom were Muslims and other inferior castes. Thus they favoured cultivators at the expense of the landlords.

But a far more important effect was that the society functioning within a customary framework was shaken up badly resulting in chaos and confusion. This made possible for the British to interpret the rights and interests on land according to their convenience, when they conquered Malabar in 1792 (Varghese, 1970: 18). However the British conquest led to the restoration of the rights of the landlords and the recovery of their lost rights. But the earlier position of the *janmies* had undergone change from customary to statutory landowners and they acquired new privileges including the right to enhance rent and legal eviction. This enabled them to sustain themselves as superior class in the caste hierarchy and thus to strengthen their commanding position vis-a-vis the tenants. In consequence, when the British supremacy was established in Malabar as elsewhere in Kerala, land relations based on caste system were almost well entrenched (Varghese, 1970; Oommen, 1971; Raj and Tharakan, 1983). Travancore

was untouched by the Mysorean invasion and therefore the old order continued to prevail there.

The English East India Company annexed Malabar in 1792 and it was made a part of the Bombay Presidency and later of Madras presidency. Prior to that the company had entered into treaties with Travancore in 1788 and Cochin in 1791. On northern regions the company imposed tax heavily unlike on the south.

Travancore with the help of the East India Company succeeded in uniting all the neighbouring principalities south of Cochin and west of the mountain. Thus it has become the largest of the three political units. Most of the land conquered by the Travancore Raja was annexed by the State and converted it to the state owned '*circar lands*' or '*pandaravaka*' and in due course, the state became the largest '*janmi*' by the end of the 18th century.

This position was further strengthened by acquiring the properties of 378 important and wealthy temples in 1812 (Varghese, 1970: 30). Most of the lands of the *circar* were leased out on '*pandaravaka pattom*' and '*pandaravaka otti*'. The land so acquired for cultivation by the tenants had to pay only the land revenue assessment and nothing more (Ibid: 46). They also enjoyed occupancy rights on the land.

The Travancore rulers gave active encouragement to cultivators of wasteland owned by the state through exemption and concessions. The class

of *circar* tenants in Travancore was gradually increasing in number as population increased. However, the position of the tenants of private *janmis* was more or less oppressive.

As the Travancore monarchy was more powerful and the state the largest owner of land (about 80 per cent of the land), the state was able to follow a policy of curbing the landlords favouring the cultivators. The raja's progressive and enlightened policy together with its position as the largest owner of land made attempts in land reforms more successful and less arduous. To bring further increase in the area under cultivation by ploughing marginal lands and to mitigate the evils arising from the powers enjoyed by private *janmis* 'Pattom Proclamation' was issued on June 2nd, 1865. Hailed as the 'Magna Carta' of the Travancore peasants, it conferred ownership title to all the tenants of '*pandaravaka*' land (of course subject to the due payment of land revenue) and made land a heritable, saleable and mortgageable commodity (Ibid: 64-65).

This had broad based the peasant proprietorship in Travancore. Conferring absolute ownership on the tenant of *circar* land was "a measure comparable in purpose, comprehensiveness and radicalism to any measure undertaken since then in India" (Raj in Varghese, 1970: XI)¹⁰. And further

¹⁰ For an account of the impact of 'Proclamation' on land transactions, see Varghese (1970: 65). See also Jeffrey (1976: 191) F.N. No: 196 "the number of cases in the Munsiff Court in Travancore increased from 9804 to 18441 in the year of 'Proclamation'".

this had the effect of diffusing even more widely the ownership of land in this region to inferior castes.

The new land owning class, in particular, Christians took initiative in organising indigenous credit institutions such as 'chitties' and 'kuries' and later banking institutions on modern lines. These institutions granted loans against the security of land and therefore the capitalist development was furthered in Travancore. This, in turn, facilitated further growth of agricultural and non-agricultural activities. Though, land reforms in Travancore created a broad base of peasant proprietorship, leasing and subleasing developed in this area.

The proclamation of 1885 provided security to the tenants of janmom lands and the Janmi Kudiyan Regulation Act of 1896 provided security of tenure to the tenants of private lands. In consequence by the beginning of 20th century 75 per cent of the farmers had their own land in Travancore. And by 1880 there were only 44 pure *janmis* in Travancore (Jeffrey, 1979: 105).

