

Land Reforms Regulation to Unlock Potential of Land Resources for Development in Arunachal Pradesh

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Abstract

Arunachal Pradesh is a tribal territory in North Eastern India. This state has been cut off from the mainstream India in matters of connectivity and development. Tribes in Arunachal Pradesh have had customary rights to land under age old customs. This was duly recognized in the Constitution of India under Article 13. People in the state relied on subsistence agriculture, and varied forms of trade, craft and workmanship of forest products. Their economy was not monetized. However, after independence, development schemes have been implemented and governmental intervention in the state increased. Development planned after the 10th Five-Year Plan emphasized speedy growth in the state. It envisaged to promote entrepreneurship in the tribal communities. However, people found a bottleneck in their endeavors to set up new industrial and business enterprises. This was related to land. Although people held large areas of land by way of occupation, they were unable to obtain bank loans for setting up new units. This was because banks and financial institution did not recognize the Land Possession Certificates (LPC) issued by the government. The government faced difficulty in acquiring land for public purposes. Therefore, the government decided to amend the Land Act 2000 of Arunachal Pradesh, for granting land ownership or title to land. This paper presents regime of law on land before and after the 2018 amendment of the Land Act. It is hoped that the 2018 amendment will encourage people in the state to setup economic units for speedy economic development.

Keywords: *Land tenure, Title Deed, Customs, Land Possession Certificate, Shukla Commission, Land Reforms, Unclassed State Forest (USF)*

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I. Introduction

The Shukla Commission, in its report “Transforming the Northeast East³”, mapped backlog in physical and social infrastructure in North East India at the turn of the previous millennium. It recommended more investment to bridge the gap in infrastructural facilities. While recommending a policy for development in Arunachal Pradesh, the commission recommended, among other things, harnessing land resources for speedy development. It also recommended that land-based economic activities may be promoted for economic empowerment of people in rural areas.

The commission identified agricultural as well as horticultural lands for large-scale cultivation of orchids, bamboo and medicinal and aromatic plants, and formulated schemes for their subsequent marketing. It also recommended setting up of processing units for surplus produce from horticultural crops like oranges, apple, kiwi etc. The Government would initially provide some subsidy to support small and medium farmers.

It was envisaged in the report that subsidy-based development would not last long. In the end, capital requirement for these initiatives have to be by way of institutional credit. In the absence of legally tenable land ownership documents, the local people were handicapped in arranging credit from banks, to realize their dreams of undertaking land-based economic development. It is therefore important to review the existing legal and policy framework on land resources in Arunachal Pradesh, identify the bottlenecks, and devise strategies to overcome the problems.

II. Land Tenure and Poverty

Today, only 30% of the world’s population have legally registered rights to their land and home, with the poor and politically marginalised especially likely to suffer from insecure land tenure. Unless such people, who lack land tenurial

³ Government of India, Transforming the Northeast: Tackling Backlogs in Basic Minimum Services and Infrastructural Needs, High Level Commission Report to the Prime Minister, Planning Commission, New Delhi, March 7 1997.

security, are included in any plan of development ‘Goal 1 and 2 of the United Nations Sustainable Development Goals 2015 will be impossible to achieve’.⁴

Land tenure determines who can use land, for how long, and under what conditions. Tenure arrangements are based both on official laws and policies, and on age-old customs. If those arrangements are secure, users of lands have an incentive not just to implement best practices for their sustainable use, but also to invest in land.

An international consensus has emerged regarding the importance of secure land tenure for development outcomes. In 2012, the Committee on World Food Security, based at the Food and Agriculture Organization (FAO) of the United Nations, endorsed the Voluntary Guidelines on the Responsible Governance of Tenure as the global norm on this front.⁵

By stifling economic growth, inadequate land-tenure systems perpetuate poverty and marginalization. But the opposite is also true: strong, properly enforced land rights can boost growth, reduce poverty, strengthen human capital, promote economic fairness (including gender equity), and support social progress more broadly.⁶

Moreover, secure land rights are an urgent imperative at a time when climate change is already fueling more and more frequent extremes of weather and such disasters displace people and destroy their homes. Properly maintained land records provide the baseline for compensation and reconstruction of shelters, and help affected communities rebuild better.⁷

In the Land and Poverty Conference 2017 held at the World Bank, it was realized that secure land rights are important for reducing poverty and boosting shared prosperity at the levels of country, community and family.⁸

It is a common experience that land ownership is instrumental in attracting investment and use of land for economic growth. This is true for promoting

⁴ Mahmoud Mohieldin & Anna Wellenstein, Why Strengthening Land Rights Strengthens Development, Blog-World Bank, August 16, (2018).

