

WORKING PAPER

Freeing the Good Earth

A cross-state study of agricultural land laws

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Contents

Introduction: An owner without ownership rights	1
I: Not For Sale - Restrictions on who can buy agricultural land	2
II: Forced to stay small- Restrictions on land size	2
III: No new lease on life - Restrictions on leasing	6
IV: Condemned to farm - Restrictions on land conversion	11
Conclusion	13

Introduction: An owner without ownership rights

Since Independence, the average landholding size of agricultural households across India has steadily declined. In 1970, an average agrarian household owned over 2 hectares of land; this fell to 1.4 hectares by the 1990s (Press Information Bureau 2020). In 2019, this was 0.876 hectares (Ministry of Statistics and Programme Implementation 2021). Simultaneously, agriculture contribution to Gross Domestic Product (GDP) fell to 16.6% in 2019 from 41% in 1970 (World Bank 2021). Despite this regression, 42% of India’s workforce is employed in agriculture (World Bank 2021). What is keeping Indian farmers locked in this perpetual cycle of poverty? The reasons for low income in the sector are multifold. Regulations limit farmer freedom and distort every aspect of the production and sale process (Bhuvana Anand and Neema 2020).

Restrictions on how farmers can use their key, often only, capital asset—land—is a major force at play. At the time of independence, India’s agrarian economy was dominated by *zamindars* or landlords. These landlords owned a vast majority of the land, and cultivators had little rights (Bandyopadhyay 1993). To remedy this inequity, state governments across India passed various laws redistributing land, capping land size, and restricting tenancy. The laws intended to protect farmers from exploitation and “create conditions for an agrarian economy with high levels of efficiency and equity” (Niti Aayog 2016). But these restrictions have trapped farmers in agriculture, shackled them to their land, and prevented upward mobility.

Different states regulate these aspects in different ways. This research paper studies laws across 20¹ Indian states, assesses the impact these restrictions have, and suggests potential changes that states could adopt to empower farmers to decide how they use their land.

Ownership involves a “bundle” of rights. For instance, imagine you are a house owner. If you want to sell your house, you may transfer it to any willing and financially able buyer. There are no laws restricting how many homes you, an individual, can own. Ownership grants the owner the freedom to determine what to do with their asset. While this formulation of ownership seems intuitive, this bundle of rights is relatively weak when it comes to agricultural land. Every aspect of the agricultural land market is highly regulated. These regulations were created to protect farmers, but instead, they hurt the very farmers it sought to protect. The following sections look at four distinct types of encumbrances on landowners:

- Restrictions on who can buy agricultural land
- Restrictions on land size
- Restrictions on leasing
- Restrictions on land conversion

1. We did not study the eight northeastern states—list—given the dominant role played by tribal laws and customs in regulating agriculture land in the region. These are not codified as part of state level acts.

I: Not For Sale - Restrictions on who can buy agricultural land

There are laws restricting who can buy agricultural land. Some of these laws originate from the Union government. For instance, the [Foreign Exchange Management \(Acquisition and Transfer of Immovable Property in India\) Regulations](#) prevent foreigners and non-resident Indians from buying agricultural land anywhere in India. But individual state governments are also empowered to make laws about who can and cannot purchase agricultural land. Six states - Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, and Odisha place further restrictions. In all other states, any resident Indian can buy land.

- *Only farmers allowed:* In Gujarat and Maharashtra, only an agriculturist— someone who personally cultivates land—can buy land. Simply put, only existing farmers can purchase agricultural land. In Himachal Pradesh, only an agriculturist from that state can buy land. Anyone else needs to obtain prior permission from the Government of Himachal Pradesh.
- *Open for sale but only to other community members:* Chhattisgarh, Jharkhand and Odisha place stringent restrictions on who can buy land belonging to Scheduled Caste and Scheduled Tribe (SC/ST) communities. For instance, in Chhattisgarh, land owned by someone belonging to an SC or ST can only be bought by another scheduled member. While many states place additional burdens on the sale of agricultural land by SC/ST communities, Chhattisgarh offers no route for a non-SC/ST person to buy land owned by SC/ST community members. In Odisha, members of STs can only be sold to other STs. In Jharkhand, the restriction on land owned by members of SC and ST goes further, restricting purchases to only members currently residing under the same police station.

Gujarat, Maharashtra, and Himachal Pradesh restrictions aimed to protect farmers from exploitation by non-agriculturists. Restrictions on SC and ST communities sought to protect members of these communities because of social imbalances arising from caste discrimination. However, the impact of these regulations is that it reduces the potential pool of buyers even further. This restriction on the pool of buyers leads to a fall in the value of the land. If fewer people are eligible to buy a product, the value of that product will go down since there are fewer potential bidders for the same asset. This reduced competition for the parcel of land is highly detrimental to the landowner, especially if the law restricts buyers so that the eligible buyers tend to be from poorer sections of society.

II: Forced to stay small - Restrictions on land size

You have the money, you meet the eligibility requirements, but alas! You cannot own more than what the state tells you. Welcome to the relics of India's mixed economy. State governments restrict how much land an individual or family can own. These restrictions vary from state to state, based on district, and type of land within a state. Of the 20 states studied, 19 have land ceiling restrictions. Goa is the only state that does not have any ceilings. Most states set the ceiling for family holdings, assuming that a family has five members. For every member above five, families can increase the land ceiling by 1/5th. For instance, if a family of five can own 10 hectares, a family of six can own 12 hectares. This increase in land ceiling typically stops at ten family members, or double the original ceiling.

