

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 3

2021

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Abolition of the Zamindari System in India: A Legal Analysis

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ABSTRACT

Abolition of Zamindari System was the most important agrarian reforms after the Independence. The introduction of various Zamindari Abolition Bills had begun even before the Constitution of India was enacted. Uttar Pradesh, Madhya Pradesh, Bihar, Assam and Bombay introduced Zamindari Abolition Bills and all the States used the report of Uttar Pradesh abolition Committee but the zamindars opposed the bills and delayed the agrarian reforms. Thus, the Constitution came with its First Amendment Act by which the right to property was amended.

The zamindari system was abolished in Independent India soon after the Constitution of India amended the right to property under Article 19 and 31 and after the various legislations were formed in regard to the abolition of zamindari, the zamindars challenged the constitutionality of the laws. Zamindars were allowed to keep land in certain places for their personal cultivation and this made a huge number of zamindars to retain their land. The Abolition of zamindari system aims to remove the zamindars or intermediaries between the government and peasantry.

After the abolition of zamindari system many peasants and share croppers acquired the land ownership title. And compensation was paid to the zamindars by the State on acquiring the land ownership title back from them. The major objective of agrarian land reform was to bring a change in the revenue system that would in turn be favorable to the cultivators. The abolition of zamindari made bonded labour a punishable offence, hence the concept of zamindar was abolished. About 20 million former tenants became owner by that time and the compensation was paid to the zamindars.

Keywords: *Zamindari System, Abolition, Peasants, Constitutional Amendment, Agrarian Reforms.*

I. INTRODUCTION

The zamindari system was a creation of the British for the reasons of convenience of administration and expediency. The British created the zamindars because they were

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convenient radical base for establishing foreign rule over the independent peasantry. The zamindars held huge tracts of land and control over the peasantry and forced begari (bonded labour). The zamindari system had been in conflict of the traditional principles and ideology. Thus, it was experienced that without the abolition of the zamindari system the improvisation of the situation of the peasantry was not possible.

The process of abolition of zamindari system began even before the enactment of the Indian Constitution. In 1949, Uttar Pradesh, Madhya Pradesh, Bihar, Assam and Bombay introduced Zamindari Abolition Bills and all the States used the report of Uttar Pradesh abolition Committee chaired by G.B. Pant but the zamindars advanced towards the Court raising the issue that their 'right to property' has been violated. The zamindari system was abolished in Independent India soon after the Constitution of India amended the right to property under Article 19 and 31. Article 31A and 31B along with the 9th Schedule were added to the Constitution of India to abolish the zamindari system in India.

The Abolition of zamindari system aims to remove the zamindars or intermediaries between the government and peasantry. All the rights, interests and titles of the zamindars now shifted the government. The major objective of agrarian land reform was to bring a change in the revenue system that would in turn be favorable to the cultivators. The abolition of zamindari made bonded labour a punishable offence, hence the concept of zamindari was abolished.

II. ZAMINDARI SYSTEM

(A) Zamindari System in Pre-Independent India

The concept of zamindars was introduced by Lord Cornwallis in 1793 on the recommendation of Sir John Shore, the President of the Board of Revenue. The zamindari system was started in 1773. Lord Cornwallis entered into 'Permanent Settlement' with the landlords with the view of increasing land revenue. The zamindars were given order to pay 89% of the annual income to the State and were allowed to keep 11% of the income as their shares.

Under the British rule, the peasants did not have the ownership of lands that they cultivated, the ownership of land lied with the zamindars which in turn helped the British to gain power over the independent peasants. The zamindars were recognized as the owners of land who could mortgage, bequeath and sell and were given right to collect rent from the peasants. The realized amount was divided into 11 parts out of which 1/11th of the share belonged to zamindars and 10/11th of the share belonged to the British.³ The amount to be collected from the peasants was

³ Land Revenue System in British India: Zamindari, Ryotwari and Mahalwari, <https://www.clearias.com/land-revenue-systems-zamindari-ryotwari-mahalwari/> (last visited on 01-03-2021)

the discretion of the zamindars. The burden of tax collection was totally on the zamindars. The zamindars had huge tracts of land and control over the cultivators. Labourers were changed into tenant farmers and were denied of the land title.

Under the zamindari system a zamindar claims an area and is responsible for the installment of income from the land to the legislature.⁴ This system was found in the West Bengal, Uttar Pradesh, Madhya Pradesh, Bihar and Orissa. The systems were well versed with guarantee of income of the British, and where a zamindar was announced the owner of land on the circumstances of fixed income installment. The zamindars gathered rents through various mediators. The peasants were dependent upon the earnings of his offer in produce of land.

(B) The Zamindari System in Post-Independent India

The land reforms in India after Independence aimed at restructuring agrarian relations to achieve removal of exploitation in land reforms, impartial social structure and increasing agricultural production. Land reforms were given highest significance as tool of poverty mitigation to set up impartial social structure in villages in accordance with Directive Principles of State Policy. The legislation in regard to land reform is included in the Ninth Schedule of the Constitution.