⁵ Id.

⁶ Id.

⁷ Id.

⁸ World Bank, Why Secure Land Rights Matter, March 24, 3, (2017).

land-based agricultural and horticultural development. It can also arrest forced migration of rural folk to cities for job opportunities.

III. Scope of the Study

This paper has focused the study on Arunachal Pradesh as far as land reforms are concerned. There was nothing in the hilly territories of northeast India corresponding to the land revenue system of the plains. Nor did the British government consider it necessary to devise a legal basis for land revenue procedure, or to recognize the tribes' as having any status concerning land.⁹

Jawaharlal Nehru, in his foreword to the second edition of Dr. Verrier Elwin's book¹⁰, said that the avenues of development in this territory should be pursued within the broad framework of five fundamental principles. These principles came to be known as Panchsheel.¹¹ The second principle 'Tribal rights in Land

⁹ Lands in Northeast India had been not consolidated and settled on the lines of Punjab and Bengal. This was because tribes inhabiting that region mostly had their customary rights to land, and vast areas were heavily forested.

¹⁰ Verrier Elwin, *A Philosophy for NEFA*, (Second Revised Edition.) Shillong: North-East Frontier Agency, (1959).

¹¹ In 1954, Jawaharlal Nehru appointed Dr Verrier Elwin as adviser on tribal affairs to the administration of the North East Frontier Agency.

Complying with the advice of Elwin, Nehru formulated the Panchsheel, the five principles for NEFA in the 'A Philosophy for NEFA':

1. People should develop along the lines of their own genius and we should avoid imposing anything on them. We should try to encourage in every way their own traditional arts and culture.
2. Tribal rights in land and forests should be respected.
3. We should try to train and build up a team of their own people to do the work of administration and development. Some technical personnel from outside, will no doubt, be needed, especially in the beginning. But we should avoid introducing too many outsiders into tribal territory.
4. We should not over-administer these areas or overwhelm them with a multiplicity of schemes. We should rather work through, and not in rivalry to, their own social and cultural institutions.
5. We should judge results, not by statistics or the amount of money spent, but by the quality of human character that is evolved.

Elwin wrote 'A Philosophy for NEFA' to formulate policy and a philosophy for the administrative and work staff of NEFA and to introduce new or uninformed NEFA personnel to facts about the area and its people. The deep understanding of the tribes of NEFA was necessary to administer them.

and Forests should be respected' has been the basis of all future enactments on land in tribal areas. The Constitution of India also included customary rights of tribes' as having force of law under Article 13.¹²

In view of the special nature of this territory, not all the rules applicable in British India were made applicable in the erstwhile NEFA, now renamed Arunachal Pradesh. However, there was a shift in policy in 1914, when selected acts, rules and regulations were made applicable to this territory. A special provision was also inserted in Section 14 of the Assam General Clauses Act, 1915, providing that no act of the Assam Legislative Council, in the absence of any special provision to the contrary or special extension or under the Scheduled District Act 1874, shall apply to these Frontier Tracts.¹³

The Assam Land Revenue Regulation, 1886 (Regulation 1 of 1886) was extended to this territory, with the exception of sections 3 to 159 (both inclusive). In other words, the bulk of legislation (Sections 3 to 159) was not extended. This implied absence of land revenue regulation in this territory.¹⁴

This paper will, therefore, attempt to present an overview of the main regulations impacting use of all kinds of land, focusing on the state of Arunachal Pradesh, and suggest measures to unlock the potential of land for development, as also to meet the rising aspirations of people.