Later, Travancore promulgated the Nayar Regulation Act of 1925, which permitted partition of joint families into different sub families called '*thaivazhees*'. This was followed by a number of acts, in permitting the Ezhavas, Vellalas and Malayalam Brahmins to partition the property of their joint families. These measures have a crucial role in the evolution of

the land as a property or commodity in the modern sense. Thus the transition from the multiple hierarchical, conditional rights to hold land to absolute unconditional ownership though began by the 'Pattom Proclamation' of 1865, it was complete only by the 1930s with the break up of the joint families (Kallarackan, 1999).

These measures brought a significant change in the capital investment on land and encouraged commercial cultivation that resulted in phenomenal increase in the area under cultivation and also in the sale and diffusion of land in Travancore.

However, the tenure conditions in the northern regions were not conducive for the expansion of cultivation as obtained in Travancore. But in Cochin, adjacent state to the north of Travancore, it was more favourable than that in Malabar. The tenants in Cochin were in a deplorable condition as 60 per cent of the land was under *janmis* and the state followed a policy of non-intervention in the affairs of the *'janmis'*, the holders of *'circar'* land also had no ownership rights. The tenants of *'janmom'* lands (*puravaka*) were also subject to arbitrary eviction. Though the Royal Edict of 1863 prevented arbitrary eviction, the tenants had to face eviction after 12 years.

However the land revenue settlement of 1899 – 1905 provided some relief to the *'pandaravaka'* tenants by conferring ownership rights though they formed only 42 per cent of the lands. Later in 1909 by a Devaswom

Proclamation provided security of tenure to another 5 per cent of the total occupied area under obligation to pay a higher rate of land revenue than on '*circar*' lands. However the landlord tenants relationships in the '*janmom*' land was left uncontrolled. Some important pieces of legislation of the first half of the twentieth century achieved more than what it has accomplished in the other two regions with regard to tenancy reform (Varghese, 134). They were the Cochin Tenancy Act of 1914, The Cochin Tenancy Act of 1938, The Cochin Verupattomdans Act of 1943 and The Devaswom Verumpattom Proclamation of 1943. Despite all these there were sufficient lacunae in these legislations for evasion. Absentee landlordism continued to prevail in extreme form as *janmom* lands. Tenancies at will with the characteristics of sharecropping and mortgaging became predominant in Cochin (Ibid: 136)

The British land policy in Malabar was faulty right from the beginning of their origin. In Malabar with the establishment of colonial rule, the British pursued a vigorous policy of maximising land revenue by creating a feudal class as their agents. It is alleged elsewhere that, without proper understanding of the customary land relations that prevailed for centuries, they, the British mistook *janmies* as the possessors of rights similar to 'Roman Dominium' and considered *janmies* as the sole owners of the landed property of Malabar (Raj and Tharakan, 1988: 33). The bulk of the cultivators was '*verumpattomdars*' and reduced to mere tenants at will

and '*kanamdars*' were treated as mortgagers. Thus the British had done a great injustice to the cultivating tenants.

However tenancy reforms in Malabar had undergone some changes in favour of the tenants in the latter half of the 19th century. The first such reform was in Malabar Compensation and Tenants Improvement Act of 1887. But the Act and its modifications in 1900 could not limit the arbitrary exercise of power of the landlords. Eviction continued and they (the landlords) manipulated the devices like '*melcharthu*' (overlease) and '*polichezhuthu*' to exploit the tenancy (Radhakrishnan, 1980). The end result was, Malabar turned out to be the most oppressive and rack-rented region on the face of the earth (Varghese, 1970: 81). The agrarian discontent fanned by fanatic and communal feelings culminated in the Revolt of 1921 in what is called 'Mappilah Rebellion'. The period between 1920-1930 was an active mobilisation phase of the tenants resulting in the passing of the Malabar Tenancy Act, 1929. The Act conferred fixity of tenure and fair-rent on all cultivating '*verumpattomdars*'. The main beneficiaries of the Act were '*kanom*' tenants and did not provide security of tenure to inferior tenants.

In this region though wastelands were available in plenty, they were in the hands of private owners. Though some efforts were made by the administration to encourage their cultivation it did not produce results

similar to that in Travancore and Cochin. Therefore only about 60 per cent of the total arable land was brought under cultivation in Malabar even as late as the 1930s while almost all the land was under effective occupation in Cochin and Travancore (Raj and Tharakan, 1983: 34).

