

Between Land and Legislation

Voices from UP and Haryana
on the Ninth Schedule



Introduction

The First Constitution (Amendment) Act, 1951, created the Ninth Schedule. The statutes in this Schedule receive immunity from judicial review. The first set of laws added to the Schedule related to land reform, limits on the right to property, and the subsequent abolition of *zamindari* and other intermediary systems.

The Ninth Schedule allows the Parliament and state legislatures to pass laws that are immune from judicial review, unless they violate the “basic structure” of the Constitution of India.²⁹ Ninth Schedule laws limit individual rights and prevent judicial review for relief. The executive has been granted considerable discretionary power, evident in phrases such as “actions taken in good faith”, “measures deemed necessary”, and “use of force as required”. There is a palpable lack of clarity on rights and liabilities in these laws.

The Ninth Schedule has expanded from 13 statutes in 1951, to 282 in 2023. Of the laws in the Schedule, 84% pertain to agriculture. We assessed the implications of immunity from judicial review for such laws, specifically those concerning the Right to Property in agrarian land.

Presented as tools for land reform and aimed at reducing inequality, the Ninth Schedule statutes undermine the independence of farmers, bypass their Fundamental Rights, and preclude options for legal recourse. The unintended consequences of legislation shielded from judicial review have introduced distortions in the agrarian economy. These distortions are intricately tied to issues of welfare of farmers on one hand, and agricultural productivity on the other. The most significant negative impact on agricultural productivity stems from land reform legislation, specifically land ceiling and tenancy restrictions. Not recognising farmers as entrepreneurs, such paternalistic policy measures have trapped farmers in a cycle of low income and productivity.

For rectifying issues created by the Ninth Schedule statutes and their enactment since 1951, the literature recommends two courses of action (Rajagopalan 2021; Sharma and Malik 2019; Cagliarini and Rush 2011; Rawal and Bansal 2021). The first advocates for deregulating the industry, gradually phasing out subsidies, and consolidating land to harness economies of scale. This approach benefited other sectors of the economy following the 1991 economic reforms. The second suggests renewed reforms in tenancy and redistribution to tackle rural poverty and inequality. This is simply a continuation of the current policy and would require frequent adjustment and change (Rajagopalan 2023). Therefore, deregulating and liberalising the sector appears to be more viable.

Ground Reality of Land Reforms in Uttar Pradesh and Haryana

Uttar Pradesh (UP) and Haryana, through Ninth Schedule laws, have implemented land ceiling, tenancy reform, restrictions on the sale of agricultural land, and the abolition of intermediaries. Amendments have been made to: Haryana Ceiling on Land Holdings Act, 1972; Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1951; and Uttar Pradesh Imposition of Ceilings on Land Holdings Act, 1960.

We conducted a qualitative study to unearth the realities of land ownership and tenancy in UP and Haryana. In the past, such an exploration has only been done through quantitative data. Our research is centred on case studies from agriculture-dependent villages in these two states and attempts to answer the following questions:

1. How have the Ninth Schedule laws concerning agrarian land in UP and Haryana affected tenants, farmers, and landowners, especially in terms of landholdings and agricultural productivity?
2. How do tenants, farmers, and landowners perceive their rights and the limitations imposed by the Ninth Schedule laws? What are the prevalent views on land ceiling and tenancy restrictions?

29. The provision for judicial review on a case-by-case basis to assess the violation of the “basic structure” of the Constitution was introduced in the *Kesavananda Bharati v. State of Kerala (1973)* case.

3. What informal and adaptive strategies have stakeholders developed in response to the Ninth Schedule laws?
4. How do these adaptations impact their access to resources and inform dispute resolution in the absence of formal mechanisms?

We conducted Focus Group Discussions (FGD) and semi-structured interviews with 58 respondents across four villages in Haryana and three in UP, to understand farmer awareness and perceptions, and document local practices.