These limits change depending on the kind of land. Andhra Pradesh, for instance, has 11 classes of land starting from *Class A* (most fertile and irrigated land) to *Class K* (dry land). Table x shows the land ceiling in hectares for a family of five holding the highest quality land (prime land) in that state. While there is a wide variety of land ceilings for prime land, there is some grouping in values; seven states have a ceiling of 4.05 hectares while four states have a ceiling of 7.28. The remaining states are distributed in between these two extremes.

Restrictions on who can buy land

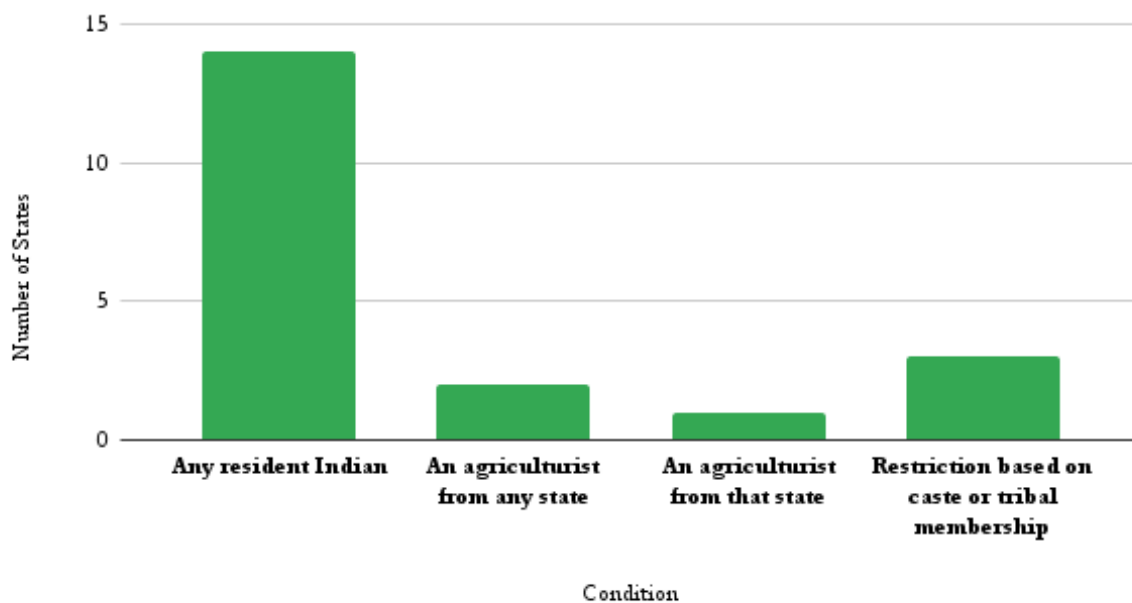


Figure 1: Who can buy agricultural land?

State	Land ceiling on prime land in hectares
Andhra Pradesh	4.050
Bihar	6.070
Chhattisgarh	7.280
Gujarat	4.050
Haryana	7.250
Himachal Pradesh	4.050
Karnataka	4.050
Kerela	4.050
Madhya Pradesh	7.280
Maharashtra	7.280
Odisha	4.050
Punjab	7.000
Rajasthan	7.280
Tamil Nadu	4.860
Telangana	4.050
Uttar Pradesh	7.330
Uttarakhand	7.300
West Bengal	5.000