As has been noted earlier, there were some important differences in the agrarian structure in the three different regions prior to independence. In the southern most part of the region the position of the state being the largest owner of land made attempts in land reforms less arduous and more effective. It conferred ownership rights to all the tenants of state land as far back as 1865. Land was made heritable, saleable and a mortgageable commodity. This has resulted in the land transaction on a substantial scale. The breaking up of the joint family system through the Nayar Regulation Act of 1930 facilitated such transactions. The ownership of land got diffused among the various castes. The new owners were able to get finance from the emerging '*chitties*' and '*kuries*' on the security of land. Most of them were concentrated on the outer fringes of Kuttanad. Non-agricultural activities increased besides agricultural development. The state also encouraged the effective cultivation and occupation of wastelands and forestlands, including shallow areas of the backwaters. Capitalist form of production intruded into agriculture in Travancore.

In sharp contrast is the Malabar District, which came under direct British governance where most of the lands were in the hands of private *janmis*. Attempts at tenancy reforms, therefore were more arduous and less effective. Oppressive land tenure continued as late as the 1930s. Though the administration encouraged the occupation of waste and forestland the result was not encouraging as in Travancore since most of the land was in private hands. Malabar lagged behind Travancore and Cochin with respect to economic development. In regard to the question of tenancy and related problems, Cochin occupied an intermediate position between Travancore and the Malabar. Malabar was the region where the rate of economic development was the lowest and the land tenure was identified as the most important factor. In short thanks to tenurial changes that had taken place in different times, Travancore was transformed to a region of peasant proprietors, Cochin to a tract of peasant proprietors – cum – absentee landlords and Malabar to an almost absentee landlord tract (Varghese, 1970). These *intra regional differences in the tenure relations* had implication for differences in the rate and range of economic development and political and agrarian movements in Kerala in later years.

Land Reform Process in Kerala

Kerala is hailed as the only state in India that has legislated and implemented land reforms of a radical nature: Paulini (1975); Herring

(1983); Radhakrishnan (1989); Oommen (1994). Land reform attempts in Kerala are believed to have been more far-reaching and effective than elsewhere in India though carried out within the same administrative and political framework as in the rest of the country¹¹ UN (1975); Raj and Tharakan (1983: 31); Herring (1983: 234).

After the launching of the Five Year Plans, land reforms have accorded a pivotal place in its programme for the economic development of the country. The planning commission formulated a broad approach to land reform as a part of the first and second Five Year Plans to be implemented by the states concerned¹². The major objectives were: abolition of intermediaries (landlordism), tenancy reforms and the imposition of ceilings on ownership and its redistribution and supplementary objectives like consolidation of holdings and co-operative reorganization of the agrarian economy.

The state of Kerala was formed in 1956. After the termination of the British rule, princely states of Travancore in the south and Cochin in the

¹¹ The conventional wisdom has it that the competitive political system is less efficacious in bringing about reform (Tai, 1974). There also exists a basic incompatibility between parliament and land reforms.

¹² The distinguishing character of Indian land reform has been its operation within a relative free market for land and land use unlike the USSR, China and Eastern European countries. In the latter cases, prior to the implementation of land reforms the market mechanism was suspended and tenure and farm size changes came through administrative decrees (Khusro, 1973). In Nicaragua, they followed a revolutionary change of government, in Peru and Ethiopia, they followed military takeovers of state power and in Iran they were carried out by an absolute monarch (Ghose, 1983). It is the first great endeavour with adverse land-man ratio, other resource limitations and layers within layers of tenures unknown to Soviet Union, Eastern Europe or to Israel, sought to bring about revolutionary changes within the framework of political democracy and market mechanism (Khusro, 1973).

middle merged into one composite political unit in 1949 and later with some territorial adjustments, integrated with the Malabar district of Madras Presidency in the north to form the Kerala state. The need for ceiling on holdings in these regions was recognised even before the Planning Commission recognized it. In 1954 a Ministry headed by the Praja Socialist Party in the Travancore – Cochin State introduced a bill limiting the extent of existing as well as future holdings. This bill was not enacted into law as the ministry had to resign mainly on this issue.