Reforms: Rationales versus Results

While tenancy is largely legal in Haryana, it is highly restricted in UP. This provides insights into the varied evolution of informal legal systems in the two states. In Haryana, there are no prohibitions on leasing, except for a provision that allows tenants who have farmed the same plot for six consecutive years the right to purchase it from the landowner. In UP, leasing is restricted to groups identified as *asamis* (tenant class) and a few other exceptions sanctioned by the Government.³⁰

The intention behind such provisions was to safeguard the rights of landless tenants, a historically significant group. Thus, tenants' rights were prioritised over landowners' property rights. However, these restrictions have not yielded the hoped-for benefits. Similar short-term informal leasing systems are prevalent across caste groups in both states, irrespective of their historical tenancy or land ownership status. Both states impose restrictions on Scheduled Caste (SC) and Scheduled Tribe (ST) farmers, preventing them from freely selling their land to non-SC and non-ST individuals. Empirical data suggests that this has disadvantaged them, compelling them to sell their land below market rates during personal or familial crises.

The ceiling limits on landholdings in Haryana are nearly double those in UP and compensation offered to landowners is also higher in Haryana. Property owners did not always receive full payment for their land, they were often paid in installments. The interest rates provided by state governments to landowners receiving instalments seem to align with India's inflation rate when these laws were enacted. In Haryana, the interest on instalment payments was 5%, compared to 3.5% in UP. Thus, individuals were not only divested of their property but also did not receive full payment immediately. Instead, they received payments at a fixed rate, and likely missed out on better returns elsewhere.

Analysing the Agricultural Census data for the identified *tehsils* and districts from 1995-96 to 2015-16, we discern only small changes in the average sizes of operational holdings across all landholding categories (from marginal to large).³¹

In absolute terms, there has been a marked increase in marginal and small holdings, with large holdings constituting only a minor portion of the total agrarian land. Large holdings, especially those surpassing ceiling limits, are primarily vested in institutions in UP and are either jointly owned, or owned by institutions in Haryana.

Over the past two decades, for which census data is available, Haryana has witnessed an increase in the average size of medium and large holdings, while the average size has remained stable for marginal, small, and semi-medium holdings. This could be attributed to the rise in leased areas and the gradual exit of small and marginal farmers from the sector. In UP, the average size of landholdings has remained consistent for marginal, small, semi-medium, and medium categories but has decreased for large landholdings.

30. Government lessees; Lessors who are disabled persons, mentally retarded, physically infirm, widow/unmarried woman, minors, those serving in the military, navy, or air force, those in detention or prison.

31. Marginal (<0.5 to 1.0 ha); small (1.0 - 2.0 ha); semi-medium (2.0 - 4.0 ha); medium (4.0 - 10.0 ha); large (10.0 to > 20.0 ha).

Taking Stock in Uttar Pradesh: Three Villages from Three Tehsils

A village in Bulandshahr tehsil

This village, with a predominantly Brahmin population, is situated near the developed areas of Greater Noida extension. The majority of landholders have inherited their land ancestrally, which has been fragmented over time. Farmers expressed hope for another round of *chakbandi* or *bandobasti*, a service previously provided by the government to consolidate fragmented landholdings into *chakhs* (blocks) and allocate portions of the land to create tracks for carts and tractors, as well as for drainage. The last such consolidation occurred in 1984.

Some semi-medium and medium farmers lease out their land as their families have diversified into other professions. Livestock rearing is common among these farmers. Except for one medium farmer, the rest were unaware of the legally mandated ceiling limit on land ownership. All farmers expressed strong support for such limits to prevent concentration of land among a few affluent individuals which, they argued, could lead to disparities in agricultural production and market dynamics. They believe that wealthy farmers, capable of purchasing more land, would be willing to pay a premium, thereby driving up land prices.

Many landowners lease additional land since they believe their plots are not economically viable. The village also has a high proportion of small and marginal holdings. This has resulted in diminished farm productivity and income. Consequently, there is minimal dependence on daily wage labor, and farmers spend considerable time moving between plots. Notably, farmers here felt that ownership does not correlate with productivity, possibly because many landowners also lease land. They claim to care for leased land as diligently as they would for their own.