The zamindari system was abolished and land reform was included in the guidelines of Five Year Plan. All land reforms measures taken by the State and Central Government since independence have included abolition of zamindari between the State and the cultivators.

The zamindari system was abolished in Independent India soon after the Constitution of India amended the right to property under Article 19 and 31 and after the various legislations were formed in regard to the abolition of zamindari, the zamindars challenged the constitutionality of the laws. Zamindars were allowed to keep land in certain places for their personal cultivation and this made a huge number of zamindars to retain their land.

Nevertheless, the abolition of zamindari was nearly completed to a considerable extent by 1956. About 20 million former tenants became owner by that time and the compensation was paid to the zamindars.⁵ But then the rich peasants started to lease out their land to lower tenant which in turn somewhere or the other again gave rise to intermediary system.

⁴ Abolition of Zamindari System, https://legaldesire.com/abolition-of-zamindari-system/#_ftn15 (last visited on 01-03-2021)

⁵ R.R. Maurya, *Uttar Pradesh Land Laws 28* (Central Law Publications, Allahabad, 21st edn., 2020)

III. ABOLITION OF ZAMINDARI SYSTEM

(A) Background

Abolition of zamindari system is the main measure in the agrarian reform, which removed the concept of middle man between the cultivators and the State. The process of abolition of zamindari system began even before the enactment of the Indian Constitution. In 1949, Uttar Pradesh, Madhya Pradesh, Bihar, Assam and Bombay introduced Zamindari Abolition Bills and all the States used the report of Uttar Pradesh abolition Committee chaired by G.B. Pant but the zamindars advanced towards the Court raising the issue that their 'right to property' has been violated. Thus, the Government needed to turn out any chance of such laws being proclaimed invalid by the courts, have carried the change to stop these petitions. The Central Government brought the Constitutional (First Amendment) Act, 1951⁶ by which Article 31A and 31B⁷ and Ninth Schedule containing items relating to land laws were inserted. The zamindari system was abolished in Independent India soon after the Constitution of India amended the right to property under Article 19 and 31⁸. These laws were challenged on the ground that Article 13 of the Indian Constitution states that the State shall not make any law which is inconsistent to the Fundamental Rights under Part 3 or remove any Fundamental Rights under Part 3 and any law made in disapprobation will be void to the degree of inconsistency. The lawfulness of the First Amendment was addressed under **Sankari Prasad Singh Deo v. Union of India**⁹ and the Supreme Court held it to be lawful and remains in force to ensure the zest of the agrarian reforms. The main objective of the amendment was to make sure that the lawfulness of the zamindari abolition was upheld and a remedy could be provided to put an end on the various litigations regarding the abolition of zamindari.

(B) Inter State Divergence in Abolition of Zamindari

The zamindari is an antiquity of social and economic system which after some time in the past stopped. The concept of zamindari highlights that it changed the free peasants into dependent agricultural labour. The abolition of zamindari implied extreme change in the societal position of the peasantry.¹⁰

The major reasons for the abolishment of zamindari were to end the evil ownership of the British and to increase the agricultural production, the organization of agriculture production

⁶ The Constitution of India

⁷ The Constitution of India, arts. 31A, 31B

⁸ The Constitution of India, arts 19, 31

⁹ Sankari Prasad Singh Deo v. Union of India, AIR 1951 SC 458

¹⁰ H.C. Saxena, "Inter-State Divergences in Zamindari Abolition" *The Economic Weekly*, October 13, 1951.

and its efficiency depends highly upon the rights of the owner.¹¹ Under the Indian Constitution, government was required to pay compensation to the zamindars and the compensation must be of fair amount.

From the year 1949-1951, the states in India were impacted by the Zamindari Abolition Act. Uttar Pradesh became the first state in India to enact the regulations of abolition of the zamindari and subsequently states like Madras, Bihar, Madhya Pradesh and Assam enacted the Zamindari Abolition Act.

(C) Right to Property and Agrarian Reforms Conflict

It is a well known fact that land, land holdings, land tenure, consolidation, etc fall under the legislative and administrative jurisdiction of the State. However, the Central Government has been making changes in the field of land since the First Five-Year Plan. Agrarian reforms have been an issue for re-development as a measure for assuring social equity. The property laws have experienced the biggest amount of amendments.

Subsequently, conflicts began between the agrarian reforms and right to property. The endeavor of the Central and State government with respect to land reforms laws were affected by the Fundamental Right to Property which is stated in Part 3 of the Constitution of India. The scope of right to property was lowered down when the State gives rise to agrarian reforms vis-à-vis when the State showed interest to protect the right to property of the citizens, it was crucial to cluster agrarian reforms. But the government started to enact land reforms to abolish zamindari system. This displeased the zamindars and they approached to the court to challenge the constitutional validity of these reforms.

The constitutional validity of Bihar Land Reform Act, 1950 was challenged in the High Court of Patna in **Kameshwar Singh v. State of Bihar**¹². The Court in this case held that the Bihar legislation for land reforms was unconstitutional. But the same issue in the High Court of Allahabad and Nagpur upheld the validity of the legislative in these States. The same issue was appealed in the Supreme Court and some zamindars approached the Supreme Court under Article 32¹³ of the Indian Constitution.