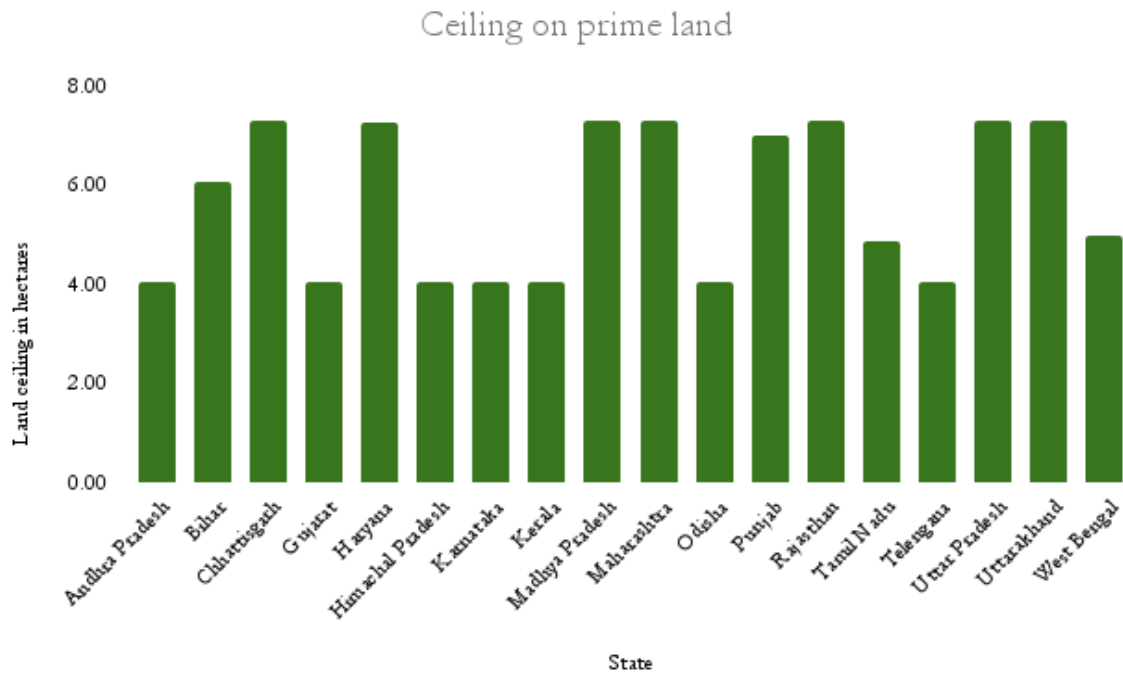


Figure 2: Ceiling on Prime Land

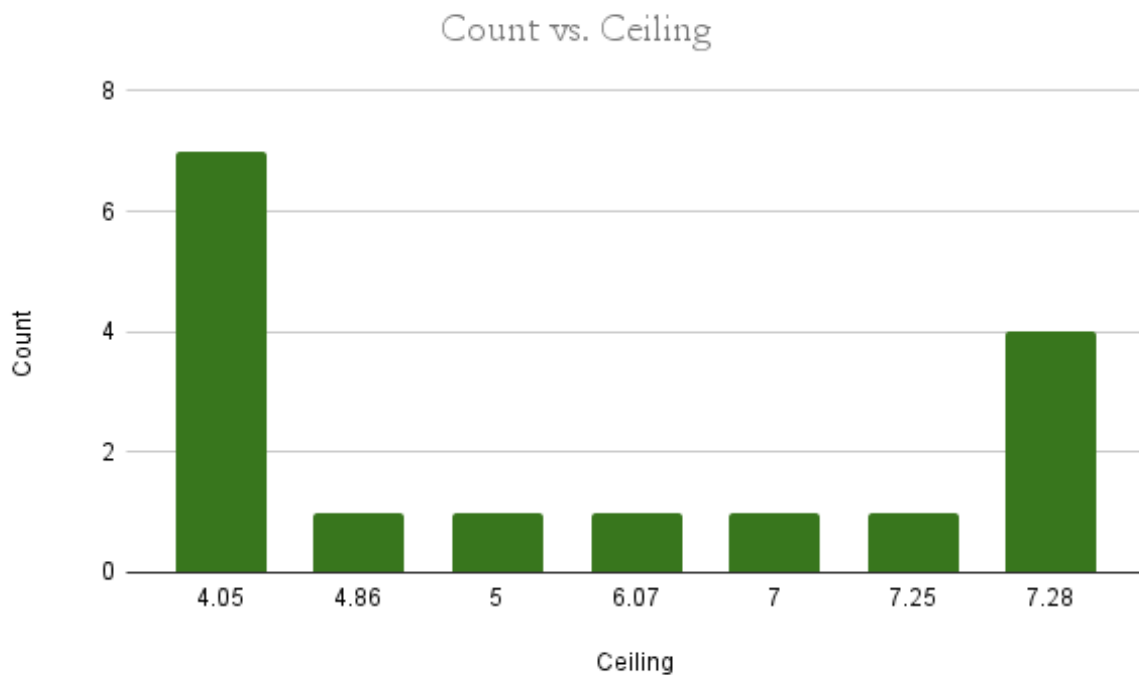


Figure 3: Count of land ceilings on prime land

These land ceilings have detrimental effects on the land market and agricultural productivity. Mechanised farming and modern equipment depend on larger farm sizes. If the farm sizes are too small, it is not feasible for farmers to invest in capital intensive goods. Naturally, Indian farms are some of the least mechanised amongst agricultural powerhouses. While Russia has a mechanisation rate of 85% and Brazil is at 75%, India stands at an abysmal 40% (FICCI 2019).

In addition to restricting the most fertile and productive land, states restrict ownership of even dry, unirrigated land. These lands require much higher levels of attention and maintenance to be productive. The ceilings of these lands are higher than prime land. The following table goes through the land ceilings across Indian states for their lowest land category (bad land). For Rajasthan, the table does not show the lowest ranking because it is an outlier for the dry land ceilings. The lowest category of land is "semi-desert" and "desert" zones which are not equivalent to the "dry land" categories found in other states.² Instead, the cap for bad land in the table is on "hilly lands".

State	Land ceiling on dry land in hectares
Andhra Pradesh	21.85
Bihar	18.21
Chhattisgarh	21.85
Gujarat	21.85
Haryana	21.8
Himachal Pradesh	28.33
Karnataka	21.85
Kerala	12.14
Madhya Pradesh	21.85
Maharashtra	21.85
Odisha	18.21
Punjab	21.8
Rajasthan	21.9
Tamil Nadu	24.28
Telangana	21.85
Uttar Pradesh	18.25
Uttarakhand	18.25
West Bengal	7

While there is more variability in the dry land ceiling, some of the differences in ceilings are small. For example, seven states have a limit of 21.85 hectares, while two states have a limit of 21.9, and a single state has a limit of 21.8. The smallest cap is seven hectares in West Bengal. This cap is lower than the prime land cap for five states. As a result, West Bengal has the smallest average landholding size in India with 0.17 hectares per household, one-fifth of the pan-Indian average of 0.876. West Bengal also reports the second-lowest income of the states studied, with a total monthly income of Rs. 6,762 - ahead only of Jharkhand at Rs. 4,895 (Ministry of Statistics and Programme Implementation 2021).

While the land ceilings are low, these ceiling numbers are still considerably higher than the average land holding size. The state with the largest average land holding is Rajasthan, with an average size of 1.186 hectares (Ministry of Statistics and Programme Implementation 2021). This size is much smaller than even the lowest land ceiling of prime land in any state, 4.05 hectares. However, this does not suggest that land ceilings are not an issue. Multiple studies have shown that farm productivity follows a U-shaped curve between farm size and farm productivity (Foster and Rosenzweig 2017). As farm sizes grow, there is an initial fall in productivity until it reaches a low; after that point, productivity increases. If this upward trajectory starts only after the ceiling limit is crossed, there is no reason for farmers to grow their land holdings since even at the ceiling limit, their productivity is not improving.

Foster and Rosenzweig (2017) argued that based on current technology and capital availability in India, there are currently 7.7 times too many farms. The ideal farm size would be close to 10 hectares.