The prevalent leasing system here, known as *lagaan*, has its roots in older sharecropping arrangements. Cash payments for one-year farming rights are determined after a competitive open bidding system at the beginning of the year, and is secured by informal verbal agreements. One farmer with a semi-medium holding commented, “*Is system mein competition hai. Agar vo mujhse zyada paise dega toh lagaan use mil jayegi. Vo phir zyada kaam karke apne paise nikalega*”. (There is competition in this system. If he offers more money than me, he will secure the lease and will work harder to recoup his investment). This underscores a value system that prioritises fairness, ensuring that those who value the land most secure the right to cultivate it.

However, to prevent encroachment and loss of ownership, landowners typically lease their land to the same tenant for only 1-2 years. This can negatively impact the tenant’s profitability.

Farmers expressed their dissatisfaction with the way their freedom to use their own agricultural land has been curtailed significantly by laws. For instance, they mentioned the prevalence of heavy fines for attempting to remove their soil or cattle waste from their agricultural land. They are required to obtain permission from the land authorities to do so. They also mentioned instances of houses being demolished without notice because they exceeded permissible residential construction limits.

Another shared concern among farmers is that government aid goes directly to landowners, bypassing the tenants. None of the respondents wished to pursue farming, nor did they want it for their descendants. As one respondent put it, “*Ye ghate ka sauda hai. Ye majboori ke kaaran kar rahe hain bas. Ham aur kahan jayenge?*” (This is a losing proposition. We are in it out of sheer necessity. Where else can we turn?)

Most farmers supported the freedom to sell land for agricultural purposes but wanted restrictions on the sale of agricultural land for non-agricultural uses, whether polluting (e.g., factories, industrial complexes) or non-polluting (e.g., residential developments). They advocated for the preservation of agricultural land because of the cultural and historic value associated with it. There is a growing concern among farmers about losing their land to upcoming extension projects from Greater Noida, especially as portions of the village’s fertile land have become *banjar* (uncultivable) over time.

A village in Khair tehsil

The farmers in this village are predominantly from the *Jatt* community. A significant proportion of land is owned by farmers. Landholdings range from semi-medium to large. There is a combination of landowners who lease out their land and tenant farmers who are either landless or lease land themselves. We observed that medium to large landowners, who have alternative income sources, often lease out a portion of their land while also engaging in farming themselves with the help of daily-wage labourers.

The tenant farmers we surveyed lease holdings varying from semi-medium to medium. Recently, the land that was previously used for agriculture has been acquired by the state government for the Jewar Airport project. Consequently, farmers who lost their land are migrating to neighbouring agricultural villages, as they believe farming is the sole profession they are skilled in.

Marginal and small farmers, both tenants and landlords, lacked knowledge about ceiling limits. Large farmers were aware. While marginal and small farmers supported ceiling limits, medium to large landowners vehemently opposed them. The former believe that ceilings ensure equitable land distribution and prevent a few dominant farmers from monopolising land. The latter feel penalised by these limits, arguing that their extensive holdings were acquired over generations through hard work and enterprise. These efforts, they thought, should be rewarded, not restricted.

The prevalent tenancy system in this region is *lagaan*, mirroring other UP villages. However, a unique stipulation requires prospective tenants to pay the lease amount six months in advance. Some tenants opined that land ownership does not necessarily influence productivity, as they tend to lease land with equal diligence. Others felt that one-year leases restrict them from cultivating crops with longer growth cycles, such as sugarcane which yields more in its second year. However, since most landowners prefer leasing to acquaintances and family, tenancy terms are often flexible, allowing tenants to cultivate the same plot over several years. Those with less social power and fewer connections in that village would likely struggle in such a system.

We found that Government compensation for crop failures or natural calamity-induced damages is infrequent and minimal. Typically, this aid is credited to landowners and is rarely shared with tenants. This disparity can be attributed to the informal contract system, which lacks grievance redressal mechanisms.

While marginal to medium farmers advocated for preserving agricultural land exclusively for farming, some large-scale farmers expressed interest in leasing to non-farmers, on stringent terms that safeguarded their interests. These farmers also expressed a desire to acquire more land but were constrained by ceiling limits, especially when considering the combined holdings of their adult family members. Most of the surveyed farmers hoped their descendants would diversify from farming but still retain their land assets.