The first general election held after the formation of the state of Kerala brought the Communist Party of India to power. Land reforms became the centrepiece of the programme for the social and economic transformation in the state¹³. The first legislative measure, as a stopgap one, immediately after assuming power was to stay the eviction of tenants by the landlords. In addition to tenants and sub-tenants proper, hutment dwellers¹⁴ (*kudikidappukars*) that did not have the legal status of tenants hitherto were brought into the jurisdiction of this legislation. This ad hoc measure was followed by a comprehensive set of proposals embodied in the Kerala

¹³ The ministry was sworn in on April 5th and on 11th of the same month 'Stay of Eviction Proceedings Ordinance' was issued. See Ramachandran 1996. The hurry with which the ordinance was issued shows the priority that was given to the land reforms by the ministry.

¹⁴ Hutment dwellers (*Kudikidappukars*) were the occupants of small plots of land given to them for the erection of huts to live in. These households provided a cheap source of labour to landlords through acting as attached labourers and sometimes sharecroppers. More or less similar to them are 'Kudiyirupukars' but with a difference. They are not only leased a house site but also some land from landowners. According to one estimate 99% of them did not belong any land at all. See Herring 1983: 181.

Agrarian Relations Bill introduced towards the end of 1957 (December) and passed on June 10, 1959.

It sought to give fixity of tenure to all tenants including hutment dwellers, '*varamdars*' (share croppers) and even fugitive cultivators. Even tenants evicted after 1956 were entitled to have their position retained. Fair rents were laid down: tenants were given the right to purchase ownership rights (of course subject to ceiling) by paying compensation – not more than sixteen times of the fair rent fixed: ceilings were fixed (22.5 acres of single crop land, 30 acres for dry land, 15 acres for garden land that a family unit can hold). However, small owners were protected with less than 5 acres. They could resume ownership from tenants by evicting them for self-cultivation. Further, land held by plantation or cashew estates and by religious and charitable institutions was given exemption from ceiling provisions. Land Boards were constituted for the speedy implementation.

Such exemptions and dilutions made the proposed reform of agrarian relations in effect a programme of reforms for tenancy with a view to its abolition. The rest of the agrarian structure was to be left largely untouched (Raj and Tharakan, 1983: 46). Even in the measures envisaged for tenancy reform there were compromises and dilutions. Tenants of landowners having not more than 5 acres were denied of the opportunity to acquire ownership right.

Nevertheless there were provisions in the bill for opposition by the propertied interests. Within 48 hours, a direct action was launched against the government. Although there were other issues like the Education Bill, the agrarian policy of the communists was critical (Herring, 1983: 171). The Central Government intervened, dismissed the government and imposed Presidents' rule on the ground that law and order situations were out of control. It was not given Presidential assent, though passed by the legislative assembly, and did not become law.

A new coalition government headed by the Congress party came into power. Though the government introduced a new land reform bill it was without any drastic change in the provisions of the earlier bill. Kerala Agrarian Relations Act (KARA) was accordingly passed in 1960. It introduced new exemptions regarding land transfers, ceilings and evictions. But even the enactment did not deliver any good as the High Court of Kerala declared it ultra vires of the constitution of India in 1963. The defunct Act was then replaced by a fresh one viz, the Kerala Land Reforms Act of 1963 after its inclusion in the Ninth Schedule of the constitution i.e., it was placed outside the purview of the courts. The Act came into force soon afterwards as it was free from legal challenges (constitutional niceties).

Small owners were redefined; ceiling was raised; '*kayal*' lands were given exemption and Land Boards ceased to exist. Political instability set in

soon after the Act came into force. Hence implementation, largely left to the bureaucracy without any political direction, turned out to be very slow.

Meanwhile land transfers were taking place on a substantial scale by transfer of ownership through sale, partition and gift, and transfer of possession by means of mortgage, sub-leasing, surrender of leased land etc. This was made possible since the Act gave no protection from eviction with retrospective effect (as the 1957 ordinance and 1959 bill gave) between the period of the Act of 1963 and its coming into force in 1964 April (Oommen 1994).

A new government led by the CPI(M) came into power in 1967. It immediately introduced legislation to restore tenants evicted after 1964 as well as to prevent future evictions and retained, to a large extent, the original provisions of the 1959 bill. It ensured fixity of tenure to hutment dwellers and the right to purchase land up to one tenth of an acre at a nominal price¹⁵. The amended Act (Kerala Land Reforms Amended Act – KLRAA 1969) is the land reform law that has been in force since then.