2. The ceiling on desert land is 70 hectares.

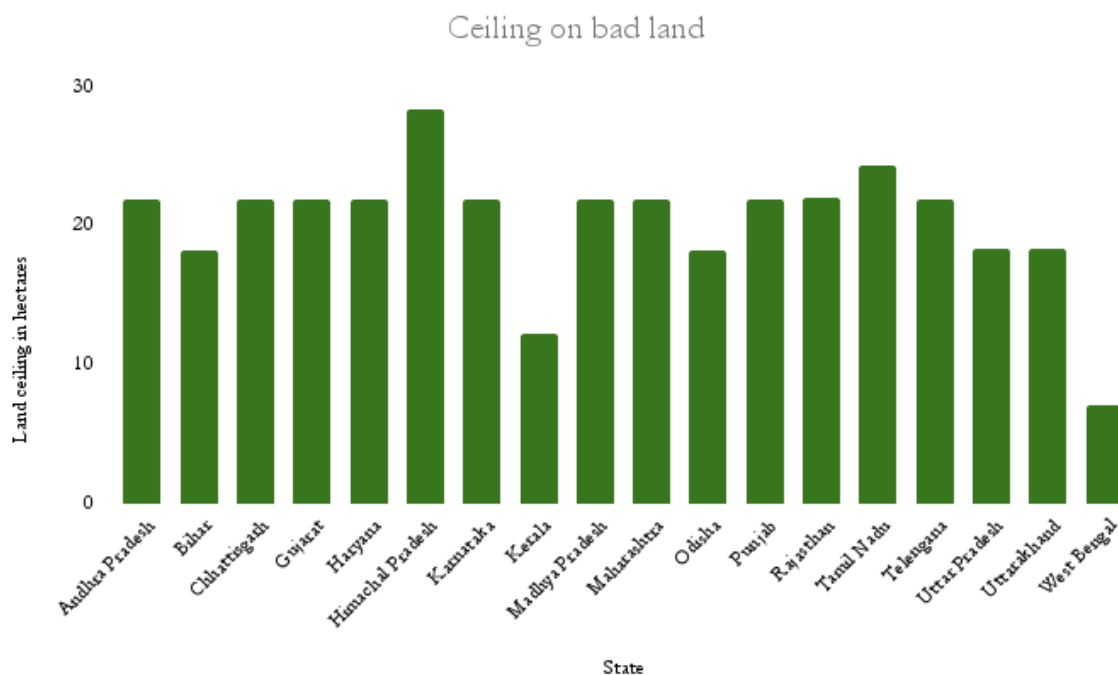


Figure 4: Ceiling on bad land

This is higher than the highest land ceiling levels for prime land. However, at this size, “output per acre is increased by 42% and output per worker by 68%” compared to current holding patterns (Foster, p10). This would have a significant impact on farmer incomes and wellbeing.

Current efforts to improve farmer incomes have focussed on governmental support schemes like MSPs or loan and credit availability. But the reality is that India has far too many farmers for farming to be a profitable profession. Consolidation of landholdings, with farmers exiting agriculture to join other industries, is necessary to increase farming income. This consolidation is only feasible if farm sizes are allowed to grow beyond the nadir of the U-shaped size/productivity curve. This change requires a commitment to rethinking the role of land ceilings and granting farmers the autonomy and freedom to grow their land.

III: No new lease on life - Restrictions on leasing

Consolidation of landholdings does not necessarily need to happen by selling and purchasing agricultural land. They can also occur through leasing agreements. If multiple small farmers in adjoining plots lease their land out to someone else, the size of operational holdings will go up. Leasing also has the added benefit that farmers do not need to sell off their land. Land ownership is a matter of pride in India, and farmers may be apprehensive to sell their land and search for alternate sources of employment. With leased land, farmers can be assured of a small yet steady source of income while looking for jobs and can fall back on their leased land if the need arises.

However, while these advantages could exist, states across India hamper the functioning of the leasing market. Kerala outright bans leasing with no exceptions. Bihar, Karnataka, Madhya Pradesh, Chhattisgarh, Uttar Pradesh, Uttarakhand, Himachal Pradesh, Telangana and Odisha prohibit leasing but allow them for some categories of people. In Andhra Pradesh, Goa, Haryana, Maharashtra, Punjab, Rajasthan, Tamil Nadu, leasing is not banned, but various restrictive clauses and limitations on rights of resumption hurt the functioning of the market. West Bengal limits the kind of lease; only sharecropping is allowed. While Andhra Pradesh limits the length of the contract. Gujarat has three different laws governing leasing in the erstwhile Bombay area, Saurashtra, and Kutch respectively.