All farmers expressed concerns about the inevitable and counterproductive fragmentation of holdings across generations, which increases commuting, supervision, and management costs. The majority of individuals we interviewed had inherited their land. It is worth noting that since the initiation of the Jewar Airport project, there has been a significant decline in the buying and selling of agricultural land for agricultural purposes. Instead, respondents flagged rising speculative trade in agricultural land, i.e., buying land with the sole intent of selling it for a higher price rather than using it for agriculture.

Farmers in the village have intricate perspectives on agricultural land sales, likely shaped by their experiences. Following the announcement of the Jewar Airport project, numerous landowners began selling their plots to agricultural companies or speculating on their land value, anticipating inevitable acquisitions at set circle rates. All farmers concurred that they should have the autonomy to sell their land for agricultural endeavors, but opinions diverged regarding sale for non-agricultural purposes. Some argued that selling their land before the acquisition began would have fetched them higher prices than the compensation received at circle rates when they were made to part with their land forcefully.

A village in Shikarpur tehsil

The majority of the farmers in this village possess semi-medium to medium-sized holdings, with a few larger farmers approaching the ceiling limits. The village boasts a well-developed irrigation system and an efficient cooperative society that provides subsidised inputs and implements for its member farmers. This village is unique in that it is the only one where government compensation for crop damage is disbursed to landowners promptly, the majority of whom share this aid with their tenants.

Farmers here are aware of the ceiling limits, but both medium and large farmers do not support these restrictions, deeming them outdated. They argue that those who possess the capability and work ethic to manage larger holdings should be entitled to do so. This sentiment is echoed by small and semi-medium farmers too.

While these ceiling limits have resulted in inter-generational land fragmentation, the farmers are of the opinion that *chakhbandi* should be conducted regularly to consolidate these fragments. One farmer, whose son serves as a *chakhbandi patwari* (a government official who maintains land ownership records), opined that this practice is more detrimental than beneficial, as it often results in a portion of the farmers' land being appropriated, leaving marginal and small farmers at a disadvantage.

The tenancy system in this village is intricate and varied, encompassing landless tenants, landowners who lease out their land, and landowners who lease in. The *lagaan* system is prevalent here with minor variations. The relationship between tenants and landowners is characterised by camaraderie or kinship, leading to relatively lenient tenancy terms. For example, the lease amount can be paid in instalments at a mutually agreed rate of interest.

Unlike other villages in UP, numerous tenants here have cultivated the same plot of land for several consecutive years. However, leases are still renewed annually, while other terms remain unchanged. So farmers do not grow crops with multi-year cycles since there is still a high degree of uncertainty. While tenancy appears to be a mutually advantageous arrangement for both tenants and landowners, the informality of the system does hinder some of the potential gains from trade.

Farmers in this village are reluctant to forsake agriculture and their agricultural land, viewing it as a symbol of ancestral pride and a dependable safety net during challenging times. They hope future generations will have the freedom to decide whether to pursue this vocation. While they deeply value the legacy and security their land offers, they also recognise the evolving aspirations of the younger generation. Unlike their counterparts in other villages, they champion the right to sell land for both agricultural and non-agricultural uses. Their willingness to sell land for non-agricultural uses underscores their desire for progress and economic diversification, even if it means moving away from traditional farming practices. The village and its vicinity are yet to witness the establishment of factories or industries. However, farmers are optimistic that non-agricultural development will create job opportunities for the younger generation. This duality reflects a delicate balance between preserving the past and embracing the future. They contend that potential land degradation or pollution from factories should be addressed through government regulations targeting the polluters, rather than restricting farmers' right to sell their land.

This village, and neighbouring ones, are witnessing an influx of farmers displaced by the Jewar Airport project, leading to an increase in the prices of agricultural land in the region. This may explain their views about selling land for non-agricultural purposes.