The amended Act vested ownership in the government, of all lands held by the tenants. Tenants became de facto owners of the land they held and denied the option to settle the issue with the owners in any form;

¹⁵ At a price of 25 per cent of the market value of the land so purchased. One half of the purchase price was to be paid by the Government from the *Kudikidappukars* Benefit Fund and the balance was spread over twelve annual instalments.

burden of the proof of tenancy shifted from the tenant to the landlord; small owners' (with less than 5 acres) right to resume the land was retained¹⁶ and lowered ceilings on ownership holdings subject to a maximum of 20 acres to a family¹⁷. Exemption from the ceiling remained but was reduced. Though plantations remained exempt, definition of the plantation was narrowed. Some of the previously exempt lands from ceiling like pepper, cashew, areca nut, coconut and so on as well as the *kayal* lands (polder paddy) in Kuttanad, were brought under the provisions of the ceiling.

The creation of future tenancies was prohibited with retrospective effect from April 1964 and such tenancies were rendered invalid; the landlord – tenant organization of production was statutorily ended (Sections 72L, 73, 74). Thus by the end of 1960's rental income from land was virtually abolished throughout Kerala.

The policy model was essentially the same as that of the 1959 Act with elaboration of the deemed concept (Herring, 1983: 187). 'Deemed tenants' were to cover those legal factions created by landlords attempting

¹⁶ This exemption was intended to protect the interests of the small owners and to direct the attack especially against large absentee landlords. Achuthamenon in UN, 1975. p. 60.

¹⁷ Though the ceiling itself was not to be an individual but on family holdings (unlike in many other states of India) and was fixed at 15 acres of double crop paddy land or its equivalent in the case of a family of five members, extendable upto the case of large families at the rate of 1 acre per additional member, see Raj and Tharakan 1983: 45. Most of the state government in India had a wide range of ceilings. Thus providing the largest of all loopholes, AP had a range from 27 to 324 acres, Rajasthan 22 to 336, Gujarat 99 – 122, Punjab and Haryana 27 – 80 acres and so on. Obviously even if the implementation was perfect not much land was going to emerge for distribution (Khusro, 1973). This ceiling set by the legislation was rather high considering the actual pressure on land, but was the lowest in the sub continent region (Herring, 1983: 189). It has also laid down that the area to be declared

to evade the earlier laws and cultivators “honestly believing (themselves) to be tenants”. The Act also provided for a broad range of cultivators whatever their legal or customary designation, to be ‘deemed tenants’ if they bore the risk of cultivator. Cultivator was defined as in the 1959 law, to include supervision of wage labour as well.

From January 1st 1970, peasant unions and other organisations of the CPI(M), which was no longer in power, began a state wide intensive campaign to ensure that the land reforms were implemented. Because of the government failure to implement ceiling provisions, the CPI(M) started ‘excess land agitation’ in 1972. The declaration of national emergency in 1975 had ambivalent effects on the implementation process. The positive effect was that the official machinery was pressured to show progress through the issuing of quotas. A negative effect of emergency was that the agitations were effectively quashed and many leaders were forced to go underground; the reform process was further bureaucratised; the results thus became even more dependent on the characteristics of individual officials (Paulini 1978 in Herring 1983: 210).

surplus land was to be assessed on a particular date stipulated in the Act namely 1 April 1964 and that all the gifts, partition etc allowed for should have been completed before that date.

Impact of Land Reforms¹⁸

Kerala has been way ahead of the rest of the country in conferring ownership right on all tenants¹⁹. The thoroughness and speed with which landlordism has been abolished with little aggregate slippage has no parallel elsewhere in India (Herring, 1983: 211; Oommen, 1994: 120). The abolition of a rentier class who enjoyed the highest rank in social status in a caste ridden society and 3,00,000 *kudikidappukars*, a sizeable portion among them, agrestic slaves or attached labourers got 1/10 of an acre and local habitation and an address of their own heralded a new era of relations of production (Oommen, 1994: 122).

An important question to be examined, however, is who exactly gained from such transfer and to what extent?