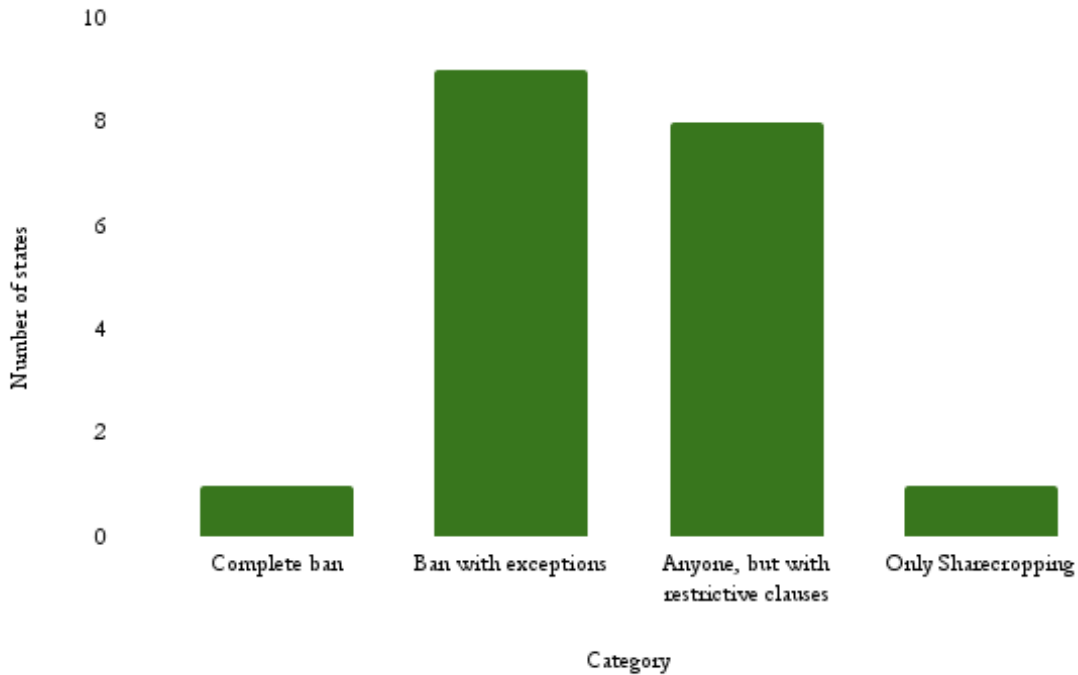


Figure 5: Ceiling on bad land

Nine states ban leasing with certain exceptions. These exceptions vary from state to state. In Karnataka, this right is restricted to soldiers and seamen. In Bihar and Telangana, only disabled landowners, widows, unmarried and divorced women, and people in the armed forces can lease out their land. Madhya Pradesh, Chhattisgarh, Himachal Pradesh, Uttar Pradesh and Uttarakhand have similar exceptions to Bihar, except they also allow students to lease out their land. In addition, Uttar Pradesh and Uttarakhand allow anyone to lease their land to an educational institute. Odisha has similar exceptions to Madhya Pradesh but allows ryots with less than three standard acres to lease land. This excludes many potential lessors from leasing out their land.

There are a variety of restrictive provisions and requirements that discourage leasing. These include provisions that grant inheritable rights to lessees, limitation on how much land a landlord can resume, permission from the government for termination of the lease, rent remission norms, rent ceilings, tenant rights to purchase land at a below-market price, minimum and maximum length requirements, and tenant right to mortgage their land. These provisions weaken the concept of ownership and create enormous burdens for creating formal leases.

Laws in Andhra Pradesh, Bihar, Chhattisgarh, Goa, Gujarat (Saurashtra), Gujarat (Kutch Area), Karnataka, Madhya Pradesh, Odisha, Punjab, Tamil Nadu, Telangana, and West Bengal all allow for inheritance of lease. If a landlord leases their land out to an individual, and that individual passes away, the lease transfers to their heirs. The problem with this provision is that while the landlord may trust the person they leased their land to, they may not have the same relationship with the heirs. Compelling the landlord, absent trust, to continue with the lease seems problematic.

A common restriction across 10 Indian states is the requirement that permission from a local government official is required for termination of lease. This is true even in cases where the tenant has conducted misconduct or failed to pay rent. Andhra Pradesh, Chhattisgarh, Goa, Gujarat (erstwhile Bombay areas), Gujarat (Saurashtra), Himachal Pradesh, Odisha, Tamil Nadu, Telangana, and West Bengal have this requirement. This adds additional bureaucratic hurdles and dissuades the creation of tenancy agreements.

Andhra Pradesh, Bihar, Chhattisgarh, Gujarat (erstwhile Bombay areas), Gujarat (Saurashtra), Gujarat (Kutch Area), Himachal Pradesh, Tamil Nadu, and Telangana limit the amount of land a landlord can resume at the end of the lease. The tenant is left with some portion of the landlord's

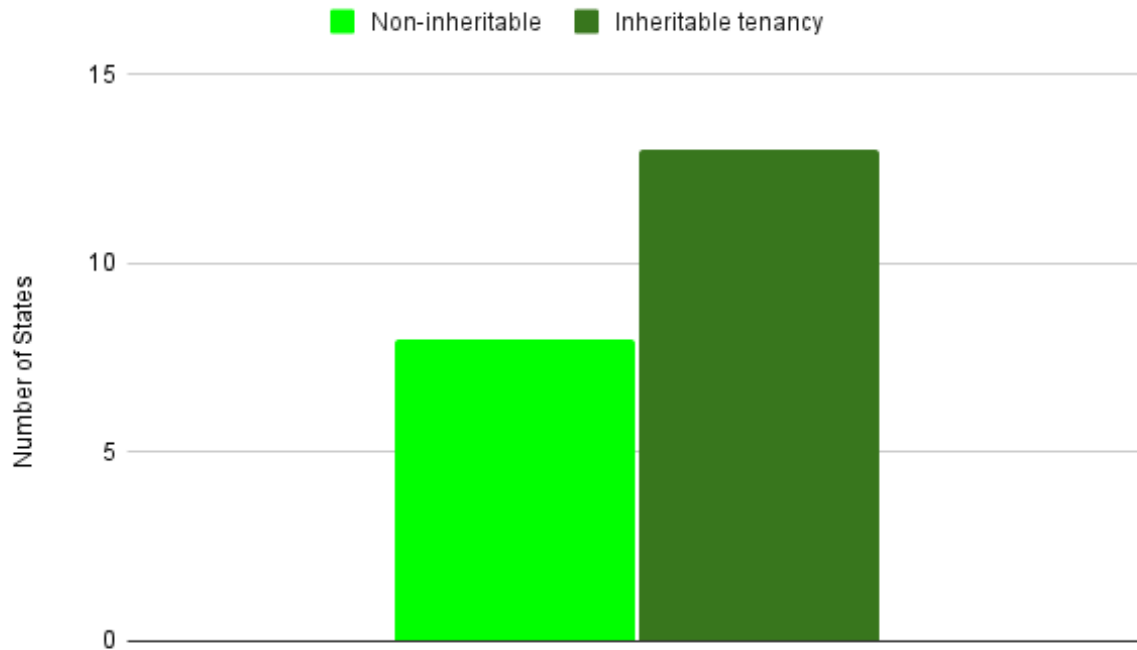


Figure 6: Inheritability of Lease

land. In Andhra Pradesh, Bihar, Himachal Pradesh and Tamil Nadu this is 50%. That means at the end of the lease, the tenant can only claim back half the land that originally belonged to them.