Taking Stock in Haryana: Four Villages in Karnal Tehsil

The villages have a diverse population comprising *Jatt*, *Rod Maratha*, and *Rajput* communities. The majority of landowners possess medium-sized holdings inherited from ancestors. The irrigation system is well-developed, and most plots are equipped with tube wells. Some farmers own holdings that approach or exceed the ceiling limits. Most farmers cultivate their land with the assistance of daily wage labor and tenancy is uncommon. Moreover, with the establishment of factories adjacent to the villages, local labor is gravitating towards factory work, leaving the demanding farm tasks to cheaper labour from Eastern UP and Bihar.

The Ninth Schedule laws in Haryana relate solely to ceilings. Although the law stipulates various ceiling limits, the only limit familiar to some farmers here pertains to irrigated land yielding at least one crop, i.e., 10.9 hectares.³² Most landowners and tenants remain oblivious to the ceiling limits, with the exception of some medium and large farmers.

Several large farmers, whose families own land well beyond these limits, find them objectionable, as do many semi-medium and medium farmers. Such farmers mentioned that they split the land above ceiling limits between family members while retaining effective control of these lands. They find these limits unfair. Multiple respondents asked why such limits are not imposed on industries or the private properties of Members of Parliament (MPs) and Members of Legislative Assembly (MLAs). They resent the Government for hindering growth in their profession through excessive regulations. While we did not engage with any marginal holders in this *tehsil*, all small and some semi-medium farmers support ceiling limits to prevent land monopolisation.

The prevalent leasing system here is *theka*, wherein tenants verbally agree with and make lump-sum cash payments to landowners upfront for farming rights that last a year. This system emerged in the early 2000s, supplanting the previously dominant practice of sharecropping or *bataidaari*. Nowadays, most landowners lease to acquaintances and relatives, trusting them to maintain the land. This trust promotes the cultivation of crops with longer gestation periods, which are also more lucrative. Unlike in other surveyed *tehsils*, landowners here often share a portion or all of the Government aid they receive with tenants.³³ Many of the surveyed farmers stated that not sharing the compensation would be dishonourable. Additionally, some land overseen by the village committee is leased out via competitive open bidding each June. Thus, where tenancy is legal, the Government can offer opportunities to landless farmers.

Landowners deem ownership crucial for productivity as it promotes judicious use of inputs like fertilisers, which influence soil quality in the medium to long term; and spurs investment in efficient permanent assets. Unlike their counterparts in UP, farmers in Karnal passionately wish for future generations to continue in the agriculture sector and have no desire to leave the sector themselves. They believe the local education system does not equip their children for well-paying jobs in other industries. Additionally, they regard agricultural land as a symbol of pride and dedication. However, one must be mindful of the potential survivorship bias that may underlie these views.

Many landowners in this *tehsil* and neighbouring areas have sold their land for non-agricultural purposes, primarily factories. Pollution from these units has adversely affected farmers on neighbouring plots, turning them against the sale of agricultural land for non-agricultural purposes. Local farmer unions have successfully secured compensation for affected farmers. Nonetheless, all respondents desire complete autonomy to sell or lease their land for agricultural uses.

Agricultural land-related trade restrictions in this region have created perverse incentives. Landowners deliberately let *upjaau zameen* (fertile land) lie fallow for over three years, allowing it to be legally reclassified as *banjar zameen* (uncultivable land) and sold for non-agricultural purposes. Thus, cultivable land is, on paper, transformed into uncultivable land, which garners a higher sale price for the seller. Individuals act in their best interest, but in an inefficient and roundabout manner.

Lessons from the Land: Insights from Farmers

The Ninth Schedule laws directly correlate with the current challenges of farmers, such as the proliferation of small and marginal holdings, widespread landlessness, the loss of agricultural land to expanding urban centers, and farmers' economic vulnerability. Farmers desire greater autonomy to exercise their ownership rights. The majority of respondents view ceilings and tenancy restrictions as outdated and believe that reforms are necessary.