Changes in the Structure of Land Holdings

Rentiers as a class were eliminated from agriculture. Those who held land on lease became beneficiaries. But this category included many relatively privileged farmers as well as socially oppressed class who owned

¹⁸ As in all land reforms it is argued that a summary statement of impact is problematic, the aggregate impact of fraud, evasion and malpractices cannot be ascertained from isolated studies. This problem is compounded by misleading official statements on the number of beneficiaries (Herring 83: 211). Further, the post land reform phase corresponds to some other major economic events in the history of Kerala viz; Green Revolution strategy and the Gulf migration of Keralites which had their impact on the economy and society of Kerala. Such developments pose some inescapable identification problem as to *which of them has impacted on what*.

¹⁹ According to one estimate the number of tenant beneficiaries were 1.3 million or 43.3 per cent of the agricultural labourers in the state in 1971 and the aggregate area so transformed was almost 2 million acres or 36.5 per cent of the net sown area and 42.9 per cent of the area excluding plantation crops (Herring, 1980; see also 1983: 211). 3.89 million tenancy cases have been filed and disposed of since 1970 through 1988 is no mean an achievement (Oommen, 1994).

little to tiny holdings. Though most of the tenants were poor peasants most of the tenanted land was held by the rich peasants²⁰.

According to one estimate rich peasants who constituted only 13.3 per cent of the households received 38.7 per cent of the land re-distributed through tenancy reforms. Households possessing less than 5 acres (small peasants) constituting 84.2 per cent received only 36.2 per cent of the re-distributed area. The smallest peasants who formed 16.6 per cent of the households received only 0.9 per cent of the re-distributed land. In contrast the size class, holding more than 5 acres constituted 15.8 per cent of the total, gained 63.8 per cent of the re-distributed acreage (Herring, 1983: 211). Thus the rentiers have been replaced by a new tier of proprietors/capitalist farmers.

A pronounced trend towards marginalisation of holdings has been observed in the post land reform period. When the average size of the marginal holdings declined from .72 acres in 1970-71 to .45 acres in 1991, their area of operation increased from 31.1 per cent to 48.81 percent in the corresponding period. The area under large holdings though declined in 1980-81 (Compared to 12.4 per cent in 1970-71) to 7.2 per cent, it has

²⁰ For instance, it was observed that small holdings of less than 5 acres in size accounted for 55.7 percent of the total leased in land. In Travancore region they formed only about a third of the total leased in land; more than two thirds of the leased in wet land (kayal land of Kuttanad) in the district of Kottayam of Travancore region was in the holdings of more than 25 acres. The average area of owned lands in the hands of owner cultivators was much less than in the case of either rent receivers or tenants. "A phenomenon namely that of large owners leasing in more areas than they own and thereby moving into the category of tenant cultivators is strikingly seen in Kuttanad" (Varghese, 1970: 169).

increased to 9.66 per cent in 1990-91²¹. Given this pattern, it is argued that the ceiling provisions have not impacted substantially on the pattern of distribution of holdings.

It was estimated in 1959 that a surplus of about 1.8 million acres²² would be available for re-distribution via the ceiling provisions. But at the end of 1988 the extent ordered for surrender was only 1,67,500 acres, less than one tenth of the estimated surplus (Oommen, 1994: 125). Out of this only 66,984 acres were given by way of surplus re-distribution benefiting only 1,57,841 households, i.e., only a little over 1 per cent of the cultivated area (net area sown) has been distributed consequent on the imposition of ceiling. According to one estimate the average size of plot re-distributed was quite small (.63 acres). These plots often of poor quality and presented problems of financing cultivation. Consequently majority of them were either sold or abandoned (GOK, 2000: 179)

One important reason for the low surplus has been the long interval between the conception of land reform in 1957 and its effective implementation from 1st January 1970. The interval was long enough to evade the provisions of the law by assigning land to benamies, creation of phoney tenancy, make gifts or other voluntary transfers due to natural love

²¹ For a detailed account of this issue see Oommen 1994: 125 and GOK, June 1997: 17-18. Tables V and VII

²² According to the estimate of UN, 1975: 64 based on Land Reform Survey of 1966-67 only a little over 1 lakh acres would be available as surplus out of the total operated area of 45 lakh acres.

and affection for which provisions existed until 1974²³; gifts of land up to August 1988 have been treated as valid. An amendment in 1979 validating transfers of surplus land through gifts and partition to children and grand children had been effected after the stipulated date of 1964.

Secondly, there were a number of exemptions²⁴. The exemption given to plantation crops has led to extensive conversion of land into these crops.