Provisions restricting the extent of land that a landlord can resume is a serious threat to an individual’s property right. There is a huge disincentive in creating formal leasing. Imagine a parallel scenario where a person rents out some office space in a commercial building and at the end of the lease period, the building owner receives only 50% of the built up area they originally had. It is easy to see why such a provision would kill commercial real estate, impoverish building owners, and encourage the creation of underground markets.

Another provision that can cause problems to landowners who lease out their land is the ability of a tenant to seek credit based on lease agreements. Andhra Pradesh, Goa, Karnataka, Rajasthan, and Telangana allow tenants to seek loans based on their tenancy agreement. This loan can empower the loaning body - banks, government, cooperatives, or financial institutions - to place a lien on the land.

Most states, all except Gujarat (Saurashtra), Jharkhand, Madhya Pradesh, Uttar Pradesh, and Uttarakhand, place rent ceilings on agricultural land. These vary in type from absolute caps, caps based land revenue, and caps based on produce or value of produce. There is overwhelming agreement among economists that price caps are undesirable. Only 6.5% of economists polled in a 1992 paper by Alston et al (Alston, Kearn, and Vaughan 1992) agreed that rent ceilings were a good idea.

Any time there is a price ceiling, there will be a shortage of that good or commodity if the equilibrium price is more than the ceiling amount. If the equilibrium price is less than the ceiling amount, the ceiling is irrelevant. The graph below shows the effect of price ceilings on the market. The gap between Q2 and Q1 reflects the shortage in delivery.

This effect is even worse in the states where the rent ceiling is tied to the value of goods produced. In this scenario, the price ceiling is not known before the contract is signed and depends on the lessee’s success in growing crops. This is not the same as a sharecropping agreement, where the landlord receives some share of the crops, but rather these are cash lease arrangements where the cap is some percentage of the value of produce.

When price ceilings exist and equilibrium price is above that, there will be shortages in the formal market. This encourages the creation of black markets. In the case of leased land, there is evidence

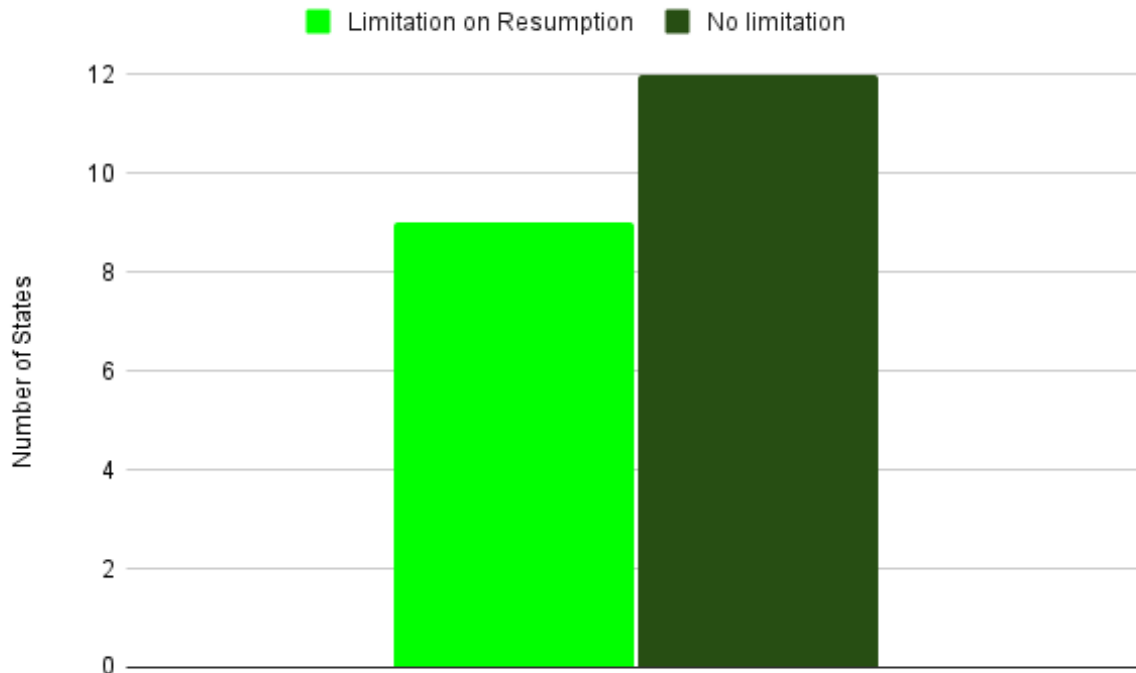


Figure 7: Restrictions on resumption

of these underground markets. These black markets are not caused only by rent caps but also the variety of other restrictions in play. Two government sources of lease data are available, the Agriculture Census and the Situational Assessment Survey of Agricultural Households. While the Census depends on formal land records at the state level, the Assessment Survey is based on interviews with households. This is similar to a *De facto* vs *De jure* analysis of leasing markets in Indian states.