We observed that the actual practices often deviate from the stipulated laws, as individuals devise strategies to improve their circumstances. This is evident in the widespread adoption of year-long cash-

32. As per Haryana Ceiling on Landholdings Act, 1972, maximum permissible area is set at 7.25 ha for land under assured irrigation yielding at least two crops a year, 10.9 ha for land under assured irrigation yielding at least one crop a year, and 21.8 ha for all other types of land (including orchards).

33. This refers to Government aid received in case of crop failure, damage due to natural calamities, etc.

paid-upfront leases, typically resulting from competitive open bidding at the start of each year. This is despite such leases being formally prohibited in UP. Only minor variations are observed, largely influenced by the degree of trust between the contracting parties. Such informality leads to limited access to credit and insurance markets for tenants, thereby increasing their dependence on informal borrowing and occasionally compelling them to sell small portions of their land. There are no official mechanisms for resolving disputes related to tenancy contracts, which are verbally agreed upon.

Farmers want more freedom to effectively exercise ownership

Across all villages surveyed, farmers demanded the freedom to use their agricultural land assets as they desire. They shared instances of heavy fines being imposed on them when they attempted to remove their cattle's waste from fields, due to a prohibition on removing soil. Parts of some farmers' houses were demolished without notice because they exceeded the permissible construction area on agricultural land. Meanwhile, the Government's forceful acquisition of thousands of acres of land at circle rates, was seen as astoundingly unfair.

Most farmers in Shikarpur and Khair desired the freedom to sell their land, even for non-agricultural purposes. They believed that restrictions, if any, should target the factory or industrial plant to ensure it does not pollute or negatively impact the productivity of other plots. They perceive these restrictions as arising from an anti-farmer and pro-industry bias held by the Union and state Governments. Our findings suggest that restrictions intended to protect farmers are leading them to seek costly and inefficient alternatives.

In all the villages, under normal circumstances, we observed that agricultural land is not seen as a speculative asset. Rather, it represents a legacy that most families wish to retain, being the sole asset they can pass on to their descendants. Such land is typically sold only during family emergencies. Farmers desire a streamlined process similar to the convenience enjoyed by actors in other professions. Without such a process, we observe the emergence of perverse incentives, such as the “*banjar* land” phenomenon in the villages in Haryana and Khair. Farmers in all the surveyed villages expressed concern regarding the laws preventing SC and ST individuals from selling their land.

Views on landholding size and tenancy restrictions are polarised

Marginal to medium landholding farmers favour the size restrictions and believe that removing them would result in the concentration of land in the hands of a few. Conversely, small to large landholding farmers contend that if an enterprising farming family has diligently amassed a significant holding over generations, their efforts should not be penalised. We argue that, given the positive correlation between landholding size and productivity, policies should support rather than inhibit such endeavours. One farmer with a semi-medium holding in UP remarked, “*Zamindari todne ke liye adhikam seema jayaz hogi par aaj aise kanoon ki koi zaroorat nahi hai. Ye bas mehenati kisaan ko saza de raha hai.*” (The ceiling limit might have been justifiable to dismantle the *zamindari* system, but no such legislation is required today. It merely penalises the industrious farmer.)

Interestingly, short-term leasing contracts with similar terms have naturally arisen in both Haryana and UP, even though the legal framework governing tenancy in UP is notably restrictive. In the face of formal regulations, individuals have resorted to informal agreements to sustain their livelihoods, minimising transaction costs over generations. However, these informal contracting mechanisms have other costs and challenges. Moreover, the legislation is so detached from contemporary realities that none of the respondents were aware of its existence.

Farmers find inter-generational fragmentation inevitable and a drag on productivity

All respondents found fragmentation to be an inevitable consequence of agricultural land assets being passed down across generations. As fragments become scattered throughout the village over time and decrease in size, they become highly inefficient to work with and manage. Consequently, there

is a demand for *chakhbandi* or *bandobasti*. This consolidation last occurred in Karnal in the 1970s, in Shikapur in 2008, in Khair in 1962, and in Bulandshahr in 1984.