Thirdly, there were provisions in KLRA for the creation of bogus tenancies by joint declaration by landlord and tenants using J. Forms. Oral tenancies were also considered as deemed tenancies. Creation of such tenancies also reduced the surplus land available for redistribution (Herring 1983).

Fourthly, judiciary, by and large has been liberal in putting conversion to help the land owning categories (Oommen, 1994: 127). As per the report of the Task Force on Land Reforms and Agrarian Institutions (GOK, 1997) of the 172,295 acres ordered for surrender of surplus land,

²³ Appu (1996) claims that during the long process of negotiation over land reforms at the national level, many landowners got wind of what was coming and quickly began to cultivate their own land. Numerous tenants lost right in this process. Many landowners evicted tenants and converted them to permanent labourers (Khusro, 1969: 140) 'as a means of dodging the provision of land reform. For similar developments in Tamilnadu see Guhan and Bharathan, in 1984; Raj 1990: 166-177. For Philippines see Otsuka ad Hyami, 1993: 88.

²⁴ It has been pointed out that Kerala had some 17 exemptions, Madhya Pradesh 19, Maharashtra 11 and so on. They provided a most facile evasion possibility (Khusro, 1973). It is argued that the exemptions have often been viewed as a part of deliberate strategy of creating loopholes in order to emasculate the reform. And yet with all the exceptions, the estimated surplus land that would be available had the Kerala Agrarian Relation Bill of 1957 been enacted was 1.75 million acres. This meant the possibility of distributing 2.5 acres to every agriculture labour household estimated at 7 million in 1964-65 (Kannan, 1988: 267).

34,616 acres were reduced (20 per cent approximately) and stay order issued for another 22,575 acres, subsequent to high court intervention up to October 1996.

Finally mention may be made of the indifference of the bureaucracy and the rulers²⁵. Evasion of the provisions of the law with the connivance of the officials was made on a large scale (Oommen, 1994).

Changes in the Rural Economic Relations

As a result of the abolition of tenancy the entire income from land could accrue to the tenants turned owner. Active assistance was also given by state agencies through investment in irrigation, development of co-operative credit and a variety of other measures for increasing agricultural production. At the same time agricultural labourers were organised in trade unions for collective bargaining²⁶ for higher wage rate. The gains in terms of higher wage rate are an indirect benefit for the labourers. Taking these changes one might expect that the agrarian reform in Kerala to promote a

²⁵ One reputable humorous journal depicted in a cartoon, a vast sea of people's head on which sealed a boat carrying cabinet ministers of a state looking at with the telescopes and the caption read "No land in sight for land reform" (Khusro, 1973). It is reported that sometimes rulers themselves evade the provisions of the law. In Sri Lanka, for instance, the Prime Minister Bandaranaike surrendered 1300 acres to the Land Reform Commission. Everybody lauded what prime minister had done was simply to comply with the law. But later investigation showed that Mrs Bandaranaike was found guilty. Felix Dias Bandaranaike her husband, was found to have sold land to evade the law, but was not held criminally culpable (Herring, 1983: 227-28).

²⁶ According to Herring (1983) such indirect gains of land reform process reflected in increased politicisation and awareness of trade union activity arguably are as important as the meagre direct benefits.

more equitable distribution of the income from it than before (Raj and Tharakan, 1983: 72)²⁷.

Another factor that brought out some changes in the rural relations probably, it is argued, was the ownership of small holdings (up to 1/10 of an acre) by 4 million hutment dwellers, mostly of agricultural labourers, whose status formerly was that of attached labour. This must have raised at least to some extent the reserve price of labour forthcoming from these households (U.N., 1975).

The acquisition of ownership by *kudikidappukars* (which is a provision unique to the legislation in Kerala land reforms) had the immediate effect of alienating the beneficiary from the existing labour arrangements, leaving him and his family free agents. It may be argued that, therefore, one of the consequences of land reforms in Kerala is to have created a labour market where it did not exist hitherto (Balakrishnan, 1999: 1277).

Agricultural Production, Incomes and Poverty

In the period following the implementation of land reforms there has been reasonable increase in the area under cultivation and the output of crop production continued to increase till 1974-75. But there has been a

²⁷ However projecting the distributive justice secured by land reforms without regard for the production and productivity is to ignore the lessons of history (Ghose, 1983: 123).

significant decline in output since then. Productivity also declined in terms of yield rate²⁸.