IV. Origin of Rights to Land

Almost the entire state was under dense forest cover, and people inhabited this territory at scattered locations. For their livelihood needs, they invested money and labour for clearing forests, and peacefully came to hold land over generations. The common maxim of law is that it will not disturb such possession, which people have acquired since time immemorial. The people are said to have acquired the property by *prescription* due to long and peaceful usage¹⁵.

¹² The Constitution of India, Bare Act with Short Notes (Universal Law Publishing, 10, 2018).

¹³ Assam General Clauses Act 1915, 31, available on website of Government of Assam.

¹⁴ The Assam Land and Revenue Regulation 1886, The Arunachal Pradesh Code, Volume-I, 11, Government of Arunachal Pradesh, Law and Judicial Department, 1982.

¹⁵ *Id* at 27.

English law has borrowed the notions and concept of property from Roman law. The old Roman law first recognized this principle of *prescription*, and all other systems of law have in one way or another followed it. Old Roman lawyers on the subject have stated that initially the land was ‘nobody’s goods’ (*res nullius*), and the person who first took and successfully retained possession, became owner by natural law, or got a title by occupancy. This concept of the origin of right to property got embodied in laws across the nations. Such a right has three connotations: i) the feeling that long possession ought not to be disturbed, ii) the feeling that everything ought to have an owner, iii) and that ownership resides freely in each individual.¹⁶ It is thus important to appreciate the juristic connotation of the term “ownership”. Roman lawyers neatly expressed this term by saying that full owner (*dominium*) had the use (*usus*), the whole of the products (*fructus*), the right entirely to consume (*abusus*), and the right of transferring or alienating at pleasure (*vindicatio*).¹⁷

The notion of property appears simple, but this is not so. This happens with government as well as private lands. A person holds a piece of land, which supports bushes and trees, and the inhabitants of a neighboring village have the right to graze cattle on it. This right prevents the owner from ever cultivating his land. Likewise, the government may be the owner of a patch of forest, but there may exist rights of grazing and jhumming in favour of the neighbouring village. In such a case, the government officer in charge of the forest can never close the whole forest at once and plant it over, nor can he lease out the whole of the grazing field nor cut the grass. In both of these cases, the owner has something less than the absolute or perfect and full enjoyment of his property.

In other words, while the property itself remains with the owner and while his ownership is not reduced or altered, still some of the rights which go to make up a perfect ownership have been, as it were, detached in other persons. The sum total of all these detached and separate rights have been called by the Roman lawyers as *servitude*. The English law has no general term for servitude. The English law gives a special name *easement* to one class of these

¹⁶ B.H Baden Powell, Manual of Jurisprudence for Forest Officers, 1882, First Indian Edition, 8, (Natraj Publishers, Dehradun, 2002)

¹⁷ Id at 27

rights. Easement, howsoever long, cannot give rights to a claim of ownership in the estate. Indian Easement Act 1882 is a statute on this subject.¹⁸

Other mode of origin of right to land is from the principle of *terra nullius* i.e. un-owned lands. This like *res nullius* (i.e. nobody's goods) belongs to the sovereign/government. The British invoked the juristic principle of *terra nullius* when Captain Cook established a British colony in New South Wales following Declaration of Possession in 1770. In later times, ownership of land was dealt under special statutes like land regulation, etc.¹⁹

V. Land Regulations and the State of Arunachal Pradesh: A Historical Analysis

The state of Arunachal Pradesh has seen many changes as far as land laws are concerned. The authors have elucidated the contemporary scenario by going back into the annals of history to bring forth a clearer picture.

In the late 1990s, a need was felt to introduce the land tenure system, in order to obviate the problems being faced by tribes of Arunachal Pradesh in getting institutional finance for realizing their entrepreneurial ambitions. The evolution of the land tenure system in this territory has taken place by different policy and legal instruments. It is worthwhile to appraise the main policy and legal frameworks which put the formal land tenure regime in place.