Such periodic consolidation of land fragments could enhance productivity. However, this benefits farmers only when their holdings are substantial. Small and marginal farmers often face a net loss as portions of their land also get allocated for other purposes. We posit that farmers view this as the sole solution to the challenges posed to productivity by inter-generational fragmentation.

Another feasible method for landowners to generate income from their holdings is by leasing land to agricultural companies, an approach farmers expressed a willingness for. This approach allows them to seek alternative employment opportunities while potentially increasing the productivity of their land through the adoption of technologically advanced tools and cost-effective practices.

Short-term leases are beneficial but should be formalised

The surveyed farmers follow an informal, verbal-contract-based, short-term leasing system and vouch for it as the optimal tenancy arrangement. However, this system has both costs and benefits associated with it. The bidding for the *lagaan* is competitive and transparent, and farmers regard it as a just arrangement since the tenant farmer who values the land most secures the rights to cultivate it. Further, there is often a relaxation in the tenancy terms, such as allowing the payment of *lagaan* in installments and retaining the same plot for consecutive years.

However, tenants rarely benefit from the insurance that the Government allocates to the landowners. This is largely because of the informality of these agreements, which means they need to depend on the largesse of the landlord. Formal, recognised agreements would change this. Moreover, the rigid year-long tenancy hinders multiple cropping, the cultivation of profitable crops with extended gestation periods, and the employment of capital-intensive techniques. In scenarios where landowners favour leasing to relatives and acquaintances, not all prospective tenants get an equal opportunity.

The rise of short-term leasing is an economically driven, and mutually advantageous system for generating consistent revenue from a low-yield venture. In instances where farmers' families lack diversified income sources, agriculture remains the sole means of income through *lagaan/theke* (for landowners) and annual sales proceeds (for tenants). Even though profitable crops with longer gestation cycles are deemed desirable, they are impractical considering the short term of nature of tenancy and the requirement of upfront payment, which may not be viable given the tenants' immediate cash availability.

Overall, the *lagaan* and *theke* leasing systems enhance productivity, as individuals keen to cultivate a particular plot aim to maximise their returns beyond the initial payment to the landowner. Thus, any prohibition of tenancy would be against the best interests of the stakeholders and the overall productivity in the agricultural sector.

Some areas of reform that the farmers pointed at include: redirection of government aid and relief towards tenants rather than landowners, timely disbursements, grievance resolution under the *Kisan Credit Card* and *Kisan Samman Nidhi* schemes, and a reduction in input costs. They are of the opinion that such measures would significantly mitigate the inherent risks of their profession. Furthermore, they emphasised the apathy and antagonism of the *patwaris*, *tehsildars*, and other lower-tier bureaucrats to whom they turn in times of hardship. We contend that seeking solutions beyond governmental actors is crucial in this context.

Conversion laws hurt farmers and the agricultural sector

While conversion was not included in the restrictions imposed by the Ninth Schedule laws on farmers, this issue is closely linked to the sale of agricultural land and the farmers' perceptions of their freedom. The fact that agricultural land is generally not treated as a speculative asset may be attributed to the extent to which an effective market price for land has not been established in the region.

In cases where agricultural land is situated close to urban centers, where land markets are well-developed, the reservation prices of landowners might closely align with the prevailing market prices.

Conversely, in areas more distant from urban centers and development projects, land markets are sparse due to laws that have previously impeded discovery.

We discovered that the prices of fertile agricultural land, specifically irrigated land yielding two crops annually in the villages of Haryana and Shikarpur, are lower compared to the prices of barren land. Consequently, laws restricting conversion to non-agricultural uses have stifled the market for agricultural land and created perverse incentives, as evidenced by the “*banjar* land” phenomenon in these villages. Moreover, in instances where tracts of land have been converted for such purposes, we did not observe any enhancement in the overall infrastructure of the villages. Respondents attributed such developments to the MLAs elected from these regions. This development also leads to an increase in non-agricultural land prices, potentially intensifying perverse incentives for farmer-landowners.