The Census suggests that only 0.36% of agricultural land pan-India is leased. The numbers from the Assessment Survey indicate that this number is 10.1%, a 28x difference. Underground markets tend to be ineffective and suffer from poor enforcement of rights. Informal tenants have insecure rights and poor access to credit and insurance (Niti Aayog 2016). It also disincentivizes investment in the land. Table Y shows the data mismatch between the census and survey data across states.

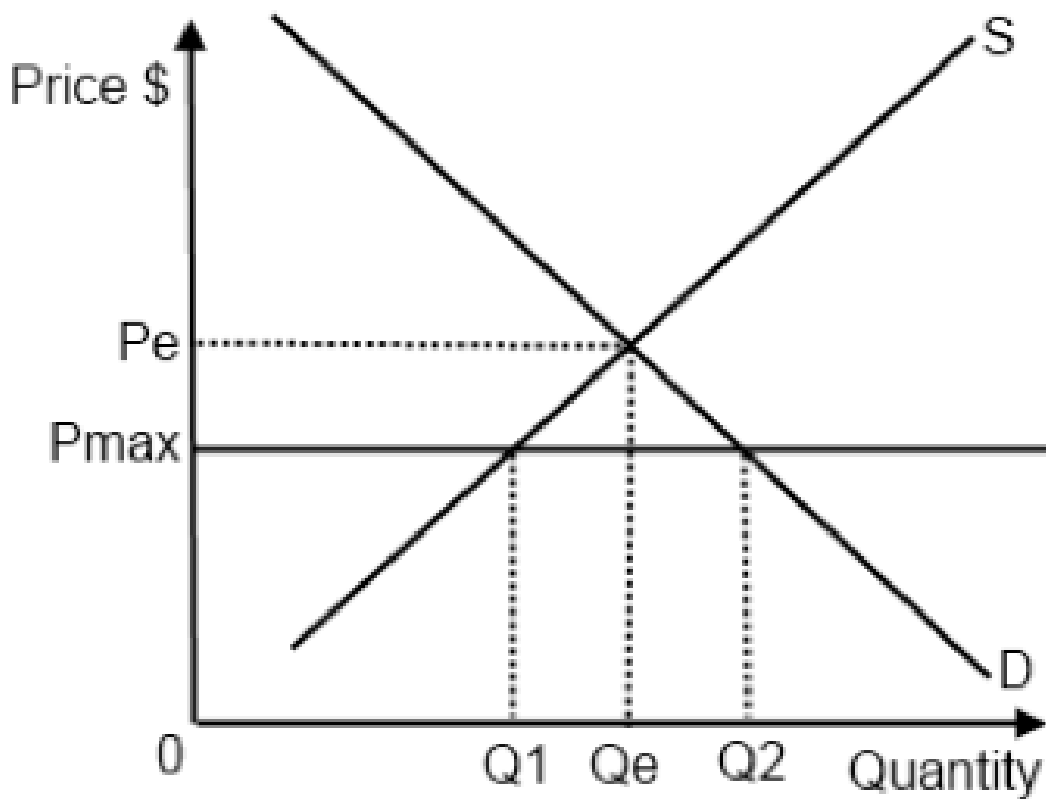


Figure 8: Effect of price ceilings

State	Agri Census	Situational Assessment Survey
Andhra Pradesh	0.36%	31.70%
Bihar	0.02%	15.50%
Chattisgarh	0.01%	13.80%
Gujarat	0%	7%
Haryana	0%	13.80%
Himachal Pradesh	0.02%	12.60%
Karnataka	0%	3.30%
Kerala	0.29%	15.10%
Madhya Pradesh	0.08%	7%
Maharashtra	0.01%	5.90%
Odisha	5.82%	32.20%
Punjab	0.60%	10.30%
Rajasthan	0.07%	8%
Tamil Nadu	0.12%	7.50%
Telangana	0.01%	14.10%
Uttar Pradesh	0.09%	14.10%
Uttarakhand	0.02%	13.70%
West Bengal	1.62%	22.20%

These huge differences between what the land records reveal and what surveys show can be explained by the emergence of black markets. Niti Aayog created a Model Agricultural Land Leasing Act in 2016 that addresses many of the issues plaguing land leasing markets (Niti Aayog 2016). It treats agrarian land as an asset like any other. It allows landlords and tenants to reach mutually agreed terms. There is no minimum or maximum limit on how long a lease can run. The landlord faces no risk of unjustly losing their land. The tenant is granted protection from arbitrary evictions and can access formal credit and insurance. These changes would help facilitate a healthy functioning land leasing market. But, so far, no state has adopted these changes. ³

IV: Condemned to farm - Restrictions on land conversion

Agricultural land can only be used for agricultural uses. If farmers want to use their land for non-agricultural purposes, like starting a business, they must apply for conversion. This is a bureaucratic process that requires multiple permissions, and varies from state to state. While formal conversion procedures exist, corruption is common. News stories from 2021 alone show multiple cases from Rajasthan (India TV news 2021), Andhra Pradesh (Times of India 2021), Maharashtra (Lokmat English 2021), and Kerala (The Hindu 2021), among others. This corruption is a consequence of a high discretion and inadequate oversight system, especially since the value to the user trying to convert the land is significant.

The state laws grant varying levels of discretion to bureaucrats. This section uses the Legal Safeguards section of the Quality of Laws toolkit developed by Centre for Civil Society to create a modified checklist to assess discretion. This checklist contains 33 questions in total (Bedi and Narang 2021).

Of these 33 questions, 31 are scored. The other two questions follow an if-then pattern to determine what questions need to be answered. These 31 questions were scored on a 0-1 scale. While most questions were binary, some were fractional.