A. Land Possession Certificate

The government issued guidelines for issue of land possession certificate (LPC) to occupants of land in 1988. This instrument was administrative in nature. The interested applicants may submit an application to the local administrative authority for LPC. This application should be accompanied with a certificate from the Forest Department to the effect that the land in question

¹⁸ *Id.*

¹⁹ *Terra nullius* means "nobody's land". This doctrine has existed in the law of nations throughout the development of Western democracy. The fact that it is a Latin phrase gives us the clue that it is derived from Roman law – the **concept** that ownership by seizure of a thing no one owns is legitimate. This was at the Centre of several important legal cases in Australia in the late 20th and early 21st centuries. Mabo case of 1992 is a landmark judgment in Australia.

does not fall under reserved forest; a certificate from the Village Council/Anchal Samiti²⁰ that the land is actually owned by him and it is not a joint property; that the land is free from all encumbrances; the sketch map of the land duly countersigned by the vice-president of Anchal Samiti/Village Headman.²¹

After inspection of the site, the local administrative authority would issue a notice of 'No Objection' from the public of the locality, and on satisfying himself that the land in question actually belongs to the applicant, he will recommend the case to the Deputy Commissioner, who in turn will recommend the proposal to the State government for approval. On receipt of approval from the State government, the Deputy Commissioner will issue Land Possession Certificate.²²

B. Arunachal Pradesh (Land Settlement and Records) Act, 2000

The State government enacted this instrument on land, envisaging implementation of a land tenure system in Arunachal Pradesh. "This Act included details on revenue divisions' and revenue officers, rights over land, survey and settlement of land revenue, land records, realization of land revenue, rights of tenants, etc. This is a legislative instrument".²³

C. Arunachal Pradesh (Land Settlement and Records) Rules, 2002

The State government, in exercise of the power under Section 99 of the Arunachal Pradesh (Land Settlement Records) Act, 2000, and in supersession of the Arunachal Pradesh Allotment of Government Land Rules, 1988, and the Arunachal Pradesh (Land Settlement and Records) Rules, 2002, issued this Act. This legal instrument was an improvement over the previous set of rules, and it was also more exhaustive. It contained more details on procedural aspects. "These rules are in tune with land settlement rules prevalent in the rest

²⁰ Anchal Samiti is a vernacular term for Block Committee.

²¹ Government of Arunachal Pradesh, Land Records Department, Issue of Land Possession Certificate-Procedure thereof, No. LR-31/84 Dated 19 December 1988.

²² *Id.*

²³ Government of Arunachal Pradesh, the Arunachal Pradesh (Land Settlement and Records) Act, 2000, Land Management Department.

of the country”.²⁴

After independence, most parts of the North East were brought under Schedule VI of the Constitution of India. The rationale for according a special status in the Indian federation was that most of the indigenous tribes of the region were not under direct administration of the Mughals and the British, and they were thus self-governing societies. Thus, many states in the North Eastern region were treated as federation within federation. Arunachal Pradesh was earlier under Schedule VI of the Constitution. Later on, it achieved statehood and opted for Panchayati Raj, thus it ceased to be part of Schedule VI. “Therefore, all central laws are *ipso facto* applicable in Arunachal Pradesh. Assam (limited to autonomous areas), Meghalaya, Mizoram and Tripura still belong to the regime of Schedule VI”.²⁵

In Nagaland and Schedule VI areas, central laws are not applicable. However, these states may adopt central laws. The customary laws are accorded legal status under Article 13 of the Constitution. They have been recognized as such under Article 371A in Nagaland, under Article 371G in Mizoram, and in Schedule VI areas in Meghalaya, three autonomous councils in Assam and tribal areas of Tripura under the Constitution.

Arunachal Pradesh and Manipur do not have such clear recognition of customary laws in the matter of land under the Indian Constitution as was done in Nagaland and Schedule VI areas. This led to difficulties for the State Government in finding land for developmental projects.²⁶

²⁴ Government of Arunachal Pradesh (Land Settlement and Records) Rules, 2002, Department of Land Management, Itanagar.

²⁵ Namita Wahi and Ankit Bhatia, The Legal Regime and Political Economy of Land Rights of Scheduled Tribes in the Scheduled Areas of India, Centre for Policy Research, 15 March 1918 accessed on <https://cprindia.org/research/reports/legal-regime-and-political-economy-land-rights-scheduled-tribes-scheduled-areas> 29 December 2020).