Farmers in Shikarpur and Khair insisted that they should have the liberty to sell their land for any purpose, contending that this freedom is intrinsic to their property rights. They advocated for restrictions on land purchasers rather than sellers. Thus, the argument in favour of conversion stems from an assertion of one’s right to sell property without State interference. Conversely, farmers opposing the conversion of agricultural land argue that fertile land is a national asset. Therefore, any restrictions on its conversion should be inviolable and more rigorously enforced. One farmer in Shikarpur opined that, if not regulated, all fertile land would be depleted within a few decades since farmers face challenges in profiting from their ventures and often resort to selling their land during crises. Hence, there is a tension between permitting farmers to sell their property to the highest bidders, which frequently involves conversion, and regarding fertile agricultural land as a national asset.

Conclusion

The Ninth Schedule laws have had a detrimental effect on stakeholders in agriculture. Through a qualitative study, we underscore the challenges posed by small and marginal landholdings resulting from inter-generational fragmentation, the emergence of counterproductive incentives in markets for agricultural land due to laws restricting sales for non-agricultural purposes, and the organic evolution of informal leasing in Haryana and UP, irrespective of the legal framework.

Moreover, the divergence between law and reality on crucial matters such as tenancy underscores the need to reconsider the law, if not re-evaluate the foundational assumptions upon which it is based.

The unfortunate state of the agricultural sector is best captured in what one of our respondents shared:

“Kheti toh ab bas ghaate ka sauda hai, lekin kisaan ke baare mein kaun sach mein sochta hai? Hamein na toh kuch alaggyan hai, naa hi kuch dusri yogyataayein hain. Ham iss tarah kaam karke mar jayenge, lekin kam se kam hamare vansh ko toh zameen milni rahegi, jis par ham mehnat karte hain.”
(Farming is now merely a loss-making venture, but who truly considers the farmer? We possess neither alternative knowledge nor capabilities. We will persist in this manner and perish, but at least our progeny should inherit the land we labour upon.)

Research Design and Methodology

We examined the impact of the following legislations: the Haryana Ceiling on Landholdings Act, 1972; the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1951; and the Uttar Pradesh Imposition of Ceilings on Landholdings Act, 1960, as amended up to 2023. We identified three primary themes for investigation: ceiling restrictions, tenancy limitations, and constraints on the sale of agricultural land. We pursued a subsequent logical inquiry, although not part of the Ninth Schedule laws, i.e., the constraints on converting agricultural land for non-agricultural purposes upon sale.

We employed a combination of Focus Group Discussions (FGD) and semi-structured interviews with 58 respondents across four villages in Haryana and three in UP to understand farmer awareness, perceptions, and their local practices. We selected villages where the *tehsil* level ownership patterns, operational landholdings, and other land patterns were similar to the state-level averages based on agricultural census data. The predominant crops cultivated include non-food crops, oil seeds, sugar crops, and food grains. We targeted individuals potentially affected by the Ninth Schedule laws. All participants were either landowners, tenants, or both, from these villages. The researchers lacked prior knowledge of the farmers' landholdings or their tenancy durations.

FGDs explored stakeholders' perspectives on the implications and necessity of Ninth Schedule laws. Apart from this we conducted individual interviews to gather data on inter-generational landholding fragmentation and leasing contracts, focusing on either a single farmer or a family unit. The objectives were to determine awareness of the laws, prevailing local practices, and perceptions of these regulations.

We obtained informed verbal consent from all participants, ensured confidentiality by limiting data access exclusively to the researchers, and upheld the participants' right to withdraw from the study. Identifiers at the village level were removed to maintain the confidentiality of the locations where trends and patterns were observed within the states.

Given our non-random approach, the findings from our study are not generalisable beyond the surveyed districts. We did not collect data on the caste identities of tenants or landowners, which could be crucial in understanding historical tenancy and ownership patterns. Any related information was informally acquired through our local contacts.

Some of the FGD participants in the surveyed villages were recruited via snowball sampling, potentially leading to unrepresentative views of the broader stakeholder groups. Due to the elusive nature of the *patwari*, data on changing ownership patterns and village plot sizes could not be verified. To address this, we cross-referenced claims made by landowners and tenants in separate interviews and consulted village elders to comprehend historical trends.