This was due to a combination of circumstances. It is argued that it has little to do with land reforms that have preceded it. But due mainly to the flight of labour from this sector consequent upon the boom in the external sector. However, the manner of the implementation of land reforms might have created the pre-conditions for migration (development of a free labour market as argued above). It is this event, it is argued, that has stood in the way of land reforms working themselves out completely. This event is akin to what has been referred to as the “Dutch disease” in the standard open economy macroeconomics. However the role of land reform in the atrophy that is being witnessed in the agricultural sector has been more round about than direct²⁹.

It was argued that nothing definitive could be said about the impact of agrarian reform on poverty in Kerala. It must have gone down both on account of re-distribution and effect of land reforms and the relatively high rate of agricultural wage rate during this period (Raj and Tharakan, 1983; Oommen, 1994). Those landless agricultural labourers who were not

²⁸ For an account of agricultural performance of Kerala, see Kannan and Pushpangadan (1990), Sivanadan (1994), Thomas (1999), Balakrishnan (1999).

²⁹ It is argued in neo-classical tradition that the provisions in the land reform laws has had the effect of precluding land tenancy from the options of contract choice for landlords (Hayami and Otsuka, 1993: 87) and ‘agricultural ladder’ has been closed for ever for the landless prospective cultivators. This atleast partly explains the stagnation in the agricultural production in the areas where land reforms have been badly or ineffectively implemented.

benefited directly from the land reform measures were attempted to be brought under the Agricultural Labourers Pension Scheme (1982) and One Lakh Housing Scheme from early 1972. The latter was designed to provide permanent dwellings for landless agricultural labour families (UN, 1975: 196-200).

Further, in addition to the existing institutions of minimum wage legislation, arbitration machinery etc., the Kerala Agricultural Worker's Act of 1974 mandated for preference for existing workers in employment, regulation of working conditions, other benefits and even a type of permanency of employment parallel to security of tenure to tenants. Notwithstanding these measures labourers continued to be plagued by problems of underemployment and malnutrition (Panikar, 1979) and the rural poor remained a significant category in Kerala (Ghose, 1983: 25).

Before concluding this section, it seems worthwhile to take note of the observations of the Report of the Task Force on land Reforms and Agrarian Institutions. "The post land reform did not witness a major breakthrough in production and growth rate in agriculture. The skewed distribution still persists. Though not documented there are evidences of widespread re-appearance of informal leasing, low family labour participation and a higher proportion of hired labour. Therefore alternative agrarian institutions are to be sought for unleashing the productive forces in

agriculture. The only process of land reforms at present is taking over and distribution of surplus land. It did not achieve the transfer of the land to the actual tiller and resulted in ownership to a series of intermediaries who had no direct involvement in cultivation. Land reforms marginalized the tribal people because even though they were not the owners of the land they held, they became *janmies* as per the definition of the Act and the settlers who paid rents became *Kudiyans*. In some cases the tenants became landowners and landowners became landless” (GOK; State Planning Board, 1997: 2, 17, 8).

To recap: land reforms as legislated in Kerala are hailed as one of the great success stories. Kerala has abolished feudal landlordism. It has been able to achieve substantial reduction in landlessness by conferring ownership titles to hutment dwellers. It had the effect of alienating the beneficiaries from the feudal labour arrangements and resulted in the emergence of a labour market. Labourers organised under trade unions and achieved higher wages and working conditions. Simultaneously agricultural practices have also been undergoing changes.

However, whether these reforms were able to do justice to the slogan ‘land to the tiller’ remains doubtful. The concept of ‘personal cultivation’ precluded agrarian proletariat from the reform model and took the wind out of the sails of the slogan ‘land to the tiller’. In the aspect of taking over

surplus land and its redistribution, the achievement was far below expectations. The post land reform period did not witness a major breakthrough in production and growth in agriculture. Further, though abolished *de jure*, there are evidences of re-appearance of informal leasing.

The above-mentioned changes have been more pronounced in Kuttanad. Before proceeding to the question of re-appearance of tenancy in Chapter 7 the agrarian practices and relations that existed in the area and the economics of paddy cultivation are examined in the subsequent chapters. A brief description of the study area and the early agricultural practices in paddy cultivation are discussed in the next chapter.