²⁶ The customary laws have been accorded legal recognition in Nagaland (Article 371A), Mizoram (371G) and in Sixth Schedule in Meghalaya, three Autonomous Councils in Assam, tribal areas of Tripura. Arunachal Pradesh & Manipur have not been recognized in clear terms by the Constitution as done in case of Nagaland and Sixth Schedule States.

D. Inner Line Regulations

The provisions of the Bengal Eastern Frontier Regulations (BEFR) 1873 provided for restrictions of entry of a person from outside to the territory of the erstwhile hilly tract now known as Arunachal Pradesh. It established a regime of 'Inner Line'. "The regime of inner line was also extended to some areas of the North East".²⁷

The historical roots of Inner Line lie in the Anglo-Burmese Wars of the early 19th century, which exposed British ignorance of a strategic area, abutting Burma and China. After several difficult expeditions, the hill tracts were mapped out. The BEFR empowered the Lt. Governor to define an inner line, beyond which no British subject of certain classes or foreign residents could pass without a license. "These regulations are still in force in Arunachal Pradesh".²⁸

Section 7 of the BEFR is relevant for the purpose of this paper. It stipulates that, 'it shall not be lawful for any person, not being a native of the districts comprised in the preamble of this Regulation, to acquire any interest in land or the product of land beyond the said 'Inner Line' without the sanction of the State Government.'²⁹

By implication, tribal interests in land, mostly based on customary law, have an umbrella protection. The sale of tribal land in these states is limited only to other tribes of the state, unless the State Government expressly allows such transactions. In most cases, these have been done for the constructions of Dams, National Highways, Airports, Institutions and other public interest works, where land is acquired under the Land Acquisition Act or Forest (Conservation) Act 1980 after payment of assessed compensation. In recent years, the State Government has permitted limited land leasing arrangement to attract private investment.

The State Government was aware of the communal status of most lands in Arunachal Pradesh. The common resource of land was recognized under local

²⁷ The Bengal Eastern Frontier Regulation 1873 (5 of 1873), the Arunachal Pradesh Code Volume-I, Government of Arunachal Pradesh, Law and Judicial Department, 1982.

²⁸ Ashish Kundra, 'Understanding the History of the inner Line Permit in the North East', Hindustan Times, December 22, 2019.

²⁹ Supra note 28, at 10.

customs, which differed from tribe to tribe. However, jhum control regulations were in place, but the State Government did not invoke their provisions.

In case of diversion of land for non-forestry purpose, prior permission from the Government of India is mandatory under the Forest (Conservation) Act 1980. Even in case of diversion of forest land for development purpose, the user agency has to grant compensation to individual holders of land as well as to the Government in case of common property resource called as USF. “Many user agencies like Defence termed this regime as double compensation”.³⁰

In addition, the Supreme Court directed that all forest areas have to be documented irrespective of ownership and classification.³¹ To sum up, in addition to the independence’s era jhum control regulations, two other regimes on land were operating simultaneously, namely Land Possession Certificates and provisions of Arunachal Pradesh (Land Settlement & Records) Act 2000 and its rules notified in 2012 after amending rules issued in 2002.

Existing regimes on land regulations were not able to make land easily available for various developmental activities. Therefore, developmental projects were suffering from inability of the Government to provide land, due to cumbersome procedure involved in land acquisition and community lands burdened with rights of users. There were inherent infirmities in the existing regimes on land in the state. In this background, the state Government decided to brainstorm the issues in land regulation and find out bottlenecks for their improvement. Thus was born the idea to hold a national level consultation in Arunachal Pradesh in December 2018 under the title “Dream Change Arunachal 2027: Reshaping Development Discourse of Arunachal Pradesh”. This as an elaborate

³⁰ Tribes in Arunachal Pradesh have customary Common property resources or unclassed state forest (USF). The tribes’ have been using forest resources for their livelihood and bonafide domestic needs. If land in USF category is diverted for non-forestry purpose then user agency is required to give monetary compensation to the members of the tribe family besides amount payable to forest department as per Forest (Conservation) Act and Rules. User agency like Defence calls it double compensation. However, it has its own legal backing.