The final score received was a percentage based on total points scored divided by total points available. The total points available varied based on gating questions. For instance, if a law offered no appeal mechanism, questions about extending appeals deadlines would make no sense. To avoid double penalising the state, it counted this against the law only once.

The scores of the states varied greatly. The highest performer was Haryana, with an average score over two laws of 82.45%. The worst performer was Odisha, with a performance of 29.17%

Some trends also arise.

- Apart from Tamil Nadu, all states offer an appeal mechanism in case of denial of approval. However, no state has a time limit for the appellate authority to dispose of the appeals.
- In most states, either the legislation or subordinate legislation define criteria for grant of approval. This is not true for Kerala and a part of Madhya Pradesh. However, the Madhya Pradesh Land revenue code does not have an approval function to convert land. Instead, the applicant merely needs to notify the appropriate authority of the change of land use according to which the land will be taxed.
- In Kerala, on the other hand, landowners can only divert paddy land for residential purposes. Even if the conversion is for residential and not industrial purposes, no guidelines define the criteria for conversion. This means that bureaucratic officials have a high degree of discretion in determining which applicants to approve.
- Most states do not have specialised legislation for land conversion. Bihar and Andhra Pradesh are the only two states analysed that had specific legislation laid down to deal with this. Other states cover land conversion as part of the broader land reform legislation, like in the case of Karnataka or the land revenue legislation, like in the case of Rajasthan.
- Some states, like Punjab, deal with land conversion as part of the land development and urban planning acts. This is relevant since the scope of many of these acts are wide, meaning much of the discretionary power and procedures are laid down not in the Act but in the rules.

3. Maharashtra has passed a land leasing bill based on the model land leasing act, but this is yet to receive approval from the President.

The questions and corresponding scoring is available as part of the discretion analysis matrix. Table Z provides the final scores in percentage across states.

These scores only measure the level of discretion and the administrative safeguards against this discretion. This scoring system does not explore the procedural hurdles before application, including documentation requirements, fees, and other hindrances. It also does not look at the procedure itself - the actual timelines, the back-end process, or the number of officers involved. It looks solely at the level of discretion the process grants bureaucrats. The end effect of these restrictions is that farmers are often stuck with agricultural land that is burdensome to convert. Even if farmers want to use their land for business, they are forced to remain in agriculture because of the administrative challenges in converting land. Conversion should be straightforward to enable landowners to make the most efficient use of their land. Instead, the process is full of bureaucratic steps and lots of opportunities for rent-seeking.

State	Law	Score
Andhra Pradesh	Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Act, 2006,	71.43%
Bihar	The Bihar Agriculture Land (Conversion for Non-Agriculture Purposes) Act, 2010	71.43%
Haryana	The Punjab Scheduled Roads and Controlled, Areas Restriction of Unregulated Development Act, 1963	82.14%
Haryana	The Haryana Development and Regulation of Urban Areas Act, 1975	82.76%
Himachal Pradesh	The Himachal Pradesh Town and Country Planning Act, 1977	79.31%
Karnataka	Karnataka Land Revenue Act, 1964	72.41%
Kerala	Kerala Conservation of Paddy Land and Wetland Act, 2008 ⁴	43.75%
Madhya Pradesh	M. P. Land Revenue Code	88.24%
Madhya Pradesh	The M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973	75.86%
Maharashtra	Maharashtra Land Revenue Code, 1966	80.00%
Odisha	The Orissa Land Reforms Act, 1960	29.17%
Punjab	The Punjab Regional and Town Planning and Development Act, 1995	64.00%
Rajasthan	Rajasthan Land Revenue Act 1956	62.07%
Tamil Nadu	Tamil Nadu Town and Country Planning Act, 1971	43.48%
Uttar Pradesh	The U.P. Zamindari Abolition and Land Reforms Act, 1950	60.00%
West Bengal	The West Bengal Land Reforms Act, 1955	58.33%

4. This is limited to the provisions that deal with conversion of unnotified paddy land (section 27A, rule 12). Notified paddy land can only be converted for the construction of residential buildings (section 9, rule 5) and for public purposes (section 10, rule 5). There is no information on procedures or any guidance on discretion for notified paddy land.

Conclusion

Over 60% of farmers in India want to exit farming (Lok Niti 2014). The wide array of restrictions makes this option less feasible for many farmers. The regulations on who can buy land restrict the potential pool of buyers. Restrictions on land ceilings limit how productive farmers can be. The ceiling sizes are especially problematic because of the U-shaped productivity curve. This limits opportunities for mechanisation and the adoption of new technologies. The restrictions on leasing have created a large black market of leases with low enforcement of rights and limited investment in the land. They also limit the ability of farmers who want to exit farming while holding on to farmland they own as a backup option. Limitations and administrative overheads for land conversion mean that there is unextracted potential from the pool of land resources available.

There is deep distress in the agrarian economy of India. A whole host of restrictions regulate all aspects of the sector and prevent farmers from behaving like economic actors. The most important capital asset of the farmer, their land, faces all sorts of encumbrances. This has dampened land value and left farmers holding unproductive assets.

The development trajectory of most societies has been one where employees in the agriculture sector slowly leave agriculture and move to other more productive sectors of the economy. There is not enough productive capacity in the sector to allow the entire agriculture workforce to earn a reasonable income.

States across India need to deal with this reality. Simply providing access to credit or offering subsidies will be inadequate in generating enough revenue for a reasonable standard of living for such a large section of the population.

Reforms in the sector need to treat agricultural land like any other asset and treat farmers like rational economic actors. Granting farmers the freedom to trade their land and determine its use will unlock a sea of potential that would free farmers from poverty.

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