Therefore, in order to put an end to these litigations and the conflict between right to property and agrarian reforms, the Constitution brought its First Amendment in the way of Article 31A and 31B.

¹¹ R.R. Maurya, *Uttar Pradesh Land Laws* 28 (Central Law Publications, Allahabad, 21st edn., 2020)

¹² *Kameshwar Singh v. State of Bihar*, AIR 1951 Patna 91

¹³ The Constitution of India

Thereafter, the constitutional validity of the (First Amendment) Act was challenged in **Sankari Prasad Singh Deo v. Union of India**¹⁴ in which the Supreme Court upheld the validity of the Amendment. The main aim of the Amendment was to secure the constitutional validity of the abolition of zamindari system, laws in general and certain specific Acts. The constitutional validity of the amendment was upheld in **Sajjan Singh v. State of Rajasthan**¹⁵ and the decision stated in Sankari Prasad Case was retained.

It was prominently noted that Article 31A and 31B were inserted in the Constitution perceiving that the State legislature methods adopted by certain States for implementing the agrarian reforms had to face serious challenges in the court of law on the ground of inconsistency with the Fundamental rights.

Many endeavors have been taken by the Parliament in order to bring socio-economic development through agrarian reforms. Judiciary in various cases have upheld the constitutional validity of these agrarian reforms legislations since the aim of these Acts was to put out the interest of middleman like zamindars and tenure holder etc and bring out the actual cultivators into direct relations with the State Government.

(D) Benefits of the Abolition of Zamindari System

1. Agricultural Production increased - The cultivators got ownership rights over the land hence they took interest in the improvement and increase in agricultural production.
2. Bonded Labour ended - As soon as the abolition of zamindari took place the concept of forced and free labour ended. (Article 23)¹⁶
3. Decline of Poverty - Since the system of middle man was removed, the cultivators did not have to pay heavy rent and cultivators could generate profit.
4. Impartial Society - After the abolition of zamindar, and was distributed equally to all the cultivators which in return ended the impartial distribution of land.

(E) Limitations of the Abolition of Zamindari System

1. **Land Reforms were delayed** - When the State enforced laws relating to zamindari system, the zamindar approached the court to repeal the legislation and before the amendment to the Indian Constitution was made the zamindars were not ready to cooperate with the reforms and revenue system.

¹⁴ Sankari Prasad Singh Deo v. Union of India, AIR 1951 SC 458

¹⁵ Sajjan Singh v. State of Rajasthan, AIR 1954 Raj 301

¹⁶ The Constitution of India, art 23

2. **Personal Cultivation** - Since some States allowed the zamindars to keep certain land for private cultivation and the definition was indefinite, the zamindar misused the ambiguity.
3. **System of Intermediaries** - The new owners leased their land to inferior tenants based on unrecorded agreements and these tenants could be exploited as per the vagary of the new landlords, thus the system of intermediaries and exploitation continued.

(F) Whether the Zamindari System been completely abolished or is it still prevalent in India

It can be seen through various records and research that the Zamindari System is still found in some rural parts of India.¹⁷ Despite of the zamindari system being abolished, its negative impacts still continue in States like Uttar Pradesh and Bihar. The zamindari abolition is a semi-feudal land revenue system which was a significant measure in the field of agrarian reforms.

The zamindars were given land for personal cultivation but the definition was indefinite because of which the zamindars misused the ambiguity and had a reasonable portion of land even after the abolishment of the system and superior peasants gave their land to lower peasants and collected rent from them, thus the concept of intermediaries didn't come to end.

IV. CONCLUSION

The major significant agrarian reform was the abolition of zamindari system. The course of action of abolition of zamindari system began even before the Constitution of India was constituted. Uttar Pradesh, Madhya Pradesh, Bihar, Assam and Bombay introduced Zamindari Abolition Bills and all the States used the report of Uttar Pradesh abolition Committee chaired by G.B. Pant but the zamindars opposed the bills and delayed the agrarian reforms. Thus, the Constitution came with its First Amendment Act by which the right to property was amended.

The Abolition of zamindari system aims to remove the zamindars or intermediaries between the government and peasantry. All the rights, interests and titles of the zamindars now shifted the government. The zamindars were allowed to use land for personal cultivation therefore, the zamindars continued in possession of land. The abolition of zamindari system depicted many benefits such as increase in agricultural production, end of bonded labour etc but it also came up with certain limitations i.e. the zamindars were given land for personal cultivation but the definition was indefinite because of which the zamindars misused the ambiguity.

¹⁷Is the Zamindari System still prevalent in India?, <https://www.utkaltoday.com/zamindari-system/> (last visited on 01-03-2021)

The abolition of zamindari system faced many challenges but the amendment in the right to property gave remedies against the inequalities in the society due to the zamindari system. And nevertheless, the abolition of zamindari was nearly completed to a considerable extent by 1956. About 20 million former tenants became owner by that time and the compensation was paid to the zamindars. The objective to provide compensation was to pay back the zamindars who gave up their land.