³¹ Lafarge Umiam Mining Pvt. Ltd v Union of India and others,(1995) WP No. 202

consultation on many issues of development including those related to land right.³²

The State Government was keen to develop a law, which helps, unlock the vastly-hidden potential in land to facilitate entrepreneurial development.³³

VI. Era of Reformation *vis a vis* Land Regulations

The state cabinet in its meeting on 18th May 2018 discussed issues relating to land rates, regulation of encroachment and grant of ownership right etc.³⁴ The State cabinet decided to constitute two committees on the above issues:

i. Regulatory issues Relating to Law, Amendments Required Leasing etc.

Principal Chief Conservator of Forest (PCCF) (Wildlife and Biodiversity), Commissioner (Law), Commissioner (Health & Family Welfare), Secretary (Land Management).³⁵

ii. Issues of Rates, Encroachment etc.

Principal Secretary (Coordination), Secretary (Land Management), Deputy Commissioners, Daporijo, Itanagar Capital Complex, Tezu, Pasighat, Namsai.³⁶

Both the committees were directed to submit their recommendations in the Cabinet meeting in July 2018.

Decisions taken by the State Cabinet in the meeting in July 2018

The committee on regulatory issues relating to law, and amendments required, submitted its report to the State Government in June 2017. The State

³² The theme of the consultation included Economy and Development, Agriculture and Allied Sectors, Education, Skills & Entrepreneurs, Health Service Delivery, Protection and Continuity of Tangible and Intangible Heritage, and Cultural Expressions.

³³ The first author argued in one of the sessions in Dream Change Arunachal 2027 to introspect current laws on land and go for structural changes.

³⁴ State cabinet discussions and papers are privileged documents and cannot in public domain. Joint secretary to cabinet communicates decisions of the cabinet to concerned departments.

³⁵ The officers included G N Sinha, IFS (senior most), Bilatee Pertin, IAS, Kaling Taying, IAS, and Sanjeev Jain IAS in serial order.

³⁶ The officers included Satya Gopal IAS (senior most), Sanjeev Jain IAS and Deputy Commissioners by designation in serial order.

Government accepted the recommendations of the committee, and the Nodal Department on land matters prepared a cabinet note for discussion in the State Cabinet in August 2017. The recommendations made by the committee were presented to the State Cabinet, which took the following decisions:

1. Notification may be issued by the Land Management Department whereby Bank/ Financial Institution may be advised to recognise LPC and on the basis of LPC, loan should be given by the Banks/ Financial Institutions to individual farmers.
2. Notification shall be issued by Land Management Department whereby LPC holder can give his land on lease as per the terms and conditions arrived mutually between LPC holder (Lessor) and lessee. The respective Deputy Commissioner and Forest Settlement Officer (FSO) should register such instrument and it shall be ensured that land ownership is not alienated and local tribal people continue to retain the ownership.

The State Government approved the committee's recommendations to grant land ownership rights to LPC holders. The State Cabinet, while agreeing with the recommendations of the previously mentioned committee, decided to go ahead and in turn appointed a committee under the chair of Minister, Land Management, with the mandate to prepare a draft of the amendment bill so that necessary land ownership may be provided to LPC holders.³⁷

A. Ministerial Committees on Draft Bill

The State Cabinet, vide order dated 14 November 2017, constituted a committee under the chair of Minister, Land Management, with three other Ministers

³⁷ The senior author was opted as a member of the committee under the chair of Minister, Land Management though he had retired in June 2017. He therefore moved to Itanagar to take up his new assignment in October 2017.

In brief, the committee had recommended the identification of various areas of USF, demarcation of land, preparation of digitized maps of all districts, and most importantly recommendation for conversion of LPC into land ownership certificate, subject to a ceiling of land allotment upto four hectares per family/person. The rationale of four hectare per family/person was that this was the norm provided under the Scheduled Tribes Right Act 2006 for allotment of land title in forest areas.

(Power, Rural Development and Agriculture). The committee also comprised senior officials of Environment & Forests, Finance, Law, Land, Additional Advocate General. The terms of reference of the committee were:

1. Detailed examination of status of USF land with reference to all the existing legal provisions included in any act, rules.
2. Detailed examination of the issue of grant of ownership rights as per the existing legal provisions.
3. Examination of the issues pertaining to land, and to suggest ways and means to tackle the problem of rampant encroachment on Government land.

The committee examined the position and status of unclassified State Forest (USF) on the basis of various laws and rules enacted from time to time. Briefly, the committee appreciated the legal status of USF land as government land burdened with rights of people for many decades, acquired through prescription. This right flowed from one of the articles of the Constitution, namely customary law as provided under Article 13. The settled position of law was that people were entitled to compensation if their customary land is acquired for public purpose. Thus, the concept of just compensation prevalent in USA is applied under Indian laws also. However, proprietary rights in USF land belong to the State.

On the issue of grant of ownership rights to local bonafide residents in respect of occupation of lands under USF category, the committee noticed the following facts:

- i. No cadastral survey has been done in Arunachal Pradesh; therefore, no Record of Rights (ROR) has been prepared. It was mandated under Arunachal Pradesh (Land settlement & Records) Act 2000 and rules framed thereunder in 2012, but no action was initiated.
- ii. Land possession certificates (LPCs) have been issued in almost all districts for the land classified as USF.
- iii. However, the fact remains that LPC is neither a ROR nor an ownership certificate. In most parts of the country, the RORs have been settled but in absence of cadastral survey, it could not be done in Arunachal Pradesh.

- IV. In absence of land ownership status of LPC, farmers are not able to avail benefits from central government schemes, and finance from banks and financial institutions.
- V. It is thus of importance that tenancy rights are given to farmers so that they may have tenurial security. This would involve amendment of the Land Act 2000 as applicable in the State, as also the rules framed thereunder. For achievement of this gigantic task, revenue department needs to be strengthened with work force, finances and technological support.

The committee, under the chair of Minister, Land Management, recommended the following suggestions to be incorporated in the proposed Arunachal Pradesh (Land settlement and Records) Amendment Bill 2018.

Section 88 (1) and 88 (4) of Arunachal Pradesh (Land settlement & Records) Act 2000 may be amended.³⁸

B. Conversion of LPC into Record of Rights (ROR)

In terms of Section 23 of the Act, the Government may by notification direct the revenue survey of any local area, with a view to the settlement of the land revenue, and to the preparation of a record of rights connected therewith. The

³⁸ **Section 88 (1): Existing**

Every person, who, at the time of the commencement of this Act, holds any land from the Government for agricultural purpose, and his successors in interest shall, subject to the provisions of sub-sec (2), become the owner thereof as such from such commencement.

Section 88 (1): Proposed

Every person, who, at the time of the commencement of this Act, holds any land from the Government or in possession of land for agricultural purposes, and his successors in interest shall, subject to the provisions of sub-sec (2), become the owner thereof as and from such commencement.

Section 88(4) original:

Every person who, at the commencement of this Act, holds from the Government for a purpose other than agriculture shall, subject to sub-section (2) be entitled to the settlement of that land on such terms and conditions as may be prescribed.

Government may convert the existing LPC as draft record of right, and after inviting claims and objections, the permanent record of rights can issue.

Once the records of rights are settled, the land revenue will also be payable.

- The Government will be required to take a decision on the land revenue to be charged from the tribes/farmers.
- To carry out survey and settlement of land, the Revenue Department proposed the creation of a requisite work force, on the lines of other states.

The above recommendations were made to the Cabinet. The methodology adopted by the first author was the field inspection in districts³⁹.

³⁹ In meetings held in the districts in 2017-2018, actual operation of land ownership and customary practices were understood. The meetings were held in the conference hall of the Deputy Commissioners. Those who attended generally included government officials of revenue, forest and land management. The senior author presented the official system of management of land, followed by active participation of Panchayat functionaries and elder members of the district. In case of conflicting views, Deputy Commissioner and senior author addressed and tried to resolve the issue. This meeting was followed by senior author's informal interaction with Gaon Burahs (GBs) in the afternoon, followed by visits to some families of few clans to further understand the finer notions of land holding and land ownership practices prevalent in that particular tribe. During these informal interactions, senior members of the clan would often describe the history and land ownership practices they had received from their ancestors. They would also share about grievance redressal mechanism in case a dispute on land arises.

Next day, senior author would visit some representative plots of shifting cultivation, fallow areas, densely forested areas and open lands, and ask about their owners. All members' accompanying I in field visit would promptly inform about owner and none would dispute. This was the kind of clarity, which existed in the villages of Arunachal Pradesh. Some members of the village communities were apprehensive about the initiative of governmental reforms in land management and ownership. The senior author explained to them that as of now they have traditional ownership on their land since time immemorial. All lands under their ownership are not legally recognized. They are at liberty to use land in whatever manner they want. However, they cannot obtain loan from banks if they wanted to setup a production or manufacturing unit.

Most of the villagers do not have LPC. They just have traditional rights on lands that are in the nature of servitudes or concessions, subject to approval or modification or

C. Arunachal Pradesh (Land Settlement & Records) (Amendment) Bill, 2018

An amendment bill to the Land Act was introduced in the State Assembly of Arunachal Pradesh at Itanagar on 9th March 2018, vide Bill No. 6 of 2018. This bill envisaged to amend the Arunachal Pradesh (Land Settlement & Records) Act 2000. It provided for the amendments reproduced below:

D. Amendment of Section 88

In original Section 88, after sub-section (1), the following sub-section shall be inserted:

“(1A) Every person who holds valid land possession document issued by the competent authority outside notified forest shall be entitled to be conferred ownership rights on such terms and conditions, as may be prescribed”.

E. Amendment of Section 90

In the Principal Act, in Section 90, for sub-section (1), the following shall be substituted:

“Subject to the provisions of this Act or any other law for the time being in force, a land owner may lease out his land to another person or entity for the permissible land use on such terms and conditions as may be agreed upon between him and such person or entity for such period not exceeding thirty three years.”

In Section 90, for sub-section (2), the following shall be substituted:

“Every lease of land made after the commencement of this amendment Act shall be for a period not exceeding thirty three years, and at the end of the said period,

annulment by the State Government. Even if they have LPC, banks and financial institutions do not recognize it. They do not treat LPC as a legally validated instrument fit for mortgage. The villagers were explained in the meetings that the State Government intends to grant them legally validated land ownership document, so that they may put their assets to best productive and economic use after entering into arrangement with banks and financial institutions.

the same can be renewed for a period not exceeding thirty three years on such modified terms and conditions as may be agreed between both the parties.”

The Arunachal Pradesh (Land Settlement & Records) (Amendment) Bill, 2018 was passed. The Amendment Act received the assent of the Governor on 7 May 2018.

VII. Conclusions

For many decades, members of the tribes were without any tenurial rights. Various studies and theories on ownership in land⁴⁰ amply demonstrate that grant of tenurial land rights to people not only empowers them, but also leads to their economic development.

In case of forest-rich states like Arunachal Pradesh, this step is in conformity with the concerns expressed at international forums about the need to protect forest and other lands from degradation, as they act as sink for carbon sequestrations.

Like the Aboriginal Land Right (Northern Territory) Act 1976 of Australia, the Arunachal Pradesh (Land Settlement and Records) Amendment Act 2018 is a fundamental piece of social welfare legislation, which recognized tribes' inalienable land ownership, and puts it into law.

In our parliamentary form of government, sometimes legislature enacts a framework law on an emergent issue, with the responsibility given to the government to prepare their rules and other operational guidelines. However, due to bureaucratic inertia, the intent of the legislation is lost for want of preparation of requisite formats and other operational guidelines like Standard Operating Procedure (SOP). The Government should move fast to translate the intent of the Amendment Act, for the welfare of the targeted village farmers. In the instant case, it pertains to granting tenurial security to indigenous tribal farmers in the state. The Government realized the predicament of the farmers in not having tenurial security, and in May 2018, amended the Land Act 2018. This momentum should not die out for want of implementation.

⁴⁰ Various theories of property include Labour theory, Utilitarian theory of private property and Economic